

**SUBJECT: Pre-Gateway Review Request of Council's Determination of Planning Proposal PP0002/13 - 2 & 18 Macpherson Street & 23, 25 & 27 Warriewood Road Warriewood**

**Meeting:** Natural Environment Committee

**Date:** 4 November 2013

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**STRATEGY:** Land Use & Development

**ACTION:** To establish land uses that respond to environmental, cultural, social and economic need in a sustainable manner.

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## PURPOSE OF REPORT

To inform Council of a request for Pre-Gateway Review of Council's determination of PP0002/13 by the proponent. This request is before the Department of Planning and Infrastructure (DP&I), who have requested Council's views and comments in relation to the application.

This matter is being reported to Council as Council's comments need to be forwarded to the DP&I by 7 November 2013.

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## 1.0 BACKGROUND

- 1.1 A Planning Proposal Application, PP0002/13, was submitted on 7 June 2013 for five properties in Warriewood Valley – 2 and 18 Macpherson Street and 23, 25 and 27 Warriewood Road. The Planning Proposal application sought to amend the provisions of *Pittwater Local Environmental Plan 1993* (LEP 1993) to allow high density residential development up to 98 dwellings per developable hectare. The application also sought to amend the DCP to allow building heights up to 4 storeys (although the concept drawings indicate building heights up to 5 storeys). The application also proposed that Council and the proponent enter into a Voluntary Planning Agreement for the funding and provision of infrastructure.
- 1.2 The subject sites were recently investigated as part of the Warriewood Valley Strategic Review. It was determined by Council and the Director of DoPI, as part of the Strategic Review process, that four of the sites. 18 Macpherson Street and 23, 25 and 27 Warriewood Road, have capacity for residential development up to a maximum density of 32 dwellings per hectare and building heights up to 3 storeys. The remaining site, 2 Macpherson Street, was determined to have no capacity for development due to significant flood constraints .
- 1.3 The *Warriewood Valley Strategic Review Report 2012* was endorsed by the Director-General in May 2013 and adopted by the Council on 12 June 2013.
- 1.4 The Council Officer's assessment of PP0002/13 recommended refusal of the application as the proposal did not satisfy the DP&I's assessment criteria as outlined in its publication *A Guide to Preparing Local Environmental Plans* (April 2013), as the proposal was unable to demonstrate strategic merit or site specific merit.
- 1.5 Council on 2 September 2013 considered the assessment of the application and resolved to refuse to progress the Planning Proposal to the DP&I for a Gateway Determination. On 3 September 2013 the applicant and landowner were advised in writing of Council's determination of the application.

1.6 Council at its meeting of 2 September 2013 also resolved inter alia:

*'That Council request the Local Member the Hon. Rob Stokes to urgently request a meeting with the Minister for Planning and Infrastructure to seek his commitment to support the Council decision for refusal and that the Minister will not use his powers under section 54 of the Environmental Planning and Assessment Act to overturn Council's refusal of the Planning Proposal.'*

Council wrote to the Local Member for Pittwater on 4 September 2013 requesting a meeting, however to date, no meeting has been scheduled. Council also wrote to the Minister advising that the proposal had no strategic merit and should not be the subject of review. The Minister responded noting the correspondence.

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## 2.0 PRE-GATEWAY REVIEW PROCESS

- 2.1 A pre-gateway review is enabled under Section 56(5) of the *Environmental Planning and Assessment Act 1979* and allows the Minister to arrange for a review of a Planning Proposal by the Joint Regional Planning Panel (JRPP) or the Planning Assessment Commission (PAC).
- 2.2 The DP&I's *A Guide to Preparing Local Environmental Plans* (April 2013) outlines that a proponent *'must lodge a request to prepare a planning proposal with council before a review request can be made'*.
- 2.3 The DP&I's Guide stipulates that a request for a pre-gateway review can only be made in circumstances where:
- a. *the council has notified the proponent that the request to prepare a planning proposal is not supported; or*
  - b. *the council has failed to indicate its support 90 days after the proponent submitted a request, accompanies by the required information.*
- 2.4 Where the council has notified the proponent that their request to prepare a planning proposal is not supported, the DP&I's Guide outlines that *'the proponent of the proposed instrument has 40 days from notification to request a review of the council's decision'*. Once a request for a pre-gateway review is received, the DP&I will notify the relevant council of a proponent's request *'if it is confirmed to be eligible and complete'*.
- 2.5 Once a request for a pre-gateway review is confirmed to be eligible and complete, the DP&I will undertake an assessment of the proposal to determine whether the application meets the assessment criteria outlined in their Guide. The criteria against which the DP&I will conduct their assessment are as follows:
- a. *'Has strategic merit as it:*
    - *Is consistent with the relevant local strategic endorsed by the Director-General or*
    - *Is consistent with the relevant regional strategy or Metropolitan Plan or*
    - *Can it otherwise demonstrate strategic merit, giving consideration to the relevant section 117 Directions applying to the site and other strategic considerations (e.g. proximity to existing urban areas, public transport and infrastructure accessibility, providing jobs closer to home etc)*
  - b. *Has site specific merit and is it compatible with the surrounding land uses, having regard to the following:*
    - *The natural environment (including known significant environmental values, resources or hazards) and*

- *The existing uses, approved uses and likely future uses of land in the vicinity of the proposal and*
- *The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision’.*

- 2.6 The flowchart of the pre-gateway review process is contained in **Attachment 1**.
- 2.7 Proposals that do not meet the assessment criteria above will generally not proceed to the review by the JRPP/PAC. A decision of the Director-General that a planning proposal does not qualify for review is final.
- 2.8 If a decision is made that the proposal is to be referred to the JRPP/PAC for review, these bodies may meet with the DP&I, Council and proponent to clarify any issues before completing their review. The JRPP/PAC’s advice will be based on the merits of the proposal and will recommend to the Minister whether the proposal should be submitted for determination under Section 56 of the EPA&A Act.

The Minister (or delegate) will make the final decision concerning whether the proposal should proceed to a Gateway Determination.

### **3.0 CHRONOLOGY TO THE PROPONENT’S PRE-GATEWAY REVIEW REQUEST**

- 3.1 On 17 October 2013, the DP&I wrote to Council advising that the DP&I had received a pre-gateway review request regarding the subject application (letter contained in **Attachment 2**). Council has been requested to provide its *‘views about the proposal and/or provide a response detailing why the original request to council was not progressed’*. Council’s comments on the application are due with the DP&I within 21 days of receipt of the notification letter, that is, by 7 November 2013.
- 3.2 The proponent’s completed Pre-Gateway Review Application Form available on the DP&I’s online Pre-Gateway Review Tracking System indicates that the proponent’s review request was submitted on 18 September 2013.
- 3.3 The documentation submitted to the DP&I and available on the DP&I’s tracking system was not the Planning Proposal application which was lodged, assessed and subsequently refused by Council. The Planning Proposal Application was dated April 2013 and varies in a number of aspects from the Planning Proposal document assessed by Council (dated June 2013).
- 3.4 On 17 October 2013 Council advised the DP&I that the documentation appearing to be relied upon by the proponent and available on the DP&I’s website was not the Planning Proposal lodged and refused by Council.
- 3.5 On 23 October 2013 the DP&I confirmed that the incorrect Planning Proposal had been submitted to the DP&I for review and that the correct documentation had now been submitted by the Proponent (this email is contained in **Attachment 3**).

### **4.0 ISSUES**

#### **4.1 Planning Proposal documents originally submitted for Pre-Gateway Review**

- 4.1.1 The Planning Proposal Application lodged and refused by Council, known as PP0002/13, is dated June 2012. This application was lodged with several supporting documents, including:
- Preliminary Transport Assessment, GTA Consultants, dated 6 June 2013
  - Vegetation Mapping Report, Total Earth Care, dated 6 June 2013
  - Preliminary Urban Design Study, Urbis, June 2013

- 4.1.2 The Planning Proposal originally submitted to the DP&I for review is dated April 2013 and varies in a number of aspects from the document which was lodged and assessed by Council. The proponent's request was also absent of all of the additional documentation which ultimately formed part of the Planning Proposal lodged with Council.
- 4.1.3 The Planning Proposal originally submitted to the DP&I was never lodged with Council and therefore fails to meet the DP&I's own eligibility criteria for a pre-gateway review, as outlined at Section 2.2 and 2.3 above. The DP&I's acceptance of the proponent's initial application for a pre-gateway review request is a significant administrative error and only corrected after the 40 day deadline. In accepting the proponent's application for review, it appears that no checking of the documentation was undertaken before the review request was forwarded to Council for comment.
- 4.2 Revised Planning Proposal documents submitted for Pre-Gateway Review**
- 4.2.1 Following confirmation 24 October 2013 by the DP&I that incorrect documentation had been submitted by the proponent for review, revised documentation was uploaded onto the DP&I's online Pre-Gateway Review Tracking System.
- 4.2.2 The revised documentation submitted is consistent with the Planning Proposal lodged and assessed by Council with the exception of a number of additional maps which did not form part of the original application to Council. Of significance is the Height Control Map which has been submitted with this revised documentation. The Height Control Map (Attachment 4) indicates maximum building heights up to 21 metres for all five properties (see **Attachment 4**).
- 4.2.3 The Planning Proposal assessed and determined by Council, proposed maximum building heights of 4 and 5 storeys, however this new Height Control Map would potentially allow buildings up to 7 storeys. This map contradicts a number of statements made within the proponent's own supporting documentation which refer to a building heights of 4 and 5 storeys and should not be included within documents now subject to the pre-gateway review request.
- 4.2.4 Once again the DP&I appear to have undertaken no check of the documentation before accepting the proponent's revised Planning Proposal. For the DP&I to accept documentation now which is inconsistent and goes beyond the original application considered by Council completely undermines the pre-gateway review process.
- 4.3 Timeframe within which a request for a Pre-Gateway Review can be made**
- 4.3.1 As outlined in Section 2.4 above, the DP&I's Guide stipulates that a proponent has 40 days from notification of Council's determination of a Planning Proposal to submit a request for a pre-gateway review.
- 4.3.2 The applicant and landowner were notified of Council's determination of the Planning Proposal PP0002/13 on 3 September 2013. The 40-day window within which the proponent may request a pre-gateway review ended on 13 October 2013.
- 4.3.3 The proponent's request for a pre-gateway review was submitted to the DP&I on 18 September 2013. As outlined above, the application lodged with the DP&I for review was never accepted or determined by Council and does not meet the DP&I's eligibility criteria for a pre-gateway review.
- 4.3.4 The revised documentation appeared on the DP&I's online Pre-Gateway Review Tracking System on 24 October 2013, well outside of the 40-day review request period.
- 4.3.5 There is a clear expectation by the Community and Council that the DP&I would adhere to their own guidelines in assessing any review request. Failure to respect the procedure makes a mockery of the Department's ambition for a clear and accountable community engagement.

#### **4.4 Council's assessment and determination of Planning Proposal PP0002/13**

- 4.4.1 Council's determination of PP0002/13 in the strongest terms refused the Planning Proposal application as the proposal did not satisfy the DP&I's assessment criteria as outlined in its publication *A Guide to Preparing Local Environmental Plans* (April 2013), as the proposal was unable to demonstrate strategic merit or site specific merit.
- 4.4.2 Among other things, the Planning Proposal grossly exceeded the density and building heights within the adopted *Warriewood Valley Strategic Review Report 2012* endorsed by Council and the Director General of DoPI. The *Warriewood Valley Strategic Review Report 2012* a joint undertaking between Council and the DP&I and was informed by several expert consultant studies and the subject of extensive community consultation as well as consultation with state and servicing agencies. The Planning Proposal departed significantly from the outcomes and standards agreed to by the joint Council and DP&I team who undertook the review, the community and the elected Council.
- 4.4.3 Council on 2 September 2013 considered the Officer's assessment of the application and resolved to refuse to progress the Planning Proposal to the DP&I for a Gateway Determination. Council's resolution of 2 September 2013 is contained in **Attachment 5**.
- 4.4.4 This Planning Proposal, if now progressed via the review process, would convey inconsistency and distrust in the strategic planning system, undermining the credibility of the Government and in particular its ambitions under the Planning Reform and recent Bill introduced into Parliament to strengthen strategic planning and community engagement.

#### **4.5 Availability of Council submission to DP&I**

At the time of writing this report, Council's submission to the DP&I has not been finalised in time to be included in the Council Agenda. Council's submission will be tabled and circulated separately to Councillors and made available on the Council's website, Customer Service Centres and libraries no later than 5pm Thursday 31 October 2013.

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### **5.0 SUSTAINABILITY ASSESSMENT**

#### **5.1 Supporting & Connecting our Community (Social)**

The Planning Proposal refused by Council and now subject to a pre-gateway review seeks a development that will unacceptably increase flood risk to life and property. The application proposes unacceptable and unsafe access arrangements. The application has not considered bushfire risk. The applicant's premise in their original application that public transport will provide adequate connection to centres and services is unacceptable as no commitment has been given to substantially increase bus services in region.

#### **5.2 Valuing & Caring for our Natural Environment (Environmental)**

The Planning Proposal refused by Council and now subject to a pre-gateway review seeks to narrow the creek line corridor on the subject sites which is likely to have a number of detrimental impacts on the environment. Further studies would be required to assess the impact of the proposed development on the existing vegetation.

#### **5.3 Enhancing our Working & Learning (Economic)**

The Planning Proposal refused by Council and now subject to a pre-gateway review does not provide any economic justification to support the inordinate increase in density sought.

#### 5.4 **Leading an Effective & Collaborative Council (Governance)**

The Planning Proposal refused by Council and now subject to a pre-gateway review was assessed by Council and has been notified in accordance with Council's notification policy. The assessment of the original application as well as Council's response to the proponent's pre-gateway review request has been transparent.

#### 5.5 **Integrating our Built Environment (Infrastructure)**

The Planning Proposal refused by Council and now subject to a pre-gateway review would result in additional infrastructure demands above what Council has already planned to provide within the release area. It is uncertain whether any additional infrastructure could be accommodated within the release area.

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### **6.0 EXECUTIVE SUMMARY**

6.1 On 7 June 2013 a Planning Proposal Application, known as PP0002/13, was received by Council for five properties in Warriewood Valley – 2 and 18 Macpherson Street and 23, 25 and 27 Warriewood Road. The application sought to amend the provisions of *Pittwater Local Environmental Plan 1993* (LEP 1993) to allow high density residential development up to 98 dwellings per developable hectare.

6.2 Council on 2 September 2013 resolved to refuse to progress the Planning Proposal PP0002/12 to the DP&I for Gateway Determination.

6.3 On 17 October 2013 the DP&I wrote to Council advising that the proponent has sought a pre-gateway review, seeking Council's views on the application within 21 days. The documentation appearing to be relied upon by the proponent and available on the DP&I's online Pre-Gateway Review Tracking System was not the Planning Proposal lodged and refused by Council.

6.4 On 23 October 2013 the DP&I confirmed that the incorrect Planning Proposal had been submitted for review and advised that the correct documentation was now DP&I's online Pre-Gateway Review Tracking System. A review of this documentation has revealed that it was also inconsistent with the Planning Proposal lodged and assessed by Council. The revised documentation has also been submitted outside of the 40-day window within which the proponent may request a pre-gateway review.

6.5 At the time of writing this report, Council's submission to the DP&I has not been finalised in time to be included in the Council Agenda. Council's submission will be tabled and circulated separately to this report and will be made available on the Council's website, Customer Service Centres and libraries no later than 5pm Thursday 31 October 2013.

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### **RECOMMENDATION**

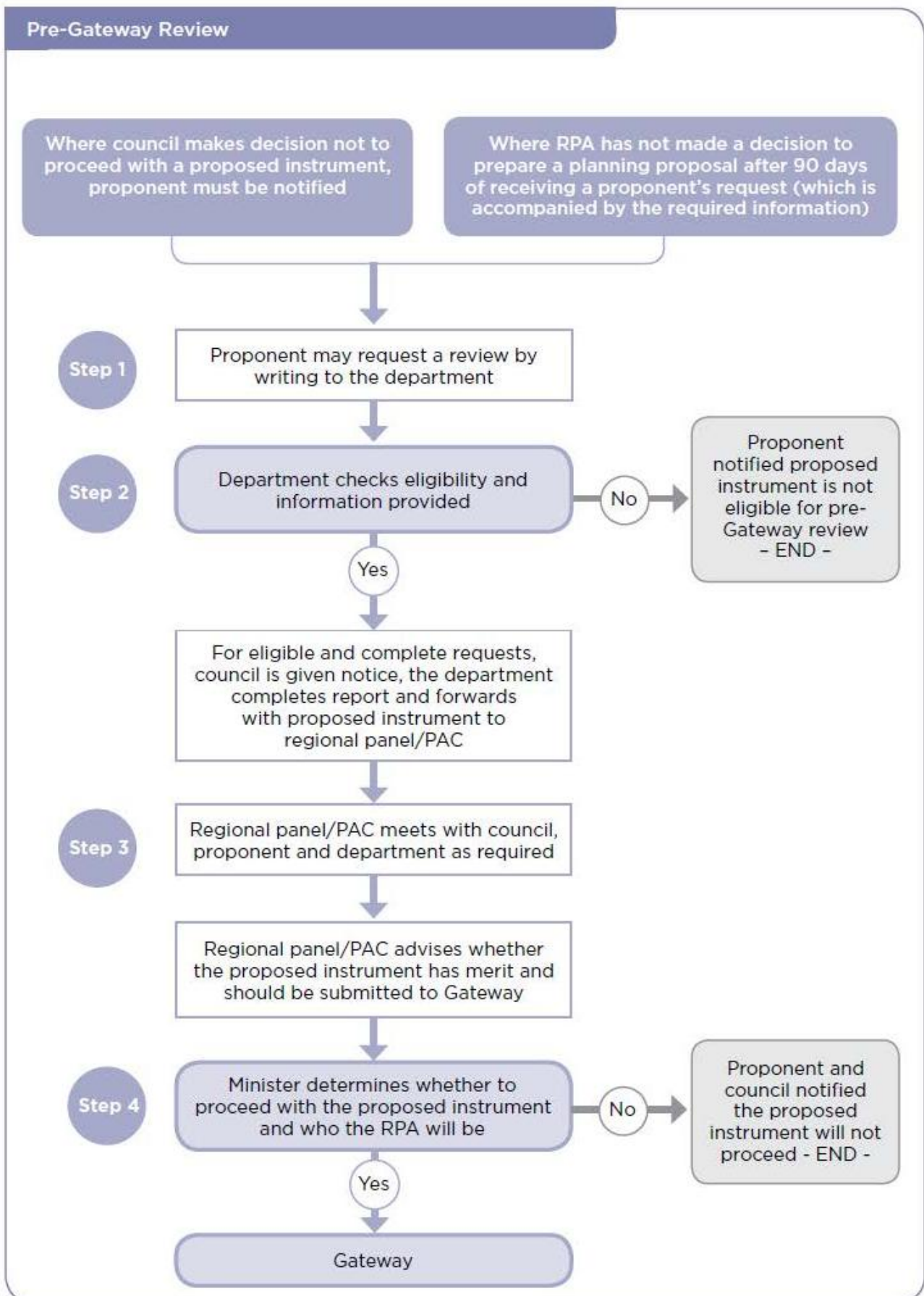
That Council note the contents of this report and :-

- Advise the Minister and the Director General in the strongest terms that the request by the proponent to seek a review of the Planning Proposal is invalid as the application was not made within the 40 day time frame stipulated by the Department's procedure. The Minister be further advised that failure to reject the proponent's application on this basis would undermine the Government's credibility and community relations particularly given the Government's stated ambition, reflected in the current Bill before Parliament, of accountability, reliance on strategic planning, community trust and engagement..

- .Forward to the Department of Planning & Infrastructure. the tabled submission that highlights the total lack of strategic merit of the Planning Proposal and its gross inconsistency with the Warriewood Valley Strategic Review adopted by Director General of the Department of Planning and Infrastructure and Council

Report prepared by,  
Tija Stagni, Senior Planner – Land Release

Andrew Pigott  
**MANAGER, PLANNING & ASSESSMENT**







Mr Mark Ferguson  
 General Manager  
 Pittwater Council  
 PO Box 882  
 MONA VALE NSW 1660

Ref: 13/16979

Dear Mr Ferguson

**Re: Request for Pre-Gateway Review – PGR\_2013\_PITTW\_002\_00**

I am writing to notify council that a pre-gateway review request has been submitted to the Minister for Planning and Infrastructure for consideration.

The review request relates to a proposal by Karimbla Constructions Services (NSW) Pty Ltd to amend the Pittwater Local Environmental Plan 1993 for sites located at 2 & 18 Macpherson Street and 23, 25 & 27 Warriewood Road, Warriewood. The proponent is seeking to amend the LEP by increasing the FSR for higher density residential development on the subject lands.

The request states that the proponent is seeking a pre-Gateway review as Pittwater Council have confirmed in writing that the request to prepare a planning proposal is not supported.

Council is invited to provide its views about the proposal and/or provide a response detailing why the original request to council was not progressed. A response must be submitted within 21 days from the date of this letter to the Sydney East Regional Office of the Department of Planning and Infrastructure.

The views of council will be taken into consideration by the Department and the Joint Regional Planning Panel when considering whether to recommend if the proposal should be supported and proceed to Gateway as a planning proposal.

Council can check the progress and status of the review on the department's LEP Tracking System, at <http://pgrtracking.planning.nsw.gov.au/PublicList.aspx>.

Should you have any further enquiries about this matter, I have arranged for Ms Lee McCourt the Department of Planning and Infrastructure's Sydney Region East Planning Team, to assist. Ms McCourt may be contacted on (02) 8575 4129.

Yours sincerely

  
 17.10.13  
**For Regional Director  
 Sydney Region East  
 Planning Operations & Regional Delivery**

From: "Tim Archer" <Tim.Archer@planning.nsw.gov.au>  
To: Andrew\_Pigott@pittwater.nsw.gov.au  
Cc: "Lee McCourt" <Lee.McCourt@planning.nsw.gov.au>, "Megan Hollingsworth" <Megan.Hollingsworth@planning.nsw.gov.au>  
Date: 23/10/2013 05:34 PM  
Subject: Warriewood pre-gateway review

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Andrew,

The Department has confirmed that the incorrect planning proposal was submitted to us for pre-gateway review. Thank you for bringing this to the Department's attention.

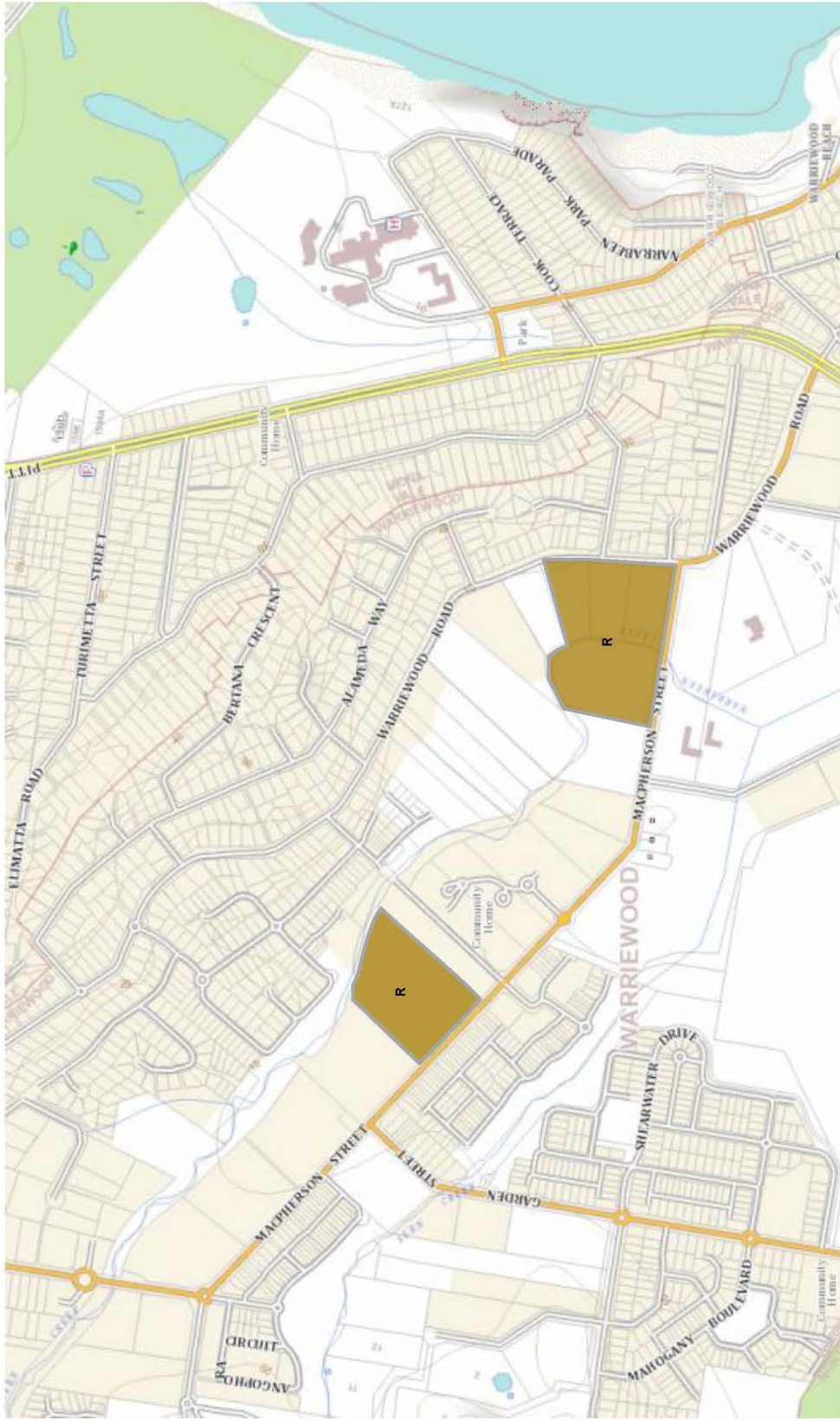
Meriton has now submitted the correct proposal. As such, please find attached the correct proposal for Council's review and comment (2 more emails to follow).

Happy to discuss.

Tim

**Tim Archer**

A/ Manager Metropolitan Delivery  
Planning Operations & Regional Delivery  
NSW Department of Planning & Infrastructure  
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E [tim.archer@planning.nsw.gov.au](mailto:tim.archer@planning.nsw.gov.au)



**Legend – Max. Building Height (m)**

R	21
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**Request for Planning Proposal – Height Control Map**

2 MACPHERSON STREET, 18 MACPHERSON STREET & 23, 25 & 27 WARRIEWOOD ROAD, WARRIEWOOD



# PITTWATER COUNCIL

## Minute Item

### **C10.1 Assessment of Planning Proposal Application PP0002/13 - 2 & 18 Macpherson Street and 23, 25 & 27 Warriewood Road Warriewood**

**Meeting:** Natural Environment Committee

**Date:** 2 September 2013

#### COMMITTEE RECOMMENDATION

- a. That Council refuse application PP0002/13 – Planning Proposal for 2 and 18 Macpherson Street and 23, 25 and 27 Warriewood Road, Warriewood to initiate the process to amend *Pittwater Local Environmental Plan 1993* for the reasons outlined below:
1. The proposal fails to meet the objects of the *Environmental Planning and Assessment Act 1979*, particularly as it substantially deviates from s5(a)(ii) to encourage the promotion and co-ordination of the orderly and economic use and development of land.
  2. The proposal departs significantly from the outcomes and standards recommended in the *Warriewood Valley Strategic Review Report 2012* recently adopted by the Director General of Planning and Infrastructure and Council.
  3. The proposal disregards the community engagement process conducted by Council and the Department of Planning and Infrastructure leading to the adoption of the *Warriewood Valley Strategic Review Report 2012* and would result in a development that severely undermines community expectations and public confidence.
  4. The proposal has not demonstrated changes to current and known constraints, opportunities and economic conditions to justify a departure from the outcomes and standards of the adopted *Warriewood Valley Strategic Review Report 2012*.
  5. No 2 Macpherson Street (also known as Buffer 1M) is an identified floodway and any residential development on this land would unnecessarily and unreasonably put property and life at risk and is likely to cause adverse impacts on flow conveyance and result in a loss of flood storage.
  6. The proposal will result in a development of a density and scale that is not in keeping with the desired future character of the area as expressed in A4.16 of *Pittwater 21 Development Control Plan* and envisaged by the *Warriewood Valley Strategic Review Report 2012*, as adopted by the Director General of Planning and Infrastructure and Council.

7. The Planning Proposal is inconsistent with Local Planning Direction 4.3 – Flood Prone Land, issued under s117 of the *Environmental Planning and Assessment Act 1979*, for the following reasons:
  - i. The proposal would significantly increase residential development on flood prone land, in a known floodway and is likely to result in significant flood impacts to other properties.
  - ii. The proposal will result in development that increases the number of future flood affected occupants of the floodplain, thereby putting more people and assets at flood risk as well as burdening the response efforts of emergency services.
  - iii. The Planning Proposal has not relied on the latest available flood information contained within the Draft Narrabeen Lagoon Flood Study 2013. The findings of the Brown Consulting Flood Management Statement are based on superseded data which is likely to have resulted in an underestimation of flood depths and velocities across the subject sites.
  - iv. The recommendations of the Brown Consulting Flood Management Statement in relation engineering solutions to enable development of 2 Macpherson Street and 23, 25 & 27 Warriewood Road are flawed and cannot be relied upon.
  - v. The proposal relies on deliberate isolation or sheltering in buildings during times of flood which is not considered an acceptable solution and is inconsistent with the requirements of the NSW State Emergency Service and the NSW Floodplain Development Manual.
  - vi. The proposal is inconsistent with the requirements of B3.22 of *Pittwater 21 Development Control Plan*.
8. The Planning Proposal is inconsistent with Local Planning Direction 4.4 – Planning for Bushfire Protection, issued under s117 of the *Environmental Planning and Assessment Act 1979*, as it has not had regard for Planning for Bushfire Protection 2006 and will place inappropriate development in a hazardous area.
9. The Planning Proposal does not achieve the requirements of C6.7 of *Pittwater 21 Development Control* as it does not adequately address issues related to water cycle management issues, including water quality management, watercourse and corridor management.
10. No investigation has been undertaken in regard to potential land contamination of the sites (in particular 2 Macpherson Street), as required by *State Environmental Planning Policy No 55 – Remediation of Land*.
11. The proposal fails to demonstrate the traffic and transport implications resulting from this proposal are satisfactory, as confirmed by the Roads and Maritime Services' request that a detailed traffic assessment of the impacts of the proposal on local and state roads be undertaken prior to a Gateway Determination.
12. The proposal fails to demonstrate that the increase in density proposed with resultant population increase substantially greater than planned for, will be able to be provided with additional infrastructure, particularly open space in reasonable vicinity to the release area.

13. The Department of Education & Communities have identified that in order to address the additional demand created by the Planning Proposal, additional classrooms will be required at local schools. The Department requests that provision be made to seek contribution from the developer. As no mechanism exists to address this issue the proposal is not supported.
14. It is recognised that the application is a Planning Proposal however the cumulative impacts resulting from this density has not been accounted for, namely:
  - i. The proposed building heights of up to 5 storeys within an area characterised by low-rise, low to medium density housing.
  - ii. The proposed building layout is not sympathetic with the surrounding area.
  - iii. The proposed car parking rate of 1.5 spaces per 2 bedroom unit which is inconsistent with the requirements of B6.6 of *Pittwater 21 Development Control Plan* and the rate accepted by the Planning Assessment Commission in determining the adjacent Major Project Application. The reduced parking rate proposed will result in an undersupply of car parking.
  - iv. A traffic generation rate lower than the rate utilised in the *Warriewood Valley Strategic Transport Study* (AECOM 2011) and accepted by the Planning Assessment Commission in determining the adjacent Major Project Application. This is likely to have underestimated the traffic impacts of the development.
  - v. The unsafe access arrangements proposed from the subject sites onto Macpherson Street and Warriewood Road.
  - vi. The internal road layout which is inconsistent with the requirements of the *Warriewood Valley Roads Masterplan 2006* and C6.24 of *Pittwater 21 Development Control Plan*.
15. The proposal is not in the public interest, provides no net community benefit, is inconsistent with the principals of orderly planning and, if approved, would undermine confidence in evidence based planning, the community engagement process and decision making.
  - b. That Council not support the proposed Voluntary Planning Agreement, as it would be inconsistent with the methodologies used for the calculation of developer contributions in the Warriewood Valley Release Area and will not deliver the essential infrastructure as planned by the Warriewood Valley Section 94 Contributions Plan.
  - c. That Council write to those persons who made a submission, including the state authorities and servicing agencies who provided comments to the application, advising them of Council's decision.

(Cr Millar / Cr Young)

**Notes:**

1. Cr Townsend left the meeting at 7.02pm and returned at 7.20pm, having declared a non-pecuniary interest in this item. The reason provided by Cr Townsend was:

*“As council delegate on JRPP this item may be referred so to avoid conflict I declare my interest.”*

2. Cr Hegarty left the meeting at 7.02pm and returned at 7.20pm, having declared a non-pecuniary interest in this item. The reason provided by Cr Hegarty was:

*“I sit on the JRPP as Council’s delegate and this subject land may be before the Committee.”*

3. A division was duly taken resulting in the following voting:

<b>Aye (For)</b>	<b>No (Against)</b>
Cr Ferguson	Nil
Cr Grace	
Cr McTaggart	
Cr Millar	
Cr Young	

## Action Item

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<b>C10.1</b>	<b>Pre-Gateway Review Request of Council's Determination of Planning Proposal PP0002/13 - 2 &amp; 18 Macpherson Street &amp; 23, 25 &amp; 27 Warriewood Road Warriewood</b>
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**Meeting:** Natural Environment Committee

**Date:** 4 November 2013

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### COMMITTEE RECOMMENDATION

That Council note the contents of this report and:-

- Advise the Minister and the Director-General in the strongest terms that the request by the proponent to seek a review of the Planning Proposal is invalid as the application was not made within the 40 day time frame stipulated by the Department's procedure. The Minister be further advised that failure to reject the proponent's application on this basis would undermine the Government's credibility and community relations, particularly given the Government's stated ambition reflected in the current Bill before Parliament of accountability, reliance on strategic planning, community trust and engagement.
- Forward to the Department of Planning & Infrastructure the tabled submission that highlights the total lack of strategic merit of the Planning Proposal and its gross inconsistency with the Warriewood Valley Strategic Review adopted by Director-General of the Department of Planning & Infrastructure and Council.

(Cr Millar / Cr Grace)

### Notes:

1. A division was duly taken resulting in the following voting:

<b>Aye (For)</b>	<b>No (Against)</b>
Cr Ferguson	Nil
Cr Grace	
Cr McTaggart	
Cr Millar	
Cr Young	

2. Cr Townsend left the meeting at 7.29pm and returned at 7.48pm, having declared a significant non-pecuniary interest on Item C10.1 – Pre-Gateway Review Request of Council's Determination of Planning Proposal PP0002/13 – 2 & 18 Macpherson Street & 23, 25 & 27 Warriewood Road Warriewood. The reason provided by Cr Townsend was:

*"As a delegate on the JRPP, this item may be referred to the JRPP at some point in the future."*



3. Cr Hegarty left the meeting at 7.29pm and returned at 7.48pm, having declared a significant non-pecuniary interest in Item C10.1 - Pre-Gateway Review Request of Council's Determination of Planning Proposal PP0002/13 – 2 & 18 Macpherson Street & 23, 25 & 27 Warriewood Road Warriewood. The reason provided by Cr Hegarty was:  
*“As I sit as Council's delegate on the JRPP which this application may be presented to in the future.”*
4. On her return Cr Townsend resumed the Chair.