

AGENDA

WARRINGAH COUNCIL MEETING

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

TUESDAY 24 APRIL 2012

Beginning at 6.00pm for the purpose of considering and determining matters included in this agenda.



Rik Hart
General Manager

(2012/04)

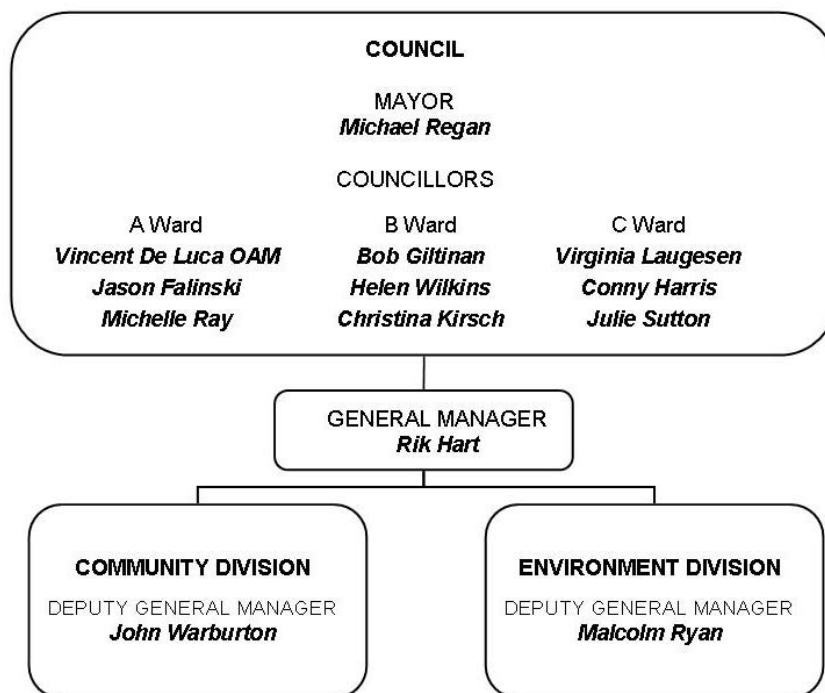


Warringah Council



Warringah Council Organisational Structure

warringah.nsw.gov.au



Our Vision : Our Values

warringah.nsw.gov.au

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

**Agenda for an Ordinary Meeting of Council
to be held on Tuesday 24 April 2012
at the Civic Centre, Dee Why
Commencing at 6.00pm**

ACKNOWLEDGEMENT OF COUNTRY

1.0 APOLOGIES

2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

2.1 Minutes of Ordinary Council Meeting held 27 March 2012

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 COUNCIL MEETING HELD 27 MARCH 2012

RECOMMENDATION

That the Minutes of the Meeting of Ordinary Council of 27 March 2012, copies of which were previously circulated to all Councillors, be confirmed as a true and correct record of the proceedings of that meeting.

6.0 MATTERS CARRIED OVER FROM THE COUNCIL MEETING OF 27 MARCH 2012

ITEM 6.1	NOTICE OF MOTION NO 6/2012 POLICY REVISION OF ANONYMOUS CODE OF CONDUCT COMPLAINT MANAGEMENT
TRIM FILE REF	2012/091443
ATTACHMENTS	NIL

Submitted by: Councillor Virginia Laugesen

MOTION

That Council:

- A. Notes that more than \$106,000 in reviewers' fees, plus additional in-house administration costs has been spent since September 2008 on councillor conduct investigations, including an unknown amount on anonymous complaints, where correspondents were unable to be contacted for interview or to be advised of investigation outcomes and
- B. in line with the Division of Local Government's complaint investigation and management procedures as per its Practice Note 'Complaints Assessment Policy and Guidelines', specifically on matters of 'credible evidence' and 'anonymity', dated 30 June 2010, inserts to the Warringah Council Code of Conduct, effective immediately, a clause at Section 12.9 as follows:
 - 'e) for anonymous complaints, the general manager is to decline to investigate or pursue the complaint without any preliminary enquiries being made.'**

BACKGROUND FROM COUNCILLOR VIRGINIA LAUGESSEN

1 Section 12.9 of the Warringah Council Code of Conduct

12.9 *The General Manager must determine either to:*

- a) *take no further action and give the complainant the reason/s in writing as provided in clause 13.1 of this Code, and those reasons may include, but are not limited to, the fact that the complaint is trivial, frivolous, vexatious or not made in good faith, or*
- b) *resolve the complaint by use of alternative and appropriate strategies such as, but not limited to, mediation, informal discussion or negotiation and give the complainant advice on the resolution of the matter in writing, or*
- c) *discontinue the assessment in the circumstances where it becomes evident that the matter should be referred to another body or person, and refer the matter to that body or person as well as advising the complainant in writing, or*
- d) *refer the matter to the Conduct Review Committee/reviewer.*

2 DLG Practice Note, Complaints Assessment Policy and Guidelines, 30/06/2010

Relevant extract 1: Section 9

Complaints in response to which the department is more likely to intervene include those with:

credible evidence of a serious breakdown in council operations where the council is operating in an unsatisfactory manner or where there are major flaws in significant processes within council

credible evidence of breaches of the pecuniary interest provisions of the Act (see also the Pecuniary Interest Breaches – Guidelines)

credible evidence of misbehaviour on the part of a councillor under the discipline provisions of the Act (see also the Misbehaviour Guidelines)

credible evidence of a serious and substantial waste of council money raised in a protected disclosure to the Director General

credible evidence of non-compliance with important aspects of the Act and/or Regulations with adverse consequences for the broader local community or the local government sector as a whole.

Relevant extract 2: Section 10

The department will generally decline to investigate or pursue the following types of complaints without any preliminary enquiries being made:

where the matter complained about is assessed as being of a minor/insignificant nature

where the allegation is not accompanied by basic information needed to support the complaint that would be reasonably accessible to the complainant

where there is no threat to public interest involved in the matters raised and/or there is little scope for remedial action by the department

where the complainant is anonymous.

3 Link to DLG Practice Note

http://www.dlg.nsw.gov.au/DLG/Documents/GIPA/Complaints%20Assessment%20Policy.pdf#xml=http://www.dlg.nsw.gov.au/dlg/Scripts/dtSearch/dtisapi6.dll?cmd=getpdfhits&u=ac3712&DocId=1699&Index=*a23fb5b248ffc5ad0a4bfb28eef94cdd&HitCount=2&hits=4d2+4d3+&SearchForm=E%3a\WEBSITES\DLGPROD\DLGWWW\DLGHome\dlg_advanced_Search.asp&.pdf

4 Section 11, Warringah Council Code of Conduct

Protected disclosures

- 11.3 *The Protected Disclosures Act 1994 aims to encourage and facilitate the disclosure, in the public interest, of corrupt conduct, maladministration and serious and substantial waste in the public sector.*
- 11.4 *The purpose of that Act is to ensure that public officials who wish to make disclosures under the legislation receive protection from reprisals, and that matters raised in the disclosures are properly investigated.*

11.5 If a complaint under this code is or could be a protected disclosure, you must ensure that in dealing with the complaint, you comply with the confidentiality provisions of the Protected Disclosures Act set out in section 22:

'An investigating authority or public authority (or officer of an investigating authority or public authority) or public official to whom a protected disclosure is made or referred is not to disclose information that might identify or tend to identify a person who has made the protected disclosure unless:

- (a) the person consents in writing to the disclosure of that information, or
- (b) it is essential, having regard to the principles of natural justice, that the identifying information be disclosed to a person whom the information provided by the disclosure may concern, or
- (c) the investigating authority, public authority, officer or public official is of the opinion that disclosure of the identifying information is necessary to investigate the matter effectively or it is otherwise in the public interest to do so.'

ITEM 6.2**NOTICE OF MOTION NO 7/2012
WARRINGAH COUNCIL CONSULTATION MATRIX: POSSIBLE
ADJUSTMENTS TO REMEDY RESIDENT DISSATISFACTION****TRIM FILE REF****2012/091699****ATTACHMENTS****NIL**

Submitted by: Councillor Virginia Laugesen

MOTION

That Council:

- A. Notes the consultation concerns of Belrose North and Terrey Hills residents during 2011 and the resulting intervention by the NSW Minister for Planning & Infrastructure, largely about the absence of mailed letters to affected landowners during the E3 rezoning proposal, which resulted in formation of the Warringah Urban Fringe Association Incorporated; and the repeat of the same concerns in March 2012 by the same residents during the consultation and exhibition period on the Draft Biodiversity Report's exhibition; and
 - B. Requests a brief report on ways council management might incorporate additional responsiveness in administering its Consultation Matrix to address occasions such as when the risk of negative perceptions about Warringah Council might be outweighed by taking preventative action based on prior experience and where a additional low-cost measures, such as mailing letters to potentially affected ratepayers, might benefit community relations, ie. when:
 - a new community action group has formed against Council, in direct response to a perceived lack of consultation;
 - a new community action group or its members make repeated representations offering a solution to the consultation shortcomings of Warringah Council's consultation matrix;
 - a new community action group or its members alert council specifically that the local newspaper is not delivered door-to-door in their area, despite that advertising in that publication fulfils Council's 'consultation matrix' accountability requirements;
 - a new community group or its members specifically requests that potentially affected landholders are mailed personal notices of local consultation opportunities, where the cost for such actions as production of letters and local postage.
 - C. If applicable, allows any such additional consultation measures that might prevent community dissent or reputation damage to Warringah Council be administered under delegation by the General Manager, such as in authorising funding for postage of direct letters to minority resident groups, as applicable, where such delegation proactively addresses any risk of undue delay to the elected body's decision-making and/or unnecessarily negative community sentiment;
 - D. Receives the brief report for consideration at the May 2012 Council Meeting or sooner.
-

ITEM 6.3	NOTICE OF MOTION NO 8/2012 REDUCE SINGLE - USE PLASTIC BAG USE IN WARRINGAH LOCAL GOVERNMENT AREA
TRIM FILE REF	2012/091713
ATTACHMENTS	NIL

Submitted by: Councillor Dr Conny Harris

MOTION

That Warringah Council:

1. Acknowledge the efforts taken by some local businesses, residents and environmental groups to reduce the number of single-use lightweight plastic shopping bags used throughout the municipality.
 2. Acknowledge that single-use plastic bags in the waste stream cause pollution, lasting many hundreds of years as they photo degrade rather than biodegrade into ever smaller pieces and that they are a major litter problem in our parks, bush land and waterways and can result in the injury and death of many animal species such as turtles, Cetaceans, birds etc.
 3. Write to the State and Federal Government ministers, urging them to introduce legislation that would ban or impose a levy on single-use lightweight plastic shopping bags, as a timely measure that:
 - a. shows solidarity with the stated position of the LGSA in supporting extended producer responsibility and waste reduction at the source;
 - b. notes that successful models exists and are showcased by national retailers, Target, Aldi, Bunnings, Officeworks, Thomas Dux and others;
 - c. notes that legislation to ban single use lightweight plastic bags was passed in the states of South Australia, Northern Territory and ACT and in towns such as Coles Bay (Tasmania) and Mogo (southern NSW) in 2003, and is planned by the council for the City of Fremantle this year.
 4. Contact major local retailers to encourage them to collaborate with Council voluntarily in a staged approach to reduce and ultimately eliminate single use plastic shopping bags from the Warringah Council Local Government Area.
 5. Engage with the Warringah community in a process of:
 - a. creating awareness and education with regard to the degradation caused by plastic pollution;
 - b. encouraging behaviour away from our throwaway, disposable, single use attitude;
 - c. create awareness around the excessive plastic packaging of many products.
-

7.0 GENERAL MANAGER'S REPORTS

ITEM 7.1	MONTHLY FUNDS MANAGEMENT REPORT MARCH 2012
REPORTING MANAGER	CHIEF FINANCIAL OFFICER
TRIM FILE REF	2012/095396
ATTACHMENTS	1 Application of Funds Invested 2 Council's Holdings as at 31 March 2012 3 Investment Portfolio at a glance 4 Monthly Investment Income vs. Budget 5 Economic Notes

REPORT

PURPOSE

To report the balance of investments held as at 31 March 2012.

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 (Attachment 1)
2. Council's Holdings as at 31 March 2012 (Attachment 2)
3. Investment Portfolio at a glance (Attachment 3)
4. Monthly Investment Income vs. Budget (Attachment 4)
5. Economic Notes (Attachment 5)

FINANCIAL IMPACT

The actual investment income to 31 March 2012 is \$4,146,617 which compares favourably to the budgeted income of \$3,643,380 a variance of \$503,237.

POLICY IMPACT

The investment strategy was reviewed by our Investment advisors Oakvale Capital, in January 2012. They confirmed as of 31 December 2011, that Council's investment portfolio continues to be managed in a prudently conservative manner.

Performance over the 2011/12 financial year to date (March 2012) continues to be strong having exceeded the benchmark, 6.10%pa vs 4.83%pa. Council has been proactive in sourcing opportunities in the market whilst investing prudently and managing its cash flows.

Bank issued fixed and floating bonds are beginning to represent good value again, thereby providing Council with further long-term investment options (beyond term deposits and the NSW Treasury Corporation Managed Fund Facilities) depending upon its cash flow requirements.

RECOMMENDATION OF GENERAL MANAGER

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

Application of Investment Funds	Description	Value (\$)
Restricted Funds:		
Externally Restricted	Section 94 Old Plan	25,698,622
	Section 94A Plan Contributions	6,313,468
	Sports fields, ESSR, Domestic Waste, Infrastructure Levies & Unexpended Grants	18,074,086
Internally Restricted Reserves	Held to ensure sufficient funds are available to meet future commitments or specific objectives. Employee Leave Entitlements, Bonds & Guarantees, Compulsory Open Space Land Acquisitions, & Beach Parking.	9,463,910
Unrestricted Funds	Funds Allocated to meet Current Budgeted Expenditure	28,120,044
Total		87,670,130

There has been a decrease in the investments held of \$3,626,304, which is in line with budgeted movements at this time of year.

Reconciliation of Cash Book

Description	Value (\$)
Council's Cash Book balance	475,204
Kimbriki Bank balance	1,395,259

Investments Funds Report - As at 31-Mar-12

Maturity date	Face Value	Current Yield	Borrower	Standard & Poor's Rating	Current Value
Floating Rate Note Investment Group					
15-Mar-13	2,000,000	6.6600	HSBC Bank Australia Subordinated Debt	A	1,972,116
23-Apr-14	1,000,000	5.3600	Deutsche Bank AG London Sub Notes	BBB+	964,897
	3,000,000				2,937,014
Floating Rate Note Investment Group - Held to Maturity					
18-Jun-13	1,000,000	5.5300	Suncorp Metway	A+	1,000,000
	1,000,000				1,000,000
Mortgage Backed Securities Investment Group					
Weighted Avg Life *	Face Value				
22-Aug-14	1,864,670	4.7950	Emerald Series 2006-1 Class A	AAA	1,647,248
	1,864,670				1,647,248
Term Investment Group					
2-Apr-12	2,000,000	6.1500	National Australia Bank Ltd - Govt Business	A-1+	2,000,000
11-Apr-12	1,000,000	6.0000	Bank of Queensland	A-2	1,000,000
12-Apr-12	2,000,000	5.8500	Bank of Western Australia	A-1+	2,000,000
16-Apr-12	2,000,000	6.0000	Members Equity Bank Melbourne	A-2	2,000,000
17-Apr-12	5,000,000	5.8700	Suncorp Deposits and Transactions Products	A-1	5,000,000
27-Apr-12	2,000,000	5.8700	Suncorp Deposits and Transactions Products	A-1	2,000,000
8-May-12	3,000,000	5.9000	Bank of Queensland	A-2	3,000,000
10-May-12	2,000,000	6.1000	National Australia Bank Ltd - Govt Business	A-1+	2,000,000
18-May-12	2,000,000	6.3700	ING Bank (Australia) Limited	A-1	2,000,000
28-May-12	3,000,000	5.8000	National Australia Bank Ltd - Govt Business	A-1+	3,000,000
30-May-12	2,000,000	5.8700	National Australia Bank Ltd - Govt Business	A-1+	2,000,000
31-May-12	2,000,000	6.4000	Members Equity Bank Melbourne	A-2	2,000,000
1-Jun-12	1,000,000	6.4000	Members Equity Bank Melbourne	A-2	1,000,000
8-Jun-12	1,000,000	6.3000	Bank of Queensland	A-2	1,000,000
8-Jun-12	2,000,000	5.8100	St. George Bank Limited	A-1+	2,000,000
8-Jun-12	2,000,000	5.9500	Members Equity Bank Melbourne	A-2	2,000,000
19-Jun-12	1,000,000	5.8500	Bank of Western Australia	A-1+	1,000,000
22-Jun-12	2,000,000	5.8000	Bank of Western Australia	A-1+	2,000,000
10-Jul-12	2,000,000	6.0000	Bank of Queensland	A-2	2,000,000
23-Jul-12	2,000,000	5.8500	Bendigo and Adelaide Bank Limited	A-2	2,000,000
24-Jul-12	1,000,000	5.9000	National Australia Bank Ltd - Govt Business	A-1+	1,000,000
30-Jul-12	2,000,000	5.8500	Bank of Queensland	A-2	2,000,000
10-Aug-12	2,000,000	6.1500	Suncorp Deposits and Transactions Products	A-1	2,000,000
10-Aug-12	3,000,000	6.0300	ING Bank (Australia) Limited	A-1	3,000,000
21-Aug-12	3,000,000	6.0000	ING Bank (Australia) Limited	A-1	3,000,000
29-Aug-12	2,000,000	6.0000	St. George Bank Limited	A-1+	2,000,000
29-Aug-12	1,000,000	6.0000	St. George Bank Limited	A-1+	1,000,000
7-Sep-12	2,000,000	6.0400	St. George Bank Limited	A-1+	2,000,000
26-Oct-12	2,000,000	6.0000	ING Bank (Australia) Limited	A-1	2,000,000
23-Nov-12	1,000,000	6.0000	ING Bank (Australia) Limited	A-1	1,000,000
26-Nov-12	1,000,000	5.9800	ING Bank (Australia) Limited	A-1	1,000,000
26-Feb-13	1,000,000	6.0100	ING Bank (Australia) Limited	A-1	1,000,000
26-Feb-13	1,000,000	6.0300	ING Bank (Australia) Limited	A-1	1,000,000
26-Feb-13	1,000,000	6.0000	ING Bank (Australia) Limited	A-1	1,000,000
25-Nov-14	2,000,000	5.7000	National Australia Bank Ltd - Govt Business	AA-	2,000,000
	66,000,000				66,000,000
Term Investment Group & Cash Deposit Account					
Rollover Date	Face Value	Current Rate	Borrower	Rating	
Cash Account	16,952	4.2000	CBA (Brookvale Oval Flood Lighting)	A-1+	16,952
Cash Account	4,397,426	4.7500	CBA (Business Saver)	A-1+	4,397,426
Cash Account	1,137,638	4.7500	CBA Business Saver Narabeen Lagoon	A-1+	1,137,638
18-Jun-12	1,000,000	5.0000	CBA Term Deposit Kimbriki 35810609 (1)	AA-	1,000,000
13-Jul-12	6,866,152	5.8000	WBC Term Deposit Kimbriki 11-1208	AA-	6,866,152
4-Sep-12	2,163,252	5.8000	WBC Term Deposit Kimbriki 11-4185	AA-	2,163,252
1-Apr-12	504,448	4.4018	CBA Money Market Kimbriki 10162612	AA-	504,448
	16,085,868				16,085,868
	87,950,538			Closing Balance:	87,670,130

* Weighted Average Life is the anticipated date of repayment of Council's full principal in mortgage backed securities based upon the expected repayment of a critical balance of underlying mortgages. It is calculated by professional actuaries and its use is market convention for securities such as these. Council's investment policy recognises Weighted Average life dates as appropriate maturity dates for these securities

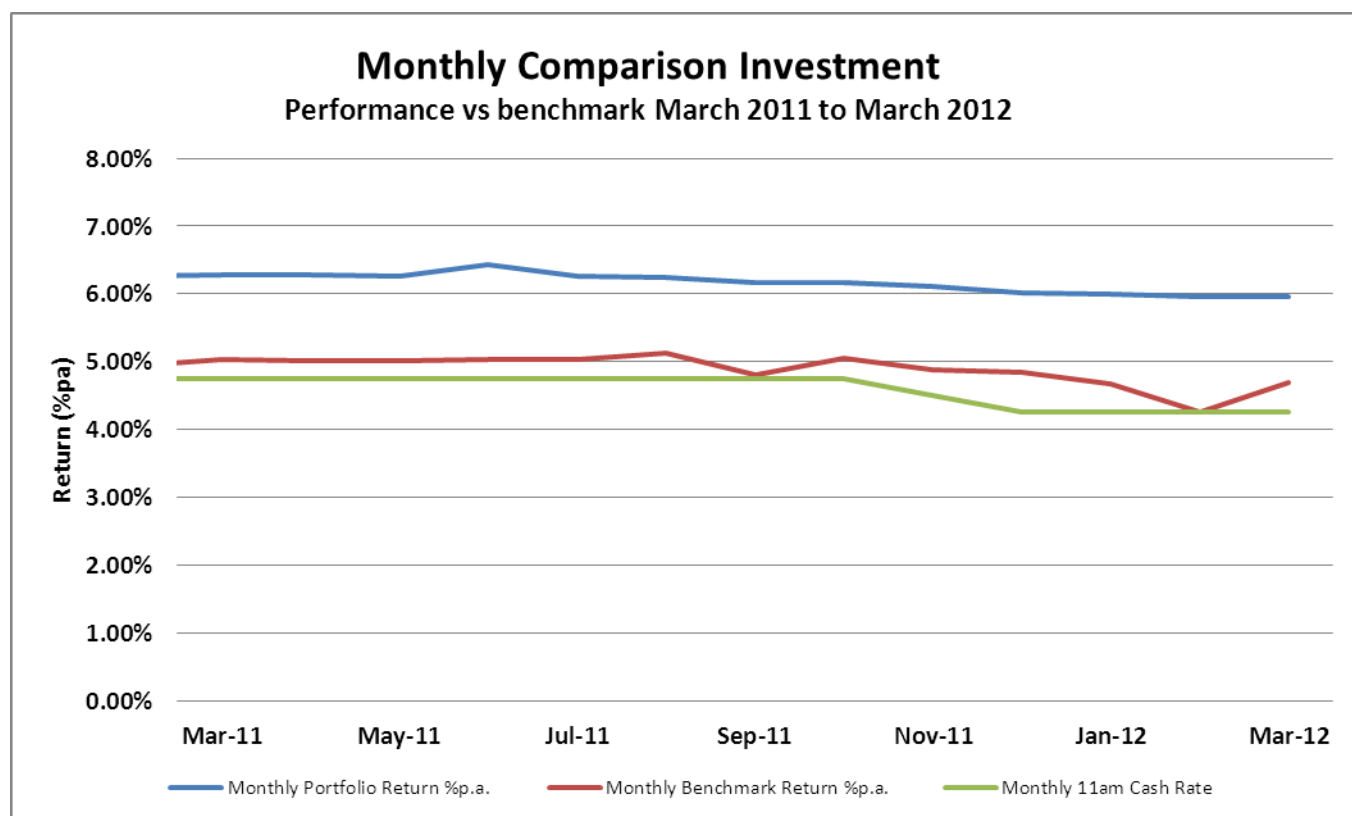
Portfolio Performance vs. 90 day Bank Bill Index over 12 month period.	✓	Council's investment performance did exceed benchmark.
Monthly Income vs. Budget	✓	Council's income from investments did exceed monthly budget.
Investment Policy Compliance		
Legislative Requirements	✓	Fully compliant
Portfolio Credit Rating Limit	✓	Fully compliant
Institutional Exposure Limits	✓	Fully compliant
Term to Maturity Limits	✓	Fully compliant

Investment Performance vs. Benchmark

	Investment Portfolio Return (%pa)*	Benchmark: UBS 90d Bank Bill Index	Benchmark: 11am Cash Rate **
1 Month	5.95%	4.70%	4.25%
3 Months	5.97%	4.55%	4.25%
6 Months	6.03%	4.74%	4.38%
FYTD	6.10%	4.83%	4.50%
12 Months	6.17%	4.89%	4.56%

* Excludes cash holdings (i.e. bank account, loan offset T/Ds, and Cash Fund)

** This benchmark relates to Cash Fund holdings

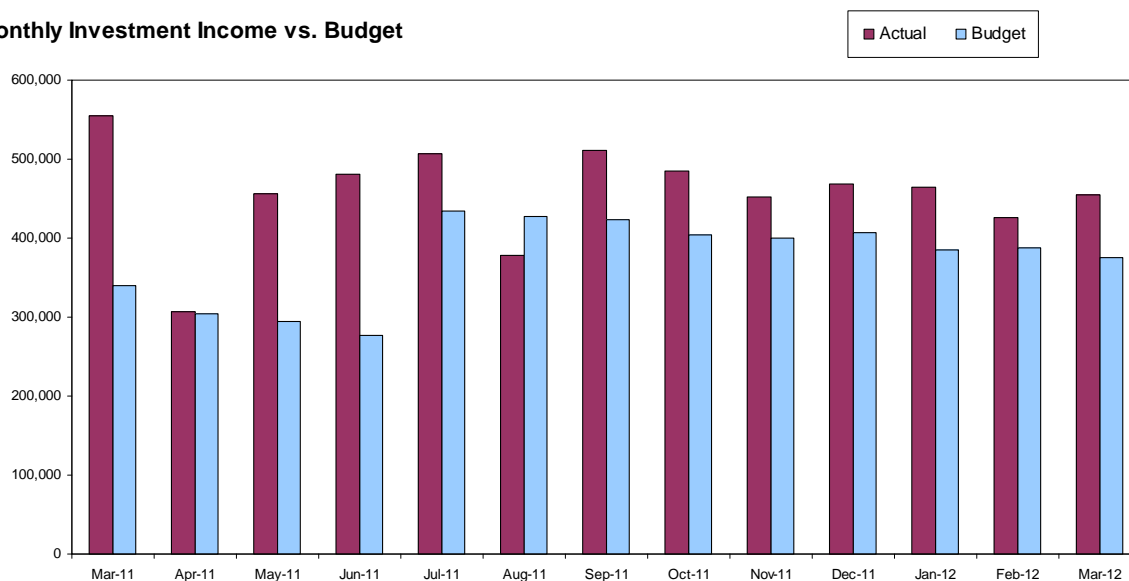


Monthly Investment Income* vs. Budget

	\$ March 12	\$ Year to Date
Investment Income	450,416	4,135,291
Adjustment for Fair Value	4,869	11,325
Total Investment Income	455,286	4,146,617
Budgeted Income	375,848	3,643,380

*Includes all cash and investment holdings

Monthly Investment Income vs. Budget



In March we have reflected a fair value increase of \$4,869 in accordance with AASB 139 Financial Instruments: Recognition and Measurement. It is Council's intention to hold these investments to maturity and as such no gain of principal will occur in these circumstances. These investments could have been classified as Held-to-maturity investments upon initial recognition under AASB 139 in which case no fair value adjustment would be required through profit or loss. When these investments reach maturity any fair value adjustment which has been taken up will be written back to the Profit and Loss Account.

Economic Notes

Global issues:

- European finance ministers agreed to increase the size of its bailout fund to €800billion (\$1025billion) to 'fight contagion and protect stability' in the euro zone.
- US Federal Reserve Chairman, Ben Bernanke, warned that recent declines in unemployment were encouraging but not strong enough to be self-sustainable. He committed to maintaining accommodative monetary policy in order to create further jobs for the economy.
- The HSBC PMI index, a measure of manufacturing activity in China, contracted for the 5th consecutive month, raising further concern over the outlook for China's growth amid slowing export demand and falling property prices.

Domestic issues:

- Domestic consumer and business confidence remains low (outside of the mining sector) as highlighted by continued poor retail sales and housing numbers.
- Reflecting lower demand for global exports, Australia recorded trade deficits for the first two months of 2012 (-971million in January and -480million in February). In contrast, the monthly trade balance averaged +2billion in the September quarter and +1.1billion in the December quarter.

Interest rates:

- The RBA kept Australia's official cash rate unchanged at 4.25% following its April meeting. It indicated that it would be "prudent to see forthcoming key data on prices to reassess its outlook for inflation, before considering a further step to ease monetary policy".
- Markets are pricing in approximately 3 rate cuts over the next year. In contrast, most economists only expect a further 2 rate cuts to occur.

Investment Portfolio Commentary

Council's investment portfolio outperformed its benchmark in March. Without marked-to-market influences, Council's investment portfolio currently has an overall yield of 5.95%pa. This is based on the interest rates due on existing investments and excludes the underlying changes to the market value of the securities/deposits.

On a marked-to-market basis, taking into account all movements in capital, the portfolio returned 6.13%pa for the month versus the benchmark's 4.70%pa return.

8.0 COMMUNITY DIVISION REPORTS

ITEM 8.1	TENDER FOR THE RETAIL CHARGING OF ELECTRICITY (CONTESTABLE SITES AND STREET LIGHTING)
REPORTING MANAGER	GROUP MANAGER PROCUREMENT, FLEET & PLANT
TRIM FILE REF	2012/092211
ATTACHMENTS	NIL

EXECUTIVE SUMMARY

PURPOSE

To seek Council approval to accept the lowest priced complying tender for the Retail Charging of Electricity (Contestable Sites and Street Lighting).

SUMMARY

Warringah Councils' current contract for the retail charging of electricity expires on 31st December 2012. The nature of the electricity market is such that there are a couple of times during the year where the best prices can be obtained; April is one such time.

Essential Utilities Corporation (EUC), on behalf of Warringah Council, issued a tender on 13 April 2012 for the Retail Charging of Electricity (Contestable Sites and Street Lighting). EUC are a company specialising in the negotiation of electricity, gas and telecommunications contracts.

Contestable sites are large sites with energy consumption exceeding 160,000 kWh per annum. Warringah has eight contestable sites - these are listed in the body of the report.

The tender was for the billing function only; there are no changes to infrastructure or the source of the electricity. The infrastructure and power generation remains with Ausgrid (Energy Australia).

The tender was advertised in The Sydney Morning Herald (10 April 2012) and the Manly Daily (7 April 2012) as required under the Local Government Act. Tenders will close on Friday 20 April 2012.

Given the constant fluctuations in price, once closed the outcome of the tender must be accepted within 5-7 days, for this reason this report is submitted with general background information only. The report will be re-issued and provided to Council on Monday 23rd April – at this time it will have the recommendation including rates.

EUC recommend that we only accept the outcome of the tender if the rates are less than those under the current contract (excluding the impact of the carbon tax). If the rates are not as favourable as expected the recommendation will be to reject the outcome and re-issue the tender.

FINANCIAL IMPACT

To be provided to Council on Monday 23 April 2012.

POLICY IMPACT

Nil

RECOMMENDATION OF DEPUTY GENERAL MANAGER COMMUNITY

That, depending on the results of the tender process, Council **either**:

- A. Accepts the tender from the lowest priced complying tender as advised to Council in the revised report to be circulated on 23 April 2012 **or**
 - B. Does not accept any of the tenders and continues with the current supplier for Retail Charging of Electricity (Contestable Sites and Street Lighting), if all tenders received are higher priced than the current supplier.
-

REPORT

BACKGROUND

A tender for the retail charging of electricity for street lighting and contestable sites was issued on 13 April 2012. The tender was for the billing function only; there will be no changes to infrastructure or the source of the electricity - infrastructure and power generation remains with Ausgrid (Energy Australia).

Contestable are large sites with energy consumption exceeding 160,000 kWh per annum. Warringah has eight contestable sites:

- Warringah Aquatic Centre
- Brookvale Oval
- Warringah Mall Library
- Cromer Administration Building
- Civic Centre, Dee Why
- Belrose Library
- Glenrose Centre, Glen Street
- Dee Why Library

The last tender process was undertaken in 2009 and Warringah Council entered into a contract with TruEnergy for the Contestable Sites and AGL for Street Lighting. These contracts expire on 31 December 2012.

The nature of the electricity market is such that there are a couple of times during the year where the best prices can be obtained; April is one such time.

THE TENDER PROCESS

The tender process was managed by Essential Utilities Corporation (EUC) on behalf of Warringah Council. EUC are a company specialising in the negotiation of electricity, gas and telecommunications contracts.

The tender was advertised in The Sydney Morning Herald (10 April 2012) and the Manly Daily (7 April 2012) as required under the Local Government Act. It was issued on Friday 13 April 2012 and will close on Friday 20 April 2012.

Once the tender closes the pricing is only fixed for a short time and the outcome must be accepted within 5-7 days.

CONSULTATION

Consultation was undertaken with key stakeholders including Facilities and Roads and Traffic.

TIMING

The tender closes on Friday 20 April 2012 and the report from EUC will be available by midday Monday 23 April 2012. The final Council report including recommendation and pricing will be provided to Council by close of business Monday 23 April 2012.

POLICY IMPACT

Nil.

FINANCIAL IMPACT

The full financial impact of the new rates will be provided to Council on Monday 23 April 2012.

A key point to note when considering the financial impact of the tender outcome is that the rates that are the subject of this tender are energy consumption charges only.

In 2010/11 Warringah Council's energy expenditure was approximately \$270,000 on Contestable Sites and \$250,000 on Street Lighting (energy component only).

With the Contestable Sites and the Street Lighting, only approximately 30% of the total value of the bill is for energy consumption. The remainder of the bill is made up with regulatory costs – an additional eight line items on each bill – plus network usage charges.

Also, with the Street Lighting there is an additional bill for infrastructure charges which in 2011 totalled a further \$1.5M.

These network usage charges and infrastructure charges are non-negotiable as they are charges from the distributors and a combination of federal and state government charges.

Any savings achieved through this tender process will not take into account the impact of the carbon tax which is going to add 2.3c per KWh to all consumption from 1 July 2012. This is expected to increase our energy charges by approximately \$240,000 per annum.

GREEN POWER

We currently pay a \$5000 per month premium for 25% Green Power on the eight contestable sites. Once the carbon tax is introduced in July 2012, the tax will apply to total KWh consumption irrespective of whether the source is green or black coal power. As a result the Green Energy market is changing and there are other options available that may offer better environmental outcomes for our money. Consequently, we will be considering market options for the Green Power component of the electricity bills in a separate process in the coming months.

9.0 ENVIRONMENT DIVISION REPORTS

ITEM 9.1	PROGRESSION OF HOUSING STRATEGY
REPORTING MANAGER	GROUP MANAGER STRATEGIC PLANNING
TRIM FILE REF	2012/094501
ATTACHMENTS	1 Correspondence from Minister for Planning and Infrastructure re Housing Strategy

REPORT

PURPOSE

To bring before Council correspondence received from Hon Brad Hazzard, Minister for Planning and Infrastructure (the Minister) advising that Council progress and finalise the Housing Strategy.

REPORT

On 14 February 2012 Council received a letter from the Minister requesting Council progress and finalise its Housing Strategy as a matter of priority. The Minister has confirmed a target of 10,300 new dwellings to be provided in the Warringah LGA (2005 – 2031). However, the Minister has not addressed Council's request for a commitment to infrastructure delivery in order to appropriately accommodate the housing target of 10,300 new dwellings (Attachment 1).

This matter was brought before Council at its meeting on 27 March 2012 at which time it resolved to defer the item to the April meeting of Council.

Subsequent to Council's last meeting there has been discussion between the Deputy General Manager Environment and officers of the Department of Planning and Infrastructure in relation to the Minister's correspondence. Discussions are on going with a view to progressing the matter in mid 2012.

FINANCIAL IMPACT

Nil

POLICY IMPACT

Nil

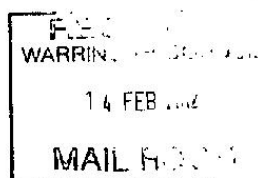
RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That Council:

- A. Agrees that the Deputy General Manager Environment continues discussions with the Minister for Planning and Infrastructure and the Department of Planning and Infrastructure in relation to dwelling capacities and infrastructure in Warringah and dwelling targets.
 - B. Defers further consideration of the Housing Strategy pending the outcomes of the discussions identified in recommendation A.
 - C. Responds to the Minister's correspondence of 14 February 2012 in terms of the above recommendations.
-

**The Hon Brad Hazzard MP**
Minister for Planning and Infrastructure
Minister Assisting the Premier on Infrastructure NSW

Councillor Michael Regan
Mayor
Warringah Council
Civic Centre
725 Pittwater Road
DEE WHY NSW 2099



12/02036

Dear Councillor Regan

I am writing to request Warringah Council progress and finalise its Housing Strategy as a matter of priority.

I understand that in June 2011 Council resolved to stop work on the draft Strategy until the dwelling target for Warringah was confirmed and a commitment to fund additional infrastructure to support growth was made.

A priority of the Government is to ensure that appropriate local strategies are in place to accommodate the predicted population and housing growth across the Sydney metropolitan area. I understand in that regard that Council has been provided with demand forecasts for the future provision of housing and employment. It is now important that appropriate local strategies are in place to accommodate growth.

In relation to housing targets, I confirm that the priority approach should be for the strategy to deliver appropriate housing outcomes, well located to meet affordability and choice criteria. The previous target in the 2005 draft subregional strategy of 10,300 new dwellings (2005 to 2031) may be used as a guide. I have requested the Department of Planning and Infrastructure however to work with Council to use this target flexibly with the criteria of good planning outcomes as the preferred approach.

I request Council provide me within fourteen (14) days of the date of this letter with an itemised timetable to progress and complete its housing strategy.

I have requested Ms Juliet Grant, Regional Director, of the Department's Sydney Region East team to assist Council and look forward to your response.

Yours sincerely

**HON BRAD HAZZARD MP**
Minister

/ 8 FEB 2012

ITEM 9.2	APPROVAL OF THE WARRINGAH DEVELOPMENT CONTROL PLAN 2000 (NOTIFICATION)
REPORTING MANAGER	GROUP MANAGER STRATEGIC PLANNING
TRIM FILE REF	2012/098221
ATTACHMENTS	1 Warringah Development Control Plan 2000 (Notification)

EXECUTIVE SUMMARY

PURPOSE

To seek Council approval of the Warringah Development Control Plan 2000 (Notification) (WDCP 2000 (Notification)).

SUMMARY

A new draft Development Control Plan, "WDCP 2000 (Notification)", has been made to outline procedures for the public notification of various development applications in the land deferred from the operation of Warringah Local Environmental Plan 2011 (WLEP 2011).

Council at its meeting 14 February 2012 resolved to exhibit the draft WDCP 2000 (Notification).

Draft WDCP 2000 (Notification) was exhibited from 25 February 2012 until 23 March 2012.

Three (3) submissions were received during the exhibition period and are addressed in the body of the report.

It is recommended Council approve the WDCP 2000 (Notification) in the form it was publicly exhibited (refer to attachment 1).

CURRENT SITUATION

The current Warringah Development Control Plan (DCP) does not apply to the land deferred from the operation of WLEP 2011.

FINANCIAL IMPACT

Nil

POLICY IMPACT

Provision of a new Development Control Plan for the public notification of various development applications in the land deferred from the operation of WLEP 2011 until such time these areas are brought under the provisions of WLEP 2011 and its associated DCP.

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

- A. That Council approve the Warringah Development Control Plan 2000 (Notification) in accordance with the requirements of section 21 of the *Environmental Planning and Assessment Regulation 2000*.
 - B. That Council give public notice of its decision in a local newspaper within 28 days after the decision is made.
-

REPORT

BACKGROUND

In approving the new Warringah Local Environmental Plan 2011 (WLEP 2011), the Minister for Planning and Infrastructure deferred land in the proposed E3 Environmental Management zone that is within the B2 Oxford Falls Valley and C8 Belrose North localities, under LEP 2000.

In deferring the land, two key outcomes resulted:

1. Warringah Development Control Plan (DCP) does not apply to the “deferred land” areas
2. Warringah Local Environmental Plan 2000 (LEP 2000) applies to the “deferred land” areas

To solve these issues, Council at its meeting 14 February 2012 resolved to exhibit a new DCP (draft Warringah Development Control Plan 2000 (Notification)). This action effectively reinstates the repealed notification DCP, “Warringah Development Control Plan”, which was applicable to these lands under LEP 2000.

Approval of the WDCP 2000 (Notification) will enable public notification procedures to be applied to a variety of development applications located in the “deferred land” areas.

Exhibition of the Draft WDCP 2000 (Notification) - Submissions

The draft WDCP 2000 (Notification) was public exhibited from 25 February 2012 until 23 March 2012. During the exhibition period, three (3) submissions were received during this period and have been considered in the table below.

No. of submissions	Comment/issue	Council response	Changes to document
Three (3)	<p>Support the role of notification, however, there are:</p> <ol style="list-style-type: none"> a) too many exceptions to the notification process (ie. modification applications) b) Not enough properties are notified (ie. adjoining public lands or sensitive development) c) Insufficient time to respond to proposals (ie. should be greater than 14 days) 	<p>The draft WDCP 2000 (Notification) is satisfactory in relation to the notification requirements of all relevant legislation, including the Environmental Assessment & Planning Act 1979 and Environmental Planning and Assessment Regulation 2000.</p> <p>The draft WDCP 2000 (Notification) is effectively a reinstatement of the previous (and now repealed) notification DCP which was applicable to these lands under LEP 2000.</p> <p>The draft WDCP 2000 (Notification) will provide for the adequate public notification of various development applications in “deferred land” areas until such time these areas are brought under the provisions of WLEP 2011 and its associated DCP.</p>	No change to document

As detailed in the above table, the concerns raised in the submissions do not warrant amendments or changes to the draft WDCP 2000 (Notification).

Conclusion

Council to approve the WDCP 2000 (Notification) in the form it was publicly exhibited.

CONSULTATION

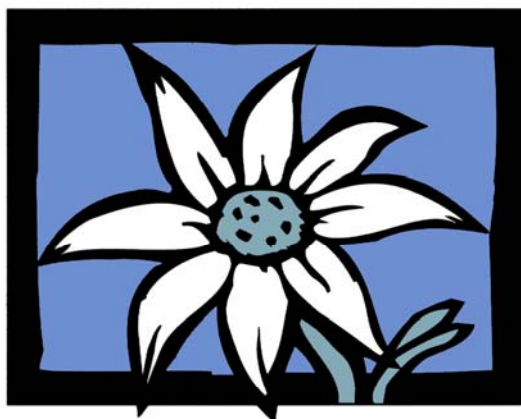
Should the WDCP 2000 come into force, a public notice must be placed in the local newspaper to meet the requirements of Section 21 of the Environmental Planning and Assessment Regulation 2000.

FINANCIAL IMPACT

Nil

POLICY IMPACT

Provision of a new Development Control Plan for the public notification of various development applications in the land deferred from the operation of WLEP 2011 until such time these areas are brought under the provisions of WLEP 2011 and its associated DCP.



Warringah Council

WARRINGAH DEVELOPMENT CONTROL PLAN 2000 (Notification)

Adopted by Council on []

In effect from []

Introduction

This DCP provides the overarching framework for Council's development controls to be incorporated in one document. This DCP applies to all land to which Warringah Local Environmental Plan 2000 applies.

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PART 1: Public Exhibition & Notification Requirements

1. Introduction

This DCP provides the requirements for carrying out public notification procedures in relation to development applications made under the Environmental Planning and Assessment Act 1979 (EP&A Act) which are not specifically regulated. It is noted that some types of applications by law require specific notification procedures. These applications include developments which are defined as 'Designated', 'Integrated' and 'Advertised' under the EP&A Act. Schedule 1 of this Plan details the notification/advertising requirements in summary.

2. Notification Requirements for Development Applications & Modifications

2.1 Name of the Plan

This plan is known as "Warringah Development Control Plan 2000 (Notification)".

This plan comes into effect on the date that public notice is given in Manly Daily on [].

2.2 Purpose of the DCP

The purpose of this DCP is to specify:

- the criteria Council will take into account when deciding who will be notified of particular development applications including applications for a modification to development consent;
- the information notified persons will receive;
- details relating to the period during which documents may be inspected and submissions made; and
- circumstances where notification is not required.

2.3 Aims of the DCP

1. To promote the Council's responsiveness to local concerns and issues.
2. To ensure that local residents and land owners are made aware of applications which could potentially cause detrimental effect to their property.
3. To provide the opportunity for the public to comment on development applications.
4. To enable the opportunity for public involvement in the development process.

2.4 Development that will not be notified

The following development will not be notified under this DCP:-

- Exempt development
- Complying development.

The following types of development subject to the pre-conditions detailed in Schedule 3 of this DCP:-

- Demolition;
- Swimming Pools;
- Front boundary fences;

- Internal alterations to multi dwelling housing and residential flat buildings (excluding balcony enclosures and other devices which are externally visible);
 - Construction of carports, garages, and outbuildings associated with multi dwelling housing and residential flat buildings;
 - A different use resulting from a change of use from one type of approved industrial or warehouse use to another type of industrial or warehouse use;
 - Alterations to approved industrial and warehouse buildings;
 - A different use resulting from a change of use from one type of approved business, office or shop to another type of business, office or shop use;
 - Internal alterations to business premises, offices and shops.
- Applications for modification of development consent under Section 96(1) of the EP&A Act, being modifications involving minor error, misdescription or miscalculation unless authorised by the Manager.
 - Tree Preservation Orders (unless heritage or a significant tree).
 - Building Certificates not related to unauthorised works.
 - Applications under Part V of the EP&A Act.
 - Amended or substituted Development Applications that have previously been notified / advertised and the application differ only in minor respects and does not cause a greater environmental impact. (See section 2.12).
 - Rainwater tanks with a volume not exceeding 30,001 litres.
 - Photovoltaic cells not exceeding 5 kilowatts.
 - Development that would otherwise be 'Exempt development' under Schedule 1 of WLEP 2000 except for being located in bushfire, flood and slip prone land as defined in Schedule 1.1.(c).
 - Any application to modify a Development Consent for works described within this DCP as not requiring public exhibition under the original Development Application (this clause overrides any requirements detailed under clause 2.7 of this DCP).

2.5 Details addressed in the Plan

This plan has been structured to address:-

1. The notification requirements for applications set by Council Policy. These requirements are set in Schedule 1 of this plan.
2. The public exhibition requirements for applications stipulated by the Environmental Planning & Assessment Regulation 2000 (EP&A Regulation 2000) including designated development and advertised development. These requirements are set in Schedule 1 and Section 2.6 of this Plan.
3. The notification requirements for applications for modification of consent. These requirements are set in Schedule 1 and Section 2.7 of this Plan.
4. The notification requirements for applications for review of determination under Section 82A of the EP&A Act. These requirements are set out in Schedule 1 and Section 2.8 of this Plan.

5. The public exhibition requirements for draft masterplans stipulated by Clause 19(6) of WLEP 2000. These requirements are set in Schedule 1 and Section 2.9 of this Plan.
6. Notification under the Tree Preservation Order is set out in Section 2.10 and Schedule 1.
7. Notification of Building Certificates is set out in Section 2.11 and
8. Schedule 1.
9. The circumstances under which notification of an application may be dispensed with. These are set out in Schedule 1 and Section 2.12 of this Plan.
10. The notification requirements for certain amended substituted or resubmitted applications. These requirements are set out in Schedule 1 and Section 2.14 of this Plan.

2.6 Notification and Advertising Process for Applications

Development Applications

The minimum standard for notification of development applications, which are not advertised development or designated development, is as follows:

- A written notice will be sent to adjoining property owners and occupiers. This includes those properties directly across any form of roadway. All owners and occupiers within a multi-residence complex will be included in the notification. Council will rely on its property system on the day of compiling the notice to identify the owners of the land. The extent of notification area is identified under the title "Notification Maps".
- The notification period is as per Schedule 1.
- The written notice will include the following advice:
 - identification of the relevant parcel of land, including the complete address of all street frontages and lot numbers;
 - a description of the development;
 - an A4 size plan including a site plan, the elevations of the building and the height and number of storeys (if relevant);
 - the place and times the application can be inspected;
 - the closing date for submissions;
 - a statement that submissions will be disclosed to any person requesting information under the Freedom of Information guidelines; and
 - a statement of the availability of Council's Mediation Program.

Note: The written notice for all applications notified/advertised under this Development Control Plan will contain the above advice, plus any matters as may be required by the EP&A Act and/or Regulation.

The above process may be varied at the discretion of the officer responsible for the management of development assessment to permit:

- notification of properties beyond adjoining properties;
- an extension of the notification period;
- placement of a public notice in a local newspaper;

- exhibition of plans at other public venues;
- the holding of a public meeting;
- consultation with relevant community groups; and/or
- alteration of the advice contained in the written notice.

Council's Notification Fees established within Council's Fees and Charges will apply.

Advertised Development

Development which constitutes advertised development is identified in Clause 5 of the EP&A Regulation 2000 or Clause 23 of WLEP 2000 as follows:-

Advertised development under Clause 5 of the EP&A Regulation 2000 is the following types of development (not being designated development or State significant development):

- Nominated integrated development which requires approval under the Heritage Act 1977, the Water Management Act 2000 or the Protection of the Environment Operations Act 1997; Threatened species development and Class 1 aquaculture development, which will be advertised in accordance with Clauses 87-89 of the EP&A Regulation 2000.
- As an additional requirement under this Plan,
 - Written notice to adjoining property owners and occupiers and to surrounding property owners and occupiers whose use or enjoyment of their land may be detrimentally affected by the development. The extent of surrounding properties receiving written notice shall be at the discretion of the officer responsible for development assessment with the minimum area to be that identified in the Notification Maps of this DCP.
 - A notice exhibited on the land will be displayed.
 - The notification period is 14 days, except for nominated integrated or threatened species development, which is 30 days. The notification period may be extended at the discretion of the officer responsible for the management of development assessment.

Advertised development under Clause 23 of WLEP 2000 is:

- development on or adjacent to public open space that will disturb bushland,
- development for the purpose of potentially offensive industries and potentially hazardous industries,
- development involving the creation of two or more dwellings (other than a granny flat),
- development which involves the demolition of an item identified as having heritage significance in this plan,
- development for the purpose of category A remediation work, unless the remediation work is designated development or State significant development,
- development that is or involves development classified as Category Three,
- development on land owned by the State or Commonwealth Government or institutions which promote the physical, religious, social, cultural or intellectual welfare of persons in the community, if the development is different from the

land's current use or any use for which it was held by the government department or authority or institution.

Advertised development under Clause 23 of WLEP 2000 will be advertised in accordance with Clauses 87-89 of the EP&A Regulation 2000.

Advertising under Clauses 87-89 of the EP&A Regulation requires a written notice to adjoining land owners and such public authorities (other than relevant concurrence authorities or approval bodies) who may have an interest in the application, as well as a notice in a local newspaper. The notification period must be for at least 14 days.

In addition to and as an extension of these requirements, this DCP requires that advertised development under Clause 23 of WLEP 2000 be publicly notified as follows:

- Written notice to adjoining property owners and occupiers and to surrounding property owners and occupiers whose use or enjoyment of their land may be detrimentally affected by the development. The extent of surrounding properties receiving written notice shall be at the discretion of the officer responsible for development assessment with the minimum area to be that identified in the Notification Maps of this DCP.
- A notice exhibited on the land will be displayed.
- The notification period is 14 calendar days, except for Category Three development, which is 21 calendar days and Category A remediation work identified in Clause 23 of WLEP 2000, which is 30 calendar days. The notification period may be extended at the discretion of the officer responsible for the management of development assessment.

The following advertised development under Clause 23 of Warringah Local Environmental Plan 2000 will also include notification, with at least one week's notice, of a public hearing into that development proposal:

- Category Three development.
- Development on land owned by the State or Commonwealth Government or institutions which promote the physical, religious, social, cultural or intellectual welfare of persons in the community, if the development is different from the land's current use or any use for which it was held by the government department or authority or institution.
- The notification of the public hearing will be by letter to those who made submissions in response to the development proposal and by a notice placed in a local newspaper, in accordance with Council's Independent Public Hearing Panel Policy.

Council's Advertised Development Fees established within Council's Fees and Charges will apply.

Designated Development

Designated development refers to certain types of high impact development that are identified as designated development under Schedule 3 the EP&A Regulation 2000.

The requirements for public notification of development applications for designated development are specified in Section 79 of the EP&A Act and Clauses 77-81 of the EP&A Regulation 2000.

Under this Plan, the notification period for designated development may be extended at the discretion of the officer responsible for the management of development assessment.

Council's Designated Development Notification Fees established within Council's Fees and Charges will apply.

State Significant Development

State Significant Development refers to development that is declared to be State Significant Development under Section 89C of the EP&A Act.

The requirements for public notification of development applications for State Significant Development are specified in Section 89F of the EP&A Act and Clauses 82-85 of the EP&A Regulation 2000 and Council will conduct public exhibition in accordance with these requirements.

Under this plan, the notification period may be extended at the discretion of the officer responsible for the management of the development assessment.

2.7 How applications for modification of development consent are notified

This DCP includes notification requirements for applications made under Section 96(1) (misdescription), Section 96(1A) (modifications involving minimal environmental impact), Section 96(2) (other modifications) and Section 96AA (modifications by Council of development consents granted by the Land & Environment Court) of the EP&A Act.

2.7.1 Section 96(1) Misdescription

Section 96(1) relates to a minor error, misdescription or miscalculation. These applications do not require notification unless approved by the manager.

2.7.2 Section 96(1A) certain Section 96AA modification applications

Section 96(1A) applications are for modifications involving minimal environmental impact. Section 96AA applications refer to those applications for modification by Council of development consents granted by the Land & Environment Court where the modification is of minimal environmental impact. These applications will be publicly notified as follows under this DCP:

- Written notice to adjoining land owners and occupiers.
- Written notice to each person who made a submission to the original development application. Such notice will be sent to the last address known to Council.
- The notification period is 14 calendar days.

The above process may be varied at the discretion of the officer responsible for the management of development assessment to permit notification beyond adjoining owners and occupiers and to permit an extension of the notification period or to limit the notification to only those neighbouring properties impacted upon by the variation. For example, a modification involving amendments to fenestration on the southern elevation of a building will not need to be notified to residents on the northern side of the block.

Note: Clause 117 of the EP&A Regulation also specifies requirements for notification of Section 96(1A) modification applications where the development consent was granted by the Land and Environment Court and the modification application has been made to the Land & Environment Court.

2.7.3 Section 96(2) modification and certain Section 96AA modification applications

Section 96(2) modification applications are for modifications other than those involving minor error, misdescription or miscalculation (Section 96(1)) and those involving minor environmental impact (Section 96(1A)). Section 96AA applications refer to those applications for modification by Council of development consents granted by the Land & Environment Court.

Where the modification application under Section 96(2) or Section 96AA is for designated development, State significant advertised development or any other development where the application was made to a consent authority other than Council the following public notification is required:

Such applications must be publicly notified in accordance with Clause 118 of the EP&A Regulation 2000. This involves publishing a notice in a local newspaper and by notice to each person who made a submission in relation to the original application, with a notification period of at least 14 days, commencing on the day after which the notice is published in the local newspaper.

This DCP specifies that the notification period will be 14 days. The notification period may be extended at the discretion of the officer responsible for the management of development assessment.

In addition to the requirements of Clause 118, this DCP also requires that written notice be sent to adjoining property owners and occupiers and to surrounding property owners and occupiers whose use or enjoyment of their land may be detrimentally affected by the proposed changes. The extent of surrounding properties receiving written notice shall be at the discretion of the officer responsible for development assessment.

Other modification applications under Sections 96(2) and 96AA which are not addressed under Clauses 117 and 118 of the EP&A Regulation 2000 will be advertised in accordance with Clause 119 of the EP&A Regulation 2000. This involves notification of the modification application in the same manner as the original application was notified or advertised for a period not exceeding 14 days.

In addition to the requirements of Clause 119 for these other modification applications, this DCP also requires that written notice be sent to each person who made a submission in relation to the original application.

Council's Notification & Advertised Development Fees established within Council's Fees and Charges will apply to S96 applications.

Note: Clause 119 of the EP&A Regulation 2000 also specifies requirements for notification by Council of Section 96(2) and Section 96AA modification applications where the development consent was granted by the Land and Environment Court.

2.8 Notification / Advertising of applications for review of Council's determination under Section 82A

The requirements for public notification of applications for review by Council of its determination of a development application under Section 82A of the EP&A Act are specified in Clause 113A of the EP&A Regulation 2000.

Clause 113A of the EP&A Act Regulation requires such applications to be notified or advertised for a period not exceeding 14 days, but otherwise in the same manner as the original development application was notified or advertised.

Under this DCP, the notification period will be 14 calendar days. Written notice will also be sent to each person who made a submission in relation to the original development application.

Council's Notification & Advertised Development Fees established within Council's Fees and Charges will apply to S82A applications.

Applications for review under Sections 96AB and 82B of the EP&A Act will not be notified or advertised.

2.9 Public exhibition requirements for draft masterplans

Some localities under WLEP 2000 require development of certain land to be assessed with regard to a masterplan. Where a masterplan is required, it must be adopted by Council before Council can determine a development application relating to the land.

A draft masterplan must be publicly exhibited in accordance with Clause 19(6) of WLEP 2000. This clause requires that Council advertise the draft masterplan for public comment in a newspaper circulating in the locality and exhibit it at the Council's office for not less than 21 days. The extent of notification will be to all properties within the master plan area and all properties adjoining the proposal. Properties opposite any roadway / reserve shall also be notified. The extent of notification may be extended at the discretion of the manager.

A draft masterplan may be submitted separately or in conjunction with a development application. If submitted in conjunction with a development application, the draft masterplan and development application may be publicly exhibited concurrently.

Council's Notification Fees established within Council's Fees and Charges will apply.

2.10 Notification under the Tree Preservation Order (TPO)

Applications under the TPO that effect "Significant" trees will be notified to adjoining residents. The notification area will generally be 5 properties (or 75 m) either side and opposite to the subject site (whichever is the lesser). See Schedule 2.

A "Significant" tree is defined as a tree that impacts on the streetscape by virtue of its size, appearance, type, age, condition and heritage / cultural significance. The Team Leader, Conservation and Land Management (T/L CALM) (or equivalent) or a senior to this position will determine if a tree is deemed "significant".

Generally only "significant" trees will be notified to adjoining properties for 14 days as identified in Schedule 1, however, the T/L CALM (or equivalent) or a senior to this position has the discretion to notify any TPO or extend the notification area or extend the notification period.

2.11 Notification of Building Certificates

Building Certificates that relate to unauthorised works will be notified for a period of 14 days to those adjoining properties who may be affected by the development. The period may be extended and / or the application advertised at the discretion of the manager. See Schedules 1 and 2.

Council's Notification Fees established within Council's Fees and Charges will apply.

2.12 Circumstances that notification/advertising of an application may be dispensed with

- If a development application is amended or substituted, and
- Council has notified/advertised the original application, and
- Council is of the opinion that the amended or substituted application differs only in minor respects from the original application, and does not result in a greater environmental impact, and
- Council may decide to dispense with further notification/advertising in relation to the amended or substituted application at the discretion of the officer responsible for the management of development assessment.

2.13 Notification/advertising of certain amended or substituted applications

Amended or substituted applications, other than those referred to in Section 2.12 of this Plan, will be notified/advertised in the same manner as the original application and to each person who made a submission to the original application. The applicable Fees and Charges apply.

2.14 Period for notification/ advertising of certain applications be affected over the Christmas/New Year period

The period between 20 December and the end of the first week in January will not be included in the time period for notification/advertising of applications.

This does not apply to applications where the EP&A Regulation stipulates a maximum notification/advertising period, i.e.:

- Applications under Section 82A of the EP&A Act for review by Council of its determination of a development application, and
- Applications for modification of consent under Sections 96(2) and 96AA, to which Clause 119 of the EP&A Regulation applies.

2.15 How submissions are to be made and how submissions are considered***Development Application related***

Submissions are to be in writing, by letter, facsimile, the web or email, clearly identifying the following;

- subject property,
- application number and description,
- name, address and telephone number of the author, and
- state the planning grounds of any support or objection to the proposal.

All submissions received in the correct manner during the submission period will be taken into consideration in the determination of the application; submissions will be viewed on Council's website. Consideration of late submissions will be at the discretion of the officer responsible for development assessment.

The number of submissions triggers the referral to different management levels and panels for consideration/determination depending on the type of development applications.

At the time of preparation of this DCP, the following assessment / determination levels are provided:

1. Officer delegation.
2. Application Determination Panel (ADP).
3. Warringah Development Assessment Panel (WDAP)
4. Warringah Development Review Panel (WDRP)
5. Joint Regional Planning Panel (JRPP).

The referral to the panels identified above are generally triggered by the number of '*relevant objections*' to an application. ('*Relevant objection*' is defined in the Application Determination Panel Charter).

A '*relevant objection*' following the most recent notification/advertising period is an objection to a development proposal or modification that relates directly to the proposal on planning grounds and is not withdrawn or can not be suitably conditioned in a consent to comply with the associated built form controls/planning principles and their objectives.

When Council receives a submission, an acknowledgment letter is sent. Council does not enter into correspondence in respect to any submission due to the large number of submissions received annually. Details provided in any submission will be considered in the assessment officer's report and are available on Council's web site. Any person that lodged a submission in the correct manner will be notified of Council's determination of the development application.

Other Applications

Submissions are to be in writing, by letter, facsimile, or email, clearly identifying the following:

- subject property,
- application number and description,
- name, address and telephone number of the author, and
- State the grounds of any support or objection to the proposal.

All submissions received in the correct manner during the submission period will be taken into consideration in the determination of the application. Consideration of late submissions will be at the discretion of the officer responsible.

2.16 Mediation

The notification/advertising of applications will advise of the opportunity for mediation under Council's Mediation Policy except for Category 3 development applications. Mediation will be organised by the mediation co-ordinator as outlined in Council's Mediation Policy. If the mediation results in amended plans being submitted, those participating in the mediation will have the opportunity of viewing the amended plans prior to the application being determined.

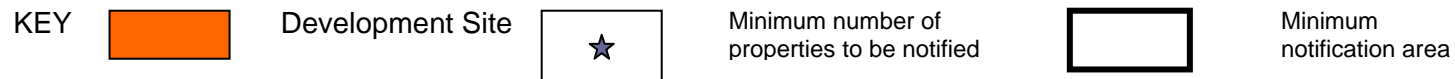
Schedule 1: Notification/Advertising Requirements

		NOTIFICATION	NOTIFICATION, ADVERTISING & SITE NOTICE	COMMENT
Exempt		X	X	
Complying		X	X	
Development Application		14		
	(a) On or adjacent to public open space that disturbs public bushland,	x	14	S.23 WLEP 2000
	(b) Potentially offensive/hazardous,		14	
	(c) Creation of 2 more dwellings,		14	
	(d) Demolition of heritage item		14	
	(e) Cat A remediation works,		14	
	(f) Category 3		21	
	(g) State or Federal land if change in use		14	
	State Significant		30	CI 82-85 EP&A Regs 2000
	Designated Development		30	CI 77-81 EP&A Regs 2000
	Nominated integrated		30	Heritage Act Water Management Act Protection of Environment Operations Act
	Threatened Species		30	If a SIS is required
	Class 1 Aquaculture		14	
	Amended /Substituted Details/Plans	See comments	See comments	As previously under original DA & anyone who made a submission unless:- Council has

		NOTIFICATION	NOTIFICATION, ADVERTISING & SITE NOTICE	COMMENT
				notified/advertised original application, and Council is of the opinion that the substituted or amended application differs only in a minor respect and does not result in a greater environmental impact, advertising / notification is not required
Master Plan CI 19			21	WLEP 2000 CI 19
Sec.96 Modification	S96(1)-Misdescription	X	X	
	S96(1A)- Minimal Impact	14	X	Adjoining & objectors
	S96(AA) Court Consent	See comments	See comments	S117& s118 Regs or as previously under original DA & anyone who made a submission
	S96(2)- Other	See comments	See comments	S118& S119 Regs or as previously under original DA & anyone who made a submission
	Designated Development	See comments	See comments	CI 77-81 EP&A Regs 2000
Sec.82A Review		14*	14*	* As original application was notified or advertised including anyone who made a submission. CI 113A EP&A Regs
Sec. 82B		X	X	
Sec 96AB		X	X	
Part V Assessment		X	X	
TPO		14**	X	** only for significant trees
Building Certificates	Where certificate relates to unauthorised building works	14		Additional notification period or advertising at the discretion of the manager

NOTE: Any application that requires notification / advertising will be subject to the appropriate fees.

Schedule 2: Notification for Maps: - Development Applications, DA modifications, S82A reviews, Building Certificates






NOTE: Notification may be amended if Council's review panel or officer considers that additional properties are affected by the proposal.

Schedule 2: Notification For Maps: - Tree Preservation Orders (Significant trees)



KEY

	TPO Site		Minimum number of properties to be notified		Minimum notification area
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NOTE: Notification may be amended as per Section

Schedule 3 - Development Schedule

For development not to be notified (ref Clause 2.4 of this DCP), works must meet the pre-conditions detailed under Schedule (under the relevant heading for the proposed works) detailed hereunder:

Note: These provisions are not development controls; the purpose is to provide pre-conditions as to what is and is not to be publicly exhibited only.

1 Demolition

General

- The demolition does not involve any part of a heritage building or any demolition work on contaminated lands.

2 Front boundary fences

General

- A front fence (on or within the vicinity of the front boundary) not exceeding 1.5m in height above ground level (existing) and not less than 30% transparent for the length of the fence that is above 1.2m in height; and
- All work being contained within the subject property and being set out by survey; and
- No construction over any watercourse, Council pipeline or drainage easement.

3 Internal alterations to multi dwelling housing and residential flat buildings (excluding balcony enclosures and other devices which are externally visible).

4 Construction of carports, garages, and outbuildings associated with multi dwelling housing and residential flat buildings.

General

- The development complies with the Built Form Controls (development standards) for the applicable locality contained in WLEP;2000 and

Streetscape

- Carports and garages facing a public street or accessway are not more than 7m wide or 50% of the width of the lot at the minimum front setback building line, whichever is the lesser. Maximum width of garage door opening 6.0m; and
- Carports and garages are set behind the required numerical front setbacks; and

Bulk and scale and location

- All carports, garages, and outbuildings associated with but separated from, a Residential Flat Building, to have a maximum overall height of 3.5 metres; and external wall height no more than 3.0 metres (not including gables); and
- The ground floor level of the structure at any point is no more than 600mm above ground level (existing); and
- Balconies or decks associated with any structure no more than 600mm above ground level (existing); and

- The external wall or facade of any structure is at least 900mm from a side boundary; and
- The eaves and roof gutter of any structure are a minimum distance from the boundary of 675mm; and
- The maximum area of any detached carport, garage or outbuilding, shall be 50 m² with a maximum wall length (or length of structure, excluding eaves), of 7 m; and
- The use of any outbuilding must be clearly stated and not be used for any industrial, commercial or habitable purposes; and
- No roof decks /roof terraces permitted; and
- There is no net increase in the impervious area of the site; and
- Must not be burdened by a watercourse, or within 3m of a Council pipeline or drainage easement; and

Vehicular access and circulation

- The finished level of the driveway is to be within a maximum of 250mm from ground level (existing); and
- Driveways are a minimum of 500mm from the side boundary; and
- Driveways are a minimum of 1.0m clear of all drainage structures on the kerb and gutter and do not interfere with the existing public utility infrastructure, unless prior approval is obtained from the relevant authority; and
- There is a maximum of one driveway crossing per allotment with any redundant laybacks being reinstated in accordance with Council's technical specifications; and
- Driveways are a minimum distance of 6m from a road intersection; and
- Driveway crossings and gradients are to be in accordance with Council's Standard Driveway Profiles; and

Water, Drainage and Soil Management

- Development must collect stormwater; provide the necessary drainage works pertinent to the development proposed and dispose of it to an approved, operational drainage system constructed in accordance with Council's technical specifications, Policies and relevant Australian Standards. All work being certified as adequate to perform its intended function. Additionally all low level properties (i.e. land that falls away from the street) are to drain to an approved drainage easement, containing a pipeline of sufficient capacity to cater for flows from the new development; and

Collected roof and surface waters may flow to, or via energy saving water devices or stormwater harvesting and reuse systems complying with the exempt or complying development provisions contained within this plan, prior to being disposed of in accordance with this clause; and

- No structure is constructed within 2.0 metres of a sewer/ sewer manhole/water main without the prior approval of the relevant service authority; and
- The *total impervious area* for all development is less than 35% of the total site area plus 50m² or the total impervious area of a proposed addition is less than 50m². For

additions where the existing impervious area exceeds 35% of the site area, a “one off” addition of 50m² only is permitted (refer to Council’s on-site detention check list); and

Note: Total impervious area means existing and proposed roofed areas, built upon areas, paved surfaces and hardstand areas.

- Cut and /or fill is not to exceed 900mm from ground level (existing); and

Car parking

- Existing approved carparking spaces, including garages and carports, remain available for carparking as approved; and
- Any increase in carparking demand, resulting from additions or alterations is met with the corresponding additional carparking provided on site in accordance with the requirements of the WLEP 2000 under the heading of *Traffic, Access and Car Parking*.

Note: The provisions of State Environmental Planning Policy (Building Sustainability Index BASIX) 2004 must be complied with.

5 Swimming pools

General

- The development complies with the Built Form Controls (development standards) for the applicable locality contained in the WLEP 2000 and
- Ancillary to a dwelling for private use only; and

Note: Applicants/owners should be aware that private Section 88B Instruments may require greater setbacks or constraints than those mentioned in this Policy; and

Streetscape

- The pool is not to be located within the front building setback; and

Bulk, scale and location

- The pool and all associated coping and decking around the pool, at any point is no more than 600mm above ground level (existing), and the coping located no more than 900mm below ground level (existing); and
- The pool, including any associated coping and decking, is set back a minimum of 900mm from the side and rear boundaries and 1.2m minimum setback to waterline; and
- Must not be within 3m of a Council pipeline or drainage easement; and

Amenity

- The noise level of any filtration equipment or pumps does not exceed 5dB (A) above the ambient background level measured at the nearest property boundary; and
- The location of any filtration equipment or pumps not within 5m of adjoining residential dwelling; and
- Where the pool is located more than 400 mm out of the ground and within 2m of a boundary, the area between the pool and that boundary is to be provided with suitable screen landscaping; and

Installation, construction and drainage

- Development must collect stormwater runoff; provide the necessary drainage works pertinent to the development proposed and dispose of it to an approved, operational drainage system constructed in accordance with Councils technical specifications and Policies for drainage. All work being certified by a suitably qualified person. Collected surface waters may flow to or via, energy saving water devices or stormwater harvesting and reuse systems complying with the exempt or complying development provisions contained within this plan, prior to being disposed of in accordance with this clause; and
- All swimming pool water including overflow water shall be drained to the sewer where the property is serviced by Sydney Water; and
- No structure is constructed within 2.0 metres of a sewer/ sewer manhole/water main without the prior approval of the relevant service authority; and

Public Health and Safety - Unsewered sites

- The manner of the disposal of wastewater is to be the subject of a section 68 approval issued pursuant to the Local Government Act 1993 by the regulatory authority.

6 A different use resulting from a change of use from one type of approved industrial or warehouse use to another type of industrial or warehouse use

7 Alterations to approved industrial and warehouse buildings

General

- The development complies with the Built Form Controls (development standards) for the applicable locality contained in the WLEP 2000; and
- No reduction in the fire safety measures for the building required to be provided in accordance with the *Building Code of Australia* and relevant Australian Standards; and
- There is no net increase in the impervious area of the site; and
- Must not be within 3m of a Council pipeline or drainage easement; and
- No structure is constructed within 2.0 metres of a sewer/ sewer manhole/water main without the prior approval of the relevant service authority; and
- Must not extend the existing approved hours of operation; and
- Must not result in the use of the premises for potentially hazardous or offensive industry as defined in SEPP No 33- Hazardous and Offensive Development; and

Streetscape

- All required carparking is provided on site behind the required front setback; and
- Existing landscaping is not reduced; and
- All works are within the existing envelope of the building; and
- No alterations to the external cladding of the building unless the work faces internally to the site and is not viewed from another property or public place except where the alterations relate to energy efficiency devices, photovoltaic cell installations and energy saving water devices or stormwater harvesting and reuse systems. In such case such

systems and devices must not cause any unacceptable impact on the environment or interference with the amenity of the surrounding area (unacceptable impact will be at the discretion of Council); and

- No increase in the number or the width of vehicle footpath crossings; and

Floor space

- There is no increase in the gross floor area of the currently approved building; and
- There is no decrease to the gross floor area used for pedestrian access paths or decrease in access to fire exits; and

Carparking

- Existing approved carparking spaces, including, garages and carports, remain available for carparking as approved; and
- Existing approved loading and unloading areas, remain available as approved; and
- Any increase in carparking demand, resulting from change of use, is met with the corresponding additional carparking provided on site in accordance with the requirements of the WLEP 2000 under the heading of *Traffic, Access and Car Parking*; and
- Adequate manoeuvring area is provided to ensure that vehicles are able to enter and exit the site in a forward direction; and
- Design of carparking areas is in accordance with the most recent *Guide to Traffic Generating Developments (NSW Roads and Traffic Authority)*.

8 A different use resulting from a change of use from one type of approved business, office or shop to another type of business, office or shop use.

9 Internal alterations to business premises, offices and shops

General

- No reduction in the fire safety measures for the building required to be provided in accordance with the *Building Code of Australia* and relevant Australian Standards; and
- Must not be burdened by a Council pipeline or drainage easement located within the building footprint; and
- Must not extend the existing approved hours of operation; and
- Must not result in the use of the premises for potentially hazardous or offensive business as defined in SEPP No 33- Hazardous and Offensive Development; and

Streetscape

- All work is contained within the previously approved envelope of the building; and
- New entrances directly face the street or pedestrian thoroughfares; and

Floor space

- There is no increase in the gross floor area of the currently approved building; and
- There is no decrease to the gross floor area used for pedestrian access paths or for access to fire exits; and

Carparking

- Existing approved carparking spaces, including, garages and carports, remain available for carparking as approved; and
- Existing approved loading and unloading areas, remain available as approved; and
- Any increase in carparking demand, resulting from change of use, is met with the corresponding additional carparking provided on site in accordance with the requirements of the WLEP 2000 under the heading of *Traffic, Access and Car Parking*; and
- Design of car parking areas is in accordance with the most recent Guide to Traffic Generating Developments (NSW Roads and Traffic Authority); and

Food shops

- If the shop is a food shop, then it must comply with all objective standards imposed on the proposed development by the current Food Act, Regulations, relevant Standards and codes.

ITEM 9.3	A COUNCIL SUBMISSION ON THE PROPOSED CHANGES TO THE WAY LOCAL ENVIRONMENTAL PLANS ARE MADE
REPORTING MANAGER	GROUP MANAGER STRATEGIC PLANNING
TRIM FILE REF	2012/093083
ATTACHMENTS	1 Draft Submission 2 Advice from the NSW Department of Planning and Infrastructure - More local, more accountable plan making

EXECUTIVE SUMMARY

PURPOSE

For Council to review the changes to the way local environmental plans (LEPs) are amended and provide the Department of Planning and Infrastructure (the Department) with a submission in relation to these changes.

SUMMARY

Council staff have reviewed the proposed changes to the way LEPs are amended and have prepared a draft submission for Council to review (refer to attachment 1).

The main changes to the way an LEP can be amended are:

- Council will have the final approval role for 'routine' LEP amendments
- If Council refuses an LEP amendment a proponent (developer or landowner) may request a review by an independent panel
- Council and proponents may request the Minister to reconsider a Gateway Determination if either is unsatisfied with the outcome.

These changes are generally supported in the submission, however, concern is raised with the review timeframe of 60 days which may cause Council to make a planning decision to proceed to Gateway Determination without community consultation (exhibition).

CURRENT SITUATION

Council makes planning decisions on LEP amendments prior to a Gateway Determination. There are no timeframes or review processes during the LEP amendment process.

FINANCIAL IMPACT

Nil

POLICY IMPACT

they come into force.

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

- A. That Council send the draft submission, as attached to this report, to the Department of Planning and Infrastructure in support of the proposed changes with exception of the (pre-gateway) review timeframe which may prevent community consultation in the plan making process.

REPORT

BACKGROUND

The Department of Planning and Infrastructure (Department) proposes to change the way local environmental plans (LEPs) are amended and seeks a submission from Council on the proposed changes (refer to attachment 2).

Council staff has reviewed the proposed changes to the way LEPs are amended and have prepared a draft submission for Council to review (refer to attachment 1).

In summary, the proposed changes are supported in principle, however, concern has been raised in the submission in relation to the 'pre-gateway' review timeframe of 60 days which may cause Council to make a planning decision to proceed to Gateway determination without proper community consultation (exhibition).

Proposed changes to the way an LEP is amended

The changes are a result of proposed amendments to section 59 of the Environmental and Assessment Act 1979 (EP & A Act 1979). In summary, these changes to the legislation mean:

- Council will have the final approval role to amend LEPs for 'routine' planning proposals
- Proponents (developer or landowner) can request a review of an LEP amendment decision by an independent panel before and after issue of a 'Gateway Determination'
- Council and proponents can request the Minister to reconsider a Gateway Determination

Final approval role for Council in routine LEP amendments

The proposed changes will enable Council to determine 'routine' amendments to LEPs once a Gateway determination has been issued by the Department.

Routine amendments to an LEP include:

- Mapping alterations/corrections that do not alter strategy endorsed development standards
- Section 73A matters (ie minor errors and anomalies)
- Reclassifications of land consistent with a strategy/supported by an adopted Open Space study
- Heritage Local Environmental Plans supported by an Office of Environment and Heritage endorsed study
- Spot rezoning consistent with an endorsed strategy or surrounding zones or in accordance with broader Government policy.

The draft submission to the Department does not raise concern in regard to the proposed 'final approval role' for Council in the way LEPs are amended.

Following issue of the Gateway Determination, the Department will generally play a monitoring role and have no further role in the processing of draft LEPs.

Council, not the Department, will be required to request the Office of the Parliamentary Counsel (PCO) to draft an amended LEP

Pre-gateway determination review process

Under current legislation it is Council that decides whether an LEP amendment will proceed to the Gateway and there are no review mechanisms for a proponent to review a decision.

The proposed changes to the legislation mean that a proponent will be able to request an independent review from a panel, either the Joint Regional Planning Panel (JRPP) or Planning Assessment Commission (PAC), for the following two (2) situations:

- 1) Council has not decided not to amend the LEP than the proponent has 40 days to seek a pre-gateway review
- 2) Council has not made a decision after 60 days to amend the LEP than the proponent has 40 days from the end of the 60 day period to seek a pre-gateway review

Therefore, a panel (and not Council) will be able to determine whether an LEP amendment proceeds to a Gateway Determination should a proponent request and gain a positive review.

In doing so, a proponent must clearly demonstrate that the proposal satisfies the Department's 'eligibility criteria' to qualify for a panel review (refer page 2/7 of attachment 2). A successful review of a proposal by the panel will enable it to proceed to the Departments Gateway determination.

The draft submission to the Department supports the introduction of a review mechanism in the pre-gate way determination process as it will allow an independent panel to make decisions on routine LEP amendments based on merit.

Implications for Warringah of the pre-gateway review process

It is Council practice to actively engage (publically exhibit) with private and public land holders when certain amendments to the LEP are proposed prior to a Gateway determination.

The proposed changes mean that Council will have a maximum of 60 days to make a decision on a routine LEP amendment prior to a proponent having an opportunity to request a pre-gateway review. This timeframe is too short to publically exhibit an amendment to an LEP and consider any submissions prior to a decision being made by Council to proceed or not to proceed to a Gateway determination.

This is of particular importance to Council in routine reclassification and spot rezoning proposals which involve multiple users of the subject land parcel, including private and public land holders. In these cases, community consultation (exhibition) is required by Council to enable an informed decision whether or not to proceed to a Gateway determination.

The draft submission to the Department raises concern that a 60 day timeframe to for Council to make decisions on certain LEP amendments, such as spot rezoning and reclassification proposals, is too short and will not allow Council sufficient time to engage with the community prior to a Gateway determination.

Having regard to the above, the submission has requested the Department to increase the minimum time for Council to make a decision on an amendment to a LEP by 30 days, from 60 days to 90 days. This change will allow Council adequate time to consult with its community and make an informed decision.

Gateway determination Review process

Council and proponents may request the Minister (or delegate) to reconsider a Gateway determination issued by the Department, when the determination is made that:

- an LEP amendment should not proceed
- an LEP amendment should be resubmitted to the Department

- Imposes requirements or made changes to the proposed LEP amendment that the proponent or Council thinks should be reconsidered.

The request must be within 40 days of the Gateway Determination being issued and before public exhibition has commenced. Additional information may also be sought later by the department and panel to complete the review and a fee would be required to cover administrative assessment costs.

The draft submission to the Department does not raise concern with the post gateway determination review process.

Context

These proposed changes to the way an LEP is amended are part of the NSW government reform of the overall planning system to improve transparency, rigour and accountability.

As a result, Local government's role and responsibility in the plan making processes are increasing. In this regard, a project management approach with set clear timetables is required by Council's to adapt to these changes and any future reforms.

Timeframes and independent panels provide timely outcomes and certainty to the roles of both Council and proponents.

Panels in the plan making process will enable independent decisions to be made on merit by qualified experts in full view of the public.

CONCLUSION

Council staff have reviewed the proposed changes to the way an LEP is amended and have prepared a draft submission for Council to review (refer to attachment 1).

In summary, the submission generally supports the proposed changes, however, concern is raised with the new review process and the short timeframe (60 days) for Council to make a decision on certain LEP amendments. Council requests the Department to increase this timeframe by 30 days, from 60 days to 90 days to maintain community involvement in certain spot rezoning and reclassification proposals.

CONSULTATION

Nil

TIMING

Submission is required by 4 May 2012.

POLICY IMPACT

Council will have to review its plan making processes to facilitate the proposed changes should they come into force.

FINANCIAL IMPACT

Nil

24 April 2012

Director
Planning Operations Coordination
NSW Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Email: delegationsandplanmaking@planning.nsw.gov.au

Dear Sir/ Madam

SUBMISSION ON MORE LOCAL, MORE ACCOUNTABLE PLAN MAKING

Warringah Council welcomes the opportunity to comment on the proposed changes to the way local environmental plans (LEP) can be amended.

In general, Council raises no concern to the proposed amendments except the review process and associated 60 day timeframe for Council to make a decision on LEP amendments. This timeframe is too short and may result in Council making a planning decision prior to Gateway Determination without proper community consultation (exhibition).

Concern of Council - Pre-gateway review process

Council wishes to raise concern with the pre-gateway review process and potential for a decision to be made on routine spot rezoning and reclassification LEP amendments without proper community consultation.

Specifically, concern is raised in the (pre-gateway) review process when Council has not made a decision to amend the LEP within 60 days.

It is Council practice to actively engage with private and public land holders by publically exhibiting certain amendments to the LEP prior to a Gateway determination.

The proposed changes mean that Council will have a maximum of 60 days to make a decision on a routine LEP amendment prior to a proponent having an opportunity to request a pre-gateway review. This timeframe is too short to publically exhibit an amendment to an LEP and consider any submissions prior to a decision being made by Council to proceed or not to proceed to a Gateway determination.

This is of particular importance to Council in routine reclassification and spot rezoning proposals which involve multiple users of the subject land parcel, including private and public land holders. In these cases, community consultation (exhibition) is required by Council to enable an informed decision whether or not to proceed to a Gateway determination.

Therefore, so that the role of community engagement is not removed or diminished, Council requests that the Department consider increasing the minimum timeframe for Council to make a decision on a LEP amendment by 30 days, from 60 days to 90 days.

General Comments on Proposed Changes

It is understood that these changes are in line with recent NSW government reform of the overall planning system to improve transparency, rigour and accountability.

As a result, Local government's role and responsibility in the plan making processes are increasing. In this regard, Council will be reviewing its planning procedures in relation to LEP amendments and adopting a project management approach with set clear timetables to facilitate the proposed changes should they come into force.

In general, Council acknowledges that these changes, including timeframes and review panels can provide independent and timely outcomes and certainty to the roles of both Council and proponents.

However, Council stresses that these changes have the potential to remove the role of community engagement in certain routine LEP amendments. In this regard, Council requests that the Department increase the minimum timeframe for Council to make a decision on a LEP amendment by 30 days, from 60 days to 90 days

Council appreciates the opportunity to comment on the proposed amendment to the Act. If you have any queries in relation to the points raised within this submission, please feel free to contact Kevin Short, Strategic Planner, on (02) 9942 2933.

Yours faithfully

Michael Haynes
Sustainable Urban Planning Manager

More local, more accountable plan making

The purpose of this document is to seek the views of councils, industry and the community on proposals to make the way local environmental plans are made more local and accountable.

Introduction

One important goal of NSW 2021, the State's 10 year plan to drive change, is to restore confidence and integrity in the NSW planning system.

This requires timely decision making and greater certainty for investors and communities. It also means that planning powers should be returned to local communities when they are best placed to carry out those roles.

An independent review of the NSW planning system is currently underway and, when completed, promises to deliver a planning system that is modern, transparent and provides clarity for investors.

In the meantime, there are ways to make plan making more local and accountable by changing current procedures. These changes will increase transparency, provide greater certainty, and increase councils' roles and responsibilities in plan making, by:

- delegating the making of routine local environmental plans (LEPs) to councils, and
- allowing for independent reviews of some council and departmental decisions in the plan making process.

These two proposals are set out below.

Delegations to make LEPs

To improve and streamline the plan-making process, the Minister's functions under section 59(2), (3) and (4) of the *Environmental Planning and Assessment Act 1979* (the Act) will be delegated to councils in certain circumstances.

The delegation will be provided to a council when a Gateway determination is issued.

The Department of Planning and Infrastructure (the department) will generally play no further role in the process once the LEP is delegated to a council, other than routine monitoring of the process to ensure that Gateway determination timeframes continue to be met.

LEPs to be routinely delegated

The following types of LEPs will routinely be delegated to councils to prepare and make following a Gateway determination that the planning proposal can proceed:

- Mapping alterations/corrections that do not alter strategy endorsed development standards;
- Section 73A matters e.g. amending references to documents/agencies, minor errors and anomalies.
- Reclassifications of land consistent with a strategy/supported by an adopted Open Space study.
- Heritage LEPs supported by an Office of Environment and Heritage endorsed study.
- Spot rezoning consistent with an endorsed strategy or surrounding zones or in accordance with broader Government policy.

Issue of delegations

The department will write to all councils advising that plan making powers are to be delegated under section 23 of the Act, which allows the Minister and Director-General to delegate functions to a council and/or an officer or employee of a council.

Councils will be asked to nominate the relevant officers (usually the general manager and/or planning director of the council) to whom the delegations may be given.

Councils are reminded that Section 381 of the *Local Government Act 1993* requires that such functions cannot be delegated to:

- a) the general manager, except with the approval of the council; or
- b) an employee of the council, except with the approval of the council and the general manager.

The department will issue a Written Authorisation to Exercise Delegation in respect of any draft LEP when the relevant council has written accepting the delegations and providing the name and position of any officer or employee to whom the delegations will also be granted.

Procedural matters for delegated LEPs

Under section 59(1) of the Act the department currently requests the Office of the Parliamentary Counsel (PCO) to draft the legal instrument that gives effect to a planning proposal. This process will continue. However, the council will deliver its instructions in the same form as currently provided to the department directly to PCO electronically and concurrently copy the instructions to the department for monitoring and reporting purposes. The council will then deal directly with PCO to negotiate and agree to the final wording of the instrument, prior to making the LEP.

When a plan is made, the department currently requests PCO to 'notify' the plan on the NSW Legislation web page, and the day it is notified on that web page is the day the LEP becomes effective. This process will continue. When a council has made an LEP it will be forwarded to the department. The department's function at this stage is administrative only. The department does not review the legal instrument or review the council's decision to make the LEP. The department will request notification through PCO and will record the dates of making by the council and notification on the NSW Legislation web page.

The process for delegated LEPs is illustrated at **Attachment A**.

Many LEP amendments rely on maps for their implementation. Councils must ensure that any necessary maps are prepared in accordance with the *Standard technical requirements for LEP maps* and *Standard requirements for LEP GIS data*, available on the department's website at:
<http://www.planning.nsw.gov.au/LocalEnvironmentalPlans/MappingStandardsandRequirements>

Adequate maps are required for the Gateway to make a determination, and technically correct maps and GIS data are required before an Opinion can be issued by PCO.

Reporting requirements

Councils will be required to report to the department on processing times for delegated LEPs e.g. date of receipt of Gateway Determination and Written Authorisation to Exercise Delegation, exhibition dates, and dates of council resolution and/or delegated decisions to proceed with the planning proposal after exhibition, request for drafting, making of plan, and forwarding to the department to arrange notification.

Templates for quarterly reporting of this information will be sent to council with the formal delegation documents when names and positions of relevant council personnel have been received by the department.

The purpose of this reporting is to provide advice on on-going improvements to the system in light of experience.

Independent Reviews

The second proposal to improve plan-making procedures is to formalise the existing practice of seeking independent reviews for some rezoning proposals.

This proposal sets out how proponents and councils to request an independent review of decisions made in relation to a planning proposal before the Minister makes an LEP under Part 3 of the Act.

The plan making reviews are:

- **Pre-gateway reviews** – which may be requested by a proponent before a planning proposal has been forwarded for Gateway determination;
- **Gateway reviews** – which may be requested by a council or proponent following a Gateway determination, but before community consultation on the planning proposal has commenced.

The procedures outlined in this circular allow for plan-making decisions to be reviewed at key stages of the plan making process with the benefit of independent advice from a Joint Regional Planning Panel (regional panel) or the Planning Assessment Commission (PAC). These reviews do not change the existing statutory process for making LEPs. For information about the plan making process see PS 09-015, the *Guide to Preparing LEPs* and the *Guide to Preparing Planning Proposals*.

Pre-gateway reviews

If a proponent (eg. developer, landowner) has requested that a council (as the 'relevant planning authority' (RPA)) prepare a planning proposal, there are two situations where the proponent may ask for a regional panel review:

- a) the council has decided to not prepare a planning proposal; or
- b) the council has not made a decision after 60 days of receiving the proponent's request.

Proposals must meet eligibility requirements

Each proposal will need to pass a strict assessment by the department to determine whether it is eligible for a regional panel review.

To be eligible for review, a proponent will need to demonstrate clearly that the proposal meets the following criteria:

- a) will achieve appropriate orderly planning outcomes, such that the proposal:
 - will utilise existing capacity in infrastructure networks subject to the agreement of service providers, or can be provided for with essential infrastructure 'out of sequence' subject to cost recovery and the agreement of essential service providers; and
 - will be adequately integrated with existing public transport networks in a

- timely manner to ensure there is not an undue reliance on private vehicle trips; and
 - is likely to be supported by agreement from key environmental agencies, that appropriate environmental management outcomes can be achieved; and
 - will not detrimentally impact on the viability of identified centres in endorsed regional and/or sub-regional strategies (in addition to the strategic considerations listed below); and
- b) is consistent with or supports the outcomes and actions of:
- an endorsed local strategy; or
 - the relevant regional or sub-regional strategy; or
 - other relevant regional or State strategic plans or policies.

Proposals that do not reasonably meet the above eligibility criteria will not qualify for the review mechanism.

When is there a review?

When a council makes a decision to not prepare a planning proposal, the council is to notify the proponent of its decision and the reasons for its decision. The proponent then has 40 days to seek a review of the council's decision by requesting a pre-gateway review.

Where the council has not made a decision within 60 days, proponents may also seek a review within 40 days of the end of the 60 day period. These periods will be extended over the Christmas and New Year period.

Further details about preparing a planning proposal and the information to be provided may be found in the department's document *Guide to Preparing Planning Proposals*.

Pre-gateway reviews are intended to give proponents an opportunity to have an independent regional panel review the merits of proposals to make a new LEP or change an existing LEP, which may include a change to the zoning of particular land, and provide the Minister with regional panel advice about whether such proposals have merit to be submitted for Gateway determination (under section 56 of the Act).

In some cases the Minister may request the Planning Assessment Commission (PAC) to conduct such a review rather than a regional panel, including where there is no regional panel as in the City of Sydney.

Steps for seeking pre-Gateway review

Attachment B sets out the steps in the pre-Gateway review.

A proponent may request a pre-Gateway review by writing to the department and providing all relevant

information (see supporting information below). An online lodgement form will also be made available.

Once all relevant information has been provided, the department will check whether the proponent's proposed rezoning is eligible to be reviewed by the regional panel.

For eligible proposals, the department will prepare and forward a report to the regional panel on the planning proposal. The department will then notify council that it has sought independent advice from the regional panel, and will place the proponent's review request and the department's eligibility assessment on the department's website within five days.

The regional panel will review the proposed instrument, giving consideration to the department's report and any additional submissions provided to it from the council and proponent including:

- council's grounds for not proceeding (or, in the case of a delayed proposed instrument, the reasons the proposed instrument has not progressed)
- Proponent's justification for the proposed instrument including a response to council's concerns;
- How the planning proposal is consistent with, or supports the outcomes and actions of:
 - an approved local strategy
 - the relevant regional or sub-regional strategy
 - other relevant State strategic plans and policies (eg, new or emerging State or regional plans or policies that relate to the proposed instrument)
- other information to justify the proposed instrument.

The regional panel will then advise the Minister on whether or not the proposed instrument should be submitted to the Gateway for determination. The regional panel's advice then will be placed on the department's website within five days.

If the regional panel has recommended that the proposed instrument be submitted for Gateway determination, and where a pre-Gateway review was sought by a proponent due to a council delay, the Minister may request the council to submit a planning proposal on the proposed instrument to the Gateway within 40 days.

The Minister may also decide to appoint an alternate RPA after consulting with the council. In most instances this would be the Director-General.

Alternatively, if the regional panel considers that the proposed instrument should not proceed to Gateway then the Minister will not progress the matter any further.

Supporting information

Proponents requesting a regional panel review must provide the department with the following:

- a copy of the proponent's request for the council to prepare and submit a planning proposal for Gateway determination
- a copy of all additional information and documentation provided by the proponent to the council (NB: section 55 of the Act sets out what information a planning proposal is to include)
- all correspondence from the council in relation to the proposed instrument including a copy of the council's advice detailing why the council did not proceed with preparing a planning proposal
- proponent's justification for why a review of the council's decision is warranted
- if relevant, disclosure of reportable political donations under section 147 of the Act.
- fees

Gateway reviews

Gateway determinations may also be reviewed in certain circumstances. The council or proponent may request the Minister, or delegate, to alter a Gateway determination, when a Gateway determination is made that:

- a) the planning proposal should not proceed
- b) the planning proposal should be resubmitted to the Gateway, or
- c) imposes requirements (other than consultation requirements) or makes variations to the proposal that the proponent or council thinks should be reconsidered

These post-Gateway reviews are intended to give the council and proponents an opportunity to have the Gateway determination reconsidered, but only if the original determination was made by a delegate of the Minister.

If the Gateway determination is either to not proceed or to resubmit the planning proposal, the council or proponent has 40 days from being notified by the department to request a review.

If the Gateway determination is to proceed with the planning proposal but imposes conditions that the council or proponent consider inappropriate, the council or proponent has 14 days from being notified by the department to request a review. This timeframe will prevent any unnecessary delay in proceeding to community consultation on the planning proposal.

Steps for seeking Gateway review

Attachment C sets out the steps in the Gateway review process.

A council or proponent may request a Gateway review by writing to the department and providing all relevant information (see supporting information below). An online lodgement form will also be made available.

The department may prepare and forward a report to the next most senior Gateway delegate (ie. the Minister for Planning and Infrastructure or the Director-General of the Department of Planning and Infrastructure).

The Minister or Director-General will request advice from the PAC before making a decision to alter the Gateway determination the subject of the review. In addition to the advice of the PAC, the Minister may consider:

- Gateway delegate's reasons for its original Gateway determination
- Submissions from the council or proponent including why the Gateway determination should be altered
- other matters not considered by the original decision maker including strategic planning considerations (eg. emerging State or regional plans or policies relevant to the planning proposal)

The Minister or Director-General may alter the Gateway determination and decide the planning proposal should proceed (in accordance with any revised conditions), at which point the council and proponent will be notified of the altered determination and post-Gateway consultation on the planning proposal can commence.

Alternatively, if the Minister or Director-General considers that the planning proposal should not proceed past the Gateway, the proponent and council are to be notified and provided with reasons for the decision.

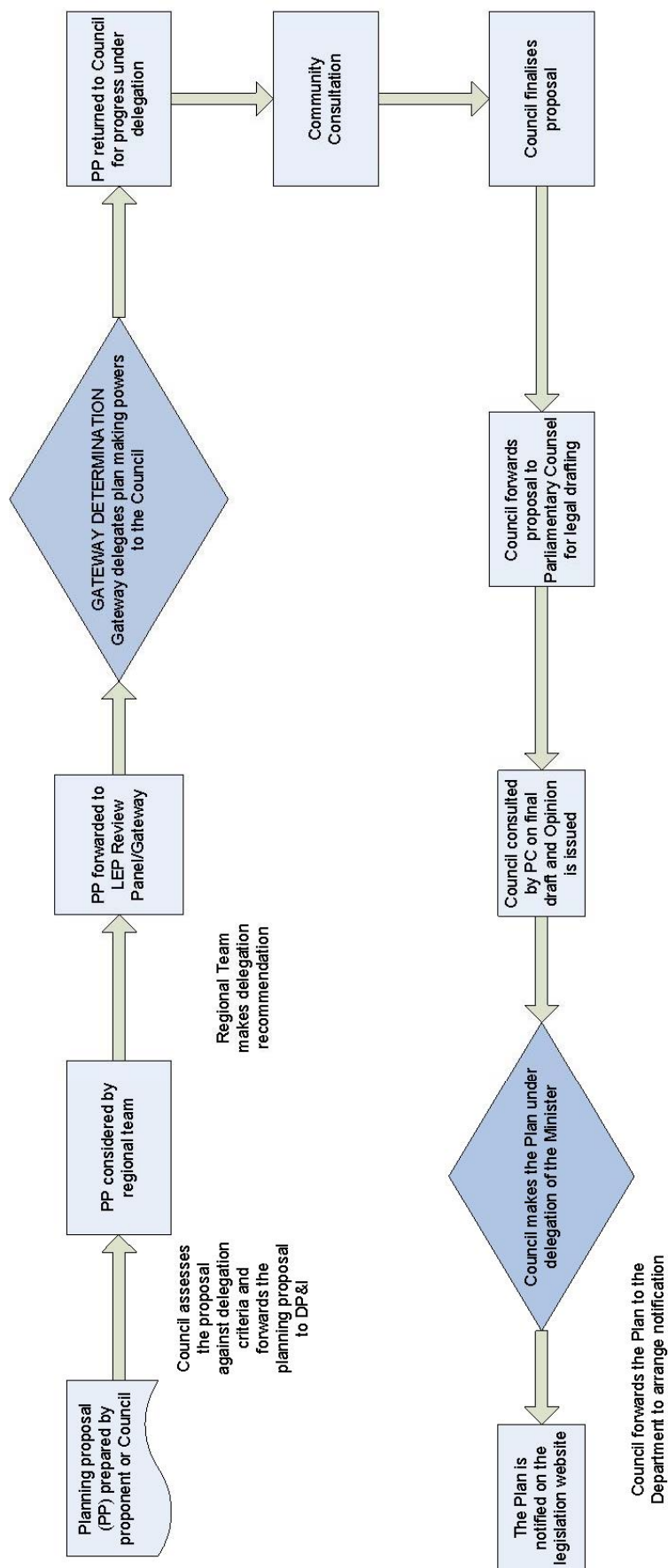
Following a Gateway review where the Minister or Director-General alters the determination, the usual process post-Gateway determination commences, including community consultation on the planning proposal.

Supporting information

Councils or proponents requesting a Gateway review must provide the department with the following:

- a copy of the planning proposal as submitted to the Gateway
- a copy of all additional information and documentation provided to the Gateway
- justification for why an alteration of the Gateway determination is warranted, including, where relevant, responses to issues raised by the original Gateway decision maker
- if relevant, disclosure of reportable political donations under section 147 of the Act
- fees

Attachment A – Process to make a delegated local environmental plan



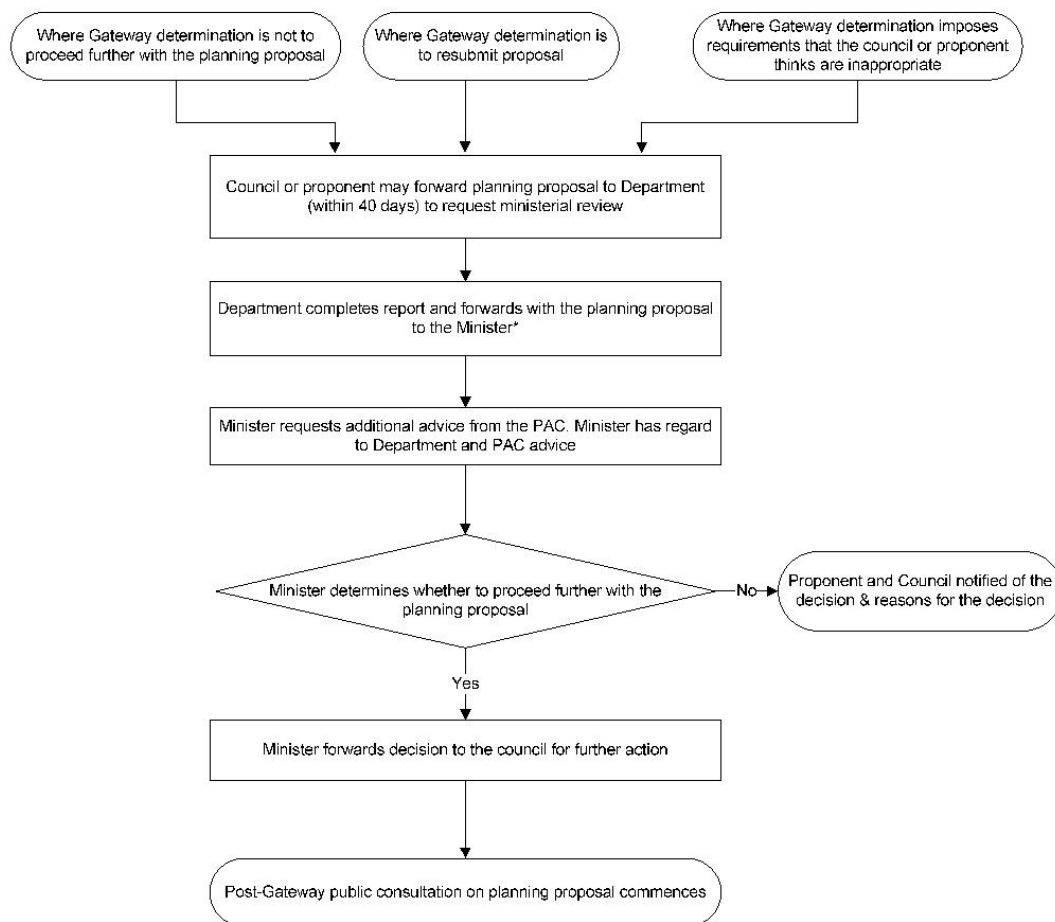
Attachment B

Pre-Gateway Review



Attachment C

Gateway review



* Reference to Minister in this diagram is also a reference to the Director General if the Gateway decision being reviewed was originally made by a delegate of the Minister that was not the Director General.

ITEM 9.4	REVIEW OF THE WARRINGAH SECTION 94A DEVELOPMENT CONTRIBUTIONS PLAN 2011
REPORTING MANAGER	GROUP MANAGER STRATEGIC PLANNING
TRIM FILE REF	2012/092063
ATTACHMENTS	NIL

EXECUTIVE SUMMARY

PURPOSE

To seek Council's endorsement to prepare a revised Section 94A Development Contributions Plan 2011.

SUMMARY

The purpose of this report is to request that Council endorse the preparation of a new Development Contributions Plan which revises the current works program under Warringah Section 94A Development Contributions Plan 2011. The main reasons for preparing a revised work program include:

- removing projects that have been completed within the financial year;
- integrating the works program with the Strategic Community Plan; and
- providing an opportunity to improve delivery of the priority projects.

FINANCIAL IMPACT

A revised works program will enable the efficient expenditure of Section 94 and 94A funds and delivery of works identified under the Warringah Section 94A Development Contributions Plan 2011.

POLICY IMPACT

Any proposed amendments to the works program will be within the capacity of the funds available and will generally maintain the intent for which the funds were originally collected.

Going forward it is envisaged that the Warringah Section 94A Development Contributions Plan will be annually revised to accurately reflect the work program.

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That Council resolves to commence a review of the works program under the Warringah Section 94A Development Contributions Plan 2011.

REPORT

BACKGROUND

The purpose of this report is to request that Council endorse the preparation of a new Development Contributions Plan which revises the current works program under Warringah Section 94A Development Contributions Plan 2011. The main reasons for preparing a revised work program include:

- removing projects that have been completed within the financial year;
- integrating the works program with the Strategic Community Plan; and
- providing an opportunity to improve delivery of the priority projects.

It is noted that if Council identifies the need to change the Development Contributions Plan, a 'new' plan must be prepared. There is no ability under the legislation to 'amend' an existing plan. In preparing a new annual plan the intention is to merely undertake a review of the works program and update this in line with Council's annual budget/financial planning cycle.

Council presently undertakes a biannual review of its Contributions Plan. This is done in order to remove completed projects and introduce new community facilities in place of those completed. The next scheduled review was identified for the 2012/2013 financial year under the Strategic Community Plan 2011.

The need to move to an annual review of the Contributions Plan has been identified.

Purpose of an annual update

Opportunities for increased efficiency in the administration of the Development Contributions Plan works program via an annual review have been identified. Key benefits of an annual update include:

- a revised works program to increase transparency by identifying projects that have been completed and those the community can expect in the future.
- nomination of projects that are able to be delivered sooner than expected and reprioritising expenditure and project delivery.
- an increased the flexibility to respond to changing project parameters including timing, budget and delivery. A revised works program will enable the efficient expenditure of Section 94 and 94A funds and delivery of works within set timeframes.

Where to from here

Following the review a new draft Contributions Plan will be brought to Council for consideration prior to public exhibition in accordance with legislative requirements.

CONSULTATION

Consultation has been undertaken with key staff within the organisation. Public exhibition of the new Contributions Plan is expected to take place in June 2012.

TIMING

Following the review a new draft Contributions Plan will be brought to Council for consideration prior to public exhibition in accordance with legislative requirements. The revised works program will address the 2012/13 and 2013/14 financial years.

POLICY IMPACT

Any proposed amendments to the works program will be within the capacity of the funds available and will generally maintain the intent for which the funds were originally collected.

Going forward it is envisaged that the Warringah Section 94A Development Contributions Plan will be annually revised to accurately reflect the work program.

FINANCIAL IMPACT

A revised works program will enable the efficient expenditure of Section 94 and 94A funds and delivery of works identified under the Warringah Section 94A Development Contributions Plan 2011.

ITEM 9.5	MOUNTAIN BIKING IN WARRINGAH: RESEARCH AND DIRECTIONS FINAL DRAFT APRIL 2012
REPORTING MANAGER	GROUP MANAGER STRATEGIC PLANNING
TRIM FILE REF	2012/092072
ATTACHMENTS	1 Mountain Biking in Warringah: Research and Directions Final Draft April 2012 (Excluded from Agenda) 2 Submission Analysis and Council Response (Excluded from Agenda)

EXECUTIVE SUMMARY

PURPOSE

For Council to adopt the final draft of the *Mountain Biking in Warringah: Research and Directions* paper (Attachment 1).

SUMMARY

Mountain Biking in Warringah: Research and Directions was placed on public exhibition for 21 days from 24 November to 15 December 2011. Council received 52 submissions, 40 in support of the proposals in the document and 12 that registered opposition to at least one of the proposals. No proposals have been removed from the document, however, some small amendments have been made to address the concerns raised in the submissions.

FINANCIAL IMPACT

The costs associated with further investigating the feasibility of the proposals in the document will fall within existing budgetary allocations. Should Council choose to move forward with any of the proposals the appropriate funds will need to be sourced at that time.

POLICY IMPACT

Nil

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

- A. That Council note the summary of submissions received and associated Council responses.
 - B. That Council adopt the *Mountain Biking in Warringah Research and Directions* paper.
-

REPORT

BACKGROUND

The *Mountain Biking in Warringah: Research and Directions* paper was developed in response to an Action arising from Council's 2009 Recreation Strategy. There are a large number of unauthorised trails in Warringah that cause significant damage to the bushland environment. The research and directions paper assesses the demand for off-road cycling and considers opportunities to increase the number and quality of authorised trails, thereby alleviating the pressure of unauthorised trail access.

Summary of submissions

A summary of comments made via submissions, and Council's response, can be found at Attachment 2. The key points raised in the submissions were:

- 52 submissions were received, 40 in support for the proposals in the document and 12 that registered opposition to at least one of the proposals.
- There was broad support for an increase in mountain biking opportunities in Warringah, including new and/or improved trails and improved linkages between existing trails.
- Support was expressed for the development of a mountain bike facility at Belrose Waste Management Centre.
- Support was expressed for improved mountain bike trails at Manly Dam. There was also opposition to any increase in mountain bike trails at Manly Dam.
- Concern was raised by some residents regarding the National Parks and Wildlife Service proposal to develop a mountain bike loop at Garigal National Park. Trails through the Council managed Forestville Park provide links to the National Park and would form a component of the NPWS proposed mountain bike loop. Concern was raised that this would result in an increase in mountain bike traffic in the area, thereby resulting in increased environmental degradation and disruption to local residents and other trails user. A local resident began a petition against the NPWS proposal prior to Council releasing its research and directions paper. A copy of the petition was submitted to Council with 457 signatures. The Draft Forestville Park Plan of Management is currently on public exhibition and addresses the permissibility of recreational use of the Park, including bike access. As a result of the concern raised about the NPWS proposal and the links that Forestville Park would permit the exhibition of the Draft Forestville Park POM will include additional consultation opportunities, such as an information session and a letter box drop to residents.
- Concern was raised that an increase in mountain bike access in the Terrey Hills and Duffys Forest area could have a detrimental impact on the horse riding industry.
- Concern was raised over the possible impact that an increase in mountain bike trails may have on the natural environment.

Next steps for Council

- Following adoption of the *Mountain Biking in Warringah: Research and Directions* paper further feasibility research is required to investigate the document's proposals in greater detail.
- The Freedom Dirt Jumps at Manly Vale remain fenced off while negotiations are ongoing between Warringah and Manly Councils and local riders. A final decision on the Freedom track will be made in the near future.

- Council continues to liaise with Waste Asset Management Corporation regarding the development of the Belrose Waste Management Centre as a mountain bike facility.
- The Draft Manly Warringah War Memorial Park (Manly Dam) Plan of Management is presently with the Department of Primary Industries. Upon receipt of a response from DPI the Draft POM will be presented to Council requesting public exhibition.
- Council will continue involvement in a working party with the Office of Environment and Heritage (National Parks and Wildlife Service) regarding their proposal to develop a mountain bike loop at Garigal National Park and any links this may have to Council owned or managed land.
- The Draft Forestville Park POM is currently on public exhibition and proposes the formalisation of tracks presently used by mountain bikers.
- Preliminary consultation and research in preparation for the Warringah Aquatic Centre Site Development Strategy has proposed an opportunity for the WAC to provide a mountain bike hub. The hub could provide links to trails at Manly Dam and the trails proposed for Garigal National Park should they be developed in future. The WAC could be a meeting place with parking, showers and refreshments. There may also be an opportunity for smaller mountain bike facilities such as a pump track or skills park. The proposal is conceptual at this stage and is being considered along with other proposals. Consultation will occur for this project in line with Council's Community Engagement Policy and Matrix. This opportunity has been added to the *Mountain Biking in Warringah: Research and Directions* paper.

CONSULTATION

The development of this research and directions paper has had three stages of consultation:

1. Consultation with local riders. An online survey of riders received 1647 responses. The survey was aimed at collecting demographic and participation data. The data was used to inform the opportunities proposed in the document. A meeting was held with local riders to review the survey results and proposed opportunities.
2. Consultation was undertaken with neighbouring Councils, the managers of various mountain bike facilities and other land owners/managers in Warringah, such as the National Parks and Wildlife Service and Metropolitan Local Aboriginal Land Council.
3. Public exhibition of the draft document for 21 days.

Further consultation with stakeholders, such as mountain bikers, other trails users and local residents, may occur as the feasibility of the opportunities in the document are investigated in greater details.

POLICY IMPACT

Nil

FINANCIAL IMPACT

The costs associated with further investigating the feasibility of the proposals in the document will fall within existing budgetary allocations. Should Council choose to move forward with any of the proposals the appropriate funds will need to be sourced at that time.

ITEM 9.6	POLICY - SOLAR DESIGN - COUNCIL ASSETS
REPORTING MANAGER	GROUP MANAGER STRATEGIC PLANNING
TRIM FILE REF	2012/089631
ATTACHMENTS	NIL

EXECUTIVE SUMMARY

PURPOSE

To report on the current policy on solar design of Council assets.

SUMMARY

Council Resolution 358/11 requires an investigation of a policy for reviewing conceptual plans and/or draft designs for new construction of, and major renovations to, council-owned buildings, by architects and/or architectural firms that specialise in passive and active solar design, prior to progressing to the working drawing and/or tender phase.

Operational Management Standard CS OMS 030 - *Environmentally Sustainable Design and Management of Council's Built Assets* requires that the design and management of built assets should minimise energy use including the application of solar design principles.

No further policy in relation to solar design is considered necessary. However, the current Standard requires updating to include the latest energy and water rating tools.

FINANCIAL IMPACT

No additional impact is expected.

POLICY IMPACT

Would require amendment of existing Operational Management Standard CS OMS 030 - *Environmentally Sustainable Design and Management of Council's Built Assets*.

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That CS OMS 030 - *Environmentally Sustainable Design and Management of Council's Built Assets* is updated to reflect the latest energy and water rating tools.

REPORT

BACKGROUND

Council Resolution 358/11 requires that Council:

“Investigates and implements a policy for reviewing conceptual plans and/or draft designs for new construction of, and major renovations to, council-owned buildings, by architects and/or architectural firms that specialise in passive and active solar design, prior to progressing to the working drawing and/or tender phase.”

Environmental Sustainability Policy STR-PL 830 provides clear direction for Warringah to incorporate environmental sustainability into all elements of its business. The Policy requires that all new Council buildings and facilities are developed in line with sustainability principles and incorporate good environmental performance. This includes consideration of energy, materials, waste and water at the design stage.

Operational Management Standard CS OMS 030 *Environmentally Sustainable Design and Management of Council's Built Assets* requires that the design and management of Council buildings and other built assets is carried out in an environmentally sustainable manner. This includes new Council assets and alterations or additions to existing assets.

The Standard outlines several design principles for built assets including the principle that the asset should be designed to minimise energy use. Energy minimisation should include the application of solar design in order to:

- Maximise heat gain from sun in winter and minimise heat gain in summer.
- Use of materials with high thermal mass (such as concrete floors, masonry walls, stone, ceramic surfaces) to assist with the overall thermal efficiency of the building.
- Protection of outdoor patios and decks from the wind and summer sun, while allowing winter sun access.
- Ventilation of the roof space.

These design principles must be considered and incorporated into any alterations to existing buildings or development of new buildings or infrastructure, including (but not limited to) playgrounds, public space lighting and sportsgrounds. Where these criteria cannot be incorporated into the design an explanation must be provided as to why the project cannot incorporate these criteria.

The Standard was developed in 2007 as Version 1. Although it remains comprehensive and relevant, it does reflect outdated content particularly in relation to energy and water ratings. Although the ratings were considered best practice in 2007, advances in design and technology since 2007 mean that the ratings required in the Standard no longer represent best practice. It therefore requires updating as Version 2 of the Standard.

POLICY IMPACT

Would require amendment of Operational Management Standard CS OMS 030 *Environmentally Sustainable Design and Management of Council's Built Assets*.

FINANCIAL IMPACT

Nil

ITEM 9.7	BEACH CLEANING CAMPAIGN
REPORTING MANAGER	GROUP MANAGER ROADS TRAFFIC & WASTE
TRIM FILE REF	2012/090195
ATTACHMENTS	NIL

EXECUTIVE SUMMARY

PURPOSE

To report to Council on the feasibility and cost of a project aimed to encourage our community to collect rubbish washed up on our beaches.

SUMMARY

Council resolved at its meeting of 22 November 2011, that:

1. A report be brought to Council on the feasibility and cost, including for infrastructure and promotion, of a project aimed to encourage our community to collect rubbish washed up on our beaches.
2. Opportunities for collaboration with Take 3, Two Hands, Surfriders and Clean Up Australia be investigated and included in the report required above.

Staff from Council's Waste and Cleansing team researched the feasibility of conducting a project aimed at encouraging the community to collect rubbish from the beaches. Council's current level of activity maintains beaches and beach reserves in clean and safe condition for public use, and includes some promotional activity using Two Hands at a number of events. Due to wind, weather and carelessness some litter may still be found on beaches.

Staff investigated working more closely with Two Hands, Take 3, Surfriders Foundation and Clean Up Australia to develop a project to increase awareness and encourage people to collect rubbish from beaches.

Three options are considered in the body of the report with option one being the preferred option as it continues current awareness programs and has the least impact on Council resources.

FINANCIAL IMPACT

Option one would have no impact on Council resources.

POLICY IMPACT

Nil

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That Council Support Option 1 - Maintaining the existing activities of beach cleansing and education including the use of Two Hands at selected Council events at beaches and promotion of Clean Up Australia Day.

REPORT

BACKGROUND

Council resolved at its meeting of 22 November 2011 that:

1. A report be brought to Council on the feasibility and cost, including for infrastructure and promotion, of a project aimed to encourage our community to collect rubbish washed up on our beaches.
2. Opportunities for collaboration with Take 3, Two Hands, Surfriders and Clean Up Australia be investigated and included in the report required above.

Current Beach Cleaning and Educational activities***Cleansing***

Council currently operates a number of Beach Cleaning activities as part of its cleansing services including:

- Tractor raking of all nine beaches weekly from mid September to the end of April and monthly for the remainder of the year.
- Manual litter removal from areas where the tractor cannot go such as dune regeneration zones and along fence lines, done in conjunction with beach rake.
- Litter is removed daily from Dee Why beach reserve, Collaroy beach reserve and Freshwater beach reserve and weekly from other beach reserves.
- Rubbish and recycling bins are provided on the reserves and promenades and are emptied twice daily December, January and February and daily for the remainder of the year. The placement of bins is regularly reviewed and updated as required with changing use and upgrades of parks and reserves.
- Litter is manually picked up at the end of all Council events.
- A reactive cleansing service to beaches is provided as required after adverse weather such as storms and high winds to remove litter and debris.

Education

Educational activities - 2011/2012 financial year

- Christmas by the Beach at Dee Why on 18 December 2011, Council engaged Two Hands to hold a stall at the event. Several residents visited Two Hands display of litter collected from various Sydney Beaches and thirty residents took buckets to collect litter from Dee Why beach on the day, collecting over 2000 items.
- The award-winning documentary 'Bag It' was screened in Council chambers on 20 January 2012. 97 residents attended the screening and talk given by renowned Australian Environmentalist Tim Silverwood exploring the causes and effects of marine debris and plastic bag pollution.
- Hilltop to Headland Environmental event, featuring Ranger Stacey at Dee Why beach on 26 February 2012, Council engaged Two Hands again and 21 residents collected a bucket full of rubbish each.
- Music in March Kids Rock by the Beach at Dee Why Beach on 25 March 2012, Council engaged Two Hands again and 46 residents collected a bucket full of rubbish each.

Collaboration

Potential Collaboration Opportunities for encouraging the community to collect and remove rubbish washed up on beaches were investigated and include the following.

1. Two Hands

Two Hands Project is an incorporated (not for profit) association which was first formed in the Northern Beaches and is concerned about marine plastic pollution. Their aim is to raise people's awareness of how they contribute to marine plastic pollution and how they can change their behaviour accordingly. Two Hands Project also work with Smart Design which looks at alternatives to plastic use, eg reusable bottles, bags etc

Two Hands continue to be employed at appropriate Council beach events such as Australia Day, Music in March and Christmas by the Beach. Two Hands educate and raise awareness of the public of beach debris at these events through their displays and by holding a competition on the day to encourage as many residents as possible to collect rubbish off the beach.

2. Take 3

'Take 3' is a not-for-profit organisation formed in 2009 that aims to raise awareness of beach debris by encouraging each visitor to the beach or any waterway to simply take three pieces of rubbish with them when they leave. They also encourage everyone to reduce their plastic consumption.

Take 3 aims to expand their message throughout Australia, targeting surfers, fishermen, recreational boaters, surf lifesavers and everyone living on the coastal fringe. In March 2011 Take 3 was awarded the inaugural 'Taronga Conservation Society Green Grant'.

Take 3 have suggested the following options for engaging their services

- **Take 3 Schools Program**

Take 3 have suggested they can visit up to 12 high schools and primary schools over a year with their beach cleaning message. This would be in the form of presentations and workshops. They also provide resources to the schools.

A similar program was conducted in the Foster to Newcastle region, supported by Lake Macquarie Council, Dept of Education and the Hunter Catchment Management Authority.

The success of such a school's program would depend on Take 3's ability to attract schools to the program.

- **Take 3 Surf Club Program**

Take 3 propose to visit Surf clubs at the beginning of the 2012 summer registration. They will offer resources to back up the Take 3 movement including a brief to Surf Life Saving Age Managers and Senior Surf Life Saving officials. Beach clean up material such as EZ Tongs and Reusable bags will be provided. Take 3 would like to pilot this surf club education program with Warringah Council and then promote it nationally.

The success of this program will depend on the surf clubs interest in participating.

- **Take 3 Signage**

Take 3 provide metal signs (900mm x 1200mm) which can be erected at beach car parks and surf club entrances and beaches (see attachments). Gosford Council has placed these signs at two of their beaches.

Warringah Council consolidated beach signage a number of years ago to reduce the 'visual pollution' associated with the many different regulatory and advisory signs at beaches. These are now consolidated on signage posts and for this reason erection of separate metal signs is not supported.

- **Parking Permits**

Take 3 suggested that their logo and message be placed on the reverse side of our present parking permits. This is not supported at this stage as Warringah currently uses the reverse of the parking permits to print validity information for their use. Other messages may have a higher priority if the space is to be made available for alternative messages. Stickers may then also need to be redesigned - possibly increasing the size and associated printing costs etc if this is considered.

3. Surfrider Foundation Australia

The Surfrider Foundation Australia is a non-profit organisation dedicated to the protection of waves and beaches. Surfrider Foundation Australia is a company limited by guarantee. It is an affiliate of the global Surfrider Foundation organisation, which has a presence in the USA, Japan, Brazil and Europe, and has over 50 000 members worldwide.

Surfriders conduct beach cleaning events, including Freshwater this year. Surfriders would like to cover as many beaches as possible and would welcome Council supporting their activities with marketing their beach cleaning events and/or providing bags for rubbish collection.

4. Clean Up Australia

Clean Up Australia Organisation facilitate community based clean up events, particularly Clean Up Australia Day in March each year. Residents can join existing groups or nominate an area they would like to clean. Clean Up Australia then provide clean up kits for the site organisers and volunteers. Dee Why, Narrabeen and Curl Curl beaches and lagoons are regularly nominated by members of the community as sites at Clean Up Australia Day. Council staff currently work with Clean Up Australia in promotion of the Clean Up Australia Day event in Warringah and in removal and disposal of all collected rubbish from registered sites.

OPTIONS

Council's current level of activity maintains beaches and beach reserves in clean and safe condition for public use, however due to wind, weather and carelessness some litter can still be found on beaches. Some members of the community already collect litter as they walk and place it in bins as they leave the beaches. They may take a bag from home or use one they find to put more litter in, or simply carry one or a few articles of litter by hand.

Provision of facilities such as plastic bag dispensers for people to collect a bag to take for the purpose of collecting litter are considered equally likely to contribute to litter through vandalism or malfunction and require regular monitoring, servicing and refilling. This may also be seen to contribute to the continued use of plastic bags in the community which is contrary to the message of reducing plastic bag use by Two Hands, Take 3 and Surfrider Foundation Australia. For these reasons the provision of bags and dispensers is not supported.

Three options for a campaign to encourage positive behaviour in regard to removing litter from beaches are outlined below.

Option One

Maintain the existing activities of beach cleansing and education including the use of Two Hands at selected Council events at beaches and promotion of Clean Up Australia Day.

This option would have no additional cost to Council.

Option Two

Promote beach cleaning through monthly display advertisements in Warringah Update from November 2012 to February 2013 encouraging the community to clean the rubbish off their beaches.

Deliver one targeted brochure to all residents in 2012 encouraging them to keep their waste bins closed at all times as overfull bins can contribute to litter entering storm water drains.

Increase the use of the Two Hands market display to attend all major Council events held at beach reserves.

Engage Take 3 to implement an educational program with up to 12 schools in 2012/2013.

Engage Take 3 to implement the surf clubs education program at the 2012/2013 registration period.

Support the Surfriders beach cleaning events in Warringah with advertising in Warringah Update and supply of bags for beach debris collection.

Option two would require approximately \$7,000 which is not currently funded, plus staff time in organisation, coordination, procurement and management activities.

Option Three

As per option two plus

Installation of metal signs as suggested by Take 3 at beach car parks and entrances.

Printing of the Take 3 logo and message on the back of 2012/2013 parking permits.

This option is not supported for the reasons outlined above in the report and the uncertain impact on the cost of producing the changed parking permits.

Option three is estimated to require approximately \$16,000 which is not currently funded, plus staff time in organisation, coordination, procurement and management activities.

CONSULTATION

Consultation was conducted with Council Waste and Cleansing staff, Compliance staff, Two Hands, Take 3 and the Surfrider Foundation Australia organisations.

Following a complaint from a parent at a recent event regarding concerns about children collecting rubbish on the beach and the associated risks involved, consultation was also conducted with Council's Workplace Health and Safety and Insurance Manager.

She has advised that Council has a duty to ensure as far as reasonably practicable the safety of event visitors including those who participate in the activities of Two Hands in collecting rubbish. These activities need to be reviewed in cooperation with Two Hands personnel to ensure hazards are identified and appropriate risk mitigation measures implemented. This would not impact on having the Two Hands stall at Council events as a promotion, but may limit the rubbish collection activities undertaken.

TIMING

The recommended option has no timing implications and can be continued as an ongoing project.

POLICY IMPACT

Nil

FINANCIAL IMPACT

The project is not included in the 2011/2012 or 2012/2013 budgets. The project cannot be funded from the domestic waste management charge as it is not related to domestic waste collection, (with the exception of the described brochure regarding waste bin lid closure, which has already been excluded from the additional costs of options 2 and 3).

Beach Cleaning Campaign

DO THE RIGHT THING



Photo: Shelly Beach Sunrise, Warren Smith

**Make a difference
Take 3 pieces and leave a cleaner beach**

TAKE 3
A CLEAN BEACH INITIATIVE

DO THE RIGHT THING



Photo: North Beach Rubbish, Tim Silverwood

**Make a difference
Take 3 pieces and leave a cleaner beach**

TAKE 3
A CLEAN BEACH INITIATIVE

ITEM 9.8	CHANGES TO POLITICAL DONATION LAWS
REPORTING MANAGER	DEPUTY GENERAL MANAGER ENVIRONMENT
TRIM FILE REF	2012/093491
ATTACHMENTS	NIL

EXECUTIVE SUMMARY

PURPOSE

To report to Council the amendments recently made to the Election Funding Expenditure and Disclosures Act 1981 (the Electoral Funding Act).

SUMMARY

There have been three main changes to the Electoral Funding Act, effective from 9 March 2012 as follows:

1. Prohibition of political donations other than by individuals on the electoral roll;
2. Amendment to the meaning of 'electoral expenditure' and 'electoral communication expenditure';
3. Aggregation of expenditure caps in respect of State election campaigns.

On 23 March 2012, Councillors were advised in writing that there had been changes to the Electoral Funding Act, and received links to the Electoral Funding Authority website for access to detailed information regarding the changes, and the opportunity to subscribe to regular updates from the Authority.

At this time, Councillors were also advised of the upcoming regional candidate information seminars being held through May and June 2012, with a regional seminar to be held at Warringah Council on 12 May 2012, at the Council Chambers, Civic Centre, Dee Why. This report advises in brief the changes to the Electoral Funding Act, and formalises the date for the upcoming regional candidate information seminar.

FINANCIAL IMPACT

Nil

POLICY IMPACT

Nil

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That the report be noted.

REPORT

BACKGROUND

On 23 March 2012, all Councillors were advised in writing that there had been changes to the Election Funding Expenditure and Disclosures Act 1981, with relevant links to the Electoral Funding Authority website.

In conjunction with this advice, Councillors were also advised that the Electoral Funding Authority would be running seminars through May and June 2012 for candidates, their official agents and other interested parties. Warringah Council will be holding a regional seminar on Saturday 12 May 2012 at the Council Chambers, Civic Centre, Dee Why.

The seminars will cover changes to the Election Funding Act and the roles and obligations of a Candidate or Official Agent in the lead up to the Local Government Elections on 8 September 2012. For further information or to register, Councillors and other interested persons should see visit the Electoral Funding Authority website at <http://www.efa.nsw.gov.au>.

The candidate seminars can be accessed via the following link:

http://www.efa.nsw.gov.au/important_dates_and_events/for_candidates_for_local_government_elections

Changes to the Election Funding Expenditure and Disclosures Act 1981 (the Act)

There have been three main changes to the Election Funding Expenditure and Disclosures Act 1981, effective from 9 March 2012. The changes are as follows:

1. Prohibition of political donations other than by individuals on the electoral roll;
2. Amendment to the meaning of 'electoral expenditure' and 'electoral communication expenditure';
3. Aggregation of expenditure caps in respect of State election campaigns.

Prohibition of political donations other than by individuals on the electoral roll

It is unlawful for a political donation to a party, elected member, group, candidate or third-party campaigner to be accepted unless the donor is an individual who is enrolled on the roll of electors for State elections, the roll of electors for Federal elections or the roll of electors for local government elections: s.96D(1).

It is unlawful for an individual to make a political donation to a party, elected member, group, candidate or third-party campaigner on behalf of a corporation or other entity: s.96D(2).

It is unlawful for a corporation or other entity to make a gift to an individual for the purpose of the individual making a political donation to a party, elected member, group, candidate or third-party campaigner: s.96D(3).

It is unlawful for an industrial organisation or other entity to pay an annual or other subscription to a party for affiliation with the party. Such subscriptions are gifts by virtue of s.85(3) of the Act and are therefore political donations: s.96D(4).

It is not unlawful for branches of parties or associated parties to dispose of property between one another: s.96D(5); however, such dispositions remain gifts and, accordingly, political donations for the purposes of disclosure: s.85(3A).

It is unlawful for a person to receive a reportable loan (other than a loan from a financial institution) from an entity: s.96G(1).

Political donations are those in relation to State elections and elected members of the NSW Parliament, local government elections and elected members of councils or matters unconnected to any election or elected member (e.g. political donations made to a State Party administration account). Political donations are not those made exclusively for the purpose of Federal elections or elected members of the Australian Parliament.*

Amendment to the meaning of 'electoral expenditure' and 'electoral communication expenditure'

The amendments modify the definition of electoral expenditure and electoral communication expenditure as they apply to an entity or other person not being a registered party, elected member, group or candidate. Electoral expenditure and electoral communication, expenditure does not include expenditure incurred by an entity or other person (not being a registered party, elected member, group or candidate) if the expenditure is not incurred for the dominant purpose of promoting or opposing a party or the election of a candidate or candidates or influencing the voting at an election: s.87(4).

Aggregation of expenditure caps in respect of State election campaigns

The applicable caps on electoral communication expenditure for a party for a State election campaign now includes the aggregation of electoral communication expenditure incurred by the party and any other electoral communication expenditure incurred by an affiliated organisation of that party: s.95G(6).

An affiliated organisation of a party means a body or other organisation, whether incorporated or unincorporated, that is authorised under the rules of that party to appoint delegates to the governing body of that party' or to participate in preselection of candidates for that party (or both): s95G(7).

The full provisions under the legislation are available at www.legislation.nsw.gov.au.

POLICY IMPACT

Nil

FINANCIAL IMPACT

Nil

* It should be noted that political donations includes (but is not limited to) a gift made to or for the benefit of a political party, candidate, group of candidates, elected member or third-party campaigner and may be monetary or non-monetary (gift in kind).

ITEM 9.9	WASTE AVOIDANCE AND RESOURCE RECOVERY CONFERENCE 2012
REPORTING MANAGER	DEPUTY GENERAL MANAGER ENVIRONMENT
TRIM FILE REF	2012/094052
ATTACHMENTS	1 Waste Avoidance and Resource Recovery Conference Program 2012

EXECUTIVE SUMMARY

PURPOSE

To determine Councillor attendance at the Waste Avoidance and Resource Recovery Conference 2012 being held in Coffs Harbour from Tuesday 1 May to Thursday 3 May 2012.

SUMMARY

Waste 2012 is the 12th annual Waste Avoidance and Resource Recovery conference to be held in Coffs Harbour. Inclusions at the conference are keynote speakers, case studies and panel discussions.

This report seeks to determine councillor attendance at this conference.

FINANCIAL IMPACT

Funds are available in the 2011/2012 budget for conference attendance by Councillors.

POLICY IMPACT

Attendance by Councillors at the Waste Avoidance and Resource Recovery Conference and payment of expenses is in accordance with Council's Policy GOV-PL 130 Payment and Reimbursement of Expenses Incurred by, and the Provision of Facilities to, the Mayor, Deputy Mayor and Councillors.

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That Council nominate a councillor(s) to attend the Waste Avoidance and Resource Recovery Conference 2012 being held in Coffs Harbour from Tuesday 1 May to Thursday 3 May 2012 inclusive.

REPORT

BACKGROUND

The Waste Avoidance and Recovery Conference has been running since 1996 and is in its 12th year, Waste 2012.

The conference will begin with a welcome reception on the evening of Tuesday 1 May 2012.

The conference program will include several streamed sessions focusing on topic areas so a broad range of issues can be addressed, with keynote speakers, case studies and panel discussions with topics including:

- Clean Energy Bill and Waste Management
- Waste to Energy
- Food and Garden Organics
- Hazardous Waste
- Waste Policy Leadership
- Recovery of E-Waste
- AWT Options and Residuals
- Tendering and Contracts
- Waste Policies and Targets
- Education and Communication
- Commercial & Industrial Waste
- Service and Infrastructure Procurement
- Waste and Recycling Collection
- Landfill Management
- Innovation and Technology
- Recycling Collection and Markets

The conference program is attached.

TIMING

The conference runs from 1-3 May inclusive.

POLICY IMPACT

Attendance by Councillors at the Waste Avoidance and Resource Recovery Conference will be dealt with in accordance with Council's Policy GOV-PL 120 Payment and Reimbursement of Expenses Incurred by, and the Provision of Facilities to, the Mayor, Deputy Mayor and Councillors.

FINANCIAL IMPACT

The approximate cost per councillor is:

Item	\$
Registration Fee	1165.00
Return Air Fare	416.00 (virgin flexi fare)
Accommodation (up to three nights at \$200 per night)	600.00
Total (excluding out of pocket expenses)	<u>2181.00</u>

Note: Carbon offsets are available with flights through Virgin Blue and Qantas at a cost to be determined when the booking takes place.




There are alternative travel provisions for travel to Coffs Harbour by bus, train or car as per the schedule below:

Mode of Travel	Cost	Carbon Offset
Bus	\$128.00 return	Available for an extra \$1.00 on the ticket price
Train	\$133.00 return	Not available
Car	For the journey (540km return), where the current cost of fuel is approximately \$1.50 per litre based on an approximate consumption of 8.4-9.9L/ 100km or 9.9-10.8L/ 100km for a standard 4 and 6 cylinder sedan respectively, the cost of petrol would be \$68-80 for a 4 cylinder vehicle and \$80-88 for a 6 cylinder vehicle.	Not available

Conference Program – Tuesday 1 May – Pre-conference Events and Conference Welcome Reception

- 10:00 AM – 3:00 PM RENEW NSW (Regional Waste Groups) Quarterly meeting, hosted by NSW EPA
 1:00 PM – 5:00 PM WMAA Workshop: Contracting and outsourcing, pitfalls and opportunities
 3:00 PM – 5:00 PM RENEW NSW Forum
6:00 PM – 8:00 PM WELCOME RECEPTION sponsored by  Publishers National Environment Bureau
 8:00 PM – late The Get Wasted Band – the well-known industry entertainers!

Conference Program – Wednesday 2 May – Conference Day One

7:45 AM	REGISTRATION AND COFFEE		
8:50 AM	Welcome Address and Introduction from the Chair: Craig Milburn, Director Corporate Business, Coffs Harbour City Council		
9:00 AM	Opening Address: Minister for the Environment and Minister for Heritage (tbc)		
9:20 AM	Keynote address – The impact of the Clean Energy Act on waste management in Australia: Department of Climate Change (tbc)		
9:50 AM	Keynote Address – Waste infrastructure and services in the UK: lessons to learn: Paul Frith, Director, Frith Resource Management Limited, UK		
10:20 AM	MORNING TEA		
10:50 AM	Panel Discussion – Where the rubber hits the road: implementation issues regarding the Clean Energy Act and its impact on waste management in Australia: This session will discuss the key issues and impacts of this legislation. Facilitator: Tony Wright, Joint Managing Director, Wright Corporate Strategy Panel Members: <ul style="list-style-type: none">• Department of Climate Change (tbc)• Dr Mark Dangerfield, Principal, Alloporus Environmental• Elisa de Wit, Partner, Norton Rose Australia• Ron Wainberg, Technical Director, Hyder Consulting• Robert Verhey, Strategy Manager Environment, Local Government Association of NSW and Shires Association of NSW		
12:30 PM	LUNCH		
	AWT Developments	Innovation in Organics	Education
1:40 PM	AWT technology – an update on where things are at across Australia Paul Howlett, Joint Managing Director, Wright Corporate Strategy	Sustainable energy recovery from organic waste Elmar Offenbacher, Sales Manager Asia-Pacific, BDI-BioEnergy International, Austria	One year on! Who's playing mind games with who? Daniela Santucci, Resource Recovery Coordinator, Bankstown City Council
2:00 PM	Pushing recovery into the next range: a resource recovery infrastructure needs analysis for NSW Andrew Quinn, Senior Environmental Consultant, GHD and Danyelle Carter, Manager Resource Recovery – Waste Strategy and Program Delivery, NSW Environment Protection Authority	Optimising environmental outcomes in advanced composting technology selection Geoff Hemm, Organics Process Manager, Transpacific (and Cleanaway)	Clean up creates pride of place within indigenous communities Olivia Robertson, National Manager Away From Home Recycling and Indigenous Community Waste Management & Resource Recovery, Packaging Stewardship Forum and Australian Food and Grocery Council
2:20 PM	Drivers for waste to energy projects across Australia Miles Mason, Business Development Manager, New Energy Corporation	Innovative approach to aerated static pile composting Sharon Mitchell, Team Leader Waste Management, Taree City Council, Andy Gulliver, Director, Custom Composts	Cost effective community education Jacqui Murray, Environmental Education Officer, Keep Australia Beautiful
2:40 PM	A case study analysis of local governments response to waste management public policy Peter Ali, Manager Infrastructure and Ben Harries, Team Leader Environmental Operations, City of Whittlesea	Who will buy? Characterising customers for compost Annie Kavanagh, Senior Project Officer, NSW Environment Protection Authority	Tools and techniques for SME waste reduction and engagement Jem Hansen, Senior Environmental Consultant, 360green
3:00 PM	AFTERNOON TEA		
	Carbon and Waste	Landfill Management	Product Stewardship and E-Waste
3:30 PM	Calculating the cost of carbon at the landfill gate Max Spedding, Special Projects Director, Veolia Environmental Services	Landfills – the next mining boom? David Gamble, Business Leader/Group Manager Waste, GHD	Implementing the national television and computer recycling scheme Tim Rogers, Consultant, Department of Sustainability, Environment, Water, Population and Communities
3:50 PM	Progress in carbon Mike Ritchie, Director, Mike Ritchie & Associates	Landfill containment and restoration in Ireland Nigel Ruxton, Senior Project Manager, Golder Associates Pty Ltd	Case study: Recovery of materials from electronic products, can recyclers reach 90% recovery? Rose Read, Manager Recycling, Australian Mobile Telecommunications Association
4:10 PM	Reducing the carbon footprint from the solid waste sector Tom Wetherill, Group Carbon Manager, Transpacific (and Cleanaway)	Landfill compliance – an important but forgotten area Josh Hoole, Environmental & Sustainability Consultant, Impact Environmental Consulting	Local Government Innovation in Waste Awards – presentations from the finalists Short presentations from the five finalists of the 2012 Local Government Innovation in Waste Awards. Each finalist will provide a 10 minute presentation with an opportunity to answer questions from the audience. The winner of the 2012 awards will be announced at the Conference Dinner.
4:30 PM	Carbon benefits of recycling wood pallets calculator Stephen Mitchell, Project Manager, National Timber Product Stewardship Group	Innovation and management at small landfills Bob Bailey, Consultant, Robert Bailey Consulting	Sponsored by 
4:50 PM	Questions	Questions	
5:00 PM	CLOSE OF DAY ONE		
6:30 PM	Pre-dinner drinks in the exhibition area		
7:30 PM	CONFERENCE DINNER (including Local Government Innovation in Waste Awards). Sponsored by  		



Conference Program – Thursday 3 May – Conference Day Two

7:30 AM	REGISTRATION AND COFFEE		
7:50 AM – 8:20 AM	Optional Special Presentation – Love Your Leftovers – community cookbook: Warrick Hay, Senior Waste Management Officer, Environment and Planning Services, Holroyd City Council		
8:30 AM	Welcome Address and Introduction from the Chair: Val Southam, CEO, Waste Management Association of Australia		
8:40 AM	Keynote Address – The way forward for the Australian waste industry – exploring best practice examples from around the world: Allan Barton, Global Resources and Waste Leader, Arup, UK		
9:10 AM	Keynote Address – The White Paper on waste to energy in NSW: Steve Beaman, Director of Waste and Resource Recovery, NSW Environment Protection Authority		
9:40 AM	Panel Discussion – Education and community involvement in reaching waste diversion targets Facilitator: Grahame Collier, T Issues Consultancy Panel Members: <ul style="list-style-type: none">• Rod Dawson, Manager Water, Sewer & Waste, Civil Services Group, Ballina Shire Council• John Vyse, Organics Sales and Marketing Manager, SITA Organics• Kathy Woods, Resource Recovery Manager, The Hills Shire Council• Daniela Santucci, Resource Recovery Coordinator, Bankstown City Council		
10:40 AM	MORNING TEA - using recipes from the Love Your Leftovers – community cookbook		
	Procurement	Recycling and Recovery	Litter Prevention
11:10 AM	Managing risks during tendering and contract procurement Tanya Jackson, Principal Consultant, KMH Environmental	Zero waste theory and practice with examples from South Australia and San Francisco Candice Anderson, Candidate, Master of Environmental Studies, York University, Toronto, Canada	Workshop: An essential part of modern municipal waste management Facilitated by Rob Curnow, the workshop will examine the key elements of modern litter prevention practices as part of a whole council approach to waste minimisation and resource recovery in public places. This workshop will engage and involve participants by examining current litter management practices and demonstrate the success of recent innovations. Rob Curnow, Director Social Research, Community Change Eric Love, Chairman, EC Sustainable
11:30 AM	The bumpy road of procuring a new waste infrastructure Stephen Sykes, Director Enterprise Services, Orange City Council	Recyclables leakage: reducing resource loss via 360L bins Colin Clissold, Manager Operations, Rockdale City Council	Harry Copeland, Waste Minimisation Manager, Waste Services, Brisbane City Council
11:50 AM	Due diligence for local government in waste related tenders Greg Freeman, Managing Director and Katherine Driscoll, Senior Consultant, Impact Environmental Consulting	kNOW your waste and win - rewarding residents who recycle Andrew Ho, Waste Education Officer, Parramatta City Council	
12:10 PM	Calculating the bang for your waste management buck John Lawson, General Manager Development, Global Renewables and Garth Lamb, Senior Environmental Consultant, Hyder Consulting	The Recyclator – understanding the web based tool for measuring the benefits of recycling activities Layla McNeil, Senior Projects Officer, NSW Environment Protection Authority	
12:30 PM	LUNCH		
	Collection	Hazardous Wastes	Emerging Industry Issues Designed to Support the Young Waste Professionals
1:40 PM	Australian better practice manual for integrated kerbside food & garden collections Victoria Bond, Associate Business Director, Waste & Resources Management, Hyder Consulting	Asbestos policy advice for NSW Councils Amy Lovesey, Project Manager – Asbestos Policy, Policy Division, Local Government Association of NSW and Shires Association of NSW	This session features short presentations and facilitated discussions designed to support young professionals in their career development. Accreditation – should this be compulsory in Australia as it is for waste facilities in Europe and the UK? Mentoring – should more formal mentoring be available to young waste professionals?
2:00 PM	Food organics collection trial Kathy Woods, Resource Recovery Manager, The Hills Shire Council	Investigating the bottom line: the nappy dilemma Carmel Griffith, Consultant, Mike Ritchie & Associates	
2:20 PM	Automated waste collection: myths and opportunities Mark McKenzie, Manager Waste Strategy, City of Sydney	Impact of the HazWaste Fund on hazardous waste in Victoria Jérôme Fakhry, Project Manager, HazWaste Fund, EPA Victoria	Industry profiling – what career opportunities are available and what training is required to obtain key roles in the waste industry? Please see page 8 for details.
2:40 PM	Innovation in bin fleet management – a whole of life solution Kurt Whitlow, Business Manager, SULO MGB Australia	The safe sharps' project Julie Briggs, Executive Officer, Riverina Eastern Regional Organisation of Councils (REROC)	
3:00 PM	AFTERNOON TEA		
3:30 PM	Workshop 1 – Making it Easier for Households to Separate and Recover Their Waste Focus Area 1 of the NSW Waste Implementation Strategy includes: – encouraging councils to adopt best practice systems for household collections – increasing recovery of organic materials from household bins and – expanding the number of local waste collection centres (drop-off points) for high volume low toxicity waste This workshop will feature brief presentations on these three areas and will include a facilitated discussion on overcoming the barriers to implementation. Please see page 8 for facilitators.		Workshop 2 – Designed to Help Young Professionals Given the sophistication and complexity of the waste management industry today, a new approach needs to be taken to improving access of young professionals to industry knowledge, information and support. Using the tool of speed networking, this workshop will involve senior members and young professionals together exploring compatible ideas to fill the skills and knowledge gaps in our rapidly evolving industry. Please see page 8 for facilitators.
5:00 PM	CLOSE OF DAY TWO		
6:30 PM	CONFERENCE BBQ		
	Program subject to change without notice		

Program subject to change without notice

ITEM 9.10	CHARITY CLOTHING BIN POLICY
REPORTING MANAGER	GROUP MANAGER DEVELOPMENT ASSESSMENT & COMPLIANCE
TRIM FILE REF	2012/098154
ATTACHMENTS	1 Draft Charity Clothing Bins Policy 2 NARCO Code of Practice

EXECUTIVE SUMMARY

PURPOSE

To report on the community consultation and review undertaken in relation to the new Draft Charity Clothing Bin Policy and seek to have the Policy adopted.

SUMMARY

Council's current policy for the operation of Charity clothing bins has not been revised since 1991 and has since been rescinded by Council.

As a result of a resolution by Council in April 2010 a public exhibition period was undertaken in June 2010 to gauge community support for a new policy which would require removal of all charity clothing bins from public land.

The results of the public exhibition showed that: provided the clothing bins are run by legitimate charities, which abide by a code of practice produced by National Association of Charitable Recycling Organisations (NACRO), they should present no liability to Council.

It is proposed that charities be allowed to enter lease type agreements with Council under new proposed policy and operational guidelines.

As a result of a resolution by Council in November 2011, a revised Charity Clothing Bin Policy drafted for Council's consideration, was exhibited December 2011/January 2012. The results of the public exhibition showed a consistency with the original submissions. However, it was indicated by the submissions that the Policy be amended to require charities to be a member of the National Association of Charitable Recycling Organisations (NACRO).

This amendment is recommended to be endorsed by Council and the Draft Policy be adopted in its amended form.

FINANCIAL IMPACT

Nil

POLICY IMPACT

The existing policy is outdated and the new policy is proposed for adoption.

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That Council resolve to adopt the Draft Charity Clothing Bin Policy as amended.

REPORT

BACKGROUND

The previous policy relating to the regulation of clothing recycling bins was last reviewed in 1991 and has since been rescinded by Council. There is currently no active management of clothing bins and their placement in Warringah other than when placed in dangerous locations or causing issues relating to dumping.

Currently clothing bins may be placed in public places with no guidelines or restrictions for their locations or duty of care. There are no current requirements for public liability insurance cover for these bin owners to keep the area around the bins clean and tidy including dealing with dumped rubbish at these sites. This permits operators other than charities to place their bins on public land and profit for their own benefit.

Over the past two years Council has had six (6) complaints in 2010 and one (1) complaint in 2011 concerning dumping at charity clothing bins. In 2010 these were related primarily to bins that were not charity operated.

In a report to Council in April 2010, the Manager Compliance Services proposed to ban charity clothing bin placement on public land.

Council resolved to place on Public Exhibition the current policy (from 1991) in combination with the proposal to prohibit the placement of Charity Clothing Bins on public land. It was also resolved that Council call on private land owners of suitable sites to nominate possible locations for these bins.

The results of the public comment period as reported in November 2011 to Council highlighted the public good that is created from clothing bins that are managed by legitimate charities. It also highlighted that few private land owners were prepared to host bins on their land due to liability issues of dumped rubbish.

The submissions from charities also highlighted that most legitimate charities are members of NACRO and abide by a Code of Practice (Attachment 2). This code of practice ensures a high level of management, suitable placement, cleanliness and the provision of suitable insurance cover.

The results of the public exhibition demonstrated that charity clothing bins can be managed satisfactorily for public good. The stance was substantially changed from the banning of clothing bins on public land, to allowing charity clothing bins under a new policy and operational guidelines.

As a result, of this change in stance, Council in November 2011 resolved to exhibit the revised draft Charity Clothing Bin Policy allowing for legitimate charities to undertake a lease type agreement with Council for the placement of their clothing bins on public land. No fees would be charged.

CONSULTATION

A public exhibition period was undertaken from 2 December 2011 to 10 January 2012. Council received 20 submissions in response to the exhibition.

Results

- A. Community members responded to the public exhibition, consistently raising the issues of illegal dumping, cleaning and maintenance of the bin and their surrounds.
- B. The charities likely to be affected by the change to policy "The Smith Family", "St Vincent de Paul" and "Lifeline" all restated that legitimate charities are usually members of the National

Association of Charitable Recycling Organisations (NACRO). NACRO membership is only open to legitimate charities thus membership would ensure suitable checks are in place to ensure they meet Council's charitable status.

Discussion

A review of the submissions and the subject Policy indicates that both the community and legitimate charity groups are concerned with the illegal dumping of items and the maintenance of the clothing bins in general. It is considered that membership of the National Association of Charitable Recycling Organisations (NACRO) and the abiding by the Code of Practice (Attachment 2) will assist in resolving any issues with regard to the proper maintenance and cleanliness of the bins whilst also preventing unregistered "charities" or companies posing as charities, from placing poorly maintained clothing bins in public areas.

In this regard it is recommended that the following amendment be made to the policy at paragraph "2 Principles, 2."

2 Principles

Charities provide valuable services to the local community. The clothing bins are an important part of fundraising by many charities. The additional benefit of these bins is they encourage recycling of clothing.

Badly managed and poorly located clothing bins can cause problems including illegal dumping, graffiti, obstruction of pedestrians and vehicles. Organisations placing charity bins on public land

The placement of clothing bins on public land is limited to organisations that are:

- 1. Registered by the Office of Liquor, Gaming and Racing under the Charitable Fundraising Act 1991;*
- 2. Members of the National Association of Charitable Recycling Organisations Incorporated (NACRO) and agree to comply with the NACRO Code of Practice;*
- 3. Guarantee all clothing and proceeds are for welfare services only; and*
- 4. Guarantee that the clothing is collected, sorted and distributed by the charity named on the clothing bin and owning the bin*

It is recommended that Council adopt the Draft Charity Clothing Bin Policy as amended (Attachment 1).

If the policy is adapted there will be a grace period for charities to become members of the National Association of Charitable Recycling Organisations Incorporated (NACRO) and to sign an agreement with Council. Non charitable organisations will be contacted and requested to remove their bins following which any of their bins remaining will be impounded.

POLICY IMPACT

Nil.

FINANCIAL IMPACT

The existing policy is outdated and the new policy is proposed for adoption.

Warringah Council Policy

Policy No. Number

Charity Clothing Bins

1 Purpose of Policy

To regulate the placement and management of clothing bins on Council owned and controlled land by registered charities.

2 Principles

Charities provide valuable services to the local community. The clothing bins are an important part of fundraising by many charities. The additional benefit of these bins is they encourage recycling of clothing.

Badly managed and poorly located clothing bins can cause problems including illegal dumping, graffiti, obstruction of pedestrians and vehicles.

Organisations placing charity bins on public land

The placement of clothing bins on public land is limited to organisations that are:

1. Registered by the Office of Liquor, Gaming and Racing under the Charitable Fundraising Act 1991;
2. Members of the National Association of Charitable Recycling Organisations Incorporated (NACRO) and agree to comply with the NACRO Code of Practice;
3. Guarantee all clothing and proceeds are for welfare services only; and
4. Guarantee that the clothing is collected, sorted and distributed by the charity named on the clothing bin and owning the bin

Applications for new and management of existing clothing bins will be in accordance with the "Guidelines on Placement of Charity Bins on Council owned or controlled land" and are subject to entering a lease agreement with Council.

3 Authorisation

This Policy was adopted by Council on [insert date].

It is effective from [insert date].

It is due for review on [insert date].

4 Amendments

This Policy was last amended on [insert date].

5 Who is responsible for implementing this Policy?

Development Assessment and Compliance

6 Document owner

Environment

7 Related Council Policies

- a) Compliance and Enforcement Policy PDS – PL 120

8 Legislation and references

- a) Section 68 of the Local Government Act 1993
- b) Office of Liquor, Gaming and Racing http://www.olgr.nsw.gov.au/charitable_home.asp
- c) National Association of Charitable Recyclers <http://www.nacro.org.au/>
- d) Charitable Fundraising Act 1991

9 Definitions

Charity Clothing Bin shall mean a portable metal bin of painted, sturdy construction, with a weatherproof tilt chute at the top permitting clothing to be deposited, a locked door permitting the charity which owns the bin to empty it, and a graphic display in accordance with the provisions of the Charitable Fundraising Act 1991.

NACRO Code of Practice – as defined by the National Association of Charitable Recycling Organisations (NACRO) Code of Practice. NACRO is the peak body representing charitable recycling organisations throughout Australia.



The National Association of Charitable Recycling Organisations endorsed criteria for the use and operation of recycling collection bins for used clothing and household items.

Every day and in every State of Australia charities assist tens of thousands of people through home visitation, migrant and refugee assistance, hospital and health services, prison visitation, aged care services, supported employment services for people with an intellectual disability, education for disadvantaged children, welfare assistance, hostels for the homeless, overseas relief, disaster recovery, budget counselling and youth programs and suicide prevention counselling.

We feed and clothe Australian men, women and children overwhelmed by life's hardships. A significant number of these community programs are funded by the income derived from clothing recycling collection bins. Programs, that if not funded from these income sources, would require public funding through State and Federal tax and Local Government Association rate sources.

Members of NACRO advocate strongly for councils to consider adopting this code of practice developed and practiced by members of the National Association of Charitable Recycling Organisations. The attached appendix provides further information on NACRO and the business of charitable recycling.

1 Clothing recycling collection bins Code of Practice - recommended planning principles

Members of NACRO advocate that a prominently located recycling collection bin is currently the most cost effective method of collecting post consumer recyclable domestic materials. To facilitate this, the major factors influencing the councils are:

- The need to ensure recycling collection bins are located appropriately and/or sensitively so as not to detract from the amenity and appearance of sites,
- All recycling bins are clearly marked to differentiate charity bins from commercial operator bins to enable members of the public to make informed choices about to whom they make their donations,
- The need to ensure clothing recycling collection bins are regularly emptied, cleaned and maintained in an orderly and proper manner;
 - To ensure the location of clothing recycling collection bins does not cause any obstruction to footpaths and roadways
 - To ensure the clothing recycling collection bins are adequately fixed so as to not cause injury to any person or damage to property, to the satisfaction of Council.

The following principles apply to the location and placement of recycling collection bins:

- 1.1 Only clothing recycling collection bins from charities that are members of the National Association of Charitable Recycling Organisation (NACRO) shall be permitted to be located on land owned or vested in the given Council and any Public Place. Preference should be given to charities that directly, collect, sort

-
- and sell the clothing.
- 1.2 The location of clothing recycling collection bins shall generally be restricted to commercial zones that are contained in a given council's planning scheme.
 - 1.3 The location of the clothing recycling collection bins shall comply with the provisions of the given Local Government Act.
 - 1.4 Subsequent to permit approval, the clothing recycling collection bins shall:
 - 1.4.1 be of a design that would ensure people are not able to climb into them;
 - 1.4.2 not be located on driveways/accessways, car parking areas, landscape areas or be located to cause undue obstruction to footpaths and thoroughfares subject to inspection by an Authorised Officer;
 - 1.4.2 not present a threat to surrounding infrastructure in the event of a fire in a bin;
 - 1.4.3 contain the name and contact telephone number of the agency;
 - 1.4.3 be maintained and presented within its environs in a condition to the satisfaction of the given Council;
 - 1.4.4 be emptied and maintained in a manner sufficient to ensure materials do not accumulate outside the clothing recycling collection bins, eg on the foot path.
 - 1.4.5 provide a 24hour emergency contact number to be used by council officers regarding out-of-hours recycling collection bin issues.
 - 1.5 Clothing recycling collection bins shall be subject to removal for non compliance to the Code at Council's discretion.
 - 1.6 The owner of the recycling collection bin and/or agency with responsibility for the control of a bin shall provide to Council satisfactory evidence of a copy of a public liability insurance policy to a minimum value of \$20 million.
 - 1.7 Unless there is sufficient space and visual amenity, only one recycling collection bin should be located on a site and subject to inspection by an Authorised Officer.
 - 1.8 The location of the clothing recycling collection bins shall be subject to annual review.
 - 1.9 The recycling collection bin/bins shall be removed from Council land or public place within the time indicated on a written notice to comply.
 - 1.10 The recycling collection bin shall have NACRO signage attached.
 - 1.11 Recycling collection bin clearance schedule (for normal circumstances) be scheduled by the charitable recycling organisation and the council during the application process. Note: Most contractors undertake clearance early morning.

Members of NACRO advocate strongly for councils to consider the above code of practice developed and practiced by members of the National Association of Charitable Recycling Organisation.

APPENDIX

2 Purpose of this code of practice

The purpose of this code of practice is to provide councils with guidelines for the placement and location of clothing recycling collection bins on land owned, controlled and/or vested in a given council and to provide them with the established criteria for the use and operation of these bins.

3 About NACRO

The National Association of Charitable Recycling Organisations (NACRO) is the peak body representing charitable recycling organisations throughout Australia. NACRO represents its members and has collective influence at local, state and national level.

The business of NACRO members is to generate social capital to fund welfare programs through recycling and reuse activities. Indeed, millions of individuals benefit from the products, operations, and programs that are delivered to the community as a result of the funds generated from NACRO members' recycling operations.

NACRO members range from the largest national charities to individual shops. Collectively, they operate thousands of shops around Australia. Donations of first and second hand goods are made by deposits into clothing recycling collection bins, neighbourhood household collection, and/or drop-offs directly to charity shops.

NACRO advocates educating the community to donate goods responsibly to provide maximum profits for social welfare, reduce landfill demand through thoughtless waste and to minimise cost to the environment.

3.1 Charitable Recycling Organisations are not private companies!

In Australia the organised recovery of post-consumer waste (mainly used clothing and household goods) by way of clothing recycling collection bins is principally undertaken by charities. By world standards, it is a unique system through which tonnes of post consumer waste is diverted from landfill and redistributed to men, women and children overwhelmed by life's hardships, or sold to assist in the charitable works of the organisations that have invested in the recycling infrastructure. It is a valuable service to all Australian councils.

As public benevolent institution/organisations, Charitable Recycling Organisations receive "Deductible Gift Recipient" (DGR) status from the Australian Taxation office which allows them to receive income tax deductible gifts and deductible contributions. Membership of NACRO is only available to organisations that have DGR status.

In recent times a number of private commercial agencies have entered the market. These agencies are for-profit companies that do not redistribute any financial returns from the collection of post-consumer waste. Collectively, these agencies do not adhere to this code of practice. NACRO advises councils to confine the use and operation of clothing recycling collection bins within their precincts to charitable recycling organisations.

For this reason, membership of NACRO is restricted to organisations that:

- are constituted in accordance with the appropriate charity legislation in states and territories and have obtained Deductible Gift Recipient status from the Australian Taxation Office; and
- are involved in and operates recycling programmes for the purpose of emergency assistance and/or the supply of low cost clothing and/or the support of the charitable purpose of the particular charity or Public Benevolent institution; or
- are an incorporated body of charitable recycling organisations whose membership criteria shall not be less than that required by the Association and which shall conform to the conditions imposed by clause 5 (a) (i & ii) of this Constitution and whose activities shall be restricted to a State or Territory of Australia.

Membership is not available to charitable recycling organisations that:

- Sell or otherwise allow their brand/name to be used by another organisation to solicit donations of used clothing or associated products.
- Are not actively involved via their own staff or volunteers or under the name of the charity in one or more of the following, collection, sorting, retailing, exporting of used clothing and associated products or providing clothing to the public for charitable purposes.
- Have not been actively involved within the industry as described above for a minimum of twelve months prior to seeking membership of NACRO.

There is no doubt that without the recycling activities of the charitable recycling organisations (the proceeds from which fund welfare programs), both State and Federal governments would have significantly higher social costs in addition to a marked increase in volume of landfill, the management of which would be funded through increased taxes and a commensurate bureaucracy.

4 About the Charitable Recycling industry

The multi-billion dollar worldwide recycling industry performs a vital social and environmental function. The industry has no peer in terms of conserving the world's resources while the various stages of the recycling process provide significant employment around the world.

It is estimated that between 80-100 million kilos of textile waste is collected by Australian charitable recyclers through clothing recycling collection bins and donations of material at no cost to councils or government. Much of this material can be reclaimed and recirculated through charity shops or reprocessed into functional textiles. Through the efforts of the charitable recycling organisations, approximately 75 percent of the collected post-consumer waste is diverted from our landfills and recycled domestically or forwarded to third world countries providing clothing to many of the poorest people in the World.

Recycling is a practice through which everyone can make a difference to the environment. Garments or household goods can effectively be recycled by sale or gifted to another user. Of the post consumer waste recovered by charities;

- 60 percent consists of items of clothing that can be reworn or reused
- 15 percent can be torn into industrial wiper cloths, and
- 25 percent is unusable and sent to landfill.

There is increasing recognition by informed councils of the contribution charity shops make in reducing the volume of items that go to landfill, and a number of local authorities are now counting the volume of second-hand goods sent for reuse and recycling that can be measured towards their recycling targets. Without charity shops and processing facilities providing for large-scale reuse and recycling, these unwanted items would inevitably find their way into the waste stream to be treated by local authorities as household waste.

Recycling of second hand goods is by means of community donations deposited into charity clothing recycling collection bins, thousands of which are located across Australia, and/or drop-offs directly to charity shops.

Depending on size, logistics and location, each charitable recycling organisation has developed its own system for dealing with donated product. People who are keen to donate clothes to charity are advised to call the charity and ask advice and/or for locations of drop off centres. In some cases they can go straight to the shop. Some charities will pick up furniture and larger items. Overall, clothes are carefully evaluated and sorted for quality and marketability.

A shop quality item's final destination is the result of demographic understanding and marketing aimed to maximise profits for the charity. In some suburbs, clothes can command a higher price, as they are more likely to appeal to the local market. Certain shops quickly move surf and youth wear; others specialise in retro; others have attracted a loyal following by selling high-end designer label product; and some stores are amply stocked with plus-sizes and children's wear.

5 Donation practices

Giving clothes and furniture is a great way of helping out the community. Whether it is personal clothes or furniture or items from a workplace, these donations can make a great difference to an individual or organisation.

The fact remains that we live in a consumer society and there will always be a need for councils to manage the issues surrounding post consumer waste. The short term fix of banning clothing recycling collection bins is not the answer! The challenge is to change community attitudes and behaviour in support of sustainability, through education for responsible donating practices.

Charity recycling bin sites are often used as a dumping site for rubbish and soiled items. The cost of recycling and disposal of material is a serious financial burden to the charitable institutions, effectively diverting funds away from welfare programs into waste disposal costs. The members of NACRO advocate for responsible donating.

5.1 Community awareness - an ill advised community

Australians' attitudes toward waste issues are complex and constitute a barrier to improved resource recovery. The increased use of recycled materials in products and the increased recovery of material for recycling can be achieved with an educated public.

The introduction of "pay-as-you-throw" charges for the use of a local dump or transfer station a few years ago coupled with a level of community laziness, increased the amount of unusable donations to the charities as households attempt to avoid these costs. One large charity alone spends (annually – nationwide) approximately \$5 million on cleaning up waste which is mainly dumped on it, in one form or another. Of that amount, it estimates that approx. \$2 million goes towards landfill expenses, which is obviously only part of the overall waste cost it faces. On top of this, drivers are paid to remove rubbish from around collections bins and when received, the charities have the additional cost of sorting and sending and paying for landfill fees. It is estimated that the real cost to the charitable recycling organisations (including wages) is close to \$20 million per annum. There is no doubt that the cost of an ill advised community is a cost to the charitable recycling organisations. Any efforts to lessen this objectionable impost would be an intelligent and worthy undertaking.

6 Code of practice influences

Members of NACRO believe that a prominently located recycling collection bin is currently the most effective method of collecting post consumer waste. The advantages include:

- Convenience of location and out of hours access for residents reducing illegal dumping
- Reduced material placed out for hard rubbish collection
- Reduced landfill demand
- Meet the requirements of councils to recycle more of residents unneeded goods
- Relative ease of policing sites and compliance with local bylaws.
- Supports the environment through providing avenues for recycling useful products
 - Reduces the use of scarce resources, especially energy and water, by giving many of the donated goods a second life
 - Provides the community with an opportunity to support the work of charities through donating their unneeded goods
 - Assists local councils to meet their target of reduced landfill
- Supports the growing recycling industry by providing employment in the recycling industry

Indeed, there are thousands of clothing recycling collection bins located across Australia on council, school and church grounds. Clothing recycling collection bins are usually dispatched from a collection depot that services a designated region. Once full, the clothing recycling collection bins are emptied and the contents transported to a depot where they are sorted and graded before being sent to various charity shops (or exported overseas) according to quality and the need of the community. Some bin collection depots are large facilities employing drivers specifically to service the bin collection.

6.1 Shortcomings of the recycling collection bin system

There are a number of acknowledged shortcomings to clothing recycling collection bins. They are often a subject of community complaints and thus have been the focus of council debates for a number of years. The main concern is the negative appearance and diminished aesthetics as a result of material deposited around, rather than in, the clothing recycling collection bins located on public and private lands in public view. Other issues include:

- The bin is unable to accept all types of donations people want to make
- Some residents do not follow instructions as to what type of donation is acceptable, thereby often creating an untidy environment around the bin
- Bins not emptied frequently enough to prevent them overflowing and becoming unsightly

The facts about debris that sometimes surrounds clothing recycling collection bins:

- Dumping around bins is a seasonal issue, indeed most dumping is done during school holidays
- Dumping is less during weeks of hard rubbish collection.
- Illegal dumping is less when charity recycling shops are open on Sundays
- Banning clothing recycling collection bins is therefore not the answer.

This policy was developed in June 2009 by NACRO for councils to consider adopting. NACRO reserves the right to change this policy as it sees fit and is not liable for any loss or expenses incurred as a result of any changes.

ITEM 9.11	ALCOHOL FREE ZONES AND ALCOHOL PROHIBITED AREAS
REPORTING MANAGER	DEPUTY GENERAL MANAGER ENVIRONMENT
TRIM FILE REF	2012/098309
ATTACHMENTS	1 Alcohol Free Zones (Excluded from Agenda) 2 Alcohol Prohibited Areas (Excluded from Agenda)

EXECUTIVE SUMMARY

PURPOSE

To re-establish Alcohol Free Zones (AFZ) and create Alcohol Prohibited Areas (APA) within Warringah Local Government Area.

SUMMARY

Alcohol Free Zones (AFZ) and Alcohol Prohibited Areas (APA) are a way Council can assist the Police in controlling anti-social behaviour related to alcohol consumption. AFZ applies to public roads, footpaths and car parks. APA applies to parks, reserves and beaches. The Alcohol Free Zones within Warringah expired in December 2011. A public exhibition period for 30 days outlining the proposed areas for AFZ and APA needs to be undertaken following approval by Council.

Final approval for any APA must be given by the Local Area Commander of Police. There is no specified end date for APA while AFZ may only be declared for up to four years duration. The Alcohol Free Zones are proposed to run from 1 July 2012 – 30 June 2016.

FINANCIAL IMPACT

Advertising \$1,000.

Signage. \$15,000.

All is within the current budget provisions allocated for 2011/12 financial year.

POLICY IMPACT

Nil.

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That Council approve the public exhibition of the proposed Alcohol Free Zones and Alcohol Prohibited Areas for a period of 30 days.

REPORT

BACKGROUND

The *Local Government Act 1993* provides two primary methods for councils to manage the consumption of alcohol in public places:

1. A council may establish an AFZ (ss. 644-646) on a road, footpath or public carpark. The AFZ may be in force for a period of up to four years, or for a special event. Police officers enforce AFZ. After recent changes to the legislation, the enforcement provisions related to AFZ no longer require a warning to be issued, and alcohol can be confiscated on the spot if someone is drinking or thought to have intent to drink in an AFZ. There is no longer a fine for drinking in an AFZ.
2. Where a council has the control and management of parks or reserves, it may erect notices (APA) to prohibit the consumption of alcohol, and/or other activities (s.632). APA may be of limited hours in duration e.g 10pm – 8am, when anti-social drinking is more likely to occur.

Note whilst there are no fines in place for consuming alcohol in an AFZ or APA if people refuse to hand over their alcohol they may be charged with obstruction, which carries a penalty of up to \$2,200.

Within Warringah the Police are responsible for enforcing AFZ and APA.

Warringah's current AFZ have expired on 31 December 2011. Council has not had any APA previously.

Three letters have been received from residents requesting the reinstatement of the AFZ in their area following the expiration of the current ones.

CONSULTATION

Council staff approached the Local Area Command at Dee Why Police early this year in relation to the renewal of its AFZ. A meeting was held with police representatives to discuss the most strategic approach to Council's involvement in managing alcohol related crime and anti social behaviour through the use of Alcohol Free Zones.

Proposed changes – creation of Alcohol prohibited Areas (APA)

As a result of this meeting with the Police and following this discussion with Council staff, including in the Parks and Reserves and Roads sections, a new strategy has been proposed. It is proposed to create APA in all public parks, reserves and beaches in Warringah from 10pm until 8am. Two exceptions to this are Walter Gors Park in Dee Why and Queenscliff Headland where, due to a history of daytime anti-social behaviour, the APA would be in place 24 hours per day (see maps attachment 2). By having all parks and reserves in Warringah with a similar restriction it will allow the Police to have some consistency across the LGA in dealing with issues.

Alcohol Free Zones (AFZ) proposed changes.

In addition as has been traditionally the case a number of AFZ will be in existence on public roads, footpaths and car parks where APA are not appropriate under the legislation. A number of new ones have been proposed in response to Police requests and are indicated below. All AFZ would be in place 24 hours per day.

AFZ are proposed to cover the following locations (maps are provided in attachment 1):

Existing to be maintained:

1. Dee Why CBD (marginally enlarged down to Dee Why headland)
2. Narrabeen (adjacent to and east of Narrabeen Lagoon)
3. Belrose/Frenchs Forest in the vicinity of Glenrose Shopping centre
4. Forestville in vicinity of Forestville Shopping Centre
5. Governor Phillip Lookout Beacon Hill
6. Collaroy CBD Pittwater Rd. (reduced in area)
7. Kelpa Place, Allambie Heights (beside Allambie Heights Public School)
8. Dee Why Beach (sand area) – 24 hour special event - Australia Day (26 January) only

Proposed new AFZ.

9. Pittwater Rd, Brookvale in the vicinity of the bus stops outside Warringah Mall
10. Fisher Rd North in the vicinity of Cromer Community Centre
11. Sorlie Place Frenchs Forest (behind Forest Way Shopping Centre)
12. Forest Way Frenchs Forest in the vicinity of the bus stops outside Forest Way Shopping Centre

A number of previous AFZ would now be included in the APA. These include Passmore Reserve Manly Vale, Vic Huxley Oval Collaroy Plateau, Brookvale Park, Truman Reserve Cromer, Freshwater Beach Reserves, Terrey Hills Oval, Frenchs Forest Showgrounds and Long Reef.

No previous AFZ have been recommended for removal from some type of control at this stage.

Discussion

The APA are a new facet to Council's response to Police request for assistance in managing alcohol related crime while the use of AFZ has been a management strategy for at least 10 years.

It is hoped the timing of restricting alcohol in all parks and reserves as part of APA from 10pm – 8am is "family friendly" in still allowing people to enjoy picnics or a drink after sport whilst restricting it later at night when alcohol related anti-social behaviour is more prevalent.

In the case of a special event wishing to serve alcohol outside these hours at any of these parks or reserves then a temporary liquor license issued by the police would override the APA restrictions for the period of the event only.

Please also note that any sporting clubs in these parks and reserves with liquor licenses would need to comply with their own license requirements and should not be compromised in any way by these restrictions. In most cases alcohol may only be consumed within these clubs or community centres premises under their license restrictions and not in the surrounding reserves.

The provision of both APA and AFZ is also consistent with the approach taken by both Pittwater Council and Manly Council in assisting Police with tools for controlling anti social behaviour associated with alcohol although there is some variation in hours of operation in those council areas depending on the locality.

APA are required to have approval from the Local Area Commander of the Police and do not require renewal and can remain in place indefinitely unless Council considers a review appropriate.

AFZ may only be in place for a maximum of four years after which a renewal process is required.

TIMING

It is proposed that a public exhibition be carried out for 30 days in accordance with the Ministerial Guidelines for Alcohol Free Zones. Following the collation of submissions a final recommendation will be made to Council for the creation of APA and AFZ in Warringah Local Government Area for the June meeting.

It is proposed that the AFZ commence on 1 July 2012 and stay in force until 30 June 2016 which is the maximum allowable. The APA are not required to have a start or end date but would be in place as soon as practical following approval by the Local Area Commander.

POLICY IMPACT

Nil.

FINANCIAL IMPACT

All current signage relating to Alcohol Free Zones will need to be replaced.

Some provisions were made within the Compliance budget for 2011/12 for AFZ signage of \$15,000

It is proposed that the Alcohol Prohibited Areas signage would be phased in as appropriate in higher problem areas and not all parks and reserves would require it in the first instance or possibly ever. These areas would include the playing fields in Dee Why and Lionel Watts Oval, Frenchs Forest Showgrounds, as well as Walter Gors Park and Queenscliff Headland. In future the notice of APA would be included in any compliance signage being rolled out in all parks, reserves and beaches.

Advertising costs are estimated at \$1,000.

Replacement of outdated AFZ signage costs including those that will now be replaced with APA are estimated at \$15,000.

11.0 NOTICES OF MOTION

ITEM 11.1**NOTICE OF MOTION NO 9/2012
WARRINGAH COUNCIL RANGER CAPACITY FOR
COMPLIANCE ENFORCEMENT OF DOGS ON CURL CURL
BEACH AS ADDENDUM SUMMARY TO 'DOGS ON BEACHES'
FINAL REPORT****TRIM FILE REF****2012/097661****ATTACHMENTS****NIL**

Submitted by: Councillor Virginia Laugesen

MOTION

That Council:

- i) receives a brief summary of the impact on Warringah Council's compliance department (ranger) capacity to meet the likely requirements of enforcement duties related to dogs being allowed on Curl Curl beach;
 - ii) receives the summary as an addendum to the pending 'dogs on beaches' report; and
 - iii) if any cost applies to management staff compiling a compliance capacity overview, for that cost to be funded from any remaining budget from the \$25,000 allocated to the two previous studies on dogs on beaches feasibility.
-

ITEM 11.2**NOTICE OF MOTION NO 10/2012****FENCING HINKLER RESERVE LEASH-FREE DOG PARK****TRIM FILE REF****2012/098927****ATTACHMENTS****NIL**

Submitted by: Councillor Virginia Laugesen

MOTION

That Council allocates \$4,200 from the appropriate section of the 2012-13 budget to fencing the western perimeter of Hinkler Reserve, which is a leash-free dog park currently underused due to dog owners' concerns about the park's proximity to Pittwater Road and the absence of secure fencing to prevent accidents.

BACKGROUND FROM COUNCILLOR VIRGINIA LAUGESSEN

Warringah Council and local community members have identified a shortfall of secure, leash-free dog exercise areas in our LGA, given the high volume of dog ownership.

Leash-free parks with appropriately fencing are favoured by dog owners, such as Frenchs Forest Showground.

Hinkler Reserve's current under-use due to safety concerns about the vicinity of busy Pittwater Road can be easily addressed by installing secure fencing similar to that at LM Graham Reserve, Balgowlah, to help relieve the pressure on other dog parks. The move may also help to prevent the illegal use of nearby reserves by dog owners for off-leash exercise that conflicts with other uses.

The adjacent Manly Lagoon leash-free dog exercise area experiences heavy traffic by a variety of user types and Hinkler Reserve will particularly relieve some of the conflict there, such as cyclists, barbecue picnics, large gatherings of children and ball games. Notwithstanding that Manly Lagoon is within a separate LGA, Warringah has an opportunity as a regional neighbour, to contribute for the benefit of relieving a general crowding, safety and local use conflict issue at its border in the general and wide community interests of northern beaches residents.

A staff memo of 1 February 2012 confirmed the estimated cost of the 60m fence at Hinkler Reserve to be \$4,200.

ITEM 11.3	NOTICE OF MOTION NO 11/2012 BUILDING ASSETS AUDIT UPDATE
TRIM FILE REF	2012/099047
ATTACHMENTS	NIL

Submitted by: Councillor Virginia Laugesen

MOTION

That Council receives a short report outlining the action underway and to come on building assets, including:

- conditions/repair of council structures
 - status of leases and licences across all assets
 - asset strategy to meet housing targets and population growth.
-

BACKGROUND FROM COUNCILLOR VIRGINIA LAUGESSEN

1. Costing of Notices of Motion

The following management direction is noted in relation to costing this Notice of Motion:

From: "Malcolm Ryan" <mailto:Malcolm.Ryan@warringah.nsw.gov.au>

Date: 16 April 2012 5:34:19 PM AEST

To: "COUNCILLORS" <mailto:COUNCILLORS@warringah.nsw.gov.au>

Cc: "Liz Reeves" <Liz.Reeves@warringah.nsw.gov.au>, "Rik Hart" <Rik.Hart@warringah.nsw.gov.au>, "John Warburton" <mailto:John.Warburton@warringah.nsw.gov.au>

Subject: Funding of NoMs

Dear Councillors

Virginia has asked about the funding for NoMs. I have given her the following information which I thought may be of use to you all.

"I am proposing a three option response to these types of requests where funding is requested, being;

- 1. short report back to Council using current budget no funding source needed***
- 2. long report back, this will displace current work program, will need new priorities at quarterly budget reviews***
- 3. long report requiring external contractors, funding source required***

We are always happy to discuss funding sources should any Councillor wish for such assistance"

If any one need further advice we are all happy to assist

Malcolm Ryan

Deputy General Manager – Environment

Warringah Council Civic Place Dee Why 2099 NSW

02 9942 2111

council@warringah.nsw.gov.au

ITEM 11.4	NOTICE OF MOTION NO 12/2012 IMPACT OF E-WASTE INSPECTIONS ON WARRINGAH COUNCIL RANGER'S TRADITIONAL DUTIES
TRIM FILE REF	2012/099127
ATTACHMENTS	NIL

Submitted by: Councillor Virginia Laugesen

MOTION

That Council, following up on the banning of e-waste from Warringah Council's council clean-up collections and in the absence of dedicated kerbside e-waste collections.

1. Receives a short report on the impact on rangers' workloads and availability to respond to traditional duties, such as dog control, property compliance and illegal parking, with the report including either estimates, averages or detail (if available) of:
 - i) the number of rangers, on average, reporting for duty during a shift;
 - ii) what portion of compliance officers' time is spent inspecting dumped e-waste;
 - iii) the rate of successful e-waste infringement;
 - iv) the opportunity costs, if any, of e-waste compliance duties for rangers;
 - v) proposed remedy of Council's role with the coming National Television and Computer Recycling Scheme; and
 - vi) other brief information relevant to the impact on rangers' duties from the ban on e-waste collection, including any available information on environmental impacts
 2. Notes that management advice received prior to submission of this motion confirmed that no funding source is required for a 'short report'.
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BACKGROUND FROM COUNCILLOR VIRGINIA LAUGESSEN

1. Costing of Notices of Motion

The following management direction is noted in relation to costing this Notice of Motion:

From: "Malcolm Ryan" <mailto:Malcolm.Ryan@warringah.nsw.gov.au>

Date: 16 April 2012 5:34:19 PM AEST

To: "COUNCILLORS" <mailto:COUNCILLORS@warringah.nsw.gov.au>

Cc: "Liz Reeves" <Liz.Reeves@warringah.nsw.gov.au>, "Rik Hart" <Rik.Hart@warringah.nsw.gov.au>,

"John Warburton" <mailto:John.Warburton@warringah.nsw.gov.au>

Subject: Funding of NoMs

Dear Councillors

Virginia has asked about the funding for NoMs. I have given her the following information which I thought may be of use to you all.

"I am proposing a three option response to these types of requests where funding is requested, being;

1. *short report back to Council using current budget no funding source needed*
2. *long report back, this will displace current work program, will need new priorities at quarterly budget reviews*
3. *long report requiring external contractors, funding source required*

We are always happy to discuss funding sources should any Councillor wish for such assistance"

If any one need further advice we are all happy to assist

Malcolm Ryan

Deputy General Manager – Environment

Warringah Council Civic Place Dee Why 2099 NSW

02 9942 2111

council@warringah.nsw.gov.au

ITEM 11.5**NOTICE OF MOTION NO 13/2012
PRELIMINARY INVESTIGATION - COUNCIL MANAGEMENT OF
CROWN LAND ADJACENT TO MANLY DAM****TRIM FILE REF****2012/099256****ATTACHMENTS****NIL**

Submitted by: Councillor Dr Conny Harris

MOTION

That Council staff undertake a preliminary investigation into the options for Council assuming the management of Crown land adjacent to Manly Dam for which Council does not have current management responsibility including two parcels of Crown Land being Lot 7370 DP 1165551 and Lot 7369 DP 1165551 and provide a report back to Council.

BACKGROUND FROM COUNCILLOR DR CONNY HARRIS

As this is a short preliminary report I have been advised by staff that it can be funded from within existing budget and no additional funding allocation is necessary.

ITEM 11.6**NOTICE OF MOTION NO 14/2012
PREVENTING RATEPAYERS' EXPENSE ON CHALLENGING
DIVISION OF LOCAL GOVERNMENT INSTRUCTIONS TO
GENERAL MANAGER****TRIM FILE REF****2012/099304****ATTACHMENTS****NIL**

Submitted by: Councillor Virginia Laugesen

MOTION

That Council:

1. Notes the article in 27 March 2012 Sydney Morning Herald, "U-turn on private reports", concerning directions from the Division of Local Government to Warringah Council's General Manager, Rik Hart, to ensure that all reports for Confidential Session are given to Councillors at least three days prior to a Council Meeting as per Sections 367(1) and (3) of the Local Government Act and also confirming that council management's advice given to support Mayor Regan's amendment to the Code of Meeting practice limiting the scope and contents of Questions Without Notice to one line is against the Local Government Act Section 240(1)(c);
 2. Note with concern the Warringah Council General Manager, Mr Rik Hart's actions in seeking to defer tabling of the DLG letter dated 14 March 2012 in order to contest the directions of the Minister for Local Government and Division of Local Government and the veracity of their direction on the Local Government Act and Regulation – being legislation which those parties administer;
 3. Calls upon the Warringah Council General Manager, Rik Hart not to waste any ratepayers' money or Council administration resources in contesting the directions and interpretations of either the Minister for Local Government or the CEO of the Division of Local Government on the legislation those parties both administer.
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12.0 QUESTIONS ON NOTICE

ITEM 12.1**QUESTION ON NOTICE NO 14/2012****EXPENDITURE ON EXTERNAL LAWYERS - DLA PIPER****TRIM FILE REF****2012/098739****ATTACHMENTS****NIL**

Submitted by: Councillor Vincent De Luca OAM

QUESTION

In the last year how much money has Council paid to external Lawyers, DLA Piper?

ITEM 12.2**QUESTION ON NOTICE NO 15/2012
EXPENDITURE ON EXTERNAL LEGAL ADVICE TO CONTEST
MINISTER FOR LOCAL GOVERNMENT AND CEO FOR LOCAL
GOVERNMENT'S DIRECTIONS AS TO MR HART'S ALLEGED
BREACH OF LOCAL GOVERNMENT LEGISLATION WITH
REGARD TO THE PROVISION OF DOCUMENTS FOR
CONFIDENTIAL SESSION AND PROHIBITIONS ON QUESTIONS
ON NOTICE****TRIM FILE REF****2012/098753****ATTACHMENTS****NIL**

Submitted by: Councillor Vincent De Luca OAM

QUESTION

How much money has been spent to date on obtaining legal advice externally on the correspondence received from the Minister for Local Government and Chief Executive Officer for Local Government's directions as to Mr Hart's alleged breach of local government legislation with regard to the provision of documents for Confidential Session and prohibitions on Questions on Notice?

ITEM 12.3**QUESTION ON NOTICE NO 16/2012
COUNCIL EXPENDITURE REGARDING FRESHWATER DINING
PODS AND FUTURE SIMILAR PROJECTS****TRIM FILE REF****2012/099346****ATTACHMENTS****NIL**

Submitted by: Councillor Virginia Laugesen

QUESTION

What measures have been put in place by Warringah Council management to prevent a repeat of the Freshwater Dining 'pods' wasteful expense and community negativity about Council recurring at another location?

ITEM 12.4**QUESTION ON NOTICE NO 17/2012
DOGS AT NORTH CURL CURL LAGOON AND LACK OF
ENVIRONMENTAL IMPACT STATEMENT****TRIM FILE REF****2012/099376****ATTACHMENTS****NIL**

Submitted by: Councillor Virginia Laugesen

QUESTION

Noting a lack of Environmental Impact Statement was stated in debate by Cr Wilkins in defence of preventing an immediate trial of dogs on beaches as proposed by me via amendment on 22 November 2011, why was no EIS required by Warringah Council to instigate dogs swimming at North Curl Curl Lagoon, which occurred virtually immediately after the council resolution?

ITEM 12.5**QUESTION ON NOTICE NO 18/2012
REQUIREMENTS OF WARRINGAH COUNCIL UNDER
ENVIRONMENTAL PROTECTION AUTHORITY ACT****TRIM FILE REF****2012/099404****ATTACHMENTS****NIL**

Submitted by: Councillor Virginia Laugesen

QUESTION

Does a resolution of Council in such a situation as allowing dogs to swim at North Curl Curl Lagoon override the legal requirements of the Environmental Protection Authority or has Warringah Council failed in its legal obligations by permitting dogs to swim at North Curl Curl Lagoon and breached the *EPA's* statutory requirements? What action has or will be taken for remedy if a breach has occurred?

13.0 RESPONSES TO QUESTIONS ON NOTICE

ITEM 13.1**RESPONSE TO QUESTION ON NOTICE NO 7/2012
OFFICE OF INTERNAL OMBUDSMAN – DEPUTY OMBUDSMAN
RESIGNATION****TRIM FILE REF****2012/091697****ATTACHMENTS****NIL**

Submitted by: Councillor Vincent De Luca OAM

QUESTION

Why were Councillors not immediately informed of the resignation of the Deputy Ombudsman, Richard Bowron?

RESPONSE

As Mr Bowron was not senior staff, this is a matter for the General Manager in his day to day operational responsibilities.

ITEM 13.2	RESPONSE TO QUESTION ON NOTICE NO 9/2012 INDUSTRIAL ACTION AGAINST COUNCIL
TRIM FILE REF	2012/091809
ATTACHMENTS	NIL

Submitted by: Councillor Vincent De Luca OAM

QUESTION

Could Council be exposed to a constructive dismissal action by Council's Internal Deputy Ombudsman, Mr Richard Bowron?

RESPONSE

It is considered that any constructive dismissal action would be unsuccessful.

14.0 CONFIDENTIAL MATTERS – CLOSED SESSION

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 14.1 Response to Question On Notice No 8/2012
Reasons for Deputy Ombudsman's, Richard Bowron's Resignation
- Item 14.2 Response to Question On Notice No 10/2012
Determining Benchmarks for Success on Warringah Council's Twitter and Facebook Participation
- Item 14.3 Kimbriki Resource Recovery Project
- Item 14.4 Alternative Procurement for Delivery of Ongoing High Performance Leadership Coach Program
- Item 14.5 RFT 2012/018 Supply and Implementation of On-line Staff Development Software (including maintenance)
- Item 14.6 EOI Options for the Future Use of District Park Tennis Courts

Matters to be Discussed During Closed Session - Section 10D

- Item 14.1 Response to Question On Notice No 8/2012
Reasons for Deputy Ombudsman's, Richard Bowron's Resignation
- Item 14.2 Response to Question On Notice No 10/2012
Determining Benchmarks for Success on Warringah Council's Twitter and Facebook Participation
- Item 14.3 Kimbriki Resource Recovery Project
- Item 14.4 Alternative Procurement for Delivery of Ongoing High Performance Leadership Coach Program
- Item 14.5 RFT 2012/018 Supply and Implementation of On-line Staff Development Software (including maintenance)
- Item 14.6 EOI Options for the Future Use of District Park Tennis Courts

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

- Item 14.1 10A(2)(a) personnel matters concerning particular individuals
- Item 14.2 10A(2)(c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business
- Item 14.3 10A(2)(c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business
 - 10A(2)(d(i)) commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it
 - 10A(2)(d(ii)) commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a competitor of the council
 - 10A(2)(d(iii)) commercial information of a confidential nature that would, if disclosed, reveal a trade secret
 - 10A(2)(g) advice concerning litigation, or advice that would otherwise be

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| | privileged from production in legal proceedings on the ground of legal professional privilege |
| Item 14.4 | 10A(2)(d(i)) commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it |
| Item 14.5 | 10A(2)(d(i)) commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it |
| Item 14.6 | 10A(2)(c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business |
| | 10A(2)(d(i)) commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it |
| | 10A(2)(d(ii)) commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a competitor of the council |
| | 10A(2)(d(iii)) commercial information of a confidential nature that would, if disclosed, reveal a trade secret |

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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