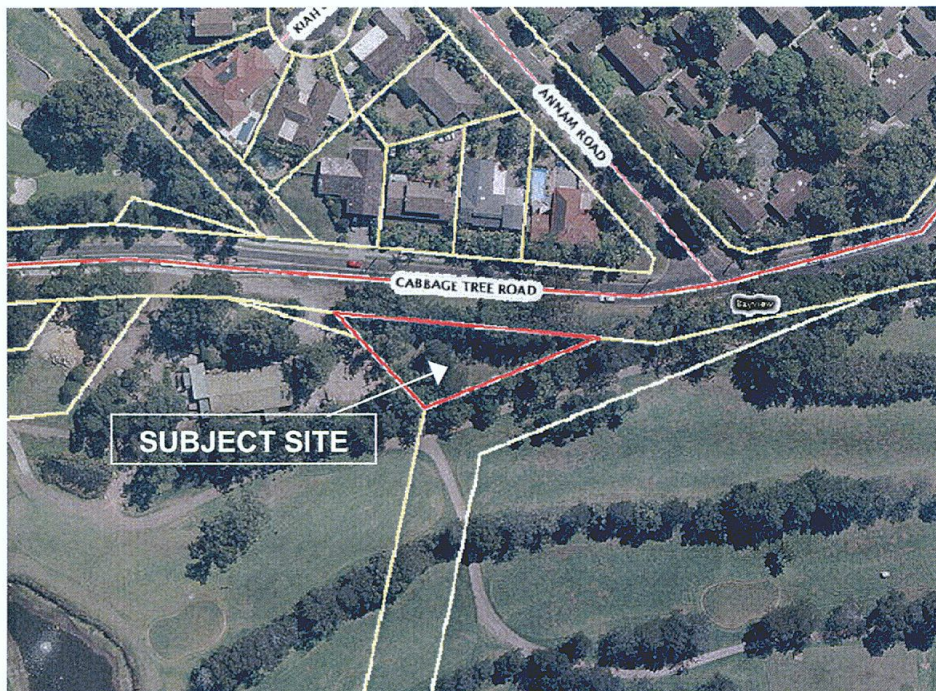


PLANNING PROPOSAL

PITTWATER COUNCIL
LOCAL ENVIRONMENTAL PLAN 1993.

FOR
RESIDENTIAL REZONING
AT
39 CABBAGE TREE ROAD, BAYVIEW.



Prepared for

G & J E CRAWFORD

Prepared by

Smyth Planning

Suite 112, 330 Wattle Street
ULTIMO NSW 2007
Ph: 9211 3366 Fax: 9211 8081

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Annexures

- Annexure 1 - Design Concept**
- Annexure 2 - Flooding Details**

1 Introduction & Summary

The subject site is 39 Cabbage Tree Road (Lot 2 DP 531960) and is currently a vacant lot of land of approximately 980sqm. It is located in the Pittwater Local Government Area and is adjacent to the Bayview Golf Club.

The site is currently zoned 6(b) Private Recreation "B" under the Pittwater LEP 1993 (PLEP 1993). The Planning controls for 6(b) zone largely limit permissible uses to recreation areas. Residential, commercial and industrial uses are permissible yet only in connection with a permissible use in this zone (recreation use). Thus a dwelling could be erected on the land but only in connection with a recreational use. For example Bayview Golf Club could use the land and erect residence for staff.

The Owner's have pursued the sale of the site to the adjoining Golf Club, however following recent developments by the Golf Club, last year they advised that the site would serve the Club no use.

Therefore the Owner's seek a simple rezoning to remove this 'ownership' restriction to erect a dwelling and to have the land zoned residential.

The subject Planning Proposal outlines that the site is able to accommodate a residential land use. The Proposal provides a Design Concept that is consistent or able to be consistent with the local planning controls (PLEP 1993, Flood Affection and P21DCP) and its context.

The Proposal also is considered to satisfy the State and Subregional Strategies in the provision of the supply of residential land.

All the analysis and information to proceed to a Gateway Determination is provided.

2 Part 1 – Objectives or Intended Outcomes

The objective of the Planning Proposal is to enable the residential development of 980sqm area of vacant land known as 39 Cabbage Tree Road, Bayview on an unrestricted basis.

The subject land is situated on the southern side of Cabbage Tree Road. The southern side and across Cabbage Tree Road to the northwest of the site is occupied by Bayview Golf Club. To the north and northeast of the site, across Cabbage Tree Road, are residential uses comprising - dwelling houses and beyond Bayview Gardens Retirement Village, these residential uses are zoned 2(a) – Residential.

The site has a fall of approximately 1m in a southerly direction and is identified in a Category 1 Flood Risk Level Area. There is a small creek along the southern boundary largely within the Golf Club property, however a small portion runs through the most southern point of the site. The land is vacant of buildings or structures. It has various forms of vegetation within and to the boundaries of the site. The site is fenced along the southeastern and southwestern boundaries with the Golf Club.

The site is strategically located along an existing road, with available services (bus, bicycle and pedestrian) to local centres along Cabbage Tree Road.

The intention is to make this land available for residential development opportunities similar to the land opposite the site, fronting Cabbage Tree Road.

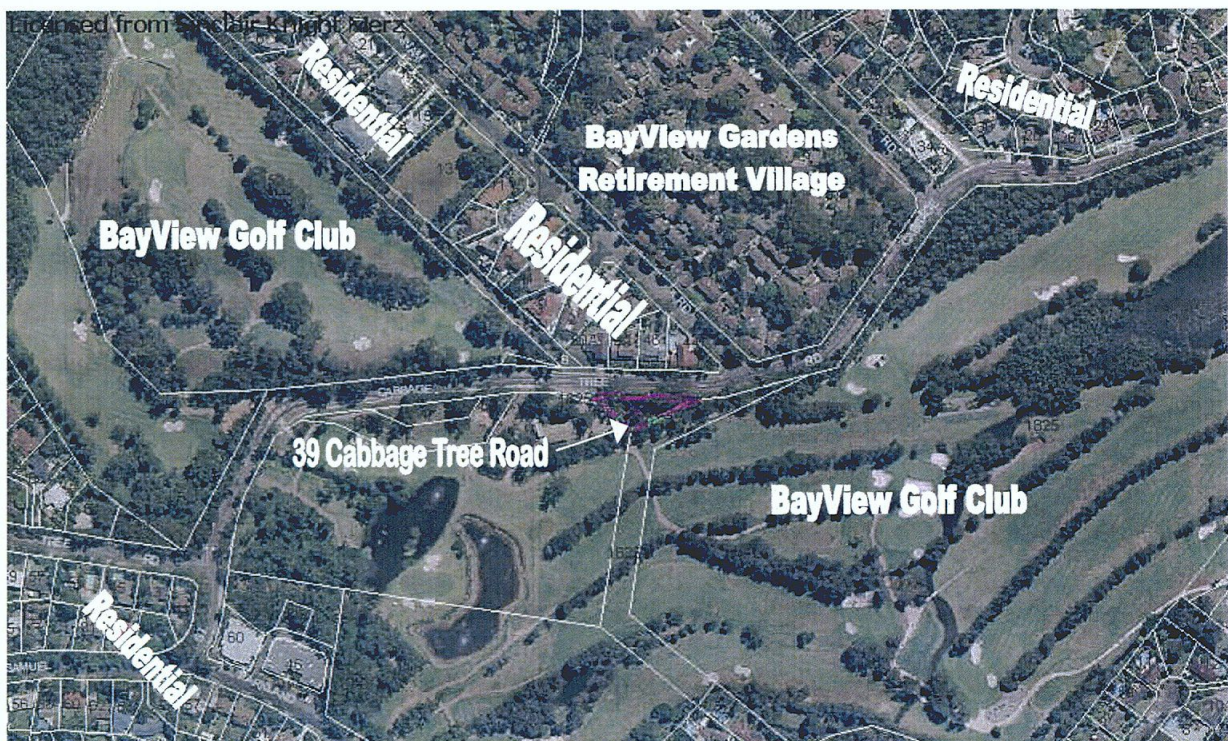


Figure 1 – Site Plan & Surrounding land uses

To assist the Planning Proposal a Design Concept has been prepared by Louise Nettleton Architect to provide an 'indicative' illustration that a dwelling-house can be accommodated on the site.

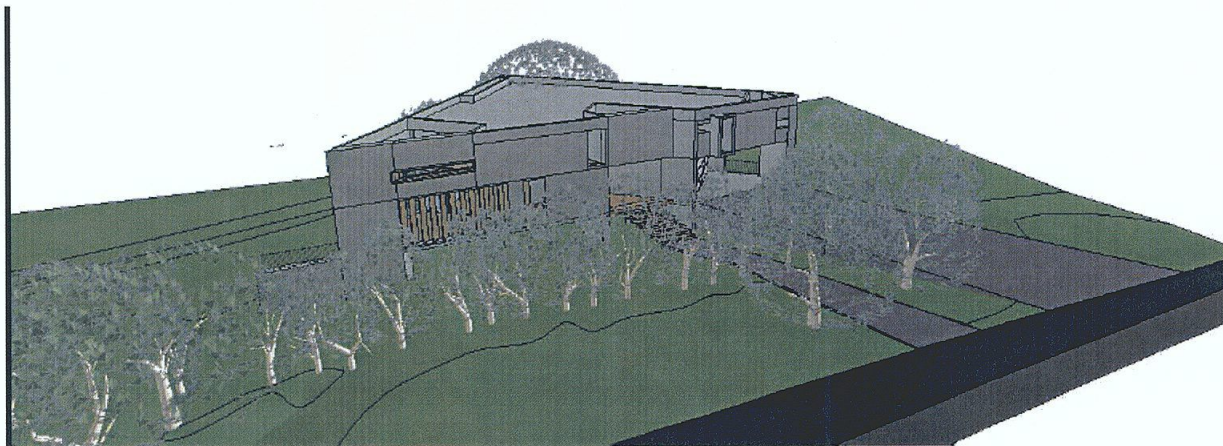


Figure 2 – Design Concept perspective

Refer to Annexure 1 for a full set of Concept Plans and Perspectives.

The Design Concept has been developed with regard to the key controls held in P21DCP and the flood affectation applicable to the site.

3

Part 2 – Explanation of Provisions

The objectives of this Planning Proposal could be achieved by rezoning the subject site to enable a usable development on the site, compatible with surrounding uses. The Pittwater Local Environmental Plan 1993 (PLEP 1993) is the relevant Environmental Planning Instrument applying to the subject land.

The site is currently zoned 6(b) Private Recreation “B” under the PLEP 1993. The Planning controls for zone generally permit recreation uses or uses in association with recreation uses. Residential, commercial and industrial uses are permissible yet only in connection with a permissible use in this zone (recreation use). As an example the Golf Club could erect a dwelling on the site, as it would be ‘connected’ to the recreational ‘Golf Club’ use. This being the case, the Planning Proposal for a residential zone is not considered to diverge from enabling a development that is currently permitted on the site. The Planning Proposal merely removes that nexus. The existing zoning is not considered to enable the site to provide an appropriate, functional or viable use as a ‘stand alone’ development on this site.

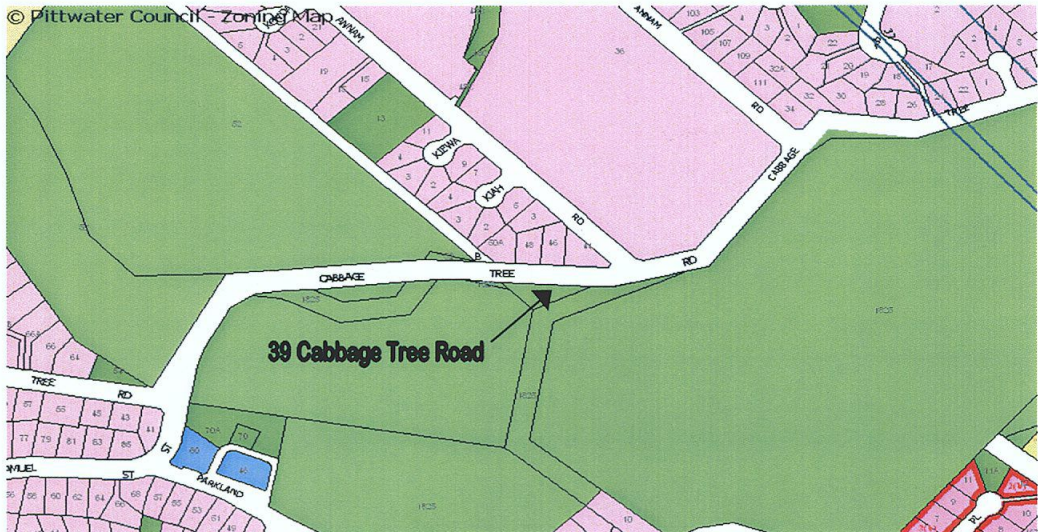


Figure 2 - Zoning extract, PLEP 1993.

The existing Zone provisions in PLEP 1993 for 2(a) - Residential “A” as identified in Clause 9 – Development Control Table are: -

1 Without development consent	Nil.
2 Only with development consent	Any purpose other than a purpose for which development may be carried out without development consent or a purpose for which development is prohibited.
3 Prohibited	Boarding-houses; bulk stores; car repair stations; caravan parks; commercial premises; generating works; group buildings; helipads; heliports; industries; institutions; junk yards; liquid fuel depots; mines; motels; motor showrooms; places of assembly; recreation areas; recreation establishments; refreshment rooms; residential flat buildings; retail plant nurseries; sawmills; service stations; shops; stock and sale yards; transport terminals; warehouses.

The Zone does not have any specific objectives. The aims and objectives of the PLEP 1993 are

2 Aims, objectives etc

This plan aims to incorporate the relevant provisions of Warringah Local Environmental Plan 1985 into a local environmental plan for the area of Pittwater

With this underlying Objective, the assumed objectives to residential development in this Zone are considered to be contained in Pittwater 21 DCP (P21DCP) to be -

Integrating our Built Environment is about the need to create a sustainable and relaxed living environmental including appropriate development effective transport choices and efficient support services

The basis for the Plan is Ecological Sustainable Development (ESD) and within that basis, three key objectives to achieve ESD across all development. These are -

- Environmental Objectives
- Social Objectives
- Economic Objectives

The Planning Proposal seeks only the rezoning of the land and in doing so does not prevent the objectives of the Plan being satisfied.

As an immediate consideration for residential development in the 2(a) Zone, Clause 11 of PLEP 1993 requires a minimum allotment size for the subdivision of land for residential purposes of 700sqm. The aim of the Clause is to create more varied allotment sizes, improved residential amenity and enhance the environment in relation to which the Clause applies. The subject site is 980sqm.

It is proposed that the PLEP 1993 zoning map be amended to apply the Zone 2(a) Residential "A", which is an existing zone in the LEP to the subject site.

4 Part 3 - Justification

Section A – Need for the planning proposal

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

No

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

A change of zone is contended to be the correct means of achieving the objectives and intended outcomes in this Planning Proposal. The proposed development outcome in this Planning Proposal cannot be achieved without changing the zoning in Council's LEP from a private recreation zone to a residential zone, except under Part 3A of the Environmental Planning and Assessment Act. The Part 3A is not considered an appropriate means of achieving the objectives and intended outcome.

3 Is there a net community benefit?

As suggested by the Department's Local Plan-Making Guidelines, the Evaluation Criteria to undertake a Net Community Benefit analysis have been adapted from the Draft Centres Policy (April 2009). In some cases the Evaluation Criteria has been modified or removed to ensure the criteria are meaningful to this Planning Proposal.

Net Community Benefit Evaluation Criteria	Response in the planning proposal
<i>Is the LEP located in a global/regional city, strategic centre of corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?</i>	<ul style="list-style-type: none">• The subject site for this Planning Proposal is not within an identified centre or corridor affected by regional/subregional strategy.
<i>Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landowners?</i>	<ul style="list-style-type: none">• The Planning Proposal is in accordance with the established local planning framework. It is contended that there is merit in proceeding to rezone the land.• The land is isolated and therefore is unlikely to change the expectations or set an undesirable precedent.
<i>Have the cumulative effects of the other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?</i>	<ul style="list-style-type: none">• The Planning Proposal is contended to be consistent with the local strategic planning requirements and considerations. Accordingly, any cumulative effect of similar spot rezoning proposals would need to adhere to the local strategic planning policies.
<i>Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?</i>	<ul style="list-style-type: none">• There will be no impact or loss of employment lands resulting from the proposal. The proposal would create short term employment (ie construction).
<i>Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?</i>	<ul style="list-style-type: none">• The Proposal shall provide the opportunity to increase the land supply for housing, consistent with State and Local Objectives.
<i>Is the existing public infrastructure (roads, rail</i>	<ul style="list-style-type: none">• The site has a frontage to Cabbage Tree

<i>utilities) capable of servicing the proposed site? Is there good pedestrian and cycle access? Is public transport currently available or is there infrastructure capacity to support future public transport?</i>	<p>Road, which has a pedestrian footpath is located along its northern side</p> <ul style="list-style-type: none"> • A bus service operating daily along the Road between McCarrs Creek and Manly • An identified bicycle route is marked on Cabbage Tree Road
<i>Are there significant Government investments in infrastructure or services in the area whose patronage will be affected by the proposal? If so, what is the expected impact?</i>	<ul style="list-style-type: none"> • The Planning Proposal seeks merely to rezone the land and the extent of its future use is considered unlikely to have any significant impacts upon any Government investments • The proposal would provide residential lands for housing
<i>Will the proposal impact on land that the Government has identified a need to protect (e.g. land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?</i>	<ul style="list-style-type: none"> • The land is identified as a Category 1 Flood Risk Area with a FPL of 2.7m AHD (approximately 1.1m – 1.2m above natural ground level), • The site is on the peripheries of a high priority area essential to fauna movement (Wildlife Corridor) • The land is not identified as Koala Habitat and • These environmental constraints are contended and potential issues are considered to be able to be effectively managed and impacts minimised through any development stage
<i>Will the LEP be compatible/complementary with surrounding land uses? What is the impact on amenity in the location and wider community? Will the public domain improve?</i>	<ul style="list-style-type: none"> • The Planning Proposal is considered to be compatible with adjacent land uses immediately opposite the site and to the north east • There is not considered to be any adverse impact on the wider community • The public domain is not considered to be altered through the Planning Proposal • The land is contended to be suitable for the development
<i>What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at the time?</i>	<p>It is contended there are three (3) main public interest reasons for processing the Planning Proposal, which cannot be realised without finalising a change to the zoning</p> <ol style="list-style-type: none"> 1 The residential land supply in Bayview and Pittwater LGA will be increased 2 This would make efficient use of vacant land serviced by existing infrastructure and services and 3 There would be minimal impact to adjoining properties

It is considered that there is a net community benefit resulting from the Planning Proposal

Section B – Relationship to strategic planning framework

4 Is the planning proposal consistent with the objectives and actions contained within the applicable regional and sub regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The Proposal is considered wholly consistent with the Sydney Metropolitan Strategy, Draft North East Subregional Strategy and Metropolitan Development Program in the provision of the supply of lands to assist the housing demand

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

Pittwater Strategic Plan 2020

As the site is currently zoned largely for recreational areas, the Recreational Management Strategy component of the Plan is acknowledged for the purpose of this proposal

The Recreational Management Strategy has many broad and site specific objectives. This site does not have any specific strategy, as such it is considered under the broader objective to ultimately seek the increase in opportunities and diversity of existing 'green' and community areas

This site is currently vacant and its location on the outskirts of the urban centres on Cabbage Tree Road are not considered characteristics that offer the opportunity of a 'stand alone' recreational or community area that would be any of significant benefit to the community and ultimately go towards the strategic objective

The NSW Metropolitan Draft North East Subregion Strategy also considers the Environment, Heritage and Resources of the area with a key challenge to allow for increased densities while protecting significant cultural heritage. It seeks Councils to ensure that new developments are designed to encourage walking and cycling, and that there are local shops and transport links within accessible distances. The site is located on a road that is serviced by buses and is marked as a bicycle route

The Strategy identifies the need to protect riparian and flood prone land with particular regard to an Objective of the Government's Flood Prone Land Policy to *"reduce the impact of flooding and flood liability on individual owners and occupiers of flood prone property and to reduce private and public losses resulting from floods"*. The Design Concept considers the Flood Affection and nominates a finished floor level of 2.7m AHD, compliant with the Council's FPL. Refer to Annexure 1 for a full set of Design Concept Plans and Perspectives prepared by Louise Nettleton Architect

The Land Use Development Strategy does seek to *respond to economic, cultural, social and environmental needs in a sustainable manner (including land release)*. The monitoring of this Strategy in part is against the Subregional housing targets. The target for the NSW North-east Subregion is 17,300 extra dwellings with Pittwater to provide 4,600 (27%) of the target. The Department of Planning has also recently released a Metropolitan Development Program to assist in managing land supply and guiding infrastructure coordination in Sydney which similarly identifies the housing stock provision

The rezoning of the land is considered a suitable basis to assist in achieving the housing target

6 Is the planning proposal consistent with applicable state environmental planning policies?

There are no State Environmental Planning Policies (SEPPs) or deemed SEPP's that are relevant to the immediate Planning Proposal, as such there are no inconsistencies to be outlined. There are SEPP's that shall be relevant to the site post Planning Proposal and these are identified in the table below.

Relevant SEPP/Deemed SEPPs	Applicable Post Planning Proposal
SEPP No 1 – Development Standards	YES
SEPP No 4 – Development Without Consent	YES
SEPP No 6 – Number of Storeys in a Building	YES
SEPP No 14 – Coastal Wetlands	NO
SEPP No 21 – Caravan Parks	YES
SEPP No 22 Shops & Commercial Premises	N/A
SEPP No 26 – Littoral Rainforests	NO
SEPP No 30 – Intensive Agriculture	NO
SEPP No 32 – Urban Consolidation	NO
SEPP No 33 – Hazardous & Offensive Development	NO
SEPP No 44 – Koala Habitat Protection	NO
SEPP No 50 – Canal Estate	NO
SEPP No 55 – Remediation of Land	YES
SEPP No 60 – Exempt & Complying Development	YES
SEPP No 62 – Sustainable Aquaculture	
SEPP No 64 – Advertising & Signage	YES
SEPP No 65 – Design Quality of Residential Flat Development	YES
SEPP No 70 – Affordable Housing (Revised Scheme)	YES
SEPP No 71 – Coastal Protection	NO
SEPP (Building Sustainable Index BASIX) 2004	YES
SEPP (Housing for Seniors & People with a Disability) 2004	YES
SEPP (Major Development) (2005)	YES
SEPP (Infrastructure) 2007	YES
SEPP (Mining, Petroleum Production & Extractive Industries) 2007	NO
SEPP (Temporary Structures) 2007	YES
SEPP (Rural lands) 2008	NO
SEPP (Affordable Rental Housing) 2009	YES
SREP No 20 – Hawkesbury-Nepean River (no 2 – 1997)	YES

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

This Planning Proposal is contended to be consistent with the below applicable Ministerial Directions

s 117 Direction Title	Consistency of Planning Proposal
3 1 Residential Zones	Consistent The proposal is considered to encourage housing choice, makes use of existing services and infrastructure and provides land for housing Whilst no development is proposed at this stage, as indicated in the preliminary Design Concept a development of good design can be achieved
3 4 Integrated Land Use and Transport	Consistent The proposal is located within close proximity to local bus services, Cabbage Tree Road is marked as a cycling route and a footpath runs the length of the northern side of Cabbage Tree Road opposite the site
4 1 Acid Sulfate Soils	Consistent Council's Acid Sulfate Soils Map identifies the site as Class 2 As mentioned, there is no development proposal at this stage as such it is not considered necessary for an acid sulphate soils study
4 3 Flood Prone Land	Consideration has been given to the flood prone nature of the site The Planning Proposal is not considered to have any greater flood impacts that a built form under the current zoning would have The preliminary Design Concept provides an 'indicative' response to the flood prone nature of the site and that the site can be utilised for residential purposes The Planning Proposal is not considered to result in flood impacts on adjoining properties, or result in a significant increase in the development of land
7 1 Metropolitan Strategy	Consistent As identified previously it is considered that the Planning Proposal is wholly consistent with the Metropolitan and Subregional Strategies

Section C – Environmental, social and economic impact

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

Council Wildlife Corridor Map identifies the site to be in a high priority area essential to fauna movement. It is also identified to be located in the Lowlands Vegetation Communities.

The Planning Proposal does not involve any development works at this stage, although it is acknowledged that any future works shall need to consider these ecological matters. This situation is no different to the current situation of the land, whereby it could be built upon with similar considerations required.

Notwithstanding this, Council has advised that the site is unlikely to be core habitat for any potential rare or threatened species. Council have also advised that if species were identified around the site, they would more likely be mobile species and be able to utilise the Golf Club areas, thus not relying on this small portion of land for access.

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

Council's Flood Risk Map identifies the site the subject of the Planning Proposal as being within a High Hazard Area, affected by a Flood Planning Level (FPL) and Probable Maximum Flood (PMF). The FPL is 2.7m AHD which is approximately 1.32m to 1.1m above natural ground level across the site. No development or works are proposed at this stage, therefore a flood risk management report is not considered necessary. However, a preliminary design concept has been prepared to provide an indicative response to achieve the FPL. Refer to Annexure 2. As a concept it is considered that any future development is able to effectively address the potential flooding effect.

Council's Bushfire Map identifies the site, the subject of this Planning Proposal not to be bushfire prone.

Along a portion of the southern boundary is a small creek watercourse. This creek largely flows through Bayview Golf Club grounds. As mentioned, no works are proposed at this stage, therefore there is no impact upon the creek. Notwithstanding this, the Design Concept prepared does indicate that a significant setback from the creek can be provided to which is likely to ensure that it is protected.

10 How has the planning proposal adequately addressed any social and economic effects?

The Planning Proposal is considered to have a small positive economic impact in the provision of additional residential lands and the creation of short-term employment for any future development. There are no identified social impacts that the Proposal shall affect.

Section D – State and Commonwealth interests

11 Is there adequate public infrastructure for the planning proposal?

Public Infrastructure is available in and around the site to service the site. Access to the site is able to be obtained from the southern side of Cabbage Tree Road.

It has not been determined at this stage the nature of the utility connections for any future development use, however given its location in and around residential uses and the Golf Club, it is not considered that such connections shall require extensive work. Further investigations into the utility connections can occur following a positive outcome of the Gateway Determination.

12 What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

This section of the Planning Proposal is to be completed following consultation with the State and Commonwealth Public Authorities identified in the Gateway Determination. There has been no consultation with State and Commonwealth public authorities at this stage.

5 Part 4 – Community Consultation

The Planning Proposal relates to a change in land use zoning of a 980sqm, triangular shaped parcel of land to a low-density residential zoning. For these reasons it is considered to be “low impact” for the purpose of Community Consultation. To be in keeping with *A Guide to preparing local environmental plans (Department of Planning 2009)*, the following community consultation is appropriate:

- 1 in a newspaper that circulates in the area affected by the planning proposal,
- 2 on the web-site of Pittwater Council, and
- 3 in writing to adjoining landowners, unless Pittwater Council is of the opinion that the number of landowners makes it impractical to notify them.

6 Conclusion

This Planning Proposal is contended to be consistent with the objectives and controls contained in the Pittwater 21DCP and 2(a) – Residential zoning pursuant to PLEP 1993.

The Planning Proposal is merely a simple rezoning of land to enable the residential use of land which is currently available to the site, yet restricted under the current zoning.

It is considered the Planning Proposal shall have no additional ecological impacts to the site that would not require consideration under the current zoning. With any future development of the site subject to similar considerations and assessment of those impacts.

The Planning Proposal to rezone the land shall offer a suitable response to the location of the site with access to services and infrastructure and shall complement its context with similarly residentially zoned land opposite and to the northeast of the site.

It is considered that the Planning Proposal is worthy of support.