PITTWATER COUNCIL

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19 November 2013

Regional Panels Secretariat
Joint Regional Planning Panels
GPO Box 39
SYDNEY NSW 2001

Your Ref: PP_2013_PITTW_004_00

Dear Mr Withington

RE: SUBMISSION TO PLANNING PROPOSAL - PP_2013_PITTW_004_00

I refer to your letter of 18 October 2013 advising Council of the public exhibition of the above planning proposal to rezone 120 and 122 Mona Vale Road, Warriewood from a non-urban to a residential zone.

Council at its meeting of 18 November 2013 resolved to forward the attached submission to the Joint Regional Planning Panel that highlights the deficiencies with the planning proposal as exhibited, raises concerns with the likely significant impact on the natural and cultural environment of those sites contained within the exhibited proposal, and also the impact on 10 Jubilee Avenue and 4 Boundary Street intended to be utilised for access purposes.

Should you require any further information please contact Liza Cordoba Council's Principal Officer - Land Release on 9970 1150.

Yours sincerely

Steve Evans
DIRECTOR - ENVIRONMENTAL PLANNING AND COMMUNITY

Encl. Council Submission to Planning Proposal PP_2013_PITTW_004_00

Submission to Joint Regional Planning Panel - Sydney East Regional Panel

Public Exhibition of Planning Proposal

PP_2013_PITTW_004_00 - 120-122 Mona Vale Road, Warriewood

Prepared by Pittwater Council 18 November 2013

PITTWATER COUNCIL

1.0 INTRODUCTION

Council vehemently objects to the Planning Proposal as exhibited.

The NSW Government's support and progression of this Planning Proposal was premised on the ability for this land, 120 and 122 Mona Vale Road, Warriewood, to deliver more housing into the NSW housing market.

This basic premise regarding 120 and 122 Mona Vale Road is flawed given the physical and environmental constraints prevalent on this property, located adjacent to the Ingleside Escarpment and wildlife corridor that is dissected only by Mona Vale Road. The existing access into this site off Mona Vale Road, is via a private driveway in an unsafe location, making this site's ability to redevelop even less convincing particularly when Council in partnership with the Department of Planning and Infrastructure has recently completed a strategic review of the Warriewood Valley Release Area that clearly identified less constrained sites in Warriewood Valley with safer convenient access arrangements for future housing opportunities.

Certainty in the development being realised or able to be realised must be a primary consideration for the Relevant Planning Authority when it considers any Planning Proposal.

The tenets of Council submission are that this Planning Proposal as exhibited fails to provide such certainty, namely:-

- Any future housing development on any site must be afforded a safe, efficient and convenient access for its future residents and emergency service personnel for this site especially given its location and bushfire affectation.

  The permissibility of the access arrangements must also be considered within the context of the Planning Proposal to ensure that the development envisaged by the proposal will be able to be realised at the Development Application stage.

- Development opportunities afforded by this Planning Proposal cannot be realised as it has not demonstrably addressed how impacts on bushfire, vegetation and wildlife corridor/habitat, the Warriewood Wetlands and Narrabeen Lagoon downstream of this site can and will be addressed.

  Such considerations remain unresolved and, simply passing it on to the Development Application stage is too late. Resolution of these matters must be undertaken in the first phase, at the Planning Proposal application or rezoning stage. This is especially the case for this site, where any future Development Application will require assessment of matters not resolved at the Planning Proposal and consequently may not be, or able to be, resolved at the Development Application stage.

- Administratively, the amendments into *Pittwater Local Environmental Plan 1993* and the exhibited *Draft Pittwater Local Environmental Plan 2013* appear simple but clearly, are not. Introducing Standard Template zones into a dated LEP such as *Pittwater Local Environmental Plan 1993* raises questions regarding interpretation and relevance.

  The amendments to exhibited *Draft Pittwater Local Environmental Plan 2013* are also unclear particularly as Council has now placed on exhibition, its second revision of *Draft Pittwater Local Environmental Plan 2013.* There is an inference that the Planning Proposal is amending this current exhibition of *Draft Pittwater Local Environmental Plan 2013* and may be an erroneous assumption.

These matters are detailed further in the submission.

2.0 DESCRIPTION OF EXHIBITED PLANNING PROPOSAL

Council understands that the exhibited planning proposal, known as PP_2013_PITTW_004_00, seeks to amend both the *Pittwater Local Environmental Plan 1993* (LEP 1993) and the *Draft Pittwater Local Environmental Plan 2013* (Draft LEP 2013) to:

- Rezone land at 120-122 Mona Vale Road, Warriewood from 1(a) Non-Urban "A" to R2 Low Density Residential and E4 Environmental Living and

- Specify the minimum lot size for the subject sites.

Council acknowledges that this Planning Proposal, unlike the application considered and subsequently refused by Council, does not include 10 Jubilee Avenue and 4 Boundary Street.

3.0 LACK OF CERTAINTY

Council objects to the Planning Proposal as exhibited. Council refutes that the Planning Proposal does not demonstrate how a housing development on 120 and 122 Mona Vale Road can be delivered if:

- a safe, efficient and convenient access has not been addressed,

- the impact of bushfire threat has not been clearly identified/ addressed including how bushfire risk will be managed on identified bushfire prone land, nor has there been clear assessment of the potential impact on existing vegetation and wildlife corridor/habitat including downstream properties, Warriewood Wetlands and Narrabeen Lagoon,

- the proposed amendments to LEP 1993 and Draft LEP 2013 are unclear and ambiguous; and

- the cumulative effect of the issues raised above results in uncertainty in the planning process.

Council also raises concerns to the administration of the exhibition documents which, in itself, is unclear and misleading.

3.1 Any future housing development on any site must be afforded a safe, efficient and convenient access for its future residents and emergency service personnel for this site especially given its location and bushfire affectation

In its letter to Council dated 6 December 2012, the Roads and Maritime Services (RMS) confirmed it does not support left in/left out access to Mona Vale Road at Boundary Street and via the proposed driveway further west of Boundary Street. The RMS also recommended removal of the existing access off Mona Vale Road (see **ATTACHMENT 1).**

The RMS preferred the alternate access arrangement, via 10 Jubilee Avenue and 4 Boundary Street. The NSW Rural Fire Service (RFS), in its letter to Council dated 3 January 2013, also preferred the alternate access arrangement (see **ATTACHMENT 2**).

The advice provided by the State's Road Authority and State authority in regard to bushfire matters must be adhered to when it comes to safety for access on a state road, and future safety of residents and emergency service personnel during bushfire events. Nonetheless, it

is unclear that a safe efficient and convenient access is able to be delivered for this future development, through this Planning Proposal or otherwise.

The alternate access, now deleted from the Planning Proposal, preferred by the RMS and RFS is via 10 Jubilee Avenue and 4 Boundary Street. These properties are currently zoned 1(b) Non-Urban "B" under LEP 1993. Clause 9 of LEP 1993 is the zoning table, and is replicated below as it applies to the Zone 1(b):

ZONE No. 1(b) (NON-URBAN "B")

1. Without development consent

Agriculture (other than pig-keeping or poultry farming); forestry.

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

Bulk stores; car repair stations; clubs; commercial premises (other than animal boarding or training establishments or riding schools); dwelling-houses; group buildings; heliports; industries (other than rural industries or home industries); junk yards; mines; motor showrooms; recreation areas; recreation establishments; residential flat buildings; service stations; shops; warehouses.

The access on 10 Jubilee Avenue and 4 Boundary Street is to provide access to urban dwelling houses within the proposed R2 and E4 zones and is construed to *'being a purpose for which development is prohibited'* under the 1(b) zone.

This Planning Proposal should not be progressed given that a safe and convenient access crucial for any housing development on 120 and 122 Mona Vale Road and appropriately zoned for urban residential purposes has not been secured. Council contends that the feasibility and permissibility of the alternate access route is crucial to the progression of this Planning Proposal and realisation of any future housing development occurring on 120 and 122 Mona Vale Road. Therefore substantial doubt regarding access for residents, crucial emergency services access and evacuation routes remains.

3.2 Development opportunities afforded by this Planning Proposal cannot be realised as it has not demonstrably addressed how impacts on bushfire, vegetation and wildlife corridor/habitat, Indigenous heritage, the Warriewood Wetlands and Narrabeen Lagoon downstream of this site will and can be addressed

A number of State Agencies raised concerns to Council regarding this Planning Proposal that, to date, remain unresolved. These include likely impacts on bushfire, vegetation and wildlife corridor including impact on downstream properties and Warriewood Wetlands/Narrabeen Lagoon, and assessment of Indigenous heritage.

These are discussed below:

3.2.1 *Bushfire Prone Land Affectation*

120 and 122 Mona Vale Road are identified bushfire prone lands. RFS' letter to Council (**ATTACHMENT 2),** dated 3 January 2013, advised concerns regarding future access arrangements and inconsistencies with the bushfire assessment report which, in turn, have implications on the future development and the Planning Proposal itself being:

- *"Of particular concern is the access/egress provided to the site and the accuracy of the bushfire report provided with the application"*
- *"The RFS raises concerns that access/egress from the site is reliant on a single access point"*
- *"Matters that require further clarification include Asset Protection Zones (APZs), including compliance with Planning for Bushfire Protection for subdivisions, demonstrated modelling with the report that results in potential flame contact, APZs on lands greater than 19 degrees, and the potential requirement for a buffer from Narrabeen Creek that will potentially increase the minimum required APZs"*
- *"The RFS recommends that the rezoning – and subsequent related planning directions – demonstrate due consideration for the bush fire risk that exists within the area, and provide for appropriate mitigation of the evaluated risks.*"

The exhibited Planning Proposal does not address those matters relevant to 120 and 122 Mona Vale Road nor does it address provision of a safe and convenient access. Council contends that access for 120 and 122 Mona Vale Road is crucial in determining whether development occurring on this identified bushfire prone land can be realised or not.

Additionally, Fire and Rescue NSW in its letter to Council dated 16 January 2013 raised concerns regarding the proposed access/egress relied upon (**ATTACHMENT 3**), commenting:

- *"A second entry/exit point should be incorporated into the plan to facilitate emergency vehicle assess or egress and resident evacuation in the event one entry point is unavailable. This is particularly relevant in an area bordering a bushland environment which could be impact by a fire event."*

Managing bushfire risk on identified bushfire prone land must be clearly identified/ addressed upfront in the rezoning process. Consultation with the NSW Rural Fire Service at post-Gateway stage is, in this instance, simply ineffective as it may necessitate:

- the submission of a revised Bushfire Assessment Report addressing the inconsistencies already identified by RFS and Council,
- changes to the proposed zoning of the land or additional provisions,

that may result in a re-exhibition of the Planning Proposal.

Council re-iterates that these issues may have serious implications on the future safety of residents and emergency services personnel. With a Gateway

Determination now issued, these issues must be addressed before the Planning Proposal is considered further.

3.2.2 *Impacts on vegetation & wildlife corridor/habitat including downstream properties & Warriewood Wetlands/Narrabeen Lagoon*

NSW Office of Environment and Heritage (OEH) in its letter to Council dated 21 December 2012 advised as follows:

> *"The Masterplan 120 Mona Vale Road (GMU October 2012) identified the site as having high biodiversity values a biodiversity assessment should be undertake to enable Council to identify, assess and appropriately conserve the ecological attributes of the site* [as]. *The scope and detail required in the assessment will vary depending on the existing and potential attributes of the site…*
>
> *Areas identified of high biodiversity value and adjoining areas of moderate value should be managed to ensure that no development or activity including public access and recreation result in adverse impacts or loss in values. For these areas OEH recommends:*
>
> - *the application of an Environmental Protection Zone (first preference), with permitted uses limited to those that are consistent with the protection of the conservation values present;*
> - *the use of overlays to identify environmentally sensitive areas and the;*
> - *inclusion of local provisions with development controls and heads of consideration; and/or*
> - *the provision of more detailed controls in DCPs (for example for native vegetation and development controls and assessment requirements for environmental overlays."*

A copy of OEH's letter is in **ATTACHMENT 4**.

Council contends that the exhibited Planning Proposal fails to clearly address how biodiversity, bushfire, visual impact impacts will be minimised. As identified in Council's original assessment of this application and the RFS' advice, there are clear inconsistencies with the nomination of the vegetation that exists on 120 and 122 Mona Vale Road resulting in anomalies with the consultants' assessment and more significantly, their recommendations that, to date, have not been rectified.

120 and 122 Mona Vale Road is to be rezoned part E4 Environmental Living and part R2 Low Density Residential in accordance with OEH's preference. Nonetheless, there is disparity in how these matters will be addressed within LEP 1993 given that the E4 and R2 zones and requisite zoning tables are Standard Instrument provisions to be inserted into LEP 1993, an older and somewhat out-dated planning instrument.

As discussed previously, the RMS and RFS preferred the alternate access via 10 Jubilee Avenue and 4 Boundary Street and are within the canopied Ingleside-Warriewood Escarpment, having high environmental value and visual prominence, necessitating the following matters to be addressed:

- trees on these properties are of significant and high landscape significance, and will require assessments of significance for the four threatened flora and fourteen threatened fauna species identified in the applicant's Ecological Site Analysis as well as assessment of visual impact;

- the properties are identified bushfire prone land and are subject to land slip;

- given the physical and environmental attributes of the land, the design, location and functionality of the proposed road remains unresolved including compliance with the relevant Australian Standards and ability to accommodate emergency vehicles and its use as an evacuation route has not been established which must be balanced against clear assessment of impacts on potential tree loss particularly trees identified as having significant or high landscape significance, flora and fauna, particularly within the open forest habitat, water management regime and how impacts on adjoining properties and pollution will be minimised, land stability considerations and treatment of depth of soil above any rock cutting is required to assess impacts, including visual impact; and

- impact on future traffic volumes on Jubilee Avenue and Ponderosa Parade that will exist when the Warriewood Valley release area is complete.

Given 10 Jubilee Avenue and 4 Boundary Street are not being rezoned, consideration of the above matters regarding the access arrangements is being delayed to the Development Application stage including questions of whether the road is permissible or otherwise. Clearly, the question regarding permissibility or otherwise is unclear. The provision of a safe, efficient and convenient access being secured or otherwise is also uncertain.

What is clear is that access is integral to the redevelopment of 120 and 122 Mona Vale Road being realised. Council contends that the location of a safe, efficient and convenient access for future residents and emergency service personnel, deemed critical given the sites' locational and physical constraints, should not be compromised. This requires resolution now.

The Planning Proposal that will permit future housing on 120 and 122 Mona Vale Road must not be progressed until such time as the land upon which the safe, efficient and convenient access to be located is integrated into this Planning Proposal.

3.2.3 *Impact on Indigenous Heritage*

OEH, in its letter to Council dated 21 December 2012 (**ATTACHMENT 4**), recommended an Aboriginal archaeological assessment and cultural heritage assessment is undertaken prior to the rezoning process progressing.

Additionally, the Aboriginal Heritage Office (AHO), in its letter to Council dated 6 December 2012 (**ATTACHMENT 5**), raised the following concerns:

- *"It appears that the proposal has been put forward with no consideration of Aboriginal heritage value"*

- *"There are known Aboriginal heritage sites in the Warriewood area and the proposed development area is considered to have high potential for unrecorded sites. The Aboriginal Heritage Office would recommend a full and comprehensive assessment be carried out for the area by a qualified Aboriginal heritage professional prior to any development or further planning."*

Council contends that not heeding the advice already received for this site and consulting with OEH at the exhibition of this Planning Proposal without addressing the issues they originally raised shows inadequacies in progressing and unreasonable bias afforded to this Planning Proposal.

A preliminary assessment of Aboriginal archaeological and cultural heritage should be submitted as part of this Planning Proposal. Council recommends that the Planning Proposal be re-exhibited to include this additional assessment.

3.3 The proposed amendments to Pittwater LEP 1993 and Draft Pittwater LEP 2013 are unclear and ambiguous

Council contends that the amendments applying to 120 and 122 Mona Vale Road to (1) LEP 1993; and (2) Draft LEP 2013 are unclear for the reasons detailed in the following sections.

3.3.1 *Issues regarding amendment to LEP 1993*

The Planning Proposal introduces the zonings, R2 Low Density Residential and E4 Environmental Living, land use tables relevant to these zones, and definitions of land use terms applying to the R2 and E4 zones into LEP 1993. A minimum lot size map will also be inserted into LEP 1993. The provisions to be inserted into LEP 1993 are provisions being utilised in the Draft LEP 2013, prepared in accordance with the Standard Instrument Order and is the contemporary planning instrument.

As a stand-alone amendment to LEP 1993, the amendments are ambiguous in the following manner:

- There is no reference confirming that the specific amendments will replicate the provisions specifically applying to the E4 and R2 zones as set out in Draft LEP 2013 (version currently on exhibition or the previous version exhibited) or will simply replicate the Standard Instrument Order. Under the circumstances, it is difficult to ascertain the full extent of likely implications.

- Although Council agreed to the landowner's application to include these properties in the Warriewood Valley Release Area, there is no intention to have the Warriewood Valley provisions (namely Division 7A of LEP 1993) applying to these properties.

- As discussed already, the omission of 10 Jubilee Avenue and 4 Boundary Street in the planning proposal raises uncertainty that could have been resolved if the lands were rezoned under this Planning Proposal.

- The majority of existing LEP 1993 provisions will not apply to the land or the development unless there is specific reference to the E4 or R2 zones or use the same terminology as related to zoning tables for the E4 or R2.

As an identified sector within the Warriewood Valley Release Area, Council recommends that to ensure a consistent approach to development in the Release Area, the Planning Proposal be re-drafted to list the properties 120 and 122 Mona Vale Road as a sector within relevant local provisions of both instruments.

3.3.2 *Issues regarding amendments to Draft LEP 2013*

This Planning Proposal seeks to amend Draft LEP 2013, which has been prepared in accordance with the Standard Instrument Order. The proposed amendments appear simple however, confirmation is sought as to which version of Draft LEP 2013 the Planning Proposal is seeking to amend or is it replicating the relevant provisions in the Standard Instrument Order. It is further complicated by the fact that the exhibition of this Planning Proposal has overlapped with Council's exhibition of its Draft LEP 2013 (2nd Draft). As the Planning Proposal seeks changes to Draft LEP 2013, the version of which is unclear, leading to ambiguity and misunderstanding.

It is surmised that the amendments are a stand-alone to Draft LEP 2013.

To enable an assessment of likely implications, the proposed changes were considered against Draft LEP 2013 (currently on exhibition) and the following anomalies were identified:

- The local provisions relevant to Urban Release Areas and specifically Warriewood Valley have not been applied to these properties notwithstanding Council's 2006 decision agreeing to the landowner's application to include these properties in the Warriewood Valley Release Area.

- The Minimum Lot Size Map is to be applied to these lands, however does not provide certainty in determining the number of lots or housing that will eventually be delivered on the land.

  Conversely, Clause 6.1(4) of Draft LEP 2013 specifies the maximum number of dwellings to be erected in a particular sector or parcel in the Warriewood Valley Release Area. It is preferable that a maximum dwelling yield be specified for the subject site to ensure consistency and certainty in the maximum number of dwellings to be constructed, being Council's standard practice during the rezoning of sectors in Warriewood Valley. This LEP provision provides greater certainty to Council in terms of planning the necessary infrastructure requirements and community expectations of development outcomes.

- The Planning Proposal does not seek to rezone 10 Jubilee Avenue and 4 Boundary Street although the JRPP in its report on the Pre-Gateway Review, advised in relation to 4 Boundary Street as follows:

  > *"The Panel* [JRPP] *recommends that any change in zoning to Lot 2 DP816070 be limited to E4 Environmental Living or equivalent."*

  4 Boundary Street is being rezoned RU2 Rural Landscape under Draft LEP 2013, being the equivalent zone to the current 1(b) zone in LEP 1993. Applying the RU2 zone to this land will result in consideration of zone objectives that relate to agriculture and rural landscape settings. Its rezoning to RU2 is inconsistent with the JRPP's decision of 22 May 2013. The omission of the sites from the Planning Proposal appears to be an error by the Department and contrary to the JRPP's decision.

  The E4 zone, as stated in the Draft LEP 2013, is intended for land with special environmental values and more suited to accommodating low impact residential development. The objectives of the E4 Environmental Living zone,

in particular the objective *"to ensure development minimises unnecessary impacts on the natural characterises of the site and surrounding area"* will help to facilitate environmentally sensitive development. This would be a more suitable zoning for 4 Boundary Street, in keeping with the JRPP recommendations.

The amendments to Draft LEP 2013 must be clearly stated to enable clear understanding of the impact of such changes. This has not occurred for this Planning Proposal and must be rectified before the Planning Proposal can be further progressed.

3.4 The cumulative effect of the issues raised above results in uncertainty in the planning process

Council asserts that certainty in the development being realised must be a primary consideration for the Relevant Planning Authority when it considers any Planning Proposal

The range of issues and deficiencies Council has identified to this Planning Proposal however does not provide surety that having undergone a rezoning process that redevelopment can be achieved on this land. .

Council contends that for as long as these considerations remain unresolved, passing it on to the Development Application stage is too late. Resolution of these matters must be undertaken in the first phase, at the Planning Proposal/ rezoning stage. This is especially the case for this site, where any future Development Application will require assessment of matters not resolved at the Planning Proposal and consequently may not be, or able to be, resolved at the Development Application stage.

3.5 The administration of exhibition documents, which is unclear and leads to misunderstanding

Council has identified errors regarding the statutory exhibition of the Planning Proposal. These errors result in lack of clarity around the assessment of issues, the Minimum Lot Size Map being introduced and the access arrangement that can result in information considered to be misleading.

3.5.1 *Issues regarding the Planning Proposal document itself*

All Planning Proposals are to include a level of detail in accordance with the DP&I's *A Guide to Preparing Planning Proposals* (the Guide), wherein it states that:

> *"The level of detail required in a planning proposal should be proportionate to the complexity of the proposed amendment. The planning proposal should be contain enough information to demonstrate that relevant environmental, social, economic and other site specific matters have been identified and if necessary that any issues can be addressed with additional information and/or through consultation with agencies and the community."*

Given the significant physical and environmental constraints and attributes of 120 and 122 Mona Vale Road, the exhibited planning proposal document does not demonstrably address these issues. It is unclear how likely impacts will and can be minimised in the future.

3.5.2 *No clarity with the exhibited Minimum Lot Size Map*

The Minimum Lot Size Map as exhibited, contains no legend which is unclear given it is seeking to amend LEP 1993 of which there currently is no Minimum Lot Size Map.

As exhibited, the intention of the Minimum Lot Size Map without the accompanying legend is unclear and may appear to be an administrative error however, can result in misleading information.

3.5.3 *Evidence of Road Access via 10 Jubilee Avenue & 4 Boundary Street not part of the exhibition documents*

A requirement of the JRPP's recommendation that the planning proposal for rezoning of 120 and 122 Mona Vale Road was that evidence that the proponent has either purchased or has an option to purchase the part of 10 Jubilee Avenue required for the access road be provided to the DP&I. The Gateway Determination for the Planning Proposal indicated that this evidence had been supplied in accordance with the JRPP's requirements and recommended that this evidence be included as part of the exhibition package, however evidence of the road access is neither available on the JRPP's or DP&I's website.

Given that road access via 10 Jubilee Avenue and 4 Boundary Street (referred to as Option 2 in the GMU Masterplan dated October 2012) is the only viable access option owing to the RMS' comments in relation to access onto Mona Vale Road, evidence of an option to purchase the required part of 10 Jubilee Avenue is crucial to the progression of this Planning Proposal.

To date, there has been no explanation or justification as to why the access lots should not be rezoned. The lack of evidence demonstrating a safe, efficient and convenient access is afforded the development at 120 and 122 Mona Vale Road remains.

Council contends that the omission of these properties, without clear explanation or justification from the Planning Proposal, is erroneous.

Council recommends that the JRPP redress this anomaly and amend the zoning of 10 Jubilee Avenue and 4 Boundary Street.

CONCLUSION

Council contends that the planning proposal as exhibited is premature as a range of issues clearly need to be considered and, in some cases, resolved to ensure certainty.

Access is integral to the redevelopment of 120 and 122 Mona Vale Road being realised. Council contends that the location of a safe, efficient and convenient access for future residents and emergency service personnel is deemed critical given the sites' locational and physical constraints, should not be compromised. This requires resolution now

The JRPP noted the specific environmental constraints related to 4 Boundary Street and the western portion of 10 Jubilee Avenue and having presumably considered the consequences of the 'like for like' translation where the RU2 is the equivalent of the existing 1(b) zone, recommended that it be rezoned E4 Environmental Living zone. The reasons for the omission of this recommendation into the Planning Proposal however are unclear, particularly given the conflict with a residential road going through a rural zone in terms of the objective of the rural zone.

The Planning Proposal as exhibited is clearly deficient of information and assessment, and is not in accordance with the DP&I's own Guidelines, "*A guide to preparing Planning Proposals*". There is a lack of transparency in the DP&I's consideration of issues raised during the exhibition process and lack of transparency in the decision-making process.

Following consideration of the issues identified in this submission and given the poor administration of matter, Council urges the DP&I and the JRPP, as the Relevant Planning Authority, to refuse to proceed with the Planning Proposal or as a minimum resolve to refer the application back to the Department to rectify the Planning Proposal to correctly contain the requirements of the Department's guidelines, revise the Planning Proposal to address the access issues to reflect the JRPP's decision of 22 May 2013 and to allow the community to respond to the total issues in the proposal .particularly the rezoning of 10 Jubilee Avenue and 4 Boundary Street, via a re-exhibition of the Planning Proposal.

ATTACHMENT 1

Our Reference:	SYD12/00120/06
Your Reference:	R0002/12
Contact:	Pahee Sellathurai
Telephone:	8849 2219

Transport Roads & Maritime Services

The General Manager
Pittwater Council
DX 9018
MONA VALE

Attention: Robbie Platt

REZONING PROPOSAL FOR 120-122 MONA VALE ROAD, 10 JUBILEE AVENUE AND 4 BOUNDARY STREET, WARRIEWOOD

Dear Sir/Madam,

I refer to your letter dated 22 November 2012 with regard to the preliminary notification of a rezoning proposal. Roads and Maritime Services (RMS) has reviewed the documentation and provides the following comments for Council's consideration:

1. RMS does not support the proposed left in/out provisions off Mona Vale Road at Boundary Street. The Option 2 access is preferred in this regard.

2. It is recommended that the existing left in/out access off Mona Vale Road, west of Boundary Street be removed. Access to the proposed 4 larger lots is to be provided via the proposed internal road network. The future road widening of Mona Vale Road will include dual climbing lanes or dual carriageway past this access. Relocating the access away from Mona Vale Road would ensure better road safety outcomes on Mona Vale Road at the location.

3. A shared path / cycle facilities along the proposed bushland buffer, that tie into Mona Vale Road and the developments internal network, should be considered as part of this development. This may be conducive to future provisions along Mona Vale Road as the dual carriageway upgrade gains momentum, while providing a useable facility in the interim that takes cyclists away from the climbing road shoulder through most of this steeply graded length providing a significant road safety benefit for cyclists.

4. It is a normal practice for RMS to encourage the use of flora species that are in fitting with native and endangered species of the surrounding area if possible. It would be beneficial if the development does the same to ensure local ecology remains connected should road widening seek to clear the majority of the road corridor along the Mona Vale Road frontage.

Roads & Maritime Services

LEVEL 11, 27-31 ARGYLE STREET PARRAMATTA, NSW 2150
PO BOX 973 PARRAMATTA CBD | NSW 2150 DX28555
www.rmservices.nsw.gov.au | Tel 13 22 13

Please refer any further queries on this matter to Pahee Sellathurai on 8849 2219.

Yours sincerely,

Owen Hodgson
Senior Land Use Planner
Transport Planning, Sydney Region

6 December 2012

PITTWATER COUNCIL

ATTACHMENT 2

All communications to be addressed to:

Headquarters
NSW Rural Fire Service
Locked Mail Bag 17
GRANVILLE NSW 2142

Telephone: 1300 679 737
e-mail: csc@rfs.nsw.gov.au

Headquarters
NSW Rural Fire Service
15 Carter Street
HOMEBUSH BAY NSW 2127

Facsimile: (02) 8867 7983

The General Manager
Pittwater Council
PO Box 882
MONA VALE NSW 1660

Attention: Liza Cordoba

Your Ref: R00002/12
Our Ref: L08/0142
ED12/034410

3 January 2013

Dear Sir / Madam

Re: Preliminary Notification (Non-statutory) of rezoning for 120-122 Mona Vale Rd, 10 Jubilee Ave & 4 Boundary Street Warriewood.

I refer to your letter dated 22 November 2012 seeking advice for the above rezoning proposal and apologize for our delay in response.

The NSW Rural Fire Service (RFS) notes that portions of the subject sites fall within bush fire prone areas as identified on the Pittwater Bush Fire Prone Land Map.

The RFS raises concerns with both proposals (Options 1 & 2) tabled for the site. Of particular concern is the access / egress provided to the site and the accuracy of the bush fire assessment report provided with the application.

In relation to access / egress to the site, the RFS raises concerns that access / egress from the site is reliant on a single access point to the nearest through road (Mona Vale Road) which, may not provide a satisfactory level of service for evacuation of occupants in the event of an emergency. This access point being potentially subject to the restriction of left in left out onto Mona Vale Road.

The RFS prefers Option 2 to Option 1 with a minor modification. From the plan provided, it appears that a through road is proposed within Lot 2 DP 816070 to Jubilee Road, which would connect the proposal with the existing road network further to the east of the site. This would improve the access provisions by providing an alternate access/egress route to Mona Vale Road. If a through road has not been proposed, consideration should be given to its provision.

Please be advised that a perimeter road is the preferred option to separate bush land from rural-residential subdivisions and the subject site is considered to have the potential to accommodate a perimeter road.

RECEIVED
- 8 JAN 2013
PITTWATER COUNCIL

It is also noted that the bushfire assessment report prepared Advanced Bushfire Performance Solutions dated September 2012 for Options 1 & 2 has inconsistencies that will require further information and analysis.

Matters that require further clarification include Asset Protection Zones (APZ's), including compliance with Planning for Bushfire Protection for subdivisions, demonstrated modelling within the report that results in potential flame contact, APZ's on lands greater than 18 Degrees, and the potential requirement for a buffer from Narrabeen Creek that will potentially increase the minimum required APZ's.

Furthermore, clarification is required of the potential ramifications of the proposed park/bushland/creek areas proposed within the site that may increase the bush fire threat to the site. This potentially increases the risk in providing 'fire runs' through the subject site, potentially resulting in bush fire behaviour of significant intensity impacting the vicinity.

The RFS recommends that the rezoning - and subsequent related planning directions - demonstrate due consideration for the bush fire risk that exists within the area, and provide for appropriate mitigation of the evaluated risks.

As such, any future development within the abovementioned subject site will be required to comply with section 79BA (residential, commercial or industrial development) or section 91 (subdivision or special fire protection purposes development) of the *Environmental Planning and Assessment Act* 1979. Applications affected by section 91 will require the issue of a bush fire safety authority as per section 100B of the *Rural Fires Act* 1997.

Consideration should also be given to ensuring appropriate access, water and utilities is available to the proposed Lots. Where an increase in density or a special fire protection purpose development could be proposed, roads should provide a satisfactory level of service for evacuation of occupants in the event of an emergency.

For any enquiries regarding this correspondence please contact Jason Hulston on 1300 NSW RFS.

Yours sincerely

Iona Cameron
A/Team Leader, Development Assessment

The RFS has made getting additional information easier. For general information on *Planning for Bush Fire Protection 2006*, visit the RFS web page at www.rfs.nsw.gov.au and search under *Planning for Bush Fire Protection 2006*.

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ATTACHMENT 3

NSW GOVERNMENT Fire & Rescue NSW

File Ref. No: NFB/02794
TRIM Doc. No: D13/1069
Contact: J Black

16 January 2013

Manager Planning & Assessment
Pittwater Council
PO Box 882
MONA VALE NSW 1660
pittwater_council@pittwater.nsw.gov.au

Attention: Robbie Platt

Dear Sir

Re: Assessment of 120-122 Mona Vale Road, 10 Jubilee Avenue and 4 Boundary Street, WARRIEWOOD

I refer to your correspondence dated 22 November 2012 requesting Fire and Rescue NSW (FRNSW) comment on a Draft Planning Proposal for the above address.

After review of the submitted documentation the following comments are provided;

1. FRNSW recommends that all developments should comply with the requirements of the Building Code of Australia (BCA) and relevant Australian Standards.

2. To facilitate FRNSW firefighting operations it is recommended that minimum carriageway widths, turning areas, gradients, kerb dimensions and minimum Allowable Bearing Pressures for the carriageways and hardstand areas be provided in accordance with FRNSW Guidelines for Emergency Vehicle Access, Policy No. 4. (http://www.fire.nsw.gov.au/gallery/files/pdf/guidelines/vehicle_access.pdf), available through the FRNSW website.

3. FRNSW recommends that the sites' reticulated water authority main incorporate the comprehensive installation of fire hydrants throughout the entire site. The fire hydrants should be provided with suitable hinged type covers that will enable local FRNSW crews to safely access the hydrants with readily identifiable indicators such as hydrant indicator plates and cats-eye reflectors.

4. To facilitate rapid firefighting intervention and other emergency service response, FRNSW recommends that all streets and roadways are prominently

Fire & Rescue NSW ABN 12 593 473 110 www.fire.nsw.gov.au
Community Safety Directorate Locked Bag 12, Greenacre NSW 2190
Building Compliance Unit
T (02) 9742 7400
F (02) 9742 7483

signposted and for all buildings to be clearly identified by their relevant street number.

5. A second entry/exit point should be incorporated into the plan to facilitate emergency vehicle access or egress and resident evacuation in the event one entry point is unavailable. This is particularly relevant in an area bordering a bushland environment which could be impacted by a fire event.

Should you have any further enquiries regarding any of the above matters, please do not hesitate to contact the Structural Fire Safety Unit.

Yours faithfully

Peter Nugent
Acting Manager
Building Fire Safety Unit

ATTACHMENT 4

NSW GOVERNMENT Office of Environment & Heritage

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- 8 JAN 2013
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Your Reference R0002/12
Our reference: Doc12/49158

Mr Lindsay Dyce
Manager Planning and Assessment
Pittwater Council
PO Box 882
MONA VALE NSW 1660

Attention: Robbie Platt

Dear Mr Dyce

I refer to your letter received by the Office of Environment and Heritage (OEH) on 22 November 2012 regarding the preliminary notification (non statutory) of a planning proposal for 120 Mona Vale Road, 10 Jubilee Avenue and 4 Boundary Street Warriewood, and seeking OEH's views prior to the Council making a decision on the whether to support the draft Planning Proposal.

OEH will be able to provide more detailed assessment once Council has determined its support for the Planning Proposal. However, OEH has the following general comments to make on biodiversity and Aboriginal Cultural Heritage.

Biodiversity
The *Masterplan 120 Mona Vale Road Warriewood* (GMU October 2012) has identified the high biodiversity values of the site. As part of the development of a Planning Proposal a biodiversity assessment should be undertaken to enable Council to identify, assess and appropriately conserve the ecological attributes of the site. The scope and detail required in the assessment will vary depending on the existing and potential attributes of the site.

In broad terms OEH considers that an assessment of biodiversity values should include, but not necessarily be restricted to, the following information:

- detailed description and mapping of all vegetation communities on the site;
- identification of any vegetation communities or plant species that are of local, regional or state conservation significance (including threatened species, populations, endangered ecological communities and their habitats or critical habitat, listed under the *Threatened Species Conservation Act 1995*). The criteria for establishing significance should be documented;
- description of known or expected fauna assemblages within the area;
- identification of fauna habitat likely to be of local, regional or state significance (including habitat of threatened species, populations, ecological communities or critical habitat listed under the TSC Act);
- identification of habitat corridors and linkages between areas of remnant native vegetation that may assist faunal movement (particularly during extreme events), and an assessment of the conservation significance of these; and
- prediction of the likely impact of any zonings or provisions proposed in the on the above attributes (quantification of the extent of impact where practical).

Areas identified of high biodiversity value and adjoining areas of moderate value should be managed to ensure that no development or activity including public access and recreation result in adverse impacts or loss in values. For these areas OEH recommends:

PO Box 668 Parramatta NSW 2124
Level 7, 79 George St Parramatta NSW 2150
Tel: (02) 9995 5000 Fax: (02) 9995 6900
ABN 30 841 387 271
www.environment.nsw.gov.au

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- the application of an Environment Protection Zone (first preference), with permitted uses limited to those that are consistent with the protection of the conservation values present;
- the use of overlays to identify environmentally sensitive areas and the;
- inclusion of local provisions with development controls and heads of consideration; and/or
- the provision of more detailed controls in DCPs (for example for native vegetation protection and development controls and assessment requirements for environmental overlays).

Asset protection zones need to be accommodated for within the areas proposed to be zoned for development.

Aboriginal cultural heritage
The Metropolitan area is known to have a rich and diverse Aboriginal history. Areas of significance to Aboriginal people can generally be expected to occur across the region. This includes both traditional and contemporary associations of Aboriginal people with the environment as well as physical sites (i.e. that contain archaeological evidence).

Aboriginal heritage issues should be addressed up front and at the earliest possible stage of the planning process. OEH recommends the completion of two basic types of Aboriginal cultural heritage assessment to inform the preparation of the draft Planning Proposal:

- **an archaeological assessment –** this involves the identification and assessment of Aboriginal objects (often referred to as "sites") and their management based on archaeological criteria; and
- **a cultural heritage assessment –** this involves consultation with Aboriginal stakeholders (groups and individuals) and can include historical and oral history assessment and broader values assessment (e.g. landscape and spiritual values).

The outcomes of the archaeological and consultation components of the Aboriginal heritage assessment should be compiled into a single mapping of high, moderate or low Aboriginal cultural value.

While there will still be a need to assess Aboriginal heritage impacts at the development application stage, and to include the Aboriginal stakeholders in that process, decisions at this level will be far more robust if they can be informed by a higher, strategic level of assessment.

OEH recommends that areas of Aboriginal cultural value be afforded similar protection through zoning to areas of biodiversity value. That is, for areas of identified Aboriginal cultural heritage value the following options should be considered:

- the application of an Environment Protection zone (first preference) with permitted uses limited to those that are consistent with the protection of the conservation values present within the zone;
- the use of overlays to identify areas of sensitivity (however, information should not be included that would identify the precise locations of known Aboriginal sites. This is necessary to avoid possible vandalism or damage);
- inclusion of development controls and heads of consideration; and
- the provision of more detailed controls in DCPs.

If you have any questions please contact me on 9995 6864.

Yours sincerely
S. Harrison 21/12/12

SUSAN HARRISON
Manager Planning
Regional Operations, Metropolitan
Office of Environment and Heritage

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ATTACHMENT 5

Aboriginal Heritage Office
Ku-ring-gai, Lane Cove, Manly, North Sydney, Pittwater, Warringah, Willoughby and City of Ryde Councils

PO Box 12 North Sydney NSW 2059
DX 10587
Ph: (02) 9949 9882. Fx: (02) 9958 2799
Email: aho@northsydney.nsw.gov.au
www.aboriginalheritage.org

Thursday, 6 December 2012

Lindsay Dyce
Manager Planning and Assessment
Pittwater Council
PO Box 882
Mona Vale NSW 1600

Re: Preliminary Notification Rezoning for 120-122 Mona Vale Rd, 10 Jubilee Ave and 4 Boundary St, Warriewood

Reference is made to the proposed rezoning at the above area and Aboriginal heritage.

The Aboriginal Heritage Office has reviewed the draft Planning Proposal for the land. There is no Aboriginal heritage section or assessment referenced in the plan and it appears that the proposal has been put forward with no consideration of the Aboriginal heritage values of the area.

There are known Aboriginal heritage sites in the Warriewood area and the proposed development area is considered to have high potential for unrecorded sites. The Aboriginal Heritage Office would recommend a full and comprehensive assessment be carried out for the area by a qualified Aboriginal heritage professional prior to any development or further planning. This inspection would provide guidance as to whether any Aboriginal heritage issues would be affected by the development and recommendations as to the next steps, if any. It would also ensure that any identified Aboriginal heritage issues could be incorporated into the planning at the early design stage rather than the potentially more costly reconfiguration of designs or permit requirements if left to a later stage in the process. The assessment may require subsurface archaeological testing.

Should any Aboriginal sites be identified Council, the Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council should be contacted.

If you have any queries, please contact me on (02) 9949 9882.

Yours sincerely,

David Watts
Aboriginal Heritage Manager