

# Ingleside Precinct Probity Plan Version 2

PCG Approved April 2017

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# 1 Introduction

## 1.1 Purpose

The purpose of the Probity Plan is to provide a framework which identifies the potential probity risks in the planning process and establishes procedures to minimise the impact of those risks. The Project Plan for the Ingleside Precinct Planning Process nominates the need to *promote probity and transparency* (p3) as one of the principles for the Process. The Probity Plan will be an appendix to the Project Plan.

The Probity Plan sets out the background and strategic context to the Project, the governance arrangements to apply, and the procedures and controls required to promote the integrity of the planning process. It provides a guide for the participants in the planning process to ensure that they act with integrity and give the community confidence in the planning outcomes.

The Probity Plan has been revised in March 2017 to take account of changes to the State Government departmental arrangements and Council amalgamations. There have also been developments in the planning process that require attention in the context of the Probity Plan.

## 1.2 Project background

The Minister for Planning and Infrastructure and Pittwater Council – now Northern Beaches Council (Council) – have agreed to undertake a Precinct Planning Process for the Ingleside Release Area to confirm development potential and to establish planning controls to enable development consistent with that potential.

Ingleside Precinct is located within the Northern Beaches Local Government Area (LGA) and is approximately 700 hectares. The area adjoins the Garigal and Ku-ring-gai National Parks, the Ingleside/Warriewood Escarpment to the east and Ingleside Chase Reserve.

Within Ingleside there are three discernible areas for planning and infrastructure provision. These areas are referred to as South Ingleside (on the south side of Mona Vale Road), North Ingleside (on the north side of Mona Vale Road and east of Chiltern Road), and Wirreanda Valley (on the north side of Mona Vale Road, west of Chiltern Road)).

The Precinct currently has non-urban zoning under Pittwater Local Environmental Plan (LEP) 1993 which has a wide range of permissible activities. Current controls are struggling to ensure suitable outcomes in relation to the physical and environmental characteristics of the area and have resulted in a complex mix of urban and non-urban development.

A mix of public and private land ownership exists in the Precinct. Approximately one third of the area is in State Government ownership. The Office of Strategic lands (OSL) owns a relatively large number of properties, mainly in South Ingleside. About 105 hectares in a number of parcels across Wirreanda Valley and North Ingleside is Crown Land. Private land holdings have fragmented ownership and are not currently consolidated.

Council owns a portion of land in South Ingleside and the Ingleside Park/Warriewood Escarpment, abutting the south-western boundary of Ingleside. The rest of the land is in fragmented private ownership. Landowners in the street block of Wilga and Wilson Streets (known as the Wilga-Wilson group) in South Ingleside have previously requested the rezoning of the area.

In May 2011, Council approached the NSW Government to discuss the progression of a comprehensive Government led approach to planning for Ingleside. Following discussions, in November 2012 it was agreed that DP&I (now Department of Planning and Environment, DPE) would outline in a letter to Council the Government's approach to land release and its

potential application in Ingleside for Council's consideration. Council resolved (subject to matters to be considered as part of the process) at its meeting of 18 February 2013 to be involved in a Precinct Planning Process led and funded by the NSW Government.

Planning has reached the stage that the draft Land Use and Infrastructure Strategy and Technical Studies which informed it, were released on 2 December 2016 and are now publicly available.

The exhibition package also included an amendment of State Environmental Planning Policy (Sydney Region Growth Centres) 2006, which identifies Ingleside as a Priority Growth Area. This has implications for the assessment of development applications in Ingleside.

### 1.3 Planning framework

Precinct Planning is well established in the Sydney Region Growth Centres and enacted via State Environmental Planning Policy (Sydney Region Growth Centres) 2006 ("the Growth Centres SEPP"). Under this Policy the Government commits to funding studies, coordinating infrastructure and offers to fund council resources. While Ingleside was not a Growth Centre, Council and the State Government have agreed to model the planning for Ingleside on the Precinct Planning approach, led by DPE, in partnership with Council. UrbanGrowth NSW will contribute significant input on development feasibility, staging and infrastructure delivery and will also be part of the project management team.

The key deliverables of the Precinct Planning Process are the following documents:

- A Land Use and Infrastructure Strategy and supporting background studies;
- The Indicative Layout Plan (ILP).
- Statutory planning controls delivered through an amending SEPP.
- A Development Control Plan (DCP).
- Development Contributions Plans.
- An Infrastructure Delivery Plan.

Preparation and endorsement of these documents is required to allow development applications to be assessed by Council.

### 1.4 The Precinct Planning Process

The Precinct Planning Process will be led by DPE, in partnership with Council and UrbanGrowth NSW. The following sections outline the roles of these three key stakeholders.

#### *Department of Planning and Environment – Housing Delivery*

The Precinct Planning Process will be led by DPE Land Release team. The Land Release Team within DPE have a key function of delivering the government's vision for urban release areas in Sydney.

In performing this task, DPE objectives include:

- co-ordinating government agencies across a diverse range of fields, drawing them into the process in a pro-active manner;
- managing community and Government expectations of up-front infrastructure delivery, including roads, public transport, schools and hospitals;
- coordinating the sometimes disparate interests of landowners;

- simultaneously delivering multiple projects on a large scale;
- maintaining constructive relationships with Council throughout Precinct planning and land delivery phases;
- managing commercial risks to government through timely decisions about, and efficient procurement of, key infrastructure; and
- ensuring all aspects of the planning process are undertaken with due regard to probity.

### *Northern Beaches Council*

Council will be responsible for assisting with infrastructure funding, planning and implementing the outcomes of the precinct planning process through assessment and approval of development proposals.

Council has expressed their aims and objectives through a Council resolution dated 18 February 2013, with requests that the planning process takes into account the following matters:

- the future protection and management of environmentally sensitive land, including environmental, biodiversity and creek line corridors;
- a sustainable and ecologically sensitive development form based on the highest standards;
- the sensitivity of downstream flooding from the upper catchment downstream to Warriewood Valley
- the threat from bushfire and provision of emergency access/egress e.g. bushfire;
- the economic viability of the land release particularly associated with the findings of the report to Council on 19 October 2009;
- the extent of capitalisation evident in private landholdings in Ingleside;
- the need to upgrade Mona Vale Road and relevant intersections which would be exacerbated by any intensification of development in Ingleside;
- provision of a comprehensive waste water management proposal;
- comprehensive consideration of Powderworks Road and the impact and safety of its users and adjoining residents;
- delivery of infrastructure in a timely manner over the life of the development process
- financial risk to Council and the State Government if the development potential is not achieved or is delayed;
- uncertainty with the developer funded mechanisms;
- uncertainty with the implications of the programmed new Planning Act;
- maintaining ridge lines as areas of well-designed landscaped areas dominated by trees rather than buildings;
- opportunities for provision of affordable housing;

- comprehensive community engagement process including the establishment of a Community based committee that will be regularly updated on issues, studies and progress of the Precinct Planning process.

The Council materials depot and the current Rural Fire Service station at King Road are located within the Precinct on Council-owned land. In circumstances where Council owns substantial land within the Precinct, probity arrangements will have to be developed and documented to ensure that there is a separation of roles between the role of Council officers in the Project and internal Council consideration of the best planning outcome for the Council-owned land.

### *UrbanGrowth NSW*

UrbanGrowth NSW will be a member of the Project Control Group and the Precinct Working Group. UrbanGrowth NSW will provide advice to the PWG on infrastructure delivery, and assessing and advising on development feasibility and staging. It will also contribute development expertise to other aspects of the Precinct Planning Process and deliverables.

Landcom (now UrbanGrowth NSW) had previously commissioned studies for Ingleside relating to urban design, transport, development feasibility, and biodiversity. Understanding this information is a central part of the precinct planning process.

UrbanGrowth NSW is not a landowner within Ingleside Precinct and will not participate as a traditional land developer (selling land, homes or apartments). The organisation does however have the capability to assist Government Landowners to identify development opportunities within surplus Government land and package them for sale to the Private Sector. Such opportunities may be identified as an outcome of this Project and therefore it is necessary that appropriate probity arrangements must be in place to ensure transparency throughout the precinct planning process.

### *Other key stakeholders*

Of significance to the probity aspects of this Project are other stakeholders as identified below.

#### *Office of State Lands*

The Office of Strategic Lands (OSL) operates on behalf of the Minister for Planning to identify, acquire, manage (on an interim basis) and transfer to other government agencies land that is required for planning purposes throughout Sydney Region.. Income generated from the disposal of any surplus lands is reinvested into the acquisition of land for government objectives to meet current community needs.

OSL owns approximately 70 hectares of land within the Precinct made up of some 200 land parcels with an average size of about 3,000m<sup>2</sup>. Currently the land has a restrictive zoning with no dwelling rights – effectively rural, non-urban land.

OSL is an agency within DPE. It is responsible for administering the Sydney Regional Development Fund (SRDF). The planning costs for the Project were originally funded from the SRDF on behalf of OSL.

OSL is separate from the Planning Division of DPE that is responsible for the longer-term planning of development and the coordination of infrastructure delivery to service that development.

However, this arrangement whereby OSL funded the cost of the Planning Division for the Project creates the potential for a conflict of roles between the two sections of DPE. Arrangements to ensure the separation of roles are documented in Appendix 2.

### *Community Reference Group*

The Ingleside Community Reference Group has been established by Council in order to provide a forum for community representatives to contribute to the planning process.

As outlined in the Terms of Reference:

*The Community Reference Group is to:*

- *provide a safe and equitable forum where members, derived from registered community groups, community organisations and Pittwater residents, have equal opportunity to contribute and be involved in discussions with the Ingleside Project Team on relevant issues,*
- *complement other elements of the broader consultation framework established for the Ingleside Precinct Planning project,*
- *act as another mechanism through which Council and the Ingleside Project Team can bring items where consultation is required,*
- *be a means of identifying innovative ideas that can enhance the precinct planning for Ingleside.*

The operation of the Community Reference group is governed by formal Terms of Reference and the Northern Beaches Council Code of Conduct for Representatives on Council's Reference Groups. The Community Reference Group is chaired by a Councillor and represents a diverse range of community interests in the Ingleside Precinct.

# 2 Probity

## 2.1 Probity fundamentals

The Project is being conducted in a manner that accords with the “probity fundamentals” as stated in the NSW Independent Commission Against Corruption (ICAC) document *Probity and Probity Advising – Guidelines for Managing Public Sector Projects*. These probity fundamentals are:

- Obtaining value for money
- Maintaining impartiality
- Managing and/or declaring conflicts of interest
- Maintaining accountability and transparency
- Maintaining confidentiality

The Probity Plan has been developed to assist in ensuring that the probity fundamentals are met and specific risks that could undermine them identified and appropriately managed.

## 2.2 Conduct requirements

All Project participants have a responsibility to ensure that their personal behaviour does not adversely impact on the integrity of the Project. Each person is to:

- Act in accordance with the Probity Plan and other approved plans guiding the Planning Process and their role
- Be transparent in relation to personal interests potentially impacting or impacted by the Project
- Not engage in an assessment or decision making role where there is any real, perceived or potential conflict of interest that could be seen to undermine that role, and declare such interests immediately to the Project Manager
- Behave impartially, honestly and fairly
- Maintain the confidentiality of confidential information
- Act at all times in a professional manner
- Not to offer or accept any gifts, hospitality or other benefits that may, or be perceived to, affect the integrity of the Project
- Not make public comment about the Project without appropriate authorisation
- Report any breaches of the Probity Plan, or other probity concerns, to the Project Manager and probity advisor immediately
- Maintain appropriate records in relation to activities, deliberations and decision-making concerning the Project
- Observe the requirements of their organisation’s code of conduct
- For members of the Ingleside Community Reference Group, ensure that the requirements of the Terms of Reference and the Code of Conduct for Reference Groups are observed
- For Council participants, ensure that the requirements of the Council Code of Conduct are observed.

## 2.3 Key Probity risks

The Project Plan (p5) identifies the probity risk that could arise should UrbanGrowth NSW's role develop from a planning-related function to delivery. The risk relates to the potential for a conflict of roles for UrbanGrowth NSW's participants in the Project as different planning options may have varying potential outcomes for UrbanGrowth NSW.

The Project Plan also confirms (p25) that the Office of Strategic Lands (**OSL**), part of DPE provided initial funding for the Precinct Planning Process. As already identified, this created the potential for a conflict of roles within DPE and guidelines to address this risk are documented in Appendix 2. DPE is now funding the planning process.

Similarly, Council owns land in the Precinct and the potential for a conflict of roles in relation to the approval of planning changes is apparent. Guidelines to address this risk are documented in Appendix 1.

In the context of the budget for the Project, probity risks arise in relation to the procurement (engagement) of consultants. Risk areas include dealing with conflicts of interest, ensuring an impartial engagement process and achieving value for money.

The Community Participation Plan identifies the probity risk arising as a consequence of a perception of conflict of interest due to the scale of NSW Government and Council owned land in the Precinct. The Community Participation Plan also highlights the potential for community cynicism about the planning process being undertaken.

Investigations have identified that, for the Precinct to achieve Biodiversity Certification under the Threatened Species Conservation Act 1995, it will be necessary for Biobanking credits to be purchased from third parties. Under the current legislative arrangements, these purchases are made on a negotiated (ie commercial) basis. Council and OSL are potential sellers of Biobanking credits from within and adjacent to the Precinct. Consequently, conflicts of interest arise in the circumstances where OSL or the Property Team within Council has an interest in achieving the sale of these credits while the potential purchaser, DPE, has an interest in achieving the lowest purchase price. Guidelines to address this risk are documented in Appendix 3.

## 2.4 Amendment

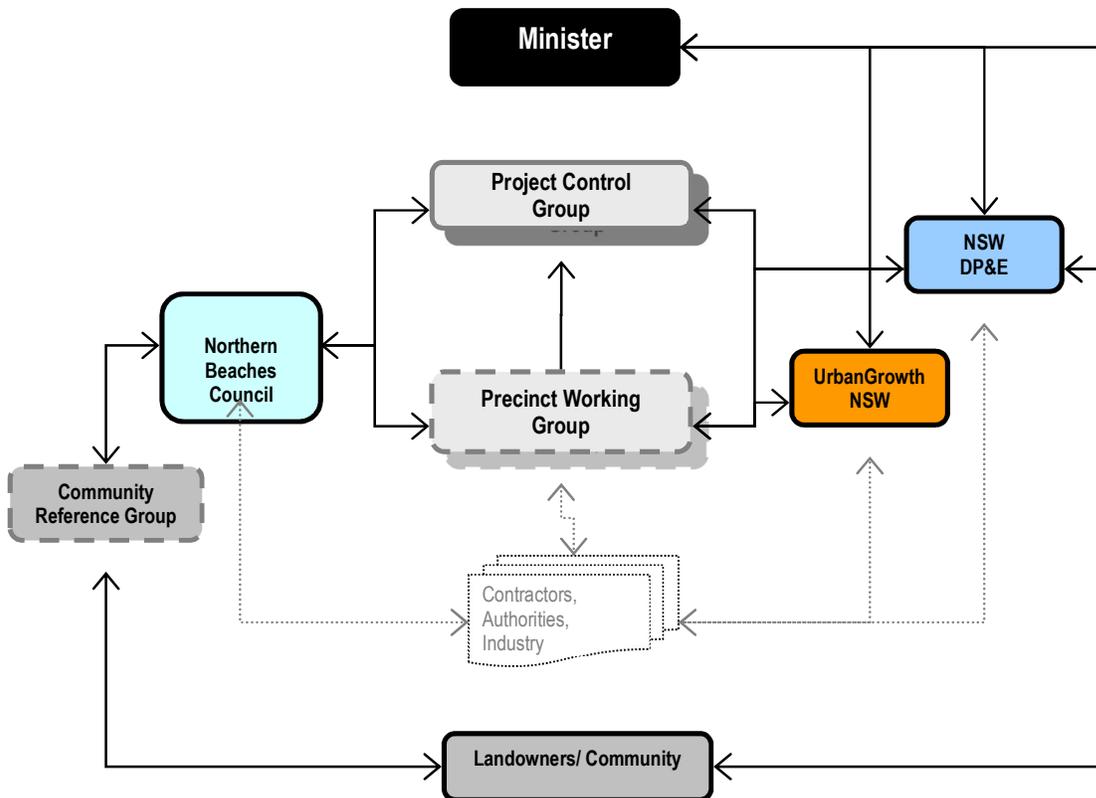
The Project Control Group is to approve any amendment to this Probity Plan with the reasons for amendment clearly documented.

# 3 Project Governance

The core project team consists of the Department of Planning and Environment, Northern Beaches Council and UrbanGrowth NSW. The Precinct Planning Process will be administered by DPE. The Department will retain the principal project management role and will ultimately be responsible for the Project's successful delivery. The Project will be based on respect for all parties' opinions, comments and representations.

Consistent with the Precinct Planning Process a Project Control Group (PCG) and Precinct Working Group (PWG) will be established. Figure 4-1 shows the structure of the project team, reporting, and key personnel involved in Precinct planning. The chart highlights key communication lines, including key management and reporting directions.

**Figure 3-1 Project Organisation Chart**



### 3.1 Project Control Group

The Precinct Project Control Group (PCG) is responsible for providing direction to the Precinct Planning Process and overall delivery of the Precinct Planning documents. The members of the PCG will be:

- DPE Project Director;
- DPE Precinct Planner;
- Council Project Coordinator;
- Council Executive Manager Strategic Land-Use Planning; and
- UrbanGrowth Program Director Inner/North

Each of the core members may nominate alternates. Permanent replacement attendees may also be approved by the PCG.

Key functions of the PCG will be to:

- set the strategic directions for the process;
- act as an interface with the Council, UrbanGrowth NSW and DPE Executive to ensure a smooth passage for the Precinct Plan;
- make key decisions about the Precinct Planning Process, including endorsement of the Indicative Layout Plan (ILP) and the Final Precinct Plan;
- report on all major decisions to DPE Executive, to Council and UrbanGrowth NSW;
- assist in negotiations with government authorities, and co-ordinate their input into the Precinct Planning Process;
- agree on a project program and ensure the project meets key milestones;
- ensure all work is completed to agreed standards by Council, DPE, Urban Growth and contractors;
- review and adapt the Precinct Planning Process to address changing circumstances;
- oversee the delivery of the Community Participation Strategy, including determining matters to be discussed with the proposed Community Reference Group; and
- resolve disputes left unresolved by the Precinct Working Group.

In the event of issues remaining unresolved at the PCG level, the issue will be minuted and reported to DPE Executive, Council's General Manager, and UrbanGrowth's CEO to seek resolution.

Servicing of the PCG will be undertaken by DPE. This will include scheduling meetings, chairing meetings, preparation and distribution of agendas, status reports, minutes and other documentation.

The PCG is likely to meet on a monthly basis. The PCG may meet initially or at key stages more regularly. A meeting schedule for the life of the project program will be agreed at the first meeting of the PCG. Meetings will be held at DPE's and Council's offices.

Items that will generally need to be covered in PCG reports and meetings are outlined in Appendix 4.

### 3.2 Precinct Working Group

The Precinct Working Group (PWG) will be responsible for coordinating and providing technical information to the project specialist team. The PWG will guide the day to day operation and detail of the Precinct Planning Process. It is to be chaired by DPE Precinct Planner. Membership of the PWG may change as the Precinct Planning Process evolves through the different stages, but will generally include:

- DPE Precinct Planner;
- DPE Project Officer administrative staff as required;
- Council's Project Coordinator and Planner;
- UrbanGrowth NSW's Project Coordinator and Project Manager; and
- Agency and service provider representatives, specialist contractors and Council and UrbanGrowth technical staff, as required by invitation only.

The PWG will:

- assist the Project Director and Project Manager, as required;
- guide the day-to-day operation and detail of the Precinct Planning Process, including consultant work, preparing briefs for such work, and making recommendations for acceptance or otherwise of environmental studies; and
- provide technical advice, when requested.

It is proposed that the PWG will operate by consensus. If consensus cannot be achieved on any matter, the matter will be referred to the PCG for resolution.

The PWG will meet on a weekly or fortnightly basis as required. PWG meetings will be held at the offices of DPE or Council, noting that it may occasionally be desirable to meet in other locations, such as onsite or at the offices of UrbanGrowth or project contractors.

### 3.3 Project Team Overview

#### *DPE Precinct Planner*

The Precinct Project Manager (Project Manager) is responsible for the day-to-day management of the project, and the successful completion of the Precinct Planning Process under the direction of the Project Director. This role will carry overall responsibility for the decision-making and the delivery of the Precinct Planning Process, including the performance of the project team, and delivery of the Precinct Plan within agreed timeframes and budgets. The Precinct Planner will work closely with the Council's Project Coordinator, other Council staff and UrbanGrowth NSW Project Coordinator to deliver the project.

Specifically, the Project Manager will:

- be appointed by DPE, and report directly to the DPE Executive;
- coordinate the PCG, oversee the PWG, and undertake administrative tasks for the PCG as requested by the Project Director;
- make decisions about the day-to-day operation and detail of the Precinct Planning Process;
- be responsible in consultation with Council and UrbanGrowth for decisions to procure relevant specialist contractors to undertake work, where such contractors are to be contracted to DPE, including issuing briefs for such work;

- be responsible for the pro-active management of specialist contractors, appointed by DPE;
- be responsible for acceptance or otherwise of specialist studies relating to the precinct planning process;
- liaise with service providers and authorities to ensure that the Precinct Planning Process is efficient and proceeds in a timely fashion;
- liaise with and coordinate input from government agencies;
- liaise with the Probity Advisor and have responsibility for implementation of the Probity Plan;
- liaise with Council through the Council Project Coordinator;
- liaise with the UrbanGrowth NSW Project Coordinator;
- manage budget expenditure, including authorisation of invoices; and
- manage the procurement and tendering processes.

### *DPE Precinct Planning Officer<sup>1</sup>*

The Precinct Project Manager will work closely with the Department's Precinct Planning Officer. Specifically, the Precinct Planning Officer will:

- be appointed by DPE, and report directly to DPE;
- coordinate the PWG and undertake administrative tasks for the PWG as requested by the Project Manager;
- assist the Project Manager to procure relevant specialist contractors to undertake work, where such contractors are to be contracted to DPE, including issuing drafting scope of works for such work;
- assist the Project Manager with the review and acceptance or otherwise of environmental studies, including from contractors contracted to DPE;
- assist with liaising with and coordinate input from government agencies;
- liaise with Council through the Council Project Coordinator; and
- liaise with UrbanGrowth NSW through the UrbanGrowth Project Coordinator.

### *Council Project Coordinator*

The Council Project Coordinator's role and responsibilities will include the following:

- represent Council and act as the principal Council contact in the Precinct Planning Process;
- work in close collaboration with the Precinct Planner;
- provide a 'whole of Council' point of view, in liaison with Council and DPE officers, in the offices of either party, as necessary;

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<sup>1</sup> Note this role is typically delivered by the Precinct Planner, however is kept separate in event that additional resources are provided during the various stages of the project.

- understand and analyse the land use planning proposals presented by the master planner;
- provide development and planning advice and devise the strategy to meet the project outcomes;
- facilitate technical expertise from Council resources as necessary;
- coordination of, attendance at and actively contributing to the PCG and PWG meetings as required;
- report to the PCG including project progress, program and cost;

### *Secretary, Planning and Environment Cluster*

The Secretary is responsible for considering the documents that constitute the key deliverable (see section 1.3, p4). As part of these considerations, the Secretary should determine if a robust and defensible planning and assessment process has been undertaken in a manner that is consistent with the Probity Plan.

### *Probity advisor*

The probity advisor is responsible for reviewing and advising on the observance of the ICAC's probity fundamentals and the Probity Plan, as well as providing advice in relation to any probity issues that may arise in the course of the Project. The probity advisor is independent of the Project's processes and will provide a compliance report at the public exhibition stage and at other stages as required by DPE.

In undertaking this role, the probity advisor may attend meetings of the PWG, PCG and other project meetings and consultative forums as necessary.

Project participants who are unclear about any aspects of their probity responsibilities or have concerns about probity issues are urged to discuss them with the probity advisor immediately any issue or question arises or is likely to arise.

# 4 Implementation of the probity plan

DPE, through the Precinct Planner, is responsible for overseeing the implementation of the Probity Plan.

## 4.1 Probity risk assessment and compliance review

A probity risk assessment (Appendix 4) has been completed with risks categorised according to the probity principles identified by the ICAC. Implementation of the *Mitigation Actions* is intended to provide effective action to minimise the impact of the identified risks.

A probity risk compliance review will be conducted by the Probity Advisor at the conclusion of the planning phase when all documentation is forwarded for approval to proceed to public exhibition. It will include a report on the implementation of the mitigation actions.

## 4.2 Confidentiality

Prior to public release, confidentiality applies to each of the documents specified in section 1.3 and they must be stored with appropriate security. Similarly, the PWG will need to consider the level of confidentiality that should apply to the reports prepared by consultants.

## 4.3 Managing Perceptions of Undue Influence

The PWG will be responsible for arranging consultation processes with landowners and the general community. This will be done in consultation with the Community Reference Group and as a component of the Community Participation Plan. One-on-one meetings between DPE or Council employees with landowners or interest groups will also be available and will be formally minuted if they occur.

All parties with an interest in Precinct planning are able to comment on planning documentation at the same time as part of the public exhibition process.

Any communication or interaction with a registered lobbyist is to be in accordance with the Lobbyist Code of Conduct and the procedures implemented by DPE to regulate and document all contact between Departmental officers and lobbyists. These procedures shall also apply to Council members of the PCG and PWG.

## 4.4 Conflicts of Interest

Conflicts of interest can occur when a person has another interest, financial or otherwise related to the planning process. Potential conflicts of interest will need to be declared at the PCG and PWG as well as at the Community Reference Group. Where a potential conflict is identified, appropriate mitigation measures will need to be put in place.

Consultants employed by DPE during the Precinct Planning Process will need to declare that they have no current financial or other relationship with landowners which could be perceived to create a conflict of interest.

## 4.5 Council Conflict of Roles

The ICAC in its publication *Corruption Risks in the Development Approval Process* (September 2007) provided guidance to councils on ways in which a conflict of roles can be dealt with if Council owns land within the precinct. Guidelines to address the manner in which this conflict of roles will be addressed by the Council Property Team and Technical Team are documented in Appendix 1.

## 4.6 Governance

The Project Plan sets out the roles and responsibilities for the PCG and PWG as well as the Project Manager and Council Project Coordinator. All meetings of the PCG and PWG are to be formally minuted. The Project Plan includes procedures for decision-making, communications protocols, and a timetable for regular meetings.

## 4.7 Engagement of consultants to conduct planning studies

All consultants for the required planning studies will be engaged by DPE utilising DPE Procurement Guidelines.

Quality and impartiality will be assured through a number of mechanisms as follows:

- the PCG and/or PWG will have the right to commission peer reviews of any studies deemed necessary,
- the PCG confirms the acceptability of all planning studies; and
- all consultants engaged to undertake planning studies or to carry out other planning roles will be required to sign confidentiality and conflict of interest undertakings.

# Appendix 1 – Northern Beaches Council Probity Arrangements

The responsibilities of Northern Beaches Council within the Precinct Planning Process are defined in section 1.4 of this Probity Plan.

Council's officer contribution to the Ingleside Precinct process will be the responsibility of the Technical Team which will operate with complete independence and separation from the Property Team. The members of the Technical Team shall declare in writing any conflicts of interest they may have in relation to the Project or Council-owned property.

The members of the Property Team shall declare in writing any conflicts of interest they may have in relation to the consideration of the Project or Council-owned property.

The Property Team shall operate within parameters established by Council decision and within the formal delegation made by the General Manager. Reports to Council from the Property Team shall be confidential in accordance with Section 10A (2) (d) of the Local Government Act.

Members of the Property team shall sign confidentiality deeds in relation to the confidential information necessary for their responsibilities. Private landowners involved in discussions related to Council-owned land shall be required to respect the commercial in confidence nature of such discussions before they commence.

Separation and security of information on Council IT systems is to be managed in accordance with Council policy requirements. Separation of access on Council record keeping systems to the confidential information developed by both teams is to be maintained.

Council has prepared a table of Probity Risks and Mitigation Actions consistent with this Probity Plan.

# Appendix 2 – Office of Strategic Lands Probity Arrangements

The role of the Office of Strategic Lands within the Precinct Planning Process is defined in section 1.4 of this Probity Plan. In order to ensure the separation of the roles undertaken by the Land Release division of DPE and OSL the following arrangements shall be implemented:

- The land owned by OSL shall be considered by the Project in the same manner and be assessed on its merits as with all land within the Precinct.
- Any meetings with OSL by Project team members shall be conducted in the same manner as meetings with private landholders with an agenda circulated in advance and formal minutes recorded. Any such meetings shall include more than one Project team member with at least one participant being from outside DPE.
- OSL shall respond to the public exhibition of planning proposals in the same manner and under the same conditions as all respondents. The OSL submission shall be prepared by the OSL office with appropriate separation from the Strategies and Land Release Division. The OSL submission shall be a public document as with all submissions.
- Where DPE Land Release requires the services of OSL to negotiate the acquisition of biodiversity credits under Appendix 3, OSL will propose to the Project Control Group a method for ensuring its functions as a land owner and a negotiator are kept separate.

# Appendix 3 - Probity arrangements for the Sale and Purchase of BioBank Credits

For the Precinct to achieve Biodiversity Certification under the Threatened Species Conservation Act 1995, it will be necessary for BioBanking credits to be acquired from third parties.

DPE has decided that, given the size of the offsets required and the number of individual landowners involved, Biodiversity Certification is the preferred means for offsetting the impacts of development. This means DPE will purchase the credits required, with the cost be recovered through a Special Infrastructure Contribution.

Council and the Office of Strategic Lands are potential sellers of Biobanking credits from within the Precinct. Consequently, conflicts of interest arise in the circumstances where the Property Team within Council has an interest in achieving the sale of these credits while a potential purchaser is DPE for the Project.

A further consideration is that the Biobanking credits available to be purchased from Council and /or the Office of Strategic Lands are not sufficient to meet the requirements of the Precinct. DPE has identified land owned by as being able to potentially provide the required credits in the local area.

## **Probity principles:**

The process of sale and purchase needs to accord with the Probity Fundamentals (see also section 2.1) which are:

- Obtaining value for money
- Maintaining impartiality
- Managing and/or declaring conflicts of interest
- Maintaining accountability and transparency
- Maintaining confidentiality

A competitive process that meetings the Probity Fundamentals is available through the BioBanking scheme managed by the Office of Environment and Heritage (**OEH**).

The OEH BioBanking website includes a *Credits Wanted Register* which is described as being for *proponents who are seeking biodiversity credits*. This is a means for DPE to provide an opportunity for any landowners with the requisite biodiversity credits to advise of their interest by submitting an Expression of Interest (**EOI**).

Concurrently, DPE could initiate a process with another party to determine its level of interest in participating in the BioBanking scheme and inviting the other party to submit an EOI.

The conduct of the EOI stage will be governed by an evaluation plan to be developed and approved by the PCG. The evaluation criteria at this stage would be limited to non-price considerations. There may be a need to conduct an interactive submission and assessment process to provide an

equitable opportunity for all likely proponents.

The stage following the EOI will be a formal price submission and period of price negotiation to be governed by an evaluation and probity protocol.

# Appendix 4 - Table of Probity Risks and Mitigation Actions

Description of Risk	Impact	Likelihood/Consequence	Grade	Change	Mitigation Actions (Preventative or Contingency)	Individual/Group Responsible for Mitigation Action	Timeline for Mitigation Action
<b>Impartiality</b>							
Planning outcome influenced by conflict of roles for Council and State government agencies as landowners and/or developers	Diminished public trust in planning processes Loss of confidence in Project	M/H	B		PWG has access to all relevant information	PWG	Ongoing
					Appropriate separation of functions documented and adhered to	Outlined in probity plan	Ongoing
					Probity Plan has been prepared with access to a probity advisor if required.	PD	completed
Pressure from private landowners or interest groups to participate in and influence outcomes of the Project	Independence of the Project compromised. Outcome of Project may be delayed	H/H	A		PCG oversees Project outcomes	PWG	Ongoing
					Community reference group established with terms of reference and code of conduct	PD	Ongoing
					Communication with landowners in accordance with Community Participation and Probity Plans	PWG	Ongoing
Landowners or interest groups lobby the Minister to achieve desired planning Outcomes	Improper influence on planning decisions Media embarrassment for NSW Government and Council	L/H	C		All planning decision-making procedures followed and transparent.	PWG	Ongoing
					PWG members, Department and Council staff disclose any interests or meetings with landowners/developers at PWG meetings.	PWG	Ongoing

Description of Risk	Impact	Likelihood/ Consequence	Grade	Change	Mitigation Actions (Preventative or Contingency)	Individual/Group Responsible for Mitigation Action	Timeline for Mitigation Action
					Legal requirements re declaration of political donations and lobbyists adhered to.	PWG	Ongoing
					Communication with landowners and interest groups in accordance with Community Participation and Probity and probity Plan.	PWG	Ongoing
<b>Conflicts of Interest</b>							
PWG members have conflicts of interest	Loss of confidence in PWG outcomes	M/H	B		All actual, potential and perceived conflicts of interest declared.	PWG	Ongoing
					Commencement of each meeting Chair to confirm if any update in relation to Conflicts of Interests.	PWG	Ongoing
					Action to address identified conflict of interest discussed with Probity Advisor, implemented and monitored	PWG	To be completed as required
Consultants demonstrate conflict of interest	Loss of confidence in planning process	M/H	B		Consultants required to notify of all actual, potential and perceived conflicts of interest as part of selection process	PD	For completion at selection stage
					All actual, potential and perceived conflicts of interest declared to the PWG for determination of agreed action	PD	To be completed at each meeting
					Action to address identified conflict of interest discussed with Probity Advisor, implemented and monitored	PD	To be completed as required

Description of Risk	Impact	Likelihood/Consequence	Grade	Change	Mitigation Actions (Preventative or Contingency)	Individual/Group Responsible for Mitigation Action	Timeline for Mitigation Action
Community Reference Group members have conflict of interest	Loss of confidence in planning process	M/H	B		All members make declarations in accordance with Council Code of Conduct	Council	Ongoing
					Conflict of interest update included on all meeting agendas	Council	Ongoing
<b>Transparency and Accountability</b>							
PWG does not fulfil probity requirements	Breach of probity affecting the integrity of the Project	L/E	B		PCG and PWG adopt Probity Plan for the conduct of the Project	PWG	Completed
					Probity risk assessment undertaken by probity advisor and endorsed by PCG and PWG	PWG	To be completed
					Probity advisor reviews compliance with Governance and Probity Plan	PWG	At stages agreed with the PCG
Decision making by PCG and PWG not formally documented	Decisions made in ad hoc manner Transparency and accountability undermined	L/H	C		Formal minutes of meetings prepared	PD	Ongoing
					Agreed protocol for decisions between meetings	PCG	Ongoing
<b>Confidentiality</b>							
Community and stakeholder communication inadequate	Loss of confidence in Project. Landowners unsatisfied with the outcomes of the Project. Landowners hold separate community	M/H	B		Community Participation Plan developed, adopted and implemented by DPE and Council	PD/Council	Completed
					Public disclosure of project information and confidential documents in accordance with Governance and Probity Plan.	PWG / PD	Ongoing

Description of Risk	Impact	Likelihood/Consequence	Grade	Change	Mitigation Actions (Preventative or Contingency)	Individual/Group Responsible for Mitigation Action	Timeline for Mitigation Action
	meetings and go to the Media with their concerns.				Communication Protocols ensure that there is a clear demarcation of responsibility for responding to community questions	PD	Completed
					Implementation of Communications Plan monitored by DPE	PD	Ongoing
Landowner and stakeholder expectations that the project will result in an upzoning to their land.	Landowners unsatisfied with the outcomes of the Project.	M/H	B		Community Participation Plan developed, adopted and implemented by DPE and Council	PD/Council	Completed
					Information session held and media release issued to ensure landowners are aware of the scope of the Project.	PD	Completed
Stakeholder views not addressed	Stakeholders unsatisfied with the outcomes of the Project.	M/H	B		Community Participation Plan developed, adopted and implemented by DPE and Council	PD/Council	Ongoing
					Community reference group established.	PD /Council	Completed
Management of expectations	Landowners expect this process to result in an upzoning of their land. Landowners unsatisfied with the outcomes of the Project (proposed zones allocated to their land).	M/H	B		Information session held and media release issued to ensure landowners are aware of the scope of the Project.	PD / Council	Completed
Media and/or public misinformation provided by community groups	Loss of confidence in Project.	H/H	A		Community Participation Plan developed, adopted and implemented by DPE and PCG	PD /Council	Ongoing

Description of Risk	Impact	Likelihood/Consequence	Grade	Change	Mitigation Actions (Preventative or Contingency)	Individual/Group Responsible for Mitigation Action	Timeline for Mitigation Action
Decision making process not followed	Decisions made by inappropriate officers Role of PCG and PWG undermined	L/E	B		PCG oversees decision-making procedures	PCG	Ongoing
					Agreed protocol for decisions between meetings	PCG/PWG	Ongoing
					Final decisions taken by Government in accordance with statutory requirements	DPE	To be completed
No documented justification for decisions made	Review bodies have no records to confirm the process Decisions cannot be justified	L	C		Detailed Review Report prepared by PWG and endorsed by the PCG	PD	To be completed
					Appropriate records to be created and maintained	PD	Ongoing
					Probity review at prior to public exhibition	Probity Advisor	To be completed
Council/State Government do not document separation of roles related to Council/State land	Loss of confidence in Review process Damage to reputation	L/M	B		DPE and Council document separation protocols.	DPE, Council	Completed as Appendices to Probity Plan
Reports not secured	Sensitive planning information becomes available to unauthorised parties	M/H	B		Department and Council procedures in place for secure storage of hard copies and material on computer network	PWG	Ongoing
					All participants in the PWG and PCG, and consultants sign confidentiality deeds	PD	To be completed
					Information security requirements documented for Department and Council	PD/Council	To be completed
Public comment made by unauthorised persons	Inappropriate, inconsistent or incorrect information provided to the public	H	B		Responsibility for public comment agreed between Department and Council	PD / Council	To be completed
					Council Administrator advised of agreed protocol	Council	To be completed

Description of Risk	Impact	Likelihood/Consequence	Grade	Change	Mitigation Actions (Preventative or Contingency)	Individual/Group Responsible for Mitigation Action	Timeline for Mitigation Action
Planning information available prematurely	Unfair benefit to recipients	M/H	B		Department and Council agree on release of material	PD /Council	Ongoing through PCG
					Procedures for release of project information agreed and documented	PWG	To be completed
Breach of IT security	Inappropriate access to confidential information	M/H	B		All information stored in accordance with record keeping protocols	PWG	Ongoing
					Access to IT system controlled and available to authorised persons only	PWG	To be completed
					Probity review if any breaches.	PD/Probity Advisor	If required
<b>Value for Money</b>							
DPE fail to demonstrate value for money in the purchase of BioBanking credits	Waste of public funds/ developer contributions	M/H	B		Competitive process conducted utilising an EOI process	PCG	To be undertaken in 2017
Council fails to secure adequate price for credits owned by Council	Failure of Council to achieve VFM	L/H	C		Council ensure appropriate separation of Property team from Land Release team involved in the Project	Council Property Team	Ongoing
<b>Timing</b>							
Pressure from the community to complete the Project in a compressed timeframe	The project is not completed to an appropriate standard.	M/H	B		A realistic timeframe for completion of key milestones is drafted and maintained.	PCG	Completed, ongoing review

Description of Risk	Impact	Likelihood/ Consequence	Grade	Change	Mitigation Actions (Preventative or Contingency)	Individual/Group Responsible for Mitigation Action	Timeline for Mitigation Action
Responsiveness of project parties to complete tasks as per agreed schedule – risk of project slip.	Delay delivery of the project	M/M	B		PCG endorsement of Project Plan, Probity Plan and schedule.	PCG	Completed, ongoing review at PCG meetings
Unable to secure sufficient biobanking credits	Delay in rezoning for affected land	M/H	B	NEW	EOI process to identify market. Assisted process to maximise participation	PCG	To be completed

## Key to risk rating and definitions

Rating for Likelihood and Consequence for each risk					
L	Low				
M	Medium				
H	High				
E	Extreme (Used for Consequence only)				
NA	Not Assessed				
Grade: Combined effect of Likelihood/Consequence					
		Consequence			
Likelihood		Low	Medium	High	Extreme
	Low	N	D	C	A
	Medium	D	C	B	A
	High	C	B	A	A
Recommended actions for grades of risk					
Grade	Risk mitigation actions				
A	Mitigation actions to reduce the likelihood and consequence to be identified and implemented as soon as the project commences				
B	Mitigation actions to reduce the likelihood and consequence to be identified and appropriate actions implemented during project execution				
C	Mitigation actions to reduce the likelihood and consequence to be identified and costed for possible action if funds permit				
D	To be noted - no action is needed unless grading increases over time.				
N	To be noted - no action is needed unless grading increases over time.				
Change to Grade since last assessment					
NEW	New risk				
—	No change to Grade				
↓	Grading decreased				
↑	Grading increased				
Definitions					
PCG	Project Control Group				
PWG	Project Working Group				
DPE	Dept of Planning and Environment				
Council	Northern Beaches Council				
PD	Project Director				