



SUBJECT: Warriewood Valley Strategic Review Report - Outcomes of public exhibition and final report

Meeting: Council

Date: 12 June 2013

STRATEGY: Land Use & Development

ACTION: Coordinate land use planning component of land release

PURPOSE OF REPORT

- Inform Council and stakeholders of the outcome of the public exhibition of the Warriewood Valley Strategic Review Report.
 - Address the issues raised in submissions through the Analysis of Submissions document (*tabled separately*).
 - Inform Council and stakeholders of the Final Probity Report (*attached to this report*) prepared by Procure Group, to oversee the governance issues regarding the Strategic Review process.
 - Recommend the adoption of a revised Warriewood Valley Strategic Review to Report (*tabled separately*).
 - Inform Council in relation to flooding and water management and flood emergency response issues.
 - Propose a forward path for all currently undeveloped sectors in Warriewood Valley considered by the Strategic Review.
 - Propose a forward path for all other undeveloped residential sectors in Warriewood Valley not considered by the Strategic Review.
 - Update Council on proposed developments in Warriewood Valley.
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1.0 BACKGROUND

- 1.1 In January 2011, the Planning Assessment Commission (PAC) in determining the Major Project Application at 14-18 Boondah Road Warriewood, recommended that:

“Council and the Department work together to clarify the role of the Warriewood centre, the potential for higher density residential and employment generating developments adjacent to the centre, its role in the subregion and how it relates to the rest of the Valley, in terms of development density, housing mix and traffic and transport. Council and the Department should jointly prepare a comprehensive strategic study of the whole area to review:

- *the appropriateness of Council height and density standards across the Valley,*
- *the role of Warriewood Square,*

- *the current transport network and necessary improvement works, and*
 - *the demand for physical and social infrastructure in the Valley and the surrounding area.”*
- 1.2 On 14 April 2011, the Director-General (DG) of the Department of Planning and Infrastructure (the Department) wrote to Council confirming the Department’s commitment to undertake a strategic review of Warriewood Valley with Council proposing Draft Terms of Reference for Council’s consideration.
 - 1.3 In May 2011, the Minister for Planning agreed (separate to the strategic review process) to Council maintaining a contribution rate of \$62,100 per dwelling as applying to Warriewood Valley subject to, when it was completed, the strategic review findings being considered (and discussed in section 9 of this report).
 - 1.4 At its meeting of 16 May 2011, Council considered the Draft Terms of Reference which outlined the partnership approach developed between Council and the Department of Planning and Infrastructure to undertake a strategic review of all undeveloped lands in the Warriewood Valley Release Area. At that meeting, the Terms of Reference were adopted and the Strategic Review formally commenced. Council’s resolution is contained in **Attachment 1**.
 - 1.5 Council was provided with a progress update on the Strategic Review process at its meeting of 18 July 2011. At the time it was anticipated that the strategic review project would be completed in the first quarter of 2012 when the outcomes of the exhibition of a Draft Strategic Review Report and revised Final Strategic Review Report are presented to Council.
 - 1.6 Draft Warriewood Valley Strategic Review Report
 - 1.6.1 At its meeting of 19 March 2012, Council was informed of the findings of the Draft Warriewood Valley Strategic Review Report (Draft Strategic Review Report), including the findings of the independent consultants who were commissioned to report on hydrology and water management issues, urban design, traffic and transport issues and the economic feasibility of the recommendations. These four consultant reports in turn, informed the Strategic Review.
 - 1.6.2 The Draft Strategic Review Report recommended an additional 269 dwellings above the Warriewood Valley Planning Framework 2010 be accommodated within Warriewood Valley, through an increase in density from 25 dwellings per hectare to generally 32 dwellings per hectare and an increase in building heights up to 3 storeys.
 - 1.6.3 The Draft Strategic Review Report identified a concept plan for the Southern Buffer, which proposed a potential development scenario for the development of the sector as a whole as a catalyst for Southern Buffer landowner consultation.
 - 1.6.4 The Draft Strategic Review Report also identified a significant issue relating to emergency flood evacuation policy and the requirements of the NSW State Emergency Service (SES) which arose during the investigative stages of the Strategic Review process.

- 1.7 At its meeting of 19 March 2012, Council resolved to publicly exhibit the Draft Strategic Review Report (the Exhibited Report) and associated base map layers contained in the report, the four associated consultant studies that informed the Strategic Review and the Interim Probity Report. Council's resolution is contained in **Attachment 2**.
 - 1.8 Following the exhibition changes were made to the Draft Strategic Review Report. It was anticipated that the final report would be reported to Council in December 2012, subject to a 'sign off' from the Director General of the Department of Planning & Infrastructure.
 - 1.9 The Director General, by letter dated 1 May 2013, agreed to release the document. Prior to the Director General's agreement Council proactively released the Final Strategic Review Report (the subject of this report to Council) and the associated Submissions Report on 3 May 2013.
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2.0 ISSUES

- Public exhibition
- Main issues raised in submissions
- Government and State Agencies responses
- Probity Issues
- Recommended amendments to the Draft Warriewood Valley Strategic Review Report
- Flooding, water management and flood emergency response policy issues
- Infrastructure considerations
- Affordable Housing provision
- Future recreational and community uses
- Recommends a forward path for:
 - Residential sectors identified for intensified development with an evacuation route at PMF level
 - Residential sectors identified for intensified development without an evacuation route at PMF level
 - Sector known as 120 Mona Vale Road
 - The Southern Buffer
 - Infrastructure provision
 - Residential sectors excluded from a density allocation but with some development capacity
- Director-General's letter dated 1 May 2013

3.0 PUBLIC EXHIBITION

3.1 Exhibition of the Draft Warriewood Valley Strategic Review Report

- 3.1.1 The Draft Warriewood Valley Strategic Review Report (Draft Strategic Review Report), associated reports and Council's adopted mapping layers were exhibited for a period of 8 weeks between 24 March 2012 and 18 May 2012.
- 3.1.2 During the exhibition period a Community Briefing Session was held on 3 April 2012 where Council and Department staff provided an overview of the Draft Strategic Review Report and its findings. The session was attended by over 300 community members.
- 3.1.3 Other opportunities for face to face meetings with Council staff were also facilitated. A pop-up stall at Centro Warriewood (Warriewood Square) was held during the exhibition period and manned by Council staff. The PCG also met with certain stakeholders, at their request, seeking further explanation of the findings of the draft Strategic Review Report.
- 3.1.4 Submissions were received through a number of formats, including formal written submissions, written and online comment forms, and informal comments received through an online mapping tool and other various social media forums. During the exhibition approximately 350 formal submissions were received. 100 submissions were received through Social Media sources. A petition containing 56 signatures was also received.
- 3.1.5 Additional information supplementary to any submission made during the exhibition period was able to be submitted up until 1 June 2012.
- 3.1.6 Submissions were largely from individual landowners and residents within Warriewood Valley and the surrounding suburbs. Several landowner groups, businesses and other interest groups/community organisations also made submissions during the exhibition period. Submissions were also received from the following Government and servicing agencies:
- Department of Education & Communities
 - Roads & Maritime Services
 - Northern Beach Health Promotion (NSW Health)
 - Office of Environment & Heritage
 - Warringah Council
 - Sydney Water
 - Ausgrid
- 3.1.7 Each submission has been collated, reviewed and subsequently addressed in the document entitled 'Analysis of Submissions to the Warriewood Valley Strategic Review' ('Analysis of Submissions'), an attachment to this report and separately attached.

3.1.8 Each submission was publicly available via Council's website (due to privacy legislation, personal information was been redacted from each submission).

3.2 Release of Final Strategic Review Report and Associated Reports

3.2.1 The final Strategic Review Report and Analysis of Submissions document were released to the public on 3 May 2013. The Final Probity Report was released on 7 May 2013.

4.0 MAIN ISSUES RAISED IN SUBMISSIONS

4.1 All issues which have been raised in submissions have been collated by theme and addressed in the Analysis of Submissions document (an attachment to this report and separately tabled) and are not replicated in this report. A synopsis of the principal issues raised in submissions are outlined below:

4.2 Residential density and height

- Perception that the Strategic Review recommends 'high density' development.
- Current residential densities under the Warriewood Valley Planning Framework 2010 (2010 Planning Framework) should be retained.
- Concern regarding possibilities for sector amalgamations.
- Perception that the Strategic Review recommends 'high rise' development.
- Opposition to building heights over 3 storeys.
- Opposition to limitation to building heights.
- Concern regarding change to Warriewood Valley's existing character associated within increased density and height.

4.3 Sectors excluded from density allocation

- Opposition to some sectors being identified with only limited capacity for development and excluded from a density allocation.

4.4 Total number of dwellings expected in release area

- Concern regarding total number of dwellings if site amalgamations occur.
- Concern regarding total number of dwellings if sectors excluded from density allocation under Strategic Review later develop.

4.5 Sector 9 development and Warriewood Valley District Park

- Opposition to residential development occurring on Council-owned land within Sector 9 (land previously purchased to meet the release area's open space requirements).

4.6 Roads and Traffic

- Criticism that the Traffic and Transport Study did not include an assessment of the capacity of arterial roads (Pittwater Road, Mona Vale Road and Wakehurst Parkway) and Powderworks Road

- Queries regarding methodology used by traffic and transport consultant in assessing capacity of roads.

4.7 Economic feasibility assessment

- Perception that low density development is the most viable form of residential development.
- Concern that the strategic review did not account for the consultant's report that density over 60 dwellings per hectare is viable.

4.7 Southern Buffer Concept Plan

- Opposition from individuals to any loss of open space or community facilities in the Southern Buffer.
- Opposition from private landowners to mixed use centre located at corner of Jacksons Road and Pittwater Road.
- Opposition from private landowners to the requirement for a collaborative approach for the future development of sector due to the disparate views of public and private landowners.
- Opposition from public landowners to exhibited concept plan due to potential loss open active open space and the existing community facilities

5.0 GOVERNMENT AND SERVICE AGENCY RESPONSES

5.1 Response from Department of Education & Communities (DEC)

Based on up to an additional 500 dwellings, the DEC advises that there is adequate capacity at Narrabeen Sports High School to accommodate senior students. For primary students, the Department expects that there would be a need to increase capacity at either Narrabeen North Public School or Mona Vale Public School.

5.2 Response from Roads & Maritime Services (RMS)

The RMS has advised that it supports the Strategic Review's recommendations, provided that:-

- The maximum number of approved dwellings in the Warriewood study area does not exceed 2544 dwellings, and
- No further development is approved for the area identified as the Southern Buffer until further traffic modelling is carried out on the Pittwater Road/Warriewood Road and Pittwater Road/Mona Vale Road intersections.

5.3 Response from Department of Health – Northern Sydney Local Health District (NSLHD)

NSLHD notes that the northeast is Sydney's most car dependent subregion and recommends that the frequency and the capacity of the public transport system be improved to accommodate the proposed increase in density.

NSLHD commends the inclusion of pedestrian and cycle links throughout Warriewood, but recommends that cycleways be separated from traffic to allow for safe, active transport and to increase participant numbers.

5.4 **Response from Office of Environment & Heritage (OEH)**

The OEH generally supports the proposed increase in residential density, provided that flooding issues and bushfire protection issues are adequately considered and that riparian corridors can be retained and protected.

5.5 **Response from Warringah Council**

Warringah Council's comments principally relate to the proposal's subregional planning context, in terms of traffic and transport infrastructure within the subregion and flood implications from Warriewood Valley in the Narrabeen Lagoon catchment area.

5.6 **Response from Sydney Water**

Sydney Water advises there is capacity in both water and wastewater systems to service the proposed density increase in Warriewood Valley.

5.7 **Response from Ausgrid**

Ausgrid expects that supply to the proposed development would be able to be provided from the electricity substations at Mona Vale or Narrabeen.

6.0 **PROBITY ISSUES**

6.1 Procure Group Pty Ltd was engaged as the independent probity advisor overseeing probity issues concerning the Warriewood Valley Strategic Review. A Probity Plan was prepared by Procure Group Pty Ltd aimed to:

- Identify potential conflicts of interest and probity risks associated with the scope of the Strategic Review project
- Details the processes to be followed by Department personnel, Council personnel and Project Control Group (PCG) members to avoid those identified conflicts of interest and probity risks
- Identify and articulates the roles and responsibilities of each PCG member.

In addition, the Probity Advisor prepared a probity and communication protocol for the two teams established by the General Manager in regard to the Council's land ownership, development and regulatory roles.

6.2 Procure Group audited the Department's, Council's and the PCG's delivery of the project against the governance and project protocols in both the Project Plan and Community Engagement Plan and against the Probity Plan.

6.3 An Interim Probity Report containing an audit of the Strategic Review process was presented to Council at its meeting of 19 March 2012. The Interim Probity Report was placed on public exhibition with the Draft Strategic Review Report.

6.4 With the review now completed, the final outcomes of the audit are presented in the Final Probity Report (see **Attachment 3**). This Report also responds to a number of landowner concerns raised during the exhibition.

7.0 AMENDMENTS TO THE DRAFT STRATEGIC REVIEW REPORT

7.1 Residential density

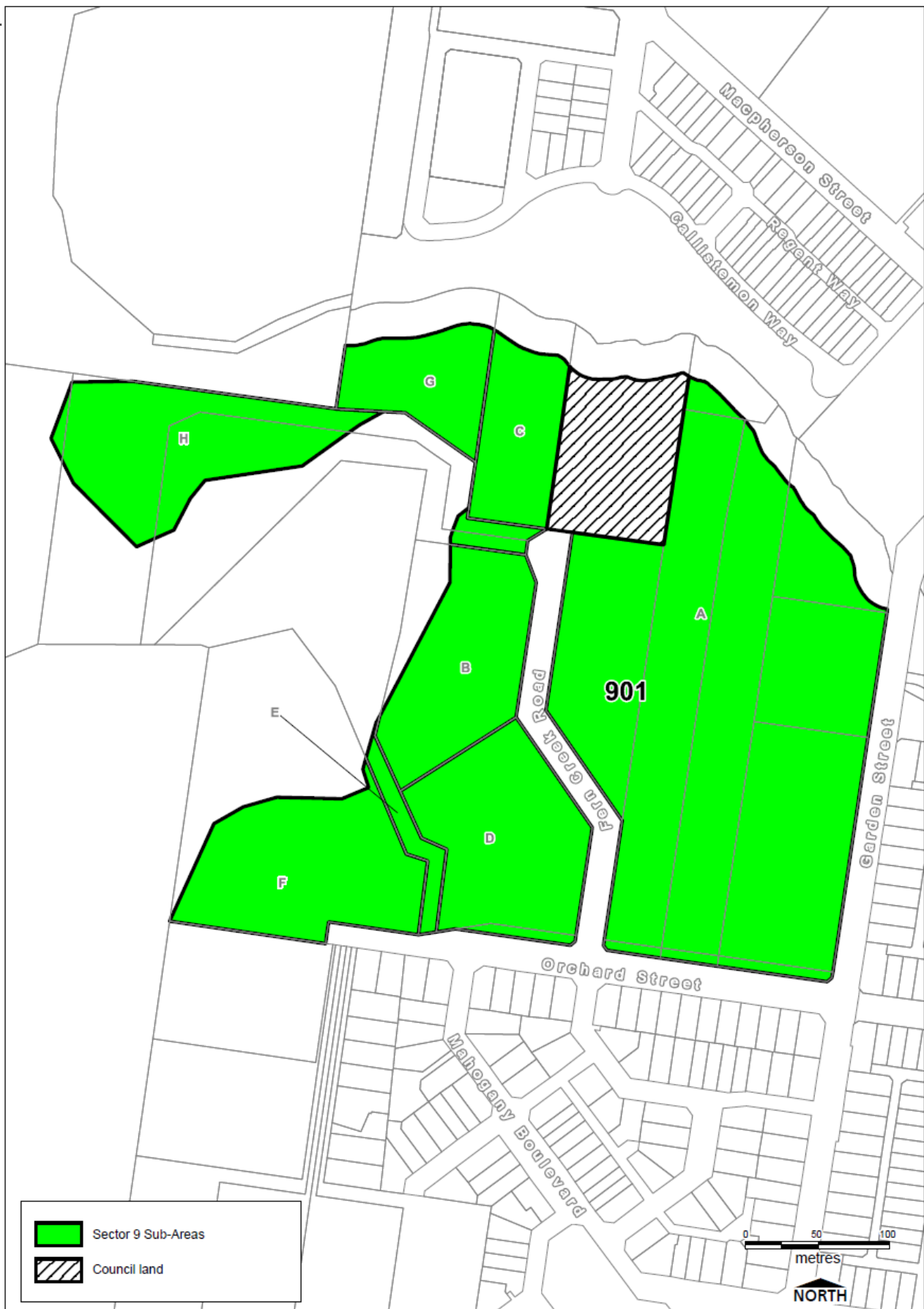
- 7.1.1 The Draft Strategic Review Report recommended a maximum density of 32 dwellings per hectare, with one sector, Sector 901A, able to achieve 36 dwellings per hectare through amalgamation of all properties within the sector.
- 7.1.2 Sector 901A, see **Map 1** on next page, includes the Council-owned property (hatched), 9 Fern Creek Road, originally purchased for use as open space. During the exhibition period the Council Property Team formally confirmed no intention to accommodate residential form within 9 Fern Creek Road.

As a result, the opportunity for site amalgamation in Sector 901A is not able to be achieved and the maximum density is therefore reduced accordingly.

- 7.1.3 The maximum density recommended in the final Strategic Review Report is 32 dwellings per hectare, an increase from the maximum density of 25 dwellings per hectare under the 2010 Planning Framework.
- 7.1.4 The Strategic Review aimed to identify undeveloped sectors with capability for development greater than 25 dwellings per hectare and those not capable of intensified development. The final Strategic Review Report has allocated some sectors a density lower than 25 dwellings per hectare, based generally on the Urban Design Consultant's recommendations.

Although the recommended density is lower than 25 dwellings per hectare, the density allocated to these sectors under the Strategic Review is generally proportional to that proposed under Council's 2010 Planning Framework.

MAP 1: SECTOR 901 SUB-SECTOR BREAKDOWN



Removal of sector-based approach

- 7.2.1 With the exception of Sector 501, the final Strategic Review Report recommends that the remaining undeveloped sectors in Warriewood Valley develop as separate land parcels rather than as a whole sector, as previously required for the development of the Warriewood Valley release area.

Relinquishing the sector based approach will facilitate development proceeding in a timely manner.

- 7.2.2 The former Sector 901 is in fragmented land ownership. To facilitate timely and orderly development of this sector, integrated access arrangements and water management requirements across the various land ownerships that may develop at different times, must be developed for inclusion within a future amendment to Pittwater 21 DCP). The development of DCP provisions to facilitate orderly development albeit of individual land parcels has already been applied for lands in Buffer Area 1 where Control C6.24 in Pittwater 21 DCP requires development in Buffer Area 1 to facilitate an east-west connection across Buffer Area 1 to Lorikeet Grove, in Sector 2, and two additional public road connections from the new east-west road to Warriewood Road.

7.3 Residential building heights

- 7.3.1 The exhibited Draft Strategic Review Report contained a 3 storey height limitation for all residential development to provide for diversity of housing stock by allowing opportunities for low-rise apartment buildings to be achieved.
- 7.3.2 The final Strategic Review Report confirms that at the street frontage building heights are limited to 2 storeys and maximum 3 storeys at the rear of the lots (behind the 2 storey street front).

7.4 Total additional dwellings

- 7.4.1 The removal of the Council-owned land in Sector 901A (9 Fern Creek Road) results in a reduction in the total number of additional dwellings anticipated under the exhibited Draft Strategic Review Report.
- 7.4.2 The final Strategic Review Report therefore recommends a maximum density of 32 dwellings per hectare resulting in an additional of 193 dwellings above the 2010 Planning Framework's yield allocation rather than the Draft Review Report's 269 dwellings. The breakdown of the additional dwellings is outlined in **Table 1** below (to be read in conjunction with MAPS 1 and 2):

TABLE 1: PRO-RATA DWELLING YIELD ALLOCATION FOR UNDEVELOPED SECTORS

Sector	2010 Framework Yield	Exhibited Yield	Additional to 2010 Framework	Post-exhibition Recommended Yield	Additional to 2010 Framework
101	1	4	3	4	3
301	42	53	11	53	11
302	66	84	18	84	18
303	23	29	6	29	6
501	75	99	24	94*	19
801	19	38	19	38	19
901A & road reserve	156 ⁺	263	107	192	36
901B	12 ⁺	36	24	36	24
901C	17 ⁺	22	5	22	5
901D & road reserve	14 ⁺	No density/yield allocated**	-14	No density/yield allocated**	-14
901E	2 ⁺	No density/yield allocated**	-2	No density/yield allocated**	-2
901F	14 ⁺	14	0	14	0
901G	16 ⁺	No density/yield allocated**	-14	No density/yield allocated**	-16
901H	14 ⁺	No density/yield allocated**	-14	No density/yield allocated**	-14
10A.1	8	No density/yield allocated**	-8	No density/yield allocated**	-8
10A.2	6	No density/yield allocated**	-6	No density/yield allocated**	-6
10B	28	45	17	45	17
Buffer 1a	17	15 dwellings under construction	-2	15 dwellings under construction	-2
Buffer 1b	17	24	7	24	7
Buffer 1c	13	18	5	18	5
Buffer 1d	1	1	0	1	0
Buffer 1e	11	15	4	15	4
Buffer 1f	14	21	7	21	7
Buffer 1g	17	23	6	23	6
Buffer 1h	1	1	0	1	0
Buffer 1i	27	39	12	39	12
Buffer 1j	26	40	14	40	14
Buffer 1k	14	21	7	21	7
Buffer 1l	43	67	24	67	24
Buffer 1m	No allocation	No development capacity	0	No development capacity	0
Buffer 2a	20	29	9	29	9
Buffer 3b	7	9	2	9	2
TOTAL DWELLINGS	741	1010	269	934	193

*Incorrect total (99 dwellings) shown in Exhibited Report and Urban Design Study. Correct total 94 dwellings.

*The 2010 Planning Framework allocated 245 dwelling across entire sector, calculated on densities between 10/Ha and 25/Ha across various land parcels. Yields for individual sub-sectors have been attributed separate to the review findings based on these densities.

**The exhibited report did not allocate a density/yield. Exhibited Draft Strategic Review Report stipulated that onus on landowners to demonstrate how development can be achieved.

**No density allocated under final Strategic Review Report, however likely possible yield recognised for infrastructure modelling, subject to further studies and separate rezoning application.

MAP 2: SECTOR MAP (TO BE READ IN CONJUNCTION WITH TABLE 1)



Sectors excluded from a density allocation

7.5.1 The Strategic Review process aimed to identify lands with capability for development greater than 25 dwellings per hectare and concurrently aimed to identify land not capable of intensified development due to environmental constraints. As outlined in Table 1, the following sectors were not allocated an increased density under the Strategic Review due to environmental constraints:

- 120 Mona Vale Road
- Buffer 1M
- Buffer 1a
- Sector 901D and road reserve, 901E, 901G, 901H
- Sector 10A.1 and 10A.2

7.5.2 120 Mona Vale Road as opposed to other sectors listed above, was excluded from consideration for intensified development at the land capability sieve stage due to significant environmental constraints. This sector was not considered by 2010 Planning Framework as, at the time, the pre-planning for Warriewood Valley did not include this land nor attribute a yield to this land. Council has since refused a rezoning for this site. This is discussed later in this report.

7.5.3 Buffer 1M was excluded from a density allocation under the exhibited Draft Strategic Review Report due to significant flooding constraints which to date have not been able to be addressed by the landowner.

The final Strategic Review Report has not altered its recommendations for Buffer 1M however confirmed that the onus is on the landowner to demonstrate how development can be achieved given the attributes of the land through the rezoning application process.

7.5.4 Buffer 1a was also excluded from a density allocation in recognition of the construction of 15 dwellings, commenced in 2011/2012.

7.5.5 The remaining sectors (Sectors 901D, 901E, 901G, 901H, 10A.1, 10A.2) had previously been attributed a pro-rata dwelling allocation under the 2010 Planning Framework. These sectors passed through the land capability sieve however the Urban Design Consultant determined these sectors not suitable for intensified development.

Sectors 901D, 901E and 901G subject to their environmental attributes being addressed including the need for site amalgamation have potential for limited capacity for development at less than 25 dwellings per hectare. A brief synopsis of the constraints and opportunities for these sectors is outlined in **Table 2**. This table so estimates the number of additional dwellings for these sectors, determined for the purpose of reviewing commensurate infrastructure and services. A possible potential for 22 dwellings across sub-sectors 901D, 901E, Orchard Street road reserve (West) and 901G has been identified consistent with the 2010 Planning Framework.

TABLE 2: CONSTRAINTS & OPPORTUNITIES FOR SECTORS 901D, ORCHARD STREET ROAD RESERVE (WEST), 901E & 901G

Sector	Development Issues at DA Stage	Opportunities	Possible Additional Yield Subject to Rezoning
901D & Orchard Street Road Reserve (West)*	<ul style="list-style-type: none"> – Biodiversity – Slope – Visual Impact – Site contains electricity easement 	Similar to a section of land in Sector 20 where a yield of approximately 6 dwellings per Hectare was achieved	14
901E*	<ul style="list-style-type: none"> – Access handle portion of parcel only in Release Area – Biodiversity – Slope – Visual impact 	Limited opportunity for development of access corridor land and will require integration/cooperation with adjoining landowners, otherwise highly constrained	2
901G+	<ul style="list-style-type: none"> – Biodiversity – Visual impact – Land locked site – Creek line corridor 	Limited opportunity for development subject to integration/cooperation with adjoining landowners, otherwise constrained particularly by creek line corridor issues	6
TOTAL DWELLINGS			22

* Amalgamation of Sectors 901D, Orchard Street road reserve (west) and 901E is necessary to enable development potential to be achieved. Sector 901 E is unable to develop as an individual sector.

+ Sector 901G must amalgamate and develop with adjoining sector 901C, both sectors are under single ownership

7.5.6 Sector 901H and Sector 10A.1 and 10A.2 are highly constrained and are unlikely to achieve any additional yield (see **Table 3**).

7.5.7 The dwelling estimates in Table 2, was undertaken to determine future infrastructure requirements. The estimates in this Table do not form recommendations of the final Strategic Review Report.

7.5.8 In relation to 120 Mona Vale Road, Council on 4 May 2013 refused a rezoning application. This is currently being reviewed by the Sydney East Joint Regional Planning Panel. This property is not proposed to be rezoned under the Strategic Review however a notional 20 dwelling units have been attributed for infrastructure modelling purposes.

TABLE 3: CONSTRAINTS & OPPORTUNITIES IDENTIFIED FOR SECTORS 901H, 10A.1 AND 10A.2

Sector	Development Constraints	Opportunities	Possible Additional Yield Subject to Rezoning
901H	<ul style="list-style-type: none"> – Biodiversity – Slope – Visual impact – Bushfire. 	Highly constrained	0
10A.1	<ul style="list-style-type: none"> – Biodiversity – Slope – Visual impact – Bushfire 	<p>Highly constrained</p> <p>A previous rezoning proposal unable to address constraints particularly bushfire.</p>	0
10A.2	<ul style="list-style-type: none"> – Biodiversity – Slope – Visual impact – Bushfire 	<p>Highly constrained</p> <p>A previous rezoning proposal unable to address constraints particularly bushfire.</p>	0
TOTAL DWELLINGS			0

7.6 Southern Buffer

- 7.6.1 The exhibited Draft Concept Plan for the Southern Buffer provided a possible development scenario and relied on a collaborative ‘whole of sector’ approach from landowners. While there may have been benefits to creating an active mixed-use commercial and community hub in this area, the exhibition of the Draft Strategic Review Report has highlighted significant environmental constraints and divergent expectations of landowners and has not provided any acceptable land use prescription.
- 7.6.2 Should an alternative land use concept plan wish to be pursued, landowners could do so through a stand-alone rezoning application that addresses, but is not limited to, the environmental constraints highlighted by the exhibited Draft Strategic Review Report and associated consultant studies for all or part of the Southern Buffer.
- 7.6.3 As a result of the consultant reports and feedback from the exhibition process the current zones are to be preserved.

7.7 Flood Emergency Response

- 7.7.1 For those sectors identified with capacity for increased density and with an evacuation route at or above the PMF level, it is proposed to progress a Planning Proposal for the rezoning of these sectors to a Gateway Determination with the Department.

- 7.7.2 For those other sectors identified with capacity for increased density but without an evacuation route at or above the PMF level, it is proposed to progress a Planning Proposal for the rezoning of these sectors to a Gateway Determination with the Department, subject to the NSW Government agreeing to emergency flood response being facilitated by an evacuation route at the 1% AEP.

7.8 Minor Typographical Errors

- 7.8.1 Since the release of the final Warriewood Valley Strategic Review Report, minor typographical errors have been identified in the report namely:

- In Table 3 Summary of Urban Design Study Outcomes for Residential Sectors, Sector 303 is referenced twice and needs to read “302 & 303”
- In the Table, under Key Outcomes Residential, on p61 and titled “*The following amalgamated sectors were recommended for higher density:*”, 901D was incorrectly referenced to be amalgamated with 901C. The correct sectors identified for amalgamation are “901C & G”.

- 7.8.2 If Council adopts the Strategic Review Report, it is intended that these typographical mistakes are rectified in the version being adopted by Council.

8.0 FLOODING, WATER MANAGEMENT & FLOOD EMERGENCY RESPONSE POLICIES

8.1 Hydrology Issues

- 8.1.1 Concern regarding the Hydrology Study undertaken for the Strategic Review related to the absence of detailed modelling reflecting post-2005 development in Warriewood Valley.

In addition to the 2005 flood study, Cardno relied upon data it had already analysed and assessed for individual development projects undertaken in Warriewood Valley since 2005. The absence of an updated flood study that consolidates the information already analysed and assessed by Cardno since 2005 is not an impediment to progressing the final Strategic Review Report as the data used to inform the Hydrology Strategy for the Strategic Review is reliable.

- 8.1.2 Issues were also raised in submissions regarding water management requirements for Warriewood Valley. Currently, as part of the requirements of the *Warriewood Valley Urban Land Release Water Management Specification*, development applications must demonstrate conveyance of the 1% AEP flood event within the rehabilitated creek line corridors. This strategy is critical to the development of Warriewood Valley and needs to continue given that portions of Fern Creek and Narrabeen Creek are not yet rehabilitated for flood conveyance.

- 8.1.3 The Narrabeen Lagoon Flood Study update is currently being undertaken and when complete, will provide the most up-to-date flood modelling information for the Narrabeen Lagoon floodplain. The Hydrology Study for the Strategic Review has made allowance for climate change impacts and will be fine-tuned when the results of the Narrabeen Lagoon Flood Study are released (due to be reported shortly).

The Narrabeen Lagoon Flood Study update will better inform the flood characteristics in the lower portion of Warriewood Valley but will have less marked change on the upper parts of the floodplain where the primary influence is from creek flooding.

The results from the updated Narrabeen Lagoon Flood Study will be incorporated in the next review of water management requirements for those areas within its catchment including relevant parts of Warriewood Valley. In regard to Warriewood Valley, this will include a review of the *Integrated Water Management Study* and the *Warriewood Valley Urban Land Release Water Management Specification*.

8.2 State Flood Emergency Response Issues

- 8.2.1 During the investigative stages of the Strategic Review process, a significant issue emerged from the recommendations of the Hydrology consultant relating to flood evacuation and the requirements of the SES. The Hydrology Report recommends acceptance of evacuation routes below the Probable Maximum Flood (PMF) level and the reliance on '*shelter in place*' or planned flood isolation in some circumstances. The Hydrology Report however qualifies this by recommending that the SES be consulted "*to gain their acceptance of the approach as the lead combat agency for floods*".
- 8.2.2 From an operational perspective, the SES recommends evacuation, via evacuation routes at or above the PMF level, as the only flood emergency response method. The SES have noted there is no acceptable period of flood isolation, as the longer the duration of flood isolation, the greater the probability of an emergency occurring requiring the attendance of emergency services. The SES however has acknowledged that evacuation may not be practical in a flash flood event.
- 8.2.3 The SES's position has serious implications for floodplain development not only within Warriewood Valley but across the rest of NSW.

Warriewood Valley's planning and development has been progressing since 1993. The area is predominantly below the 1% AEP level and substantially below the PMF level. The Valley is accessed from the south and east and partly from the north by an external road network that is below the 1% AEP level and substantially below the PMF level. The newly provided and upgraded roads within Warriewood Valley have been developed at the 1% AEP level and dwellings have been raised to facilitate '*shelter in place*' when roads are not useable.

The eastern section of Macpherson Street is part of the flood evacuation route for residents of Warriewood Valley however this portion of Macpherson Street (crossing Narrabeen Creek) currently is subject to frequent flooding. Council is planning and allocating funding towards the construction of a bridge over Narrabeen Creek based on the requirement for the route to be at the 1% AEP level. This infrastructure is in the 2012/2013 and 2013/2014 works programs. The 1% road network and proposed bridge is inconsistent with the SES's position.

- 8.2.4 The SES's position is also contrary to previous advice regarding appropriate response to evacuation and planning for flood events. The development and planning for Warriewood Valley over the years has included a suite of flood studies and input from numerous State Government Agencies. The Part 3A approval by the PAC at 14-18 Boondah Road, Warriewood did not require the raising of roads to PMF level.
- 8.2.5 As a result of the SES's position, the Department is undertaking an intra-government review of its flood evacuation policy to resolve a consistent approach to land release development and flood evacuation requirements. It is likely that this study and policy will be forthcoming in 2013.

- 8.2.6 It is proposed to proceed with the Strategic Review's recommendations and recommendation for rezoning of other sectors listed in Table 2 noting the issues raised by the Hydrology consultant and the SES and noting that the Department is attending to a review of flood evacuation requirements. For those sectors within the Warriewood Valley Release Area without a flood evacuation route at the PMF level, the progression of the recommendations of the Strategic Review is dependant on the State Government agreeing to an emergency evacuation route at the 1% AEP level.

8.3 Narrabeen Lagoon Floodplain Risk Management Study & Plan

- 8.3.1 In the absence of any direction from the State Government, Council is undertaking a specific analysis on risk to life and suitable flood emergency response methods for the Narrabeen Lagoon catchment using the data from the Narrabeen Lagoon Flood Study
- 8.3.2 This data will be used to inform a Floodplain Risk Management Study and Floodplain Risk Management Plan for the entire catchment. The Floodplain Risk Management Study will consider risk to life, suitable flood planning levels and suitable evacuation methods, including shelter in place, at a holistic catchment-wide level. The Floodplain Risk Management Plan will provide Council with a list of management options to implement.
- 8.3.3 The Narrabeen Lagoon Floodplain Risk Management Study and Plan will follow on from the Narrabeen Lagoon Flood Study currently being undertaken and is planned to commence in 2013-2015 in partnership with Warringah Council and the OEH.

9.0 INFRASTRUCTURE CONSIDERATIONS

9.1 Background

- 9.1.1 The planning and development of Warriewood Valley includes delivery of infrastructure and community facilities/services. The *Warriewood Valley Section 94 Contributions Plan (No 15 Amendment No 16)* provides the legal mechanism for the dedication of land and provision of common infrastructure and services in Warriewood Valley, including:
- Traffic and transport
 - Multi-function creekline corridors
 - Community facilities
 - Public recreation and open space
 - Pedestrian Cycleway Network
 - Bushfire Protection (*NB. This is no longer levied and provided for under the Plan*)
 - Library Services

Council adopted the *Warriewood Valley Section 94 Contributions Plan (No 15 Amendment No 16)* (the Section 94 Plan) in September 2008. That Plan was based on the construction of 1,886 new dwellings and provision of 27.107 hectares of land earmarked for industrial/commercial development. This includes 5.957 hectares of land in the Southern Buffer.

At the time the contribution rate was \$63,306.18 per equivalent dwelling/lot (equivalent dwelling = 3 bedroom dwelling).

- 9.1.2 To date, the Plan has collected contributions from 1,216 equivalent residential dwellings and 17.865 hectares of industrial/commercial development and delivered \$47 million worth of land, infrastructure and services in 2010 dollar values.

Works still to be delivered is estimated to be \$83 million in future dollars.

- 9.1.3 Development rates have significantly slowed since 2008 with the world economic crisis and the resultant flow-on impact on land development in New South Wales. This slowing of development has in turn had the impact of extending the period over which monies will be collected.

9.2 Chronology of recent decisions affecting developer contributions

- 9.2.1 Since 2008, Council has responded to a number of State Government decisions regarding development contributions. These included:

- The former State Government capping contributions at \$30,000 per new lot/dwelling.
- Council successfully sought an exemption and the contribution rate was limited to \$62,100 per lot/dwelling (see **Attachment 4**).
- An independent review of the Plan, required by the State Government was carried out by Hill PDA in October 2009.

- 9.2.2 In May 2011, the Minister for Planning wrote to Council in relation to the section 94 contribution amount (letter is in **Attachment 5**). That letter confirms the cap of \$62,100 and indicates that any future Section 94 Plan should be consistent with the findings of the strategic review for Warriewood Valley.

9.3 Key Impacts on Infrastructure

- 9.3.1 The Strategic Review generally recommended 32 dwellings per hectare, increasing the total dwellings in Warriewood Valley and forecast the need to review infrastructure and services. An additional 193 dwellings is now recommended by the Strategic Review.

The development potential of sub-sectors 901D, 901E and 901G is recognised for the purpose of determining commensurate infrastructure and services requirements (detailed in **Table 2** of this report). In relation to 120 Mona Vale Road, a notional 20 dwellings have been applied notwithstanding Council's refusal of the Planning Proposal at a yield of 71 dwellings.

- 9.3.2 The Strategic Review raised two critical issues impacting future infrastructure delivery:

- The SES recommends evacuation routes at or above the PMF level however the planned evacuation route for Warriewood Valley is below the PMF as the roads are planned at the 1%AEP flood level. This is still unresolved but for infrastructure planning purpose, it has been assumed that evacuation is at original 1% AEP flood level.

- The Economic Feasibility consultant in modelling the developer contribution rate per dwelling at \$50,000, \$60,000 and \$70,000, found that as the contribution rate increases development is economically viable if the minimum threshold for density also increases. For example, if the contribution rate is set at \$50,000 per lot/dwelling, the density for townhouse and small lot housing developments needs to be a minimum of 30 dwellings per hectare.

“When developer contribution levels are raised to levels beyond \$50,000 per lot, the feasibility of residential development is undermined.”¹

9.4 Responding to the Strategic Review’s findings

9.4.1 Issue of Flood Evacuation

Council staff advised in regard to the raising of roads for evacuation at the PMF level as follows:

“A preliminary investigation of the cost of raising all existing minor and internal roads, including Garden Street, Macpherson Street, Boondah Road and Ponderosa Road, is in the order of \$50 million. The raising of the roads has, in itself, implications for water flows, access to property, transitions and location of underground services.

It would be uneconomical and extremely difficult and disruptive, given the substantial development of the Valley to this point in time, to raise the roads and it is inappropriate to stop development from proceeding in the Valley, whether the Review’s recommendations for residential development are endorsed or not.”

The bridge at Macpherson Street East is included in the 2012/13 and 2013/14 Capital Works Program and is planned to be constructed at the 1% AEP level. Increasing the height of the bridge will require substantially more funding, resulting in delay to delivery of this infrastructure and will require reconstruction of Macpherson Street (sections of which have already been upgraded at the 1% AEP including the western route to Ponderosa Parade and Mona Vale Road).

Council, as part of the 2012/1013 works program, has preliminary designs for the bridge at Macpherson Street East based on the 1% plus climate change AEP level with detailed design to be commissioned shortly.

9.4.2 Infrastructure and services commensurate with additional dwellings prior to the Strategic Review

The Plan was last reviewed and adopted in 2008 based on 1,886 dwellings.

Since 2008, an additional 126 dwellings was identified under the 2010 Planning Framework (where density was increased to 25 dwellings per hectare). The approval for 14-18 Boondah Road, under the former Part 3A legislation, resulted in an additional 263 dwellings.

Of the infrastructure and services, additional active open space lands of up to 5 hectares is still to be purchased for future playing fields.

¹ Hill PDA, *Warriewood Valley Strategic Review Economic Feasibility Study*, October 2011, p28.

9.4.3 *Infrastructure and services commensurate with additional dwellings in response to the Strategic Review*

The Strategic Review forecast the review of infrastructure and community services/facilities already in the Plan based on additional population resulting from the recommended increased density (under the strategic review) and the additional 389 dwellings (resulting from the increase under the 2010 Planning Framework and the additional 263 dwellings that were approved for 14-18 Boondah Road under Part 3A legislation).

Council's internal Section 94 Committee, based on advice from the Strategic Review Team has investigated the implications of the Strategic Review based on the following scenarios, in terms of the proposed provision of infrastructure and services through a preliminary draft Section 94 Plan.

Scenario 1 - Assuming Council agrees to the density of 32 dwellings per hectare and having examined the additional demands on infrastructure resulting from increased population from this increased density, a Section 94 Plan commencing at \$50,000 and indexed annually thereafter, could deliver the remaining infrastructure for Warriewood Valley including:-

- Traffic and transport
- Multi-function creekline corridors
- Community facilities (see below)
- Public recreation and open space (acquisition and embellishment) however land for playing fields may be commensurate to the total dwellings
- Pedestrian Cycleway Network
- Library Services

except for the following:-

- Significantly reduced funding for the Community Facilities element – no new facility but an extension to an existing building

It is noted the existing Boondah Road playing fields and the land acquired by Council in the former Sector 9 will remain in Council's ownership.

Scenario 2 – Assuming Council does not agree to increase the density and the current density of 25 dwellings per hectare is retained, a new Section 94 Plan commencing at \$50,000 (indexed annually thereafter) will result in the following:-

- Inability to deliver the Community Facilities element
- Unable to acquire 2 hectares of active open space (playing fields) or associated embellishment (commensurate to the total dwellings prior to the strategic review).

10.0 AFFORDABLE HOUSING PROVISION

10.1 At its meeting of 21 February 2011, Council resolved inter-alia:

“6. That Council support that in any future strategic review of Warriewood Valley that results in higher densities [sic], that Council will seek to require 10% of any additional housing density be provided as ‘affordable rental housing’, managed by an appropriate Community Housing Provider in perpetuity.”

10.2 The Strategic Review identified that the Section 94 Plan is the legal mechanism of achieving Council’s goal of 10% and delivering affordable rental housing in perpetuity. The Section 94 Committee has reviewed this target and additional to the infrastructure already identified in the Section 94 Plan, this target could not reasonably be achieved. Based on a contribution rate commenced at \$50,000 per lot/dwelling (indexed annually thereafter) it is not possible to achieve the target to 10% affordable rental housing and still deliver the other essential infrastructure identified in Scenarios 1 and 2 above.

10.3 It is noted that Council, in 2011, approved an affordable housing development on 23B Macpherson Street that will accommodate 23 affordable dwelling units (for up to a period of 10 years) within a development comprising 46 dwellings in total and 500 square metres of retail floorspace.

10.4 Council’s goal as reflected in its resolution of 21 February 2011 is unable to be delivered from the Strategic Review.

11.0 SUGGESTIONS FOR FUTURE RECREATIONAL & COMMUNITY USES

11.1 Numerous comments were received suggesting that further embellishment of the Boondah playing fields and facilities and retention of the land containing the Nelson Heather and Ted Blackwood centres.

11.1.1 The suggested future direction of a recreation and community precinct is timely given the review of Council’s Open Space and Recreation Strategy currently underway. In updating the current Strategy, Council staff will review the type, distribution and suitability of the existing open space network and associated facilities, gaps in the provision of existing open space and facilities, and how best to provide for current and future needs. It is anticipated that a draft strategy will be presented to Council later this year.

11.2 The exhibited Draft Concept Plan for the Southern Buffer was developed for landowner consultation and represents one possible development scenario for this area.

11.2.1 Southern Buffer landowners could not reach consensus on this or any other scenario and as such, the current land uses should be retained.

11.2.2 The eventual land uses and quantum of development/land use footprint are able to be investigated by landowners either individually or collectively.

11.3 The current review of Council’s Open Space and Recreation Strategy should take into consideration the community’s aspirations for the public land including but not be limited to:

- The suggested recreational and community precinct
- Options for Boondah Road, to minimise conflicts and safety concerns.

These options can be achieved with the current recreational zoning of the Council owned and controlled land.

12.0 DIRECTOR-GENERAL'S LETTER OF ENDORSEMENT, 1 MAY 2013

12.1 Endorsement of the final Warriewood Valley Strategic Review Report was received from the Director-General of Planning and Infrastructure on 1 May 2013 (see **Attachment 6**).

12.2 While endorsing the Review's recommendations for an increase in density from 25 dwellings per hectare to generally 32 dwellings per hectare, the letter acknowledged, in his opinion, opportunities for higher density development in Warriewood Valley subject to separate rezoning:

"While the report proposes specific densities, I consider that there may be future opportunities for a greater mix of housing types and higher densities, particularly on larger sites or if sites can be amalgamated."

12.3 The Director-General's endorsement contradicts the findings and recommendations of the joint Department and Council team who completed the strategic review of Warriewood Valley. The Strategic Review Report, based on sound evidence including the background consultant studies commissioned to inform the Strategic Review, recommends a residential density up to a maximum of 32 dwellings per hectare presented in two to three storey built forms. There is no evidence at hand to support the Director-General's statement. Any development outside the Strategic Review recommendation would be inconsistent with the State Government's own evidence and contrary to PAC's original call for a coordinated strategy between the Department and Council.

13.0 FORWARD PATH FOR SECTORS CONSIDERED BY THE STRATEGIC REVIEW

13.1 Progression of Planning Proposal applications – Council Resolution 17 October 2011

13.1.1 At its meeting of 17 October 2011, Council in considering the Pittwater Standard Instrument Local Environmental Plan, resolved inter-alia:-

- "2. That Council not process future individual Planning Proposals other than through the Pittwater Standard Instrument LEP process unless in exceptional circumstances, being demonstrated public benefit, demonstrated hardship, environmental preservation or as contained with the Warriewood Valley Strategic Review area.*
- 3. All individual Planning Proposals submitted during the period of preparation of the Pittwater Standard Instrument LEP be initially reported to Council for notation in relation (2) above. Noting that it will remain open to Council to lift the moratorium in exceptional circumstances being demonstrated public benefit, demonstrated hardship or environmental preservation."*

13.1.2 In relation to the above resolution, it is noted that the Planning Proposals recommended to be progressed to a Gateway Determination below, all concern land within the Review's study area.

13.2 Sectors with capacity for increased density and with a PMF evacuation route

13.2.1 For those Sectors listed below, it is proposed to progress a Planning Proposal to a Gateway Determination with the Department (**Attachment 7**):

- Sector 101
- Buffer 1a, 1b, 1c, 1d, 1e, 1f, 1g, 1h, 1i, 1j, 1k and 1l

13.3 Sectors with capacity for increased density but without a PMF evacuation route

13.3.1 For those sectors listed below, it is proposed to progress a Planning Proposal to a Gateway Determination with the Department (**Attachment 8**), pending resolution of the NSW Government's emergency flood response policy:

- Sector 301, 302 and 303
- Sector 501 (also known as Sector 5)
- Sector 801
- Sector 901A, 901B, 901C, 901F and Orchard Street Road Reserve (north-east portion)
- Sector 10B
- Buffer 2a
- Buffer 3b

13.4 The Southern Buffer

13.5.1 In the absence of any landowner agreed land use solution for the Southern Buffer, it is not recommended to progress the exhibited Draft Concept Plan for the Southern Buffer and the current land use zones should be retained.

13.5.2 Landowners are advised that opportunity exists to submit a rezoning application for Council's consideration. Such application should address all the relevant constraints affecting the land.

13.6 Infrastructure

13.6.1 The design and construction of the bridge at Macpherson Street East at the 1% plus climate change AEP level continue as part of this year's and the 2013/14 program.

13.6.2 A review of the Section 94 Plan commencing at \$50,000 per dwelling/lot and indexed annually thereafter is already underway. The review includes the infrastructure and services commensurate with additional dwellings. If the additional dwellings are agreed to by Council, it is anticipated that a new Section 94 Plan will be reported to Council in the next few months.

13.7 Future reviews to other documents applicable to Warriewood Valley

13.7.1 The following associated documents applying to Warriewood Valley will also be reviewed as a result of the strategic review outcomes, namely:

- Applicable development controls within Pittwater 21 Development Control Plan
- Warriewood Valley Water Management Strategy
- Warriewood Valley Water Management Specification, following release of the Narrabeen Lagoon Flood Study update
- Warriewood Valley Section 94 Contributions Plan, Roads Masterplan and Landscape Masterplan (Public Domain).

13.7.2 A report will be presented to Council when the review of any of the above documents is complete.

14.0 FORWARD PATH FOR ALL OTHER UNDEVELOPED SECTORS WITHIN THE WARRIEWOOD VALLEY RELEASE AREA

14.1 Sector known as 120 Mona Vale Road

- 14.1.1 120 Mona Vale Road was excluded from density testing due to significant environmental constraints.
- 14.1.2 In December 2012 an application to rezone this land was lodged with Council which proposed 71 residential lots. At its meeting of 4 March 2013, Council refused the application.
- 14.1.3 A notional 20 dwellings has been applied for infrastructure modelling purposes.
- 14.1.4 The application is now undergoing a Pre-Gateway Review, where the Sydney East JRPP will consider this Pre-Gateway Review request (**Attachment 9**). On 22 May 2013 Council officers, based on Council's reasons for refusal and the matters raised in the report to Council's meeting of 4 March 2013, presented Council's views regarding this application to the JRPP. At the time of finalising this report, the Minister's decision to the Pre-Gateway Review is unknown.

14.2 Other undeveloped sectors likely to have development potential

- 14.2.1 Although the Final Draft Strategic Review Report recognised no development potential greater than 25 dwellings per hectare for some sectors, potential capacity for low density development (less than 25 dwellings per hectare) on Sector 901D, 901E, 901G is noted.

14.2.2 Sector 901D, 901E and Orchard Street road reserve

The Urban Design Consultant recommended Sector 901D be set aside as a park and lookout. Council have since confirmed that the appropriate area for open space in sector 901 is 9 Fern Creek Road (already purchased by Council for passive open space).

Council staff have identified that Sector 901D is constrained by biodiversity, visual impact issues and high voltage overhead cables while Sector 901E comprises a battle-axe handle only which must be addressed at DA stage. There is potential for Sectors 901D and 901E including the Orchard Street road reserve (north-east portion) to conglomerate, enabling more appropriate setbacks to constraints while maximising development potential across these sectors (up to 16 dwellings).

Development controls will be developed to be incorporated into Pittwater 21 DCP as a future amendment to facilitate suitable residential form and retention of significant vegetation.

14.2.3 Sector 901G

Sector 901G adjoins Sector 901C which was recommended for development at 32 dwellings per hectare under the Strategic Review. The Urban Design Consultant recommended Sectors 901G and 901C be amalgamated for development (with the majority of the development placed on 901C, recognising asset protection zone and creekline buffer requirements constraining development on Sector 901G). Although Sector 901G is land-locked and constrained by biodiversity and the creekline corridor, this sector is owned by the same entity as Sector 901C, increasing likely opportunity of both sectors to be developed together.

14.2.4 *9 Fern Creek Road, owned by Council*

This parcel was bought for a future park and is recommended to be rezoned residential 2(f) Urban Purposes-Mixed Residential with no yield to be allocated against the parcel. Rezoning this parcel to 2(f) is identical to the already established park lands in Warriewood Valley including the park in Sector 8.

9 Fern Creek Road is currently classified as 'Operational Land' under the Local Government Act and will remain so until a Masterplan is developed for the site to allow Council flexibility to facilitate any necessary boundary adjustments to make the land more suitable for passive open space and facilitate connectivity to the existing park in Sector 8.

14.2.5 *Orchard Street Road Reserve*

Council's Urban Infrastructure Unit advised that the Orchard Street road reserve, being 30 metres wide, is unnecessarily wide and can be narrowed to a local street with designated on-street parking in accordance with the adopted Warriewood Valley Roads Masterplan (2006).

The 30m road reserve width could be reduced to:-

- 20 metres between to Fern Creek Road and Garden Street, and
- 16 metres, west of Fern Creek Road.

The unnecessary portions of the Orchard Street road reserve shown in **Map 3**, comprise approximately 2,825 square metres of additional land that can be utilized for residential development, subject to rezoning, if amalgamated with the already closed road reserve parcels and adjoining privately owned properties fronting Orchard Street.

If agreed, administrative provisions to "close" the two portions of road reserve under the Roads Act and subsequent subdivision need to be undertaken separate to rezoning. Commercial discussions between Council and private developers can proceed separately.

14.2.6 *Recommendation to progress Planning Proposal for above lands*

Sectors 901D, 901E, 901G, Orchard Street road reserve (north-west portion) and 9 Fern Creek Road (Council owned land in Sector 9) do not have a PMF evacuation route therefore it is proposed to progress a Planning Proposal to a Gateway Determination with the Department, pending resolution of the NSW Government's emergency flood response policy. Council in preparing a Planning Proposal for these sectors seeks to facilitate development in the identified residential sectors of Warriewood Valley, as intended by the original Warriewood Valley Planning Framework 2010 rather than as a result of the recommendations of the Strategic Review. Whilst it is considered the issues raised in Table 2 to this report can be attended to at the DA stage, should additional environmental studies be required by the Gateway Determination, the progression of the Planning Proposal by Council will be dependant on landowner(s) of sectors 901D, 901E and 901G paying for the cost of Council commissioning the required studies.

Progressing a Planning Proposal for the subject lands is consistent with Council's resolution of 17 October 2011 (outlined at Section 13.1), as it concerns land within the Review's study area.

MAP 3: ORCHARD STREET ROAD RESERVE TO BE UTILISED FOR RESIDENTIAL DEVELOPMENT



14.3 Other undeveloped sectors not likely to have development potential

14.3.1 Sectors 901H, Sector 10A.1 and 10A.2 have no development capacity, being highly constrained as per Table 3. These areas were tested by the Urban Design Consultant but not identified with capacity for intensified development in recognition of significant environmental constraints. Council staff have reviewed the development opportunities for these sectors and determined that these sectors are highly constrained and are unlikely to have any further development potential.

14.3.2 It is recommended that Sectors 901H, 10A.1 and 10A.2 be removed from the Warriewood Valley Release Area.

14.4 All other sectors in Warriewood Valley still to be developed

14.4.1 The Warriewood Valley Strategic Review will, in effect, become the planning framework for the majority of undeveloped lands (designated residential) in Warriewood Valley along with associated documents (earmarked for amendment) being:

- Applicable development controls within Pittwater 21 Development Control Plan
- Warriewood Valley Water Management Strategy
- Warriewood Valley Water Management Specification, following release of the Narrabeen Lagoon Flood Study update
- Warriewood Valley Section 94 Contributions Plan, Roads Masterplan and Landscape Masterplan (Public Domain).

14.4.2 For Sectors 901D, 901E, 901G, Orchard Street road reserve (north-west portion) and 9 Fern Creek Road, it is envisaged that, in the interim, this report will be relied upon in regard to maximum dwelling allocation subject to their environmental attributes being addressed including the need for site amalgamation, until such time as these matters have been incorporated into an Addendum to the Strategic Review Report document. Additionally, the documents listed above and earmarked for amendment will apply to these lands.

14.4.3 For the Southern Buffer lands and lands not considered under the Warriewood Valley Strategic review, the 2010 Planning Framework will continue to apply to these lands.

It is proposed to review the 2010 Planning Framework as applying to these lands, as an addendum to the Warriewood Valley Strategic Review. The outcomes of the review will be the subject of a future report to Council.

15.0 SUSTAINABILITY ASSESSMENT

15.1 Supporting & Connecting our Community (Social)

The Warriewood Valley Strategic Review Report takes into consideration infrastructure, land capacity, urban form, social fabric and the area's current character.

15.2 Valuing & Caring for our Natural Environment (Environmental)

The Warriewood Valley Strategic Review Report will achieve a satisfactory impact on our ecological footprint and continue protecting our biodiversity.

15.3 Enhancing our Working & Learning (Economic)

The Warriewood Valley Strategic Review Report continues the orderly planned development of Warriewood Valley and ensure delivery of a viable land release.

15.4 Leading an Effective & Collaborative Council (Governance)

Landowner and community participation was facilitated during the exhibition period of the Warriewood Valley Strategic Review Report to ensure that decision making is ethical, accountable and transparent.

A Probity Protocol was established in collaboration with the independent Probity Advisor to oversee the required governance for the Strategic Review.

A 'whole of government' approach established throughout the Strategic Review to ensure community confidence in the project including a collaborative approach by the Department of Planning & Infrastructure and Council as determined by the PAC.

15.5 Integrating our Built Environment (Infrastructure)

The Warriewood Valley Strategic Review has been undertaken in response to a decision by the PAC on increased density in Warriewood Valley (under the now repealed Part 3A process). Legislative reforms and Minister's Directions impacting on the infrastructure delivery in Warriewood Valley are relevant.

The Warriewood Valley Strategic Review will, if adopted, continue enhancing the liveability and amenity of the Valley by locating an appropriate mix of land use and development and associated infrastructure with reasonable per dwelling contribution rates as directed by the Minister in May 2011.

16.0 EXECUTIVE SUMMARY

- 16.1 The Draft Warriewood Valley Strategic Review Report and consultant studies were placed on public exhibition from 24 March 2012 to 18 May 2012. 450 formal submissions were received, including 100 submissions through Social Media sources. A petition containing 56 signatures was also received.
- 16.2 A document entitled 'Analysis of Submissions to the Warriewood Valley Strategic Review' (Analysis of Submissions), addresses the issues raised in the submissions (attached) (proactively released to the public on 4 May 2013).
- 16.3 A revised Warriewood Valley Strategic Review Report has been prepared following consideration of the issues raised in submissions (attached) (proactively released to the public on 4 May 2013).
- 16.4 The revised Warriewood Valley Strategic Review Report recommends a maximum density of 32 dwellings per hectare, resulting in an additional 193 dwellings above the 2010 Planning Framework's dwelling total.
- 16.5 A number of sectors are proposed to be rezoned to increase the maximum number of dwellings permitted. For those sectors without a flood evacuation route at the PMF level, the rezoning will be subject to the NSW Government agreeing to an emergency flood response being facilitated at the 1%AEP level.

- 16.6 Although the Strategic Review did not recommend rezoning/dwelling yield for some sectors due to significant environmental constraints, an assessment of constraints and opportunities has been undertaken by Council staff estimating an additional 22 dwellings may be able to be achieved across some sectors. These sectors have been recommended for rezoning outside of the Strategic Review process based on the recommendations of Council staff.
- 16.7 Due to the significant environmental constraints and divergent landowner expectations it is not proposed to pursue the concept plan for the Southern Buffer, as exhibited. Should landowners, either individually or collectively, wish to pursue development opportunities, this may be done through a rezoning application which addresses, but is not limited to, the constraints highlighted by the Strategic Review.
- 16.8 The Economic Feasibility consultant has raised issues in regard to viability of development based on the current developer contribution rate of \$62,100 per dwelling/lot. Council's Internal Section 94 Committee has determined that based on the recommended rate of \$50,000 per dwelling/lot and based on the recommended additional dwellings, a Section 94 Plan would be able to deliver nearly all remaining infrastructure for Warriewood Valley. This is consistent with the Minister's Direction of May 2011 to apply the outcomes of the Strategic Review to future section 94 contributions.

RECOMMENDATION

1. That Council note the responses to the exhibition process detailed in the Analysis of Submissions Report (*tabled separately*).
2. That Council note the attached Final Probity Report prepared by Procure Group for the Warriewood Valley Strategic Review (see **Attachment 3**).
3. That Council, subject to correction of the typographical mistakes detailed in 7.8 of this report, adopt the Warriewood Valley Strategic Review Report.
4. That Council endorse progression of the statutory rezoning process to increase the maximum dwelling yield permitted for the sectors listed below, which have a PMF free evacuation route, as set out in the attached Planning Proposal which is to be forwarded to the Department seeking Gateway Determination (see **Attachment 7**).
 - Sector 101, having a maximum 4 dwellings
 - Buffer 1b, having a maximum 24 dwellings
 - Buffer 1c, having a maximum 18 dwellings
 - Buffer 1d, having a maximum 1 dwelling
 - Buffer 1e, having a maximum 15 dwellings
 - Buffer 1f, having a maximum 21 dwellings
 - Buffer 1g, having a maximum 23 dwellings
 - Buffer 1h, having a maximum 1 dwelling
 - Buffer 1i, having a maximum 39 dwellings
 - Buffer 1j, having a maximum 40 dwellings
 - Buffer 1k, having a maximum 21 dwellings; and
 - Buffer 1L, having a maximum 67 dwellings.

5. That Council endorse the progression of the statutory rezoning process to rezone Sectors 901A (including 9 Fern Creek Road) and Orchard Street Road Reserve (north-east portion), 901B, 901C, 901F and 9 Fern Creek Road to 2(f) (Urban Purposes – Mixed Residential); and to increase the maximum dwelling yield permitted for the sectors listed below which have a Flood Planning Level free evacuation route but are isolated during the PMF event, subject to the NSW Government agreeing to emergency flood response being facilitated by an evacuation route at the 1% AEP, as set out in the attached Planning Proposal which is to be forwarded to the Department seeking Gateway Determination (see **Attachment 8**).
- Sector 301, having a maximum 53 dwellings
 - Sector 302, having a maximum 84 dwellings
 - Sector 303, having a maximum 29 dwellings
 - Sector 501 (also known as Sector 5), having a maximum 94 dwellings
 - Sector 801, having a maximum 38 dwellings
 - Sector 901A (excluding 9 Fern Creek Road) and Orchard Street Road Reserve (north-east portion), having a maximum 192 dwellings
 - Sector 901B, having a maximum 36 dwellings
 - Sector 901C, having a maximum 22 dwellings
 - Sector 901F, having a maximum 14 dwellings
 - Sector 10B, having a maximum 45 dwellings
 - Buffer 2a, having a maximum 29 dwellings; and
 - Buffer 3b, having a 9 dwellings.
6. That Council endorse the progression of the statutory rezoning process to rezone the sectors listed below and where applicable establish a maximum dwelling yield permitted which have a Flood Planning Level free evacuation route but are isolated during the PMF event, subject to the NSW Government agreeing to emergency flood response being facilitated by an evacuation route at the 1% AEP, as set out in the attached Planning Proposal which is to be forwarded to the Department seeking Gateway Determination (see **Attachment 10**)
- Sector 901D, 901E and Orchard Street Road Reserve (north-west portion), having a maximum of 16 dwellings
 - Sector 901G, having a maximum of 6 dwellings.
7. That Council incorporate the proposed amendments set out in actions 4, 5 and 6 above into the draft Pittwater Local Environmental Plan 2013 prior to its second exhibition.
8. That Council confirm that Sectors 901H (portion of 4 & 5 Fern Creek Road), 10A.1 (portion of 115 Orchard Street) and 10A.2 (portions of 111, 111a & 113 Orchard Street) have no further development opportunity due to existing environmental constraints and remove these sectors from the Warriewood Valley Release Area.
9. That the landowners of Sectors 901H, 10A.1 and 10A.2 be advised of Council's decision in regard to action 8 and be given an opportunity to demonstrate that their sites have development potential.
10. That landowners in the Southern Buffer be advised of the opportunity to make a rezoning application for their properties, collectively or individually. Such application is to address the development constraints and opportunities that affect those lands.

11. That Council note that the Pre-Gateway Review process requested by landowner of 120 Mona Vale Road has progressed to the Joint Regional Planning Panel for its recommendation to the Minister for Planning.
12. That Council note that affordable housing provision cannot be achieved and agree it will not be included in the new Section 94 Plan for Warriewood Valley.
13. That a future report be provided to Council following a review of the following documents relating to Warriewood Valley:
 - Warriewood Valley Water Management Strategy
 - Warriewood Valley Water Management Specification, following release of the Narrabeen Lagoon Flood Study update
 - Applicable development controls within Pittwater 21 Development Control Plan
 - Warriewood Valley Section 94 Contributions Plan, Roads Masterplan and Landscape Masterplan (Public Domain).
 - Warriewood Valley Planning Framework 2010 in relation to the Southern Buffer lands and those lands not covered under the Strategic Review
14. In accordance with 14.4 of this report, affected landowners are to also be advised that, in the interim, the Warriewood Valley Planning Framework 2010 continues to be the adopted planning strategy applying to their lands.
15. That those persons and organisations that made a submission on the Draft Warriewood Valley Strategic Review Report be advised of Council's decision.

Report prepared by
Tija Stagni, Strategic Planner – Land Release
Liza Cordoba, Principal Officer – Land Release

Andrew Pigott
ACTING MANAGER, PLANNING AND ASSESSMENT

Action Item

C11.1 Warriewood Valley Strategic Review

Meeting: Planning an Integrated Built
Environment Committee

Date: 16 May 2011

COMMITTEE RECOMMENDATION

- 1 That Council confirms its participation with the Department of Planning and Infrastructure in the Strategic Review for all undeveloped sites in the Warriewood Valley Release Area and further that the Terms of Reference of the proposed Warriewood Valley Strategic Review be expanded to include the following:

Council's establishment by resolution dated 17 February 2011 of Narrabeen Creek Sea Level Rise Investigation Area (map attached) made in accordance with the NSW Coastal Planning Guideline: Adapting to Sea Level Rise (August 2010) so as to inform Council's strategic land use planning to indicate land potentially at risk now or in the future as a consequence of sea level rise.

2. That Council adopt the approach detailed in Section 3 of this report, subject to 3.6(a) to read:

Identify any sector that as a result of existing environmental or developmental constraints is unable to develop beyond either:

- *The pre-planned dwelling density (that is no increase in density and will retain the 15 dwellings per hectare) or*
- *The existing land use.*

3. That Council write to those landowners whose property is currently undeveloped in the Warriewood Valley Release Area and relevant stakeholders advising of the commencement of the Strategic Review with the Department of Planning and Infrastructure.
4. That a future meeting be scheduled with landowners of the Southern Buffer, the Department and Council Officers to discuss the existing opportunities and constraints affecting the Southern Buffer Area.
5. That a progress report be brought back to Council following engagement of the consultancies or within the first quarter 2011/12, whichever occurs first.
6. That a report be brought back to Council on the outcomes of the Warriewood Valley Strategic Review.

(Cr Hegarty / Cr Grace)

Action Item

C15.2: Warriewood Valley Strategic Review Report - Outcomes of public exhibition and final report and Probity Report**Meeting:** Council's Committee of the Whole**Date:** 19 March 2012

COMMITTEE OF THE WHOLE RECOMMENDATION

1. That the information contained in this report be noted and it be made public.
2. That the Draft Warriewood Valley Strategic Review Report, associated Independent Consultant Studies, and the Interim Probity Report be placed on public exhibition for 60 days and that landowners in the Warriewood Valley Release Area, relevant Community Associations and interested parties be invited to respond.
3. That the State Government be requested to finalise guidelines for future development relating to flood evacuation.
4. A further report be brought back to Council on the outcomes of the exhibition.
5. That the exhibition include the map layers and related reports on page 34 of the Draft Warriewood Valley Strategic Review Report.

(Cr Grace / Cr Giles)



DEPARTMENT OF PLANNING & INFRASTRUCTURE AND PITTWATER COUNCIL

WARRIEWOOD VALLEY STRATEGIC REVIEW

PROBITY REPORT – NOVEMBER 2012

Action	Person	Position	Signature
Prepared by	Vic Baueris	Account Director	
Approved by	Warwick Smith	Director	

PREPARED FOR:

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CONTENTS

1. INTRODUCTION	3
2. SCOPE AND METHODOLOGY	5
3. PROBITY PLAN - WORK PERFORMED	8
4. PITTWATER COUNCIL PROBITY PROTOCOL - WORK PERFORMED	11
5. MATTERS TO NOTE	13
6. CONCLUSION	14
7. STATEMENT OF RESPONSIBILITY	14
TABLE 1 – PROBITY RISK ASSESSMENT (OCTOBER 2012)	15
TABLE 2 – PITTWATER COUNCIL PROBITY PROTOCOL	25

1. INTRODUCTION

This is the final probity report for the Warriewood Valley Strategic Review (Review) which has been a joint project of the Department of Planning and Infrastructure (Department) and Pittwater Council (Council). The Review commenced in March 2011 and involved the public exhibition of a draft report in March 2012. An interim probity report was also exhibited at the same time. This probity report details the action taken since the exhibition period to ensure compliance with the Probity Plan and provides final report on the implementation of the actions required in accordance with the documented Probity Risk Assessment for the Review.

Background

In March 2011, the Director General of the Department and the General Manager of Council agreed to undertake a strategic review of all undeveloped lands in the Warriewood Valley Release Area. This followed a Planning Assessment Commission (PAC) decision in January 2011 to approve a Meriton Apartments Pty Ltd Part 3A application, despite it being contrary to Council's development controls. At the same time, the PAC recommended that such a Review be undertaken.

A Project Control Group (PCG), comprising representatives of the Department and Council, was established to oversee the Review. The PCG developed a Project Plan which includes a requirement for the engagement of a probity adviser and the development of a Probity Plan to complement the Project Plan. The final version of the Project Plan was endorsed by the Director General of the Department and the General Manager of the Council on 31 October 2011.

Procure Group Pty Ltd (Procure) was engaged by the Department and Council to provide probity advisory services for the Review. Procure's engagement commenced on 22 June 2011. During the course of the Review, Procure has provided probity advice to the PCG in relation to the following activities:

- Development and implementation of the Project Plan, including a Community Engagement Strategy
- Development and implementation of the Probity Plan
- Development and implementation of a Probity Protocol by Council to ensure that two teams were established to deal with the conflict of roles inherent in the consideration of Council-owned land
- Engagement of consultants to conduct studies related to hydrology, urban design, transport and economic aspects of the Warriewood Valley Release Area
- Conduct of a range of community and landowner consultations
- Preparation of a draft Strategic Review Report (March 2012) and a final Strategic Review Report (November 2012) for consideration by Council and the Director General of the Department
- Responses to submissions raising probity concerns regarding the conduct of the Review

Procure prepared an Interim Probity Report in March 2012 which was placed on public exhibition with the draft Strategic Review Report. The Interim Probity Report included

a summary of the key activities undertaken by Procure along with a progress report on implementation of each of the actions required in the Probity Plan and Probity Protocol.

During the period since exhibition, Procure's role has been limited to attendance at key PCG meetings as the Review neared its conclusion. Similarly, Procure only attended internal Council meetings when considered necessary by Council. Procure's assessment has relied on the review of documentation and discussion with relevant representatives of the Department and Council.

This final probity report follows the structure of the Interim Report and includes a report on actions taken as required within the Probity Plan and Probity Protocol.

2. SCOPE AND METHODOLOGY

2.1 ROLE OF PROBITY ADVISER

In its publication *Probity and Probity Advising* (November 2005) the Independent Commission Against Corruption (ICAC) describe a probity adviser as:

"an individual or organisation engaged to observe, review and provide guidance on the probity framework and/or processes of a project. Agencies use internal or external probity advisers to verify that the processes followed are consistent with government regulations, policies, guidelines and best practice principles. A probity adviser provides opinions and guidance on probity risks and issues that may arise during the process and confirms, in writing, whether the concluded process is consistent with the requirements outlined in a probity plan as well as general probity fundamentals. If probity requirements are not being or have not been met, the adviser identifies the non-conformities and any reasons for these in a written report, and if necessary, suggests solutions and monitors their implementation.

A probity adviser is chiefly concerned with ensuring the integrity of the procedures and processes of the project, rather than project outcomes. That is, the focus is on the means, not the ends of the project. The probity advising role is essentially preventive".

2.2 PROBITY FUNDAMENTALS

In undertaking the probity advisory role, Procure has had regard to the "probity fundamentals" described in the ICAC publication. These probity fundamentals are:

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

Our work performed to review the application of each of these probity fundamentals during the Review to date is documented in section 3 of this report.

2.3 BRIEF FOR THE PROBITY ADVISER

The PCG identified probity issues arising from the mixed ownership of land – public and private sector – within the Warriewood Valley Release Area that warranted the engagement of a probity adviser. The probity issues were described by the PCG as follows:

The Crown, Council and private landowners hold land in the Southern Buffer area of the Warriewood Valley Release Area; an area identified for potential expansion as a small town centre. Council also owns land in the broader Warriewood Valley, principally acquired through its Section 94 Contributions Plan. The realisation of the highest and best use of land may require land swaps with landowners or other land dealings by the Council. Such activities attract close scrutiny and the services of a probity auditor are required to ensure that an appropriate governance structure and Project protocols are in place and followed to avoid real and perceived conflicts of interest. (Consultant Brief, Probity Auditor, p2).

This is consistent with the view of the ICAC which in its publication *Corruption risks in the development approval process* (September 2007) noted that a consent authority has a conflict of roles between its different functions as a developer and land use regulator.

To address these issues, the PCG determined that, among other activities, the probity adviser will:

1. Prepare a Probity Plan which:
 - a. identifies potential conflicts of interest and probity risks associated with the scope of the Project;
 - b. clearly details the processes to be followed by Department personnel, Council personnel and PCG members to avoid those identified conflicts of interest and probity risks; and,
 - c. identifies and articulates the roles and responsibilities for each PCG member.
2. Audit the Department's, Council's and the PCG's delivery of the Project against the Project Plan (in respect only of issues of governance and Project protocols), Community Engagement Plan (in respect only of issues of governance and Project Protocols) and Probity Plan and prepare:
 - a. an Interim Probity Report that outlines the level of compliance and incorporates activity 1 above, and
 - b. a Final Probity Report that outlines the level of compliance and provides probity advice on the next steps for implementing the Warriewood Valley Strategic Review. (Consultant Brief, Probity Auditor, p8)

This probity review is conducted in accordance with point 2 above. In relation to the conduct of the Review as it relates to the Project Plan and Community Engagement Plan, the probity review is limited to issues of governance and Project protocols.

2.4 PROBITY PLAN

The PCG, with assistance from Procure, prepared a Probity Plan that was formally adopted at its meeting held on 10 August 2011. The Probity Plan identified the key broad areas of probity risk as follows:

- **Maintaining impartiality** – the conflict of roles faced by Council needs to be addressed by appropriate internal arrangements to separate the Council's planning input to the Review from its internal management of proposals for the development of its landholdings.
- **Managing conflicts of interest** – potential conflicts of interest for PCG members and consultants engaged to assist the Review need to be managed.
- **Ensuring accountability and transparency** – Review sponsors and PCG members need to ensure that decision-making and Review documentation are consistent with defined responsibilities. An additional responsibility for the Project Sponsors is to endorse the final report and recommendations arising from the Review.
- **Maintaining confidentiality** – communication with stakeholders, particularly landowners affected by planning decisions, needs to be conducted with due regard to confidentiality. The Department and Council will need to document information security arrangements, particularly as they relate to the dual roles within Council. Similarly, access to the preparatory work and draft reports of consultants will need to be limited.
- **Obtaining value for money** – the engagement of consultants needs to be done consistent with Department and Council procurement policies. The quality of consultant work needs to be monitored and assessed.

The Probity Plan included a detailed Probity Risk Assessment that addressed each of the ICAC's probity fundamentals. Probity risks were identified and the level of risk rated using the Department's risk methodology. A final report on the steps taken to implement the Mitigation Actions is provided in Table 1 (attached).

2.5 PITTWATER COUNCIL PROBITY PROTOCOL

A key document required by the Probity Plan was the preparation by Council of a Probity Protocol for dealing with Council-owned land subject to the Review. The Property Team, with the assistance of Procure, prepared the Probity Protocol. It was endorsed by Council's General Manager on 22 September 2011 and reported to a meeting of the Council on 4 October 2011. The steps taken to date in the implementation of the Probity Protocol are outlined in Table 2 (attached).

3. PROBITY PLAN - WORK PERFORMED

The Review was initiated in March 2011 by agreement between the General Manager of Council and the Director General of the Department. A draft Report was placed on public exhibition in March 2012 along with the Interim Probity Report and the reports prepared by consultants to the Review. Submissions were invited from all interested parties with a range of opportunities provided for the making of submissions.

A Community Information meeting was held on 3 April 2012, written submissions were invited and the options provided of direct submission via the Council's website and social media.

The submission period closed on 18 May 2012, with supplementary information being accepted until 1 June 2012.

PRE-EXHIBITION

Prior to the Exhibition in March 2012, Procure completed the following:

- Noted that the Project Plan includes:
 - Governance and reporting arrangements
 - Communication engagement strategy and protocols
 - Risk register that includes probity risks.
- Confirmed by observation of PCG meetings attended and review of documentation (including minutes of PCG meetings where Procure was not in attendance) maintained by the Department and Council that the Project Plan has been followed in respect to governance and project protocols.
- Noted that the Probity Pan was approved by the PCG on 10 August 2011. The Probity Plan includes a probity risk assessment that identified probity risks related to need to each of the probity fundamentals nominated by the ICAC.
- Confirmed by observation of the PCG meetings and review of documentation (including minutes of PCG meetings where Procure was not in attendance) maintained by the Department and Council that the Probity Plan has been followed in all material respects.
- Attended the community consultation meetings held at the commencement of the Review as required by the Community Engagement Strategy. At the meetings community members and landowners and their representatives were invited to contact the probity adviser if they had any probity concerns regarding the conduct of the Review.
- Attended the meeting held with Southern Buffer landowners, including the Council Property Team, held on 26 September 2011. Noted the letter from the private landowners to the Department dated 7 October 2011 in which issues related to landowner engagement and the scope of consultants' briefs were raised. Further noted the Department's reply of 14 November 2011.
- Contacted the signatory to the letter from the private landowners, as noted above, on 7 November 2011 to ascertain if there were any probity concerns related to the Review that he wished to raise. The issues related by the

signatory were those included in the letter of 7 October 2011. No additional issues were raised.

- Noted that Council received a letter dated 21 December 2011 from a representative of Southern Buffer Landowners (the owners of 3, 6 and 8 Boondah Rd) which alleged that due to the existence of Council and State Government owned land in the Southern Buffer, both the Council and the Department had a conflict of interest which makes them incapable of conducting the review impartially. Procure advised the author of the letter that the risks created by the conflict of roles he identified were addressed in the Project Plan, Probity Plan and Probity Protocol developed for the Review.

Note: The representative of the Southern Buffer Landowners declined an invitation from the probity adviser to meet to discuss this matter on the basis that he considered that the issues had been adequately explained in his correspondence to the General Manager of Council dated 21 December 2011.

- Confirmed that all members of the PCG, Department and Council staff working on the Review and all consultants have signed a project specific *Confidentiality and Conflict of Interest Undertaking* that required any private interest to be declared. Noted that no private interest was declared that may be perceived to create a conflict of interest.
- Noted that the engagement of all consultants, except the hydrology consultant, has been undertaken utilizing the Department's procurement procedures. This includes evaluation of submissions using selection criteria that were made known to proponents in the briefs inviting submissions and in accordance with an approved evaluation plan. Further noted that the engagement of the Hydrology consultant was by direct engagement by Council with the agreement of the Department, and in a manner consistent with the Department's procurement policies.
- Confirmed that the Probity Plan included security requirements to be followed to maintain confidentiality. These requirements included secure physical storage of documentation and separation of access to Council documents between the Technical Team and the Property Team.
- Confirmed with the Department and Council Project Managers that the security arrangements to maintain the confidentiality of information as outlined in the Probity Plan were implemented.
- Confirmed with the Department's Project Manager on 10 November 2011 that the Governance requirements of the Project Plan as they relate to the provision of reports to Departmental Committees have been fulfilled.
- Reviewed the draft Warriewood Valley Strategic Review Report.

POST-EXHIBITION

During the Exhibition period from 24 March to 18 May 2012 and during the completion of the final report of the Review in November 2012, Procure has completed the following:

- Confirmed by observation of PCG meetings attended and review of documentation (including minutes of PCG meetings where Procure was not in attendance) maintained by the Department and Council that the Project Plan has been followed in relation to governance and project protocols.

- Confirmed by observation of the PCG meetings and review of documentation (including minutes of PCG meetings where Procure was not in attendance) maintained by the Department and Council that the Probity Plan has been followed in all material respects.
- Responded to probity issues raised by members of the community – see Matters Arising.
- Reviewed the minutes of the meeting with Southern Buffer landowners, including the Council Property Team, held on 23 April 2012. Noted that the Southern Buffer landowners raised a number of concerns regarding the manner in which the Review has been conducted – see Matters Arising. Further noted the advice from the Southern Buffer Landowners that they would be making a submission to the Review.
- Contacted the representative of the Southern Buffer Landowners who had previously raised probity concerns by way of a letter dated 21 December 2011 (see above) on two occasions to invite any further concerns to be communicated to Procure. The first occasion was on 26 April 2012 as probity issues had been raised at the meeting held on 23 April 2012 and secondly on 16 October 2012 in the course of completing this probity review. The issues raised are dealt with in Section 5, Matters Arising.
- Noted that in response to the request from the Southern Buffer landowners to extend the exhibition period deadline, the Department advised on 8 May 2012 that any party that made a submission by the closing date of 18 May 2012 would be able to submit supplementary information by 1 June 2012.
- Noted that any additional staff members of Council required to contribute to the Review were required to sign a Confidentiality and Conflict of Interest Undertaking that required any private interests relevant to the Review to be declared. Noted that no private interest was declared that may be perceived to create a conflict of interest.
- Noted that during the post-Exhibition period there was no requirement to engage consultants to assist with the evaluation of submissions.
- Reviewed the Warriewood Valley Strategic Review Report and the Warriewood Valley Submissions Report. Noted that over 350 submissions were received in response to the public exhibition and that a summary of each submission and response is detailed in the Submissions Report.
- Further noted that both the Warriewood Valley Strategic Review Report and the Warriewood Valley Submissions Report will be available to the public once they are published in the papers for consideration by Council.

4. PITTWATER COUNCIL PROBITY PROTOCOL - WORK PERFORMED

PRE-EXHIBITION

Prior to the Exhibition in March 2012, Procure completed the following:

- Noted that the conflict of roles for Council arising from its ownership of land within Warriewood Valley was identified at the commencement of the Review and that a Probity Protocol was developed and implemented in accordance with the Probity Plan.
- Noted that Council's General Manager issued a formal delegation of roles to establish a Property Team to deal with land owned by Council and a Technical Team to participate in the Review to assist the PCG. Further noted that in accordance with the Probity Protocol, Council has implemented a clear separation of functions and access to information between the two teams.
- Attended an initial briefing to Councillors on 11 July 2011 and participated in separate discussions on the roles of the two Council teams and related issues.
- Noted that the Council received a confidential briefing from the Property Team on 15 August 2011 as the result of which an Action Plan for the Property Team was agreed.
- Noted that the Probity Protocol was endorsed by the General Manager on 22 September 2011 and reported to Council at its meeting on 4 October 2011.
- Confirmed at a meeting with Property Team members on 7 November 2011 that the actions set out in the Probity Protocol had been implemented.
- Confirmed with Council's Project Manager on 22 November 2011 that the Probity Protocol had operated effectively to ensure the separation of the two teams.
- Attended a meeting with Council's General Manager and other officers on 21 February 2012 in order to discuss the letter of 21 December 2011 received from Southern Buffer Landowners and issues related to the public exhibition of the report from the Review. At that meeting Procure expressed the view that there were probity reasons for proceeding to public exhibition at this time.

POST-EXHIBITION

During the Exhibition period from 24 March to 18 May 2012 and during the completion of the final report of the Review in November 2012, Procure has completed the following:

- At the request of Council, attended the meeting of the Council Section 94 (S94) Committee held on 13 April 2012. The S94 Committee brings together senior officers of the Council in order to provide advice on the S94 Contributions Plan and the expenditure of S94 funds. The Review in its interim report included recommendations related to the level of S94 contributions required to facilitate development in the Warriewood Valley. The S94 Committee meeting considered the need to separate its discussion of the Review's draft report from the response to be prepared by the Property Team, whose members were also members of the S94 Committee.
- Noted the decision of the S94 Committee to provide for the Property Team to prepare its response to the Review without influence from the S94 Committee and to subsequently consider the implications of the Review for S94 matters.
- Attended the meetings of the S94 Committee held on 1 and 15 May 2012 and noted the implementation of the separation of Property Team matters from the S94 Committee's deliberations.
- Confirmed with Council's Director, Urban and Environmental Assets (Head of the Property Team) on 17 October 2012 that the Property Team had conducted its deliberations in response to the Draft Review Report in a manner consistent with the Probity Protocol. This included:
 - Meeting with the private landowners in the Southern Buffer on two occasions
 - Confirming that the Property Team and private landowners decided to submit separate responses to the Draft Review Report
 - Engagement of external technical advice separate from the Review
 - Approval by the General Manager of the submission to the Review from the Property Team.
- Reviewed the Property Team's submission to the Review.
- Noted the requirement in the Probity Adviser's Brief for advice in relation to the next steps for dealing with the Review, attention is drawn to the need to ensure that decisions related to Council-owned land continue to be considered in a manner consistent with the Probity Protocol. That is:
 - *Decisions in relation to Council-owned land in the area subject to the Review will require Council resolution to initiate the statutory re-zoning process. This may involve referral to the Joint Regional Planning Panel for independent consideration. (Extract from the Probity Protocol)*

5. MATTERS TO NOTE

The probity concerns raised during the Review have centred on matters related to the probity principles of

- Maintaining impartiality
- Managing conflicts of interest
- Maintaining accountability and transparency.

A concern raised on several occasions by Southern Buffer landowners was that the brief provided to the Transport and Economic consultants required the consideration of a mixed-use centre on the corner of Pittwater Road and Jackson's Road. The words of concern to the Southern Buffer landowners have created the perception of a lack of impartiality in relation to this site in the Southern Buffer.

This concern was raised in the letter referred to in section 4 above dated 21 December 2011, at the meeting held on 23 April 2012, in the letter to Procure received on 26 April 2012 and in a letter to Procure dated 19 October 2012. The letter of 19 October 2012 suggests that the alleged bias in the consultants' briefs makes "the whole Review flawed".

A further related matter was raised by email to Procure on 14 November 2012. Correspondence from the Southern Buffer landowner to Council dated 5 September 2011 was provided. It raised concerns as to the impact of the Pittwater Local Planning Strategy (adopted by Council in August 2011) on the options available to the Review for the Southern Buffer. It was suggested that this limited the options for consideration. Council replied on 21 September 2011 stating that the concerns addressed in the letter were options for future consideration, including by the Review.

Council is the owner of the subject land in the Southern Buffer and Council is considered by the Southern Buffer landowners to have a conflict of interest in relation to making decisions affecting this land. As described above in this report, a Probity Protocol was put in place to deal with the potential conflict of roles in relation to Council-owned land. The Southern Buffer Landowners have been advised of the Protocol and it was reported in the Interim Probity Report. Procure has responded to the Southern Buffer Landowners by letters on 28 February 2012 and 3 May 2012.

Another direct approach for a member of the Pittwater community to Procure on 24 April 2012 suggested that a conflict of interest arose for Council in relation to a proposal for land to be set aside for an Aquatic Centre at Jackson's Road. It was suggested that Council had ignored this prior commitment in considering land use in the Southern Buffer. Procure responded on 8 May 2012 and outlined the steps taken to deal conflict of roles for Council. A review of Council decisions in relation to this matter did not indicate that a commitment had been made to set aside the site referred to. Council had decided to defer consideration of the proposal until 2017.

A small number of submissions received in response to the exhibition referred to concerns regarding the transparency of the Review process. One specific area of concern related to perceived shortcoming in the data for the land capability assessment and suggested that this favored the Council-owned land. The Final Submission Report addresses this issue and states "The mapping layers utilised for the Strategic Review were adopted by Council on 15 August 2011 as part of the

Pittwater Local Planning Strategy 2011 – Planning for Pittwater towards 2031. They are the most current maps available."

The Probity Risk Assessment table includes a number of risks identified under each of the probity principles. The implementation of the identified mitigation actions is recorded in Table 1.

The most significant mitigating factor in relation to these probity concerns is the public nature of the Review process. The exhibition process; the publication of all relevant documents (including the consultants' briefs); the call for, publication and review of all submissions; and the final public consideration of the Review's report provides for significant public scrutiny of the Review process.

6. CONCLUSION

Based upon our work performed and detailed in this final report, no issues of a probity nature have come to our attention that would lead us to conclude that the processes followed in relation to the Warriewood Strategic Review by the Project Control Group, the Department of Planning and Infrastructure and Pittwater Council have not been conducted with due regard to probity.

7. STATEMENT OF RESPONSIBILITY

This report has been completed for the purpose of assisting the Department of Planning and Infrastructure and Pittwater Council in their decision making in relation to the Warriewood Valley Strategic Review. The report cannot be relied upon by any other party or for any other purpose. While the probity adviser may provide input into processes followed, the Department of Planning and Infrastructure and Pittwater Council retain overall responsibility for the probity of their personnel and processes.

Table 1 – PROBITY RISK ASSESSMENT (OCTOBER 2012)

Description of Risk	Impact or consequence	Likelihood/ Seriousness	Grade	Change	Mitigation Actions (Preventative or Contingency)	Individual/Group Responsible for Mitigation Action	Action taken to end of Review
Impartiality							
Review outcome influenced by conflict of roles for Council as planning authority and landowner	Diminished public trust in planning processes Loss of confidence in Project	M/E	A		Council implements agreed protocol with two separate teams handling PCG matters and internal proposals for Council landholdings Council GM formally establishes internal team arrangements and issues formal delegations to define team roles Review outcome ratified by PCG and Project Sponsors PCG has access to all relevant information	Liza Cordoba (LC) LC / Council GM Luke O'Dwyer Luke O'Dwyer (LOD)	Completed Completed Completed according to Project program Completed
Pressure from developers to participate in and influence outcomes of the	Independence of the Review compromised.	H/H	A		PCG oversees all Review outcomes	LOD	Completed

Review	Outcome of Review may be delayed					Separate consideration of the Southern Buffer	LOD	Completed
						Developers contribute through established community consultation process	LOD	Completed. All meetings documented
						Communication with developers in accordance with Communication Plan	LOD	Completed
Centro (shopping centre owners) seek to influence land use in Southern Buffer	Independence of the Review compromised.	L/H	C			PCG oversees all Review outcomes	LOD	Completed
						Separate consideration of the Southern Buffer	LOD	Separate meetings held with Sthn Buffer Landowners
						Centro contributes through established community consultation process	LOD	Completed. Meeting with Centro 23 April. Documented
						Communication with Centro in accordance with Communication Plan	LOD	Completed
Landowners lobby Government and Council directly to achieve desired planning outcomes	Improper influence on planning decisions Media	M/H	B			All planning decision-making procedures followed and transparent.	PCG	Completed. Final report includes detailed

	embarrassment for NSW Government and Council						PCG members, Department and Council staff disclose any interests or meetings with landowners/developers at PCG meetings.	LOD	response to all submissions
							Legal requirements re declaration of political donations and lobbyists adhered to.	LOD	Completed
							Communication with landowners in accordance with Communication Plan	LC	Completed
Conflicts of Interest									
Consultant appointments affected by related interests	Inappropriate consultants appointed Criticism of process Time consuming to resolve issues	L/H	C				PCG controls appointment process using Department procedures and vets conflict of interest issues	LOD	Completed. All consultants appointed using approved procedures.
Consultants have conflicts of interest	Inappropriate advice provided Loss of confidence in planning process	L/H	C				Consultants required to notify of all actual, potential and perceived conflicts of interest as	LOD	Completed

						Implementation of Communication Plan monitored by PCG	LOD	Completed
Decision making process not followed	Decisions made by inappropriate officers Role of PCG undetermined	L/H	C			PCG oversees decision-making procedures Agreed protocol for decisions between meetings PCG recommendations reviewed and endorsed by the Project Sponsors Final decisions taken by Government in accordance with statutory requirements	LOD LOD LOD LOD	Completed Completed According to Project program According to Project program
No documented justification for decisions made	Review bodies have no records to confirm the process Decisions cannot be justified	L/H	C			Detailed Review Report prepared and endorsed by the PCG Review Report provided to Project Sponsors Appropriate records to be created and maintained Probity review at conclusion of Review	LOD LOD LOD LOD/LC / Vic Baueris (VB)	According to Project program According to Project program Completed According to Project program

						Implementation of Communication Plan monitored by PCG	LOD	Completed
Decision making process not followed	Decisions made by inappropriate officers Role of PCG undetermined	L/H	C			PCG oversees decision-making procedures	LOD	Completed
						Agreed protocol for decisions between meetings	LOD	Completed
						PCG recommendations reviewed and endorsed by the Project Sponsors	LOD	According to Project program
						Final decisions taken by Government in accordance with statutory requirements	LOD	According to Project program
No documented justification for decisions made	Review bodies have no records to confirm the process Decisions cannot be justified	L/H	C			Detailed Review Report prepared and endorsed by the PCG	LOD	According to Project program
						Review Report provided to Project Sponsors	LOD	According to Project program
						Appropriate records to be created and maintained	LOD	Completed
						Probity review at conclusion of Review	LOD/LC / Vic Baueris (VB)	According to Project program

Planning information available prematurely	Unfair benefit to recipients	M/H	B		Department and Council agree on release of material	LOD	All documents related to the Review available on Council website
					Procedures for release of project information included in Project Plan	LOD	Completed
Breach of IT security	Inappropriate access to confidential information	M/H	B		All information stored in accordance with record keeping protocols	LOD / LC	Completed
					Access to IT system controlled and available to authorised persons only	LOD / LC	Completed
Obtaining Value for Money							
Consultants do not provide value for money	Waste of public funds Damage to reputation of Department and Council	M/H	B		Department and, where appropriate, Council procurement procedures govern process for engagement of consultants	LOD / LC	Complete
					PCG oversees consultant	LOD	Complete

Planning costs not properly authorised	Waste and misuse of public funds	L/H	C		contract management	LOD	All procurements authorised by DG of Dept or GM of Council
					Department and Council Executive to authorise expenditure		
					PCG oversees consultant contract management	LOD	All engagements completed within budget, on time and within scope
Extra costs expended because planning advice from consultants not accurate due to poor performance and inadequate review	Planning outcomes compromised Government embarrassment Delays to project Extra costs	L/H	C		All planning advice and reports checked for quality by Department and Council officers, and peer review, where necessary	LOD	Complete
					Other specialist Government agencies also check reports where relevant	LOD	Completed
					PCG monitors quality and cost	LOD	Completed
Potential for unwarranted material gain by Crown and/or Council from land swaps in the Southern	Damage to reputation of Department and	M/E	A		Open and transparent community consultation process	LC / LOD	Completed

Table 2 – PITTSWATER COUNCIL PROBITY PROTOCOL

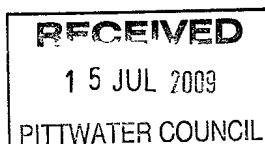
PROBITY RISK		ACTION		FINAL REPORT – November 2012
Maintaining impartiality				
Council recognises that it has conflicting roles in relation to the Review as noted in this Protocol	The Probity Protocol is to be endorsed by the General Manager and reported to Council in order to ensure that Council's involvement in the Review is undertaken in a transparent and impartial manner	Probity Protocol endorsed by GM and reported to Council on 4 October 2011		
Decisions in relation to the re-zoning of Council-owned land arising from the Review should not be made by Council to avoid the conflict of roles arising	Decisions in relation to Council-owned land in the area subject to the Review will require Council resolution to initiate the statutory re-zoning process. This may involve referral to the Joint Regional Planning Panel for independent consideration.	No re-zoning of Council-owned land recommended. To be considered by Council in the event of proposal to re-zone in the future.		
Council officer input to the Review should be separated from officer consideration of the best use of Council-owned land.	Council's officer contribution to the Review will be the responsibility of the Technical Team which will operate with complete independence and separation from the Property Team.	GM has issued formal delegations to establish the two teams. Operation of the teams confirmed through review of documentation and in discussion with Team leaders		
The members of the two teams need to have an understanding of the potential for a conflict in roles and receive a clear statement of their roles and responsibilities.	The General Manager of Council will issue a formal delegation of roles to the two teams and will make the Probity Protocol available to both Teams.	GM has issued the formal delegations		

<h3>Managing Conflicts of Interest</h3>		
In addition to the conflict of roles for the Council, the consideration of options for the use of Council-owned land should not be influenced, or perceived to be influenced, by the personal interests of Councillors or members of the Property Team.	<p>Members of Council shall declare any interests as required by the Local Government Act and the members of the Property Team shall declare in writing any conflicts of interest they may have in relation to the consideration of Council-owned property and the Review.</p> <p>If a member of staff declares an interest this shall be the subject of consideration by the General Manager and the Probity Adviser to determine the appropriate course of action.</p>	<p>Probity Protocol including this requirement has been reported to Council. Property Team members have all signed conflict of interest declarations</p> <p>No interests that could constitute a conflict of interest have been declared.</p>
<h3>Maintaining Transparency and Accountability</h3>		
Accountability requires that the decisions of Council are subject to the appropriate level of public scrutiny and that the responsibilities of Council officers are carried out within the boundaries established by the General Manager and the Council.	<p>The Property Team shall operate within parameters established by Council decision and within the formal delegation made by the General Manager.</p> <p>Reports to Council from the Property Team shall be confidential in accordance with Section 10A (2) (d) of the Local Government Act.</p>	<p>GIM delegation plus initial report to Council in September 2011 established parameters for operation of the Property Team</p> <p>Confirmed</p>
Clear channels of communication with the community are required to ensure that the two Council teams maintain a separate identity and roles	<p>Landowners in the Review area, and members of the public, will be made aware of the appropriate communication channels to the Technical Team and separate channels to the Property Team.</p> <p>All media releases related to the Review, or to issues related to Council-owned land shall be approved by the General Manager. This includes releases of behalf of individual members of Council.</p>	<p>Confirmed. Website updates provided</p> <p>Arrangements for approval of media releases in place as required</p>

Transparency requires opportunity for the community to consider and comment on plans related to Council-owned land	The outcome of the Review will be placed on public exhibition and any comments made by the Property team will also be made public	Public exhibition held in 2012. Submission from Property Group published on Council website.
Accountability requires that records are available of all meetings and negotiations between private landowners and the Property Team.	The Property Team shall prepare and maintain minutes of all meetings with private landowners. Notes of informal interactions shall also be kept. These records shall be stored with appropriate security to maintain the confidentiality of commercial in confidence material.	Confirmed
Maintaining Confidentiality		
Confidentiality is of high importance given the commercial in confidence nature of discussions related to the future of Council-owned land.	Members of the Property team shall sign confidentiality deeds in relation to the confidential information necessary for their responsibilities Private landowners involved in discussions related to Council owned land shall be required to respect the commercial in confidence nature of such discussions before they commence	Confirmed Confirmed
Separation of the roles of the two Council officer teams requires that internal Council information storage systems are set up to prevent inadvertent or deliberate access to information required for the two teams.	Separation and security of information on Council IT systems is to be managed in accordance with Council policy requirements. Separation of access on Council record keeping systems to the confidential information developed by both teams is to be maintained.	Confirmed Confirmed

NSW

The Hon **Kristina Keneally** MP
Minister for Planning | Minister for Redfern Waterloo



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

Y09/1910

Attention Lindsay Dyce

Dear Mr Ferguson *Mark*

I refer to Council's letter dated 26 February 2009 containing an application for an approval under clause 4 of my direction under s94E of the Environmental Planning and Assessment Act 1979 (Act) dated 13 January 2009 (Direction)

I have considered the Council's application and the recommendations of the Local Contributions Review Panel and have decided to give the Council the attached further direction under s94E of the Act (Further Direction)

I may decide to revoke or substitute the Further Direction at any time. In that regard, the Council should be aware that I would consider doing so if the administrative arrangements set out in the Notes at the end of the Further Direction are not complied with to the satisfaction of my Department.

My summary reasons for issuing the Further Direction include

- It appears that initial costs estimates in the *Warriewood Valley Section 94 Contributions Plan No 15 (Amendment No 16)* ("**Warriewood Contributions Plan**") appear to have been substantially under-estimated by Council, leading to a loading of costs onto the development that occurs in the later stages. Accordingly, it is considered necessary for Council to undertake a review of the contributions plan.
- The contributions imposed under the Warriewood Contributions Plan are clearly connected to Council's financing strategy and it is therefore not appropriate to make major changes to the Plan without a sound understanding of the implications for Council. Accordingly, it is considered appropriate that an independent review of the Warriewood Contributions Plan be undertaken to assist in that regard. The review must also address concerns that Council has in the past, charged the contributions plan a 4-5% cost for internal borrowings used by Council which appears to be inappropriate.



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office@keneally.minister.nsw.gov.au

- Council is levying for library book stock. It is considered that this is not an appropriate piece of infrastructure for which contributions should be required. Given that the book stock is required wherever the population increase occurs, it is more appropriate to fund this 'infrastructure' from the increased rate revenues that come from new development generally. Accordingly, Council must no longer require monetary section 94 contributions for such a purpose.
- In addition, the current administration levy authorised by the Warriewood Contributions Plan appears to be very high in comparison to the amount levied for administration costs by other councils. It is considered that a maximum amount of \$1,000 per dwelling/residential lot is more reasonable and as such it is appropriate to limit administration costs to that rate whilst the review of the Warriewood Contributions Plan is being completed.
- However, it is considered appropriate that Council be exempted from the application of the maximum amount set out in the Direction in relation to s94 contributions in accordance with the Warriewood Contributions Plan whilst the independent review of the Plan is commissioned and carried out. Pending completion of the review, it is appropriate to limit further increases while Council undertakes the independent review in order to promote greater housing affordability. Therefore, a new maximum amount of \$62,100 per dwelling/residential lot is imposed on development consents requiring monetary contributions under the Warriewood Contributions Plan. That new maximum amount incorporates the reductions resulting from the Further Direction that library book stock must not be levied for and the limit on the rate of the administration levy.

I also note that while Council can continue to use its Net Present Value methodology for the Warriewood Contributions Plan, I am concerned that this methodology may not be appropriate for contributions plans. I expect that Council will use the new guidelines on the use of Net Present Value methodologies for contributions plans, which I have asked my Department to develop, when it reviews the Warriewood Contributions Plan.

Should you have any further enquiries about this matter, I have arranged for Mr Brett Whitworth, Local Contributions Review Panel Secretariat, to assist you. Mr Whitworth may be contacted on telephone number (02) 4224 9455.

Yours sincerely



10 JUL 2009

The Hon Kristina Keneally MP

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

DIRECTION UNDER SECTION 94E

1 INTRODUCTION

1 1 I, the Minister for Planning (**Minister**), being the Minister administering the *Environmental Planning and Assessment Act 1979 (Act)*, having considered an application from the Council under clause 4 of the Existing Direction, pursuant to section 94E of that Act

- (a) direct the Council to comply with the requirements set out in this Direction,
- (b) revoke any previous direction under section 94E to the extent of any inconsistency with this Direction

1 2 This Direction takes effect seven (7) days after the date of this Direction

1 3 Notes do not form part of this Direction

2. DEFINITIONS

2 1 Words and expressions used in this Direction have the same meaning as in the Act except where otherwise indicated

2 2 The following definitions apply in this Direction

'Contributions Plan' means a contributions plan referred to in section 94EA of the Act

'Council' means Pittwater Council in its capacity as a *consent authority* as defined in section 4(1) of the Act

'Development Consent' means consent under Part 4 of the Act to carry out development and includes a complying development certificate

'Dwelling' means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile

'Existing Direction' means my direction under section 94E of the Act dated 13 January 2009

'Interim Exemption Direction' means my direction under section 94E of the Act dated 28 April 2009

'Monetary Contribution' means a monetary contribution required by a condition of Development Consent imposed under s94(1) or s94(3) of the Act, excluding any indexation provided for in the condition

'Residential Development' means development, or any part of development, for the purpose of one or more Dwellings

Note

1 Development is defined in section 4(1) of the Act to include, amongst other things, *the subdivision of land* as defined in s4B of the Act

'Residential Lot' means a lot created by the subdivision of land as defined in section 4B of the Act for the purpose of a Dwelling not being a lot that, in the opinion of the Council, is to be further subdivided for the purpose of Residential Development

'Warriewood Contributions Plan' means the Contributions Plan titled *Warriewood Valley Section 94 Contributions Plan No 15 (Amendment No 16)* adopted 1 September 2008 as in force at the date of this Direction

'Warriewood Land' means land to which the Warriewood Contributions Plan applies

3. INTERIM EXEMPTION DIRECTION DOES NOT APPLY TO THE COUNCIL

- 3 1 The Interim Exemption Direction ceases to apply to the Council

4. DIRECTIONS TO THE COUNCIL

- 4 1 The Existing Direction ceases to apply to a Development Consent requiring Monetary Contributions in respect of Residential Development on the Warriewood Land imposed under the Warriewood Contributions Plan
- 4 2 A Development Consent authorising Residential Development on the Warriewood Land is not to require Monetary Contributions under the Warriewood Contributions Plan in respect of such development the sum of which exceed the following amount
- (a) to the extent that the consent authorises the erection of one or more Dwellings – the amount determined by multiplying the number of Dwellings by \$62,100, and
 - (b) to the extent that the consent authorises the creation of Residential Lots but not the erection of Dwellings on those lots – the amount determined by multiplying the number of Residential Lots to be created by \$62,100
- 4 3 Monetary Contributions referred to in clause 4 2 of this Direction are not to include a component towards administration costs that exceeds \$1,000 per Dwelling or Residential Lot
- 4 4 Monetary Contributions towards the cost of library book stock are not to be required by any Development Consent under any Contributions Plan applying to land within the Council's area


MINISTER FOR PLANNING

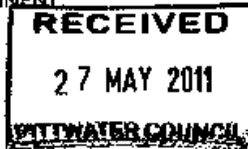
DATE 10/7/09

Notes:

- 1 This Direction may be revoked or substituted at any time by the making of a further direction under s94E of the Act
- 2 The Council is to procure an independent review of the Warriewood Contributions Plan under a brief approved by the Department of Planning. The review is to be concluded by the end of September 2009 and submitted to the Department of Planning. Any necessary amendment of the Warriewood Contributions Plan consequent upon the review is to be completed by the end of 2009. The review, amongst other things, is to
 - a provide a clear estimate of the costs of infrastructure to be provided under the plan, with sufficient rigour to prevent any need for reassessment of those costs within the next three years
 - b address the requirement for the funding of appropriate roads to be apportioned to the broader community given the apparent through traffic function and
 - c consider whether the risk premium levied by the Council on initial borrowings was too high and whether the additional funds received by Council should be directed back towards the plan



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



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

11/06549

Dear Mr Ferguson

I refer to Council's letter requesting the application of a cap of \$62,100 to the *Warriewood Section 94 Contributions Plan No.15 Amendment No.16*.

I have considered Council's request against the current Direction and the previous recommendations of the Local Contributions Review Panel and have decided to issue a further Section 94E Direction to Council which applies a \$62,100 cap on contribution rates covered by this plan. A copy of the relevant Direction is attached.

It is expected you will continue with the review of the Contributions Plan as required by the Local Contributions Review Panel in July 2009. Any draft plan should be consistent with the findings of the Review Panel and the Warriewood Valley Study.

Should you have any further enquiries about this matter, I have arranged for Mr Peter Holt, at the Department of Planning & Infrastructure, to assist you. Mr Peter Holt can be contacted on telephone number (02) 9228 6364.

Yours sincerely

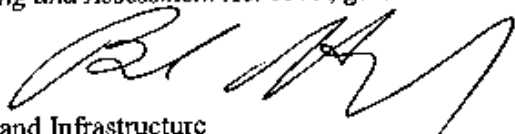
THE HON BRAD HAZZARD MP
 Minister

Environmental Planning and Assessment (Local Infrastructure Contributions – Warriewood Valley) Direction 2011

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning and Infrastructure, in pursuance of section 94E of the *Environmental Planning and Assessment Act 1979*, give the following Direction.



Minister for Planning and Infrastructure

Dated:

13 May 2011

1 Name of Direction

This Direction is the *Environmental Planning and Assessment (Local Infrastructure Contributions – Warriewood Valley) Direction 2011*.

2 When Direction takes effect

This Direction takes effect on 13 May 2011.

3 Consent authority to which Direction is given

- (1) This Direction is given to Pittwater Council.
- (2) This Direction also applies to Sydney East Joint Planning Panel or any other joint regional planning panel ("planning panel") when exercising consent authority functions of Pittwater Council.

4 Definitions

- (1) In this Direction:
 - (a) **dwelling** means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile, and
 - (b) **residential lot** means a lot created by the subdivision of land for the purpose of a dwelling, not being a lot that, in the opinion of Pittwater Council (or planning panel), is to be further subdivided for the purpose of creating lots for the purpose of dwellings.

Note. See section 4B of the *Environmental Planning and Assessment Act 1979* for the meaning of "subdivision of land".

- (2) A reference in this Direction to a development consent that authorises a dwelling is a reference to a development consent that authorises the erection of the dwelling or the use of a building or part of a building as a dwelling.

Note. See section 4 (2) of the *Environmental Planning and Assessment Act 1979* for interpretation of the phrase "erection of a dwelling".

- (3) Notes in this Direction do not form part of this Direction.

5 Maximum amount of monetary contributions under s 94

- (1) This clause applies to a development consent to the extent that it authorises one or more dwellings or the subdivision of land into residential lots on land within Pittwater Local Government Area that is identified as the Warriewood Valley Urban Release Area in the *Warriewood Valley Section 94 Contributions Plan No. 15 Amendment No. 16*.
- (2) Pittwater Council (or a planning panel) must not grant a development consent to which this clause applies subject to a condition under section 94 (1) or (3) of the *Environmental Planning and Assessment Act 1979* requiring the payment of a monetary contribution that:
- (a) in the case of a development consent that authorises one or more dwellings, exceeds \$62,100 for each dwelling authorised by the consent, or
 - (b) in the case of a development consent that authorises subdivision into residential lots, exceeds \$62,100 for each residential lot authorised to be created by the development consent.
- (3) Pittwater Council (or a planning panel) may, in a particular case, require, as a condition on the grant of development consent, the payment of a monetary contribution that exceeds the maximum amount of the contribution calculated in accordance with subclause (2), but only with both the written agreement of the applicant for the consent and the written approval of the Minister, given before the condition is imposed.

6 Pending development applications

- (1) This Direction extends to development applications made to Pittwater Council, but not finally determined, before this Direction takes effect.
- (2) This Direction does not apply to:
- (a) any application for modification of a development consent that was granted before this Direction takes effect, and
 - (b) any condition of a development consent that was granted before this Direction takes effect.

Note.

Section 94EC (1A) of the *Environmental Planning and Assessment Act 1979* provides as follows:

The imposition of a condition by an accredited certifier as authorised by a contributions plan is subject to compliance with any directions given under section 94E (1) (a), (b) or (d) with which a council would be required to comply if issuing the complying development certificate concerned.



Planning & Infrastructure

Office of the Director General

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

qA224770

Dear Mr Ferguson

I am writing concerning the public release of the *Warriewood Valley Strategic Review*. As you know the Department and Council staff have been working in partnership to prepare a Strategic Review Report that will establish a framework to guide future development in the Warriewood Valley.

I appreciate that this has been a complex process that has included an analysis of a wide range of constraints including economic feasibility, hydrology, traffic and transport and urban design. An important part of the overall process has been consultation with the community.

The final Report recommends that some parts of the study area be progressed immediately as planning proposals, with densities to rise from 25 dwellings per hectare (d/ha) to 32 d/ha. It is important that Council progress this as a priority.

While the Report proposes specific residential densities, I consider that there may be future opportunities for a greater mix of housing types and higher densities, particularly on larger sites or if sites can be amalgamated. The content of the report and economic feasibility analysis support this position. Opportunities for higher density development beyond that recommended in the Strategic Review could be explored through planning proposals subject to appropriate merit assessment. The Department will assess any such proposals it receives on that basis.

I am pleased to advise that I have endorsed the *Warriewood Valley Strategic Review* subject to the above. I appreciate Council's ongoing cooperation in achieving this milestone.

If you have any further enquiries about this matter, I have arranged for Ms Juliet Grant Regional Director of the Department's Sydney Region East Team to assist you. Ms Grant can be contacted on (02) 9228 6113.

Yours sincerely


Sam Haddad
Director General

1/5/2013

Bridge St Office 23-33 Bridge St Sydney NSW 2000 GPO Box 39 Sydney NSW 2001 DX 22 Sydney
Telephone: (02) 9228 6111 Facsimile: (02) 9228 6191 Website planning.nsw.gov.au

Planning Proposal

**prepared in accordance with point 4 of
the recommendation**

PLANNING PROPOSAL

To amend/introduce the minimum & maximum number of dwellings permitted in Sector 1 and Buffer 1a-1l of the Warriewood Valley Urban Land Release Area

PART 1 OBJECTIVES OR INTENDED OUTCOMES

To amend the minimum and maximum numbers of dwellings permitted in Sector 1 and Buffer Area 1 of the Warriewood Valley Release Area, representing an increase in dwelling density from 25 to 32 dwellings per developable hectare.

To confirm that Buffer 1M has no residential density potential due to significant environmental constraints.

Developable hectare refers to the total area of the site exclusive of environmentally sensitive land, including the creekline corridor land (as measured 25 metres, either side of the creek centreline) expressed in hectares.

PART 2 EXPLANATION OF PROVISIONS

The proposed outcome will be achieved by:

- A series of new maps are provided for this Planning Proposal (See **MAP 3 and 4**) and will require amending Clause 30B of the *Pittwater Local Environmental Plan 1993* as follows:-

Insert at the end of subclause (1), this paragraph:

Land at Warriewood within Buffer 1a to Buffer 1m inclusive of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 1 of the map marked "Pittwater Local Environmental Plan 1993 (Amendment No. #)"

Land at Warriewood within Sector 1 including Sector 101 of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 3 of the map marked "Pittwater Local Environmental Plan 1993 (Amendment No. #)"

- Amending Clause 30C of the *Pittwater Local Environmental Plan 1993* as follows:-

Sector 1 (including Sector 101) – not more than ~~240~~ 213 dwellings or less than ~~195~~ 210 dwellings

~~Buffer Area 1 – not more than 176 dwellings or less than 167 dwellings~~

Buffer 1a – not more than 17 dwellings or less than 15 dwellings

Buffer 1b – not more than 24 dwellings or less than 17 dwellings

Buffer 1c – not more than 18 dwellings or less than 13 dwellings

Buffer 1d – not more than 1 dwelling

Buffer 1e – not more than 15 dwellings or less than 11 dwellings

Buffer 1f – not more than 21 dwellings or less than 14 dwellings

Buffer 1g – not more than 23 dwellings or less than 17 dwellings

Buffer 1h – not more than 1 dwelling

Buffer 1i – not more than 39 dwellings or less than 27 dwellings

Buffer 1j – not more than 40 dwellings or less than 26 dwellings

Buffer 1k – not more than 21 dwellings or less than 14 dwellings

Buffer 1l – not more than 67 dwellings or less than 43 dwellings

Buffer 1m – no dwellings

- A new map is provided for this Planning Proposal (See **MAP 3**) and will require amending Clause 30D of the *Pittwater Local Environmental Plan 1993* as follows:-

Insert at the end of subclause (1), this paragraph:

- (a) This clause applies to land shown edged heavy black on the map marked “Pittwater Local Environmental Plan 1993 (Amendment No. #) – Sheet 1.

- A series of new maps are provided for this Planning Proposal (See **MAP 4 and 5**) and will require amending Clause 30E of the *Pittwater Local Environmental Plan 1993* as follows:-

Insert at the end of subclause (8), this paragraph:

Buffer 1a to Buffer 1m inclusive of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 2 of the map marked “Pittwater Local Environmental Plan 1993 (Amendment No. #)”

Sector 1 including Sector 101 of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 3 of the map marked “Pittwater Local Environmental Plan 1993 (Amendment No. #)”

PART 3 JUSTIFICATION

Section A Need for the Planning Proposal

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

Yes. The recently adopted *Warriewood Valley Strategic Review Report 2012* was the result of a joint undertaking by the Department of Planning & Infrastructure and Council to review the height and density standards for residential development within the Release Area. The Strategic Review Report has been endorsed by the Director-General of Planning & Infrastructure.

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

Yes. The Planning Proposal is the best means of achieving the intended outcome as the subject lands are already rezoned and the range of dwellings numbers permitted in the subject lands are already stipulated in Clause 30C of Pittwater LEP 1993. Progressing the Planning Proposal is the only mechanism of enabling changes to be made to Clause 30C of Pittwater LEP.

Section B Relationship to Strategic Planning Framework

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

This Planning Proposal is consistent with the objectives of the Sydney Metropolitan Strategy, in line with the State Plan, and the Draft North-East Subregional Strategy, where goals are set for housing and land supply.

Action C1 in the Draft North-East Subregional Strategy calls for ensuring the adequate supply of land and sites for residential development through the MDP. As Warriewood Valley forms part of the MDP, it is subsequently identified for accommodating new residential development. This Planning Proposal will increase housing supply and is therefore consistent with such an action.

This Planning Proposal would also be consistent with Action C4 of the Draft North-East Subregional Strategy, which calls for improving housing affordability. Once again, by increasing housing supply the Planning Proposal is consistent with such an action.

As the intended outcome of this Planning Proposal is to allow more dwellings to be built in the Warriewood Valley Release Area, it is subsequently consistent with the objectives and actions contained within the relevant strategic planning framework.

4. Is the planning proposal consistent with the council's local strategy or other local strategic plan?

This Planning Proposal is consistent with the recently adopted *Warriewood Valley Strategic Review Report 2012* which recommends an increase in the numbers of dwellings in the Warriewood Valley Release Area.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

This Planning Proposal is generally consistent with the relevant State Environmental Planning Policies (see Appendix 1).

6. Is the planning proposal consistent with applicable Ministerial Directions (S117 Directions)?

The Planning Proposal is generally consistent with the applicable Ministerial Directions. Where there are inconsistencies, justification has been provided addressing how the inconsistency can be waived consistent with the Directions (see Appendix 2).

C Environmental, social and economic impact

7. 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?

The lands subject of this Planning Proposal have already been zoned for urban development, already having a maximum dwelling yield applying to each sector. The original rezoning of these lands would have considered the likely habitats and threatened species that may exist or be adversely affected by the initial rezoning of this land.

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

This Planning Proposal seeks a modest increase in the number of dwellings permitted in these sectors as forecast under *Warriewood Valley Planning Framework 2010* (adopted by Council on 3 May 2010).

This Planning Proposal is consistent with the recommendations of the *Warriewood Valley Strategic Review Report 2012* which is supported by mapping layers adopted by Council in 2011 as part of the Pittwater Local Planning Strategy and the findings of several environmental studies which considered flooding and water management, traffic and transport, urban design and economic feasibility issues.

Further, any future Development Application will require assessment under Section 79C of the EP&A Act and will be subject to several provisions and development controls, including those related to flooding, bushfire prone land, waste, land contamination, geotechnical hazards, heritage and traffic, through the Pittwater LEP and Pittwater 21 DCP.

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

The lands the subject of this Planning Proposal comprises existing residential sectors within the Warriewood Valley Release Area, which are identified in the State Government's MDP. A suite of studies were undertaken for the original Warriewood Valley urban land release, including consideration of social and economic effects. This Planning Proposal will therefore not have any marked negative social or economic effects.

D State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

As the subject lands form part of the Warriewood Valley Land Release, public infrastructure is provided through the *Warriewood Valley Section 94 Contributions Plan No. 15 (Amendment 16)*. Council has commenced a review of this plan to account for the additional infrastructure required as a result of the additional dwellings now anticipated in the release area.

11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway Determination?

The following preliminary views were expressed by state and service agencies during the public exhibition of Warriewood Valley Strategic Review prepared by the Department of Planning and Infrastructure and Council which recommends an increase in the numbers of dwellings in the release area.

Response from Department of Education & Communities (DEC):

- Based on up to an additional 500 dwellings, the DEC advises that there is adequate capacity at Narrabeen Sports High School to accommodate senior students.
- For primary students, the Department expects that there would be a need to increase capacity at either Narrabeen North Public School or Mona Vale Public School.

Response from Roads & Maritime Services (RMS):

- The RMS has advised that it supports the Strategic Review's recommendations, provided that:-
 - The maximum number of approved dwellings in the Warriewood study area does not exceed 2544 dwellings, and
 - No further development is approved for the area identified as the Southern Buffer until further traffic modelling is carried out on the Pittwater Road/Warriewood Road and Pittwater Road/Mona Vale Road intersections.

Response from Department of Health – Northern Sydney Local Health District (NSLHD):

- NSLHD notes that the northeast is Sydney's most car dependent subregion and recommends that the frequency and the capacity of the public transport system be improved to accommodate the proposed increase in density.
- NSLHD commends the inclusion of pedestrian and cycle links throughout Warriewood, but recommends that cycleways be separated from traffic to allow for safe, active transport and to increase participant numbers.

Response from Office of Environment & Heritage (OEH)"

The OEH generally supports the proposed increase in residential density, provided that flooding issues and bushfire protection issues are adequately considered and that riparian corridors can be retained and protected.

Response from Sydney Water:

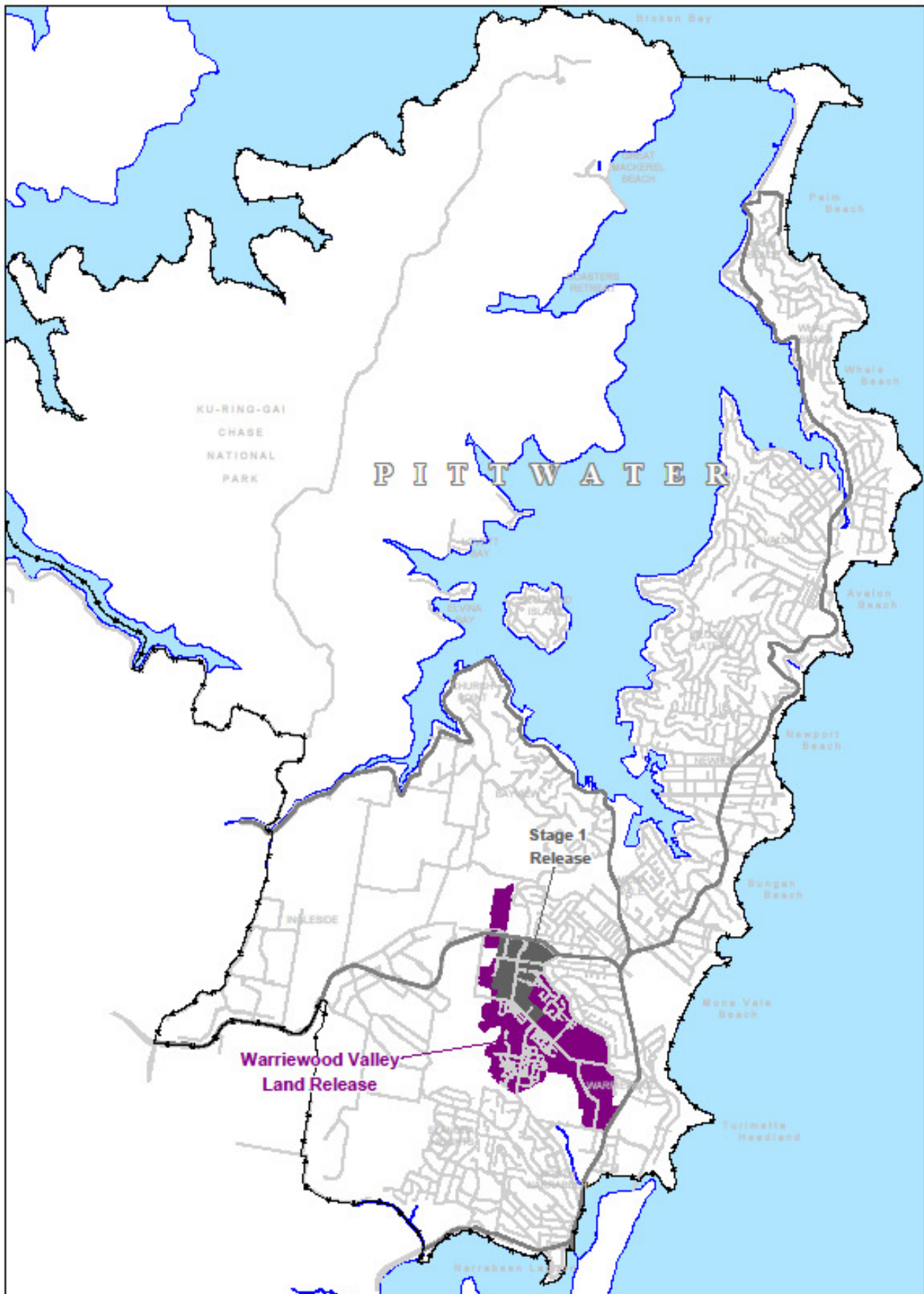
- Sydney Water advises there is capacity in both water and wastewater systems to service the proposed density increase in Warriewood Valley.

Response from Ausgrid:

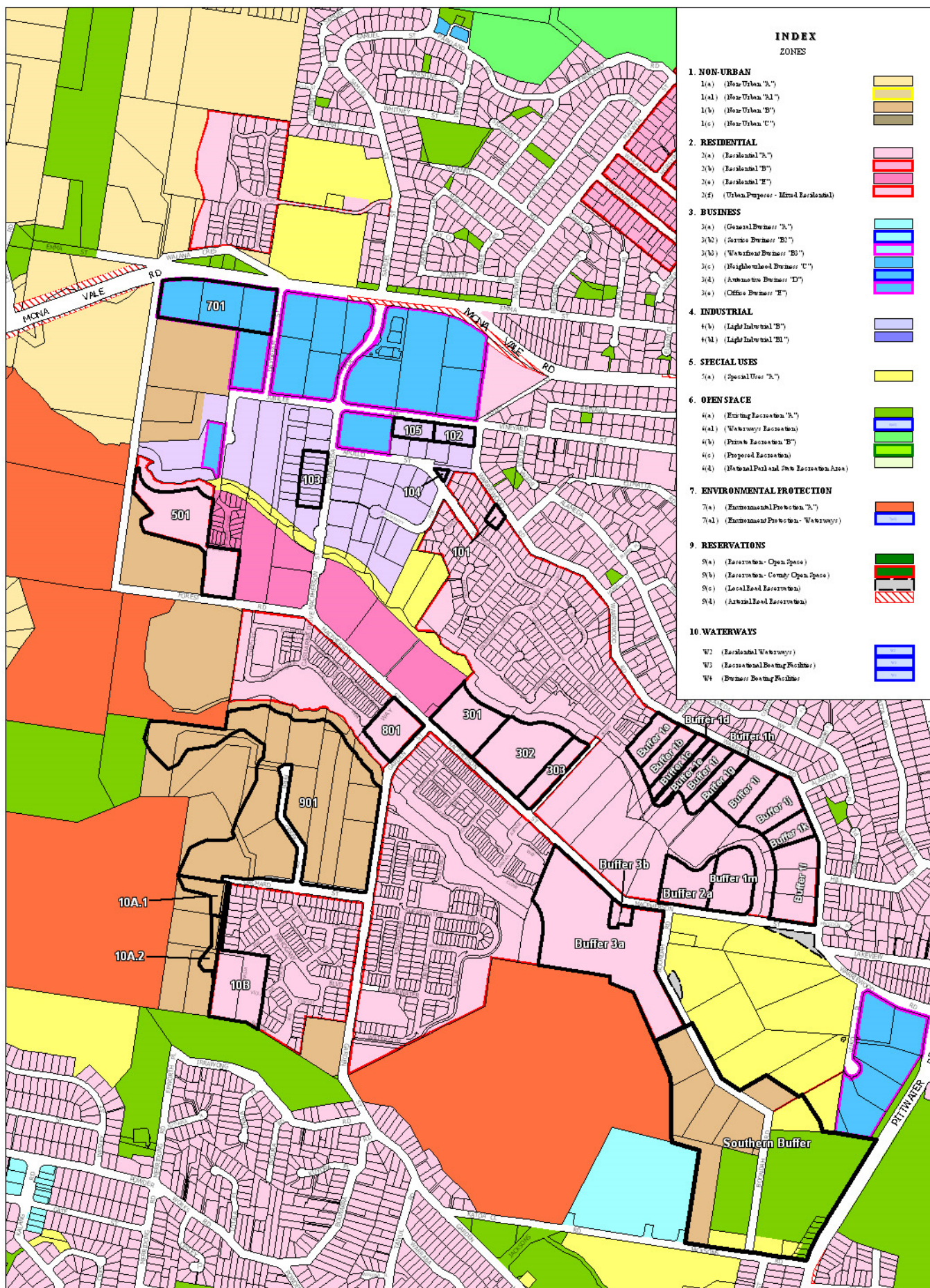
- Ausgrid expects that supply to the proposed development would be able to be provided from the electricity substations at Mona Vale or Narrabeen.

PART 4 MAPPING

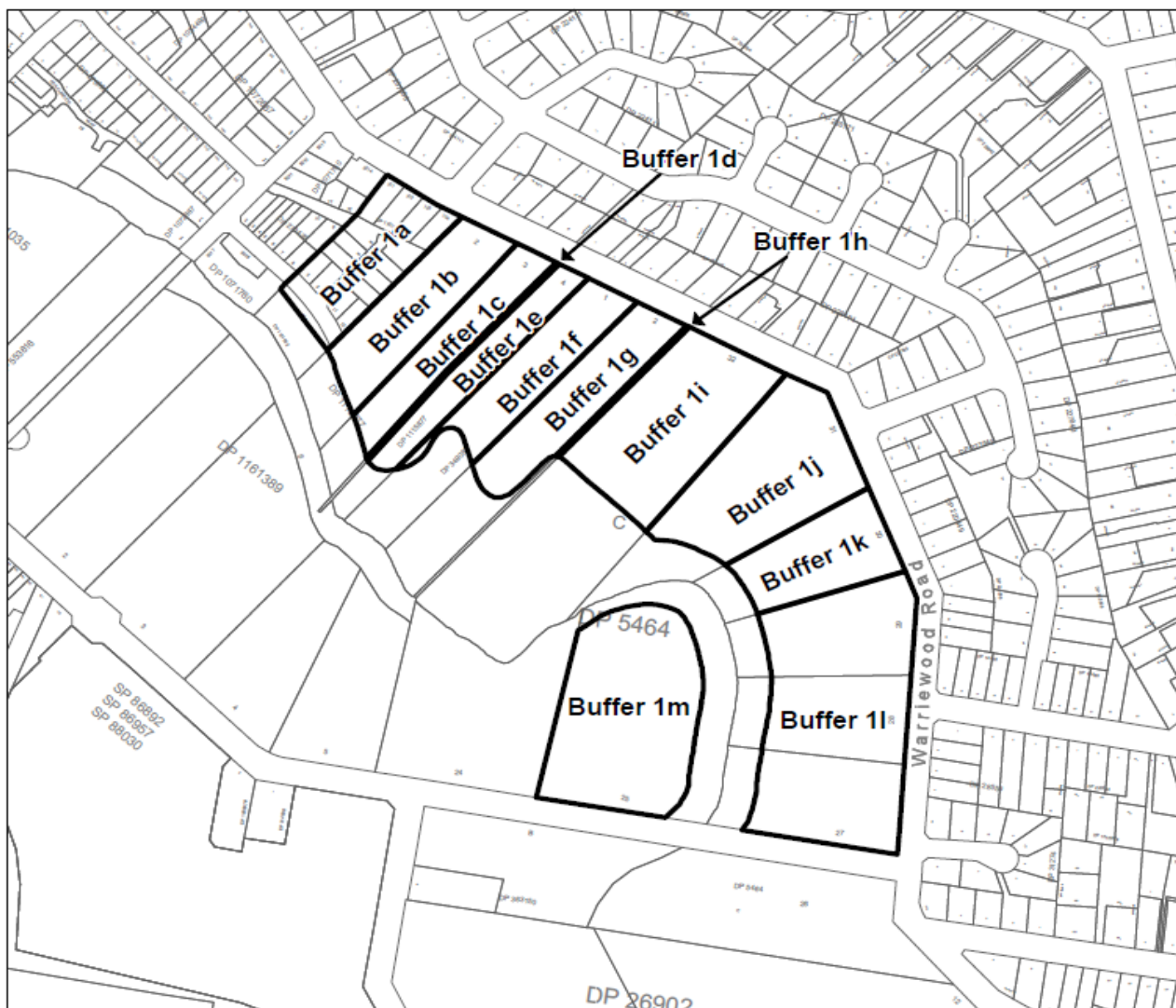
Map 1: Location Map – Warriewood Land Release Area



Map 2: Current Sectors – Warriewood Valley Planning Framework 2010



Map 3: Pittwater Local Environmental Plan 1993 Sheet 1



SCALE 1:5000

SUBJECT LAND SHOWN THUS



LOCALITY WARRIEWOOD

Sheet 1 of 3

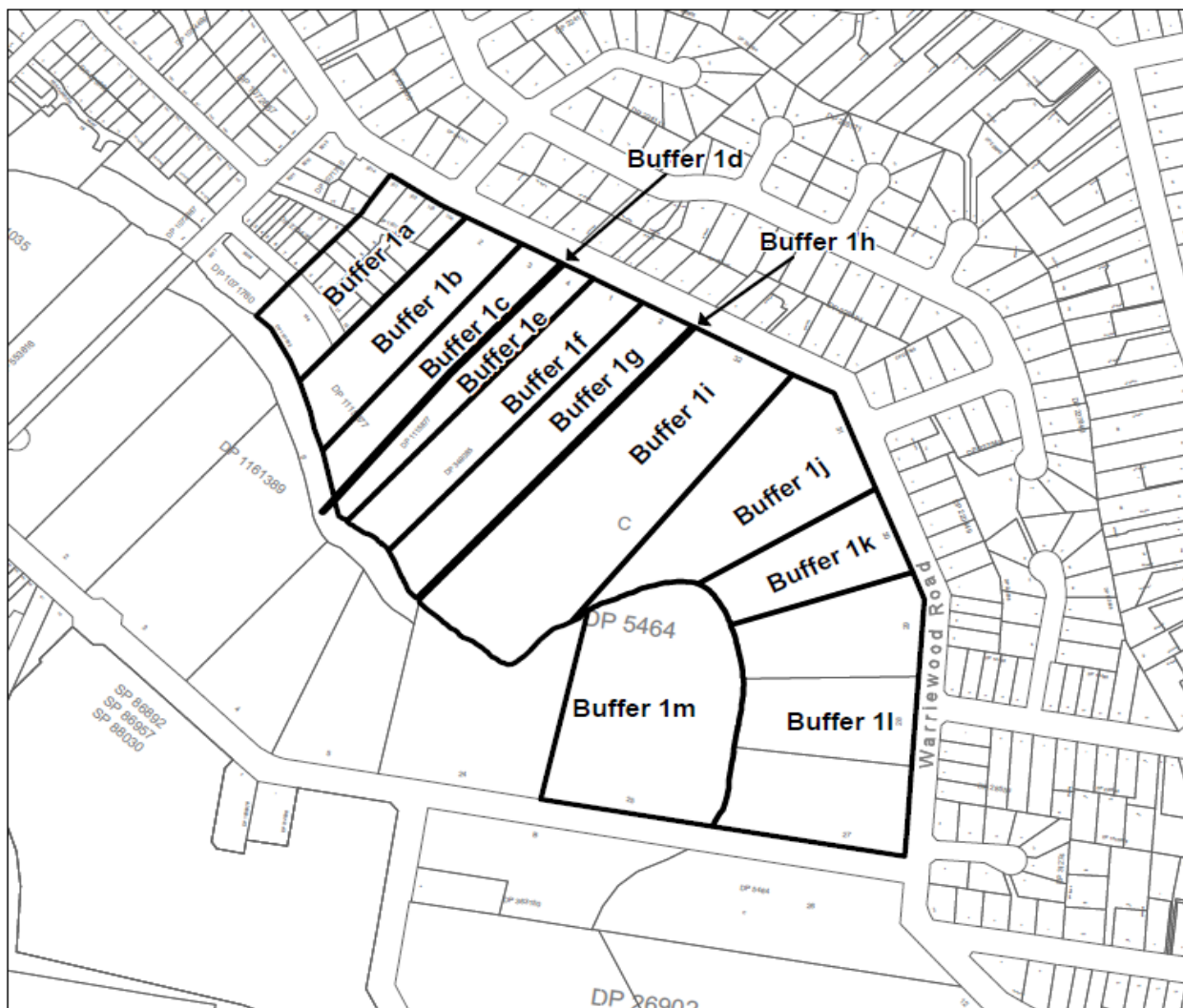
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

PITTWATER

LOCAL ENVIRONMENTAL PLAN 1993 (AMENDMENT NO. XX)

DRAWN BY M TURNBULL	DATE: 21.05.13	STATEMENT OF RELATIONSHIP WITH OTHER PLANS AMEND PITTWATER LOCAL ENVIRONMENTAL PLAN 1993 CLAUSE 30B - "Development of UDP land in Warriewood Valley" CLAUSE 30C - "Dwelling Yield" CLAUSE 30D - "Mitigation of odours from the Warriewood Sewerage Treatment Plant"
PLANNING OFFICER T. STAGNI		
CERTIFICATE PLAN NO. PP830		
COUNCIL FILE NO.		
DEPT. FILE NO.		CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 AND REGULATION
GATEWAY DETERMINATION	DATE	
PLAN PUBLISHED ON NSW LEGISLATION WEBSITE ON		
		GENERAL MANAGER
		DATE:

Map 4: Pittwater Local Environmental Plan 1993 Sheet 2



SCALE 1:5000

SUBJECT LAND SHOWN THUS



LOCALITY WARRIEWOOD

Sheet 2 of 3

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

PITTWATER

LOCAL ENVIRONMENTAL PLAN 1993 (AMENDMENT NO. XX)

DRAWN BY M TURNBULL DATE: 21.05.13

PLANNING OFFICER T. STAGNI

CERTIFICATE PLAN NO. PP830

COUNCIL FILE NO.

DEPT. FILE NO.

GATEWAY DETERMINATION DATE

PLAN PUBLISHED ON NSW LEGISLATION WEBSITE ON

STATEMENT OF RELATIONSHIP WITH OTHER PLANS



AMEND PITTWATER LOCAL ENVIRONMENTAL PLAN 1993

CLAUSE 30E - "Public infrastructure in urban release areas"

CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 AND REGULATION

GENERAL MANAGER

DATE:

 **NORTH**
SUBJECT LAND SHOWN THUS 
SCALE 1:5000 **LOCALITY WARRIEWOOD** **Sheet 3 of 3**

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979
PITTWATER
LOCAL ENVIRONMENTAL PLAN 1993 (AMENDMENT NO. XX)

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PART 5 COMMUNITY CONSULTATION

The lands the subject of this Planning Proposal has already been zoned for urban development, already having a maximum dwelling yield applying to each sector. This Planning Proposal relates to changes to the maximum dwelling yields permitted in Sector 1 and Buffer Area 1 in Warriewood Valley, consistent with the maximum dwelling yields under the recently adopted *Warriewood Valley Strategic Review Report 2012*. The Warriewood Valley Strategic Review Report was the subject of a comprehensive community consultation process and was endorsed by the Director-General of the Department of Planning & Infrastructure.

Infrastructure within the Warriewood Valley Release Area is provided through the *Warriewood Valley Section 94 Contributions Plan No. 15 (Amendment 16)* which is currently being reviewed to account for additional infrastructure required as a result the additional dwellings now anticipated in the release area.

Subsequently, this Planning Proposal is considered a 'low impact' proposal.

In keeping with *A guide to preparing local environmental plans* (Department of Planning & Infrastructure, 2012) the following consultation is considered appropriate:

- 14 day exhibition period (*this may need to be extended if the exhibition occurs during the December to January school holiday period*)
- Notification in local newspaper at commencement of exhibition period
- Notification on Council's website for the duration of the exhibition
- Notification in writing to affected and adjoining landowners at commencement of exhibition period
- Notification in writing to the Warriewood Residents Association Incorporated at commencement of exhibition period

PART 6 PROJECT TIMELINE

Planning Proposal Milestone	Timeframe	Anticipated Completion Date
Date of Gateway determination	6 weeks from Council decision to forward Planning Proposal to Gateway	Mid July 2013
Completion of required technical information		COMPLETED 2012
Government agency consultation		Pre-exhibition consultation COMPLETED 2012
Public exhibition	14 days (<i>pending school holiday period</i>)	August 2013
Consideration of submissions	4 weeks from close of public exhibition	Early September 2013
Consideration of proposal post-exhibition and report to Council	6 weeks from close of public exhibition	October 2013
Submission to Department to finalise LEP		Late October 2013 following Council decision
*RPA to make plan (if delegated)	6 weeks from Council decision	December 2013

**Council's General Manager (Council's sub-delegate) seeks to exercise the LEP making powers delegated under section 59 of the Environmental Planning & Assessment Act in regard to this Planning Proposal. Council's General Manager requests that a Written Authorisation to Exercise Delegation be issued in regard to this Planning Proposal.*

Checklist – Consideration of State Environmental Planning Policies

The following SEPP's are relevant to the Pittwater Local Government Area. The Table identifies which of the relevant SEPPs apply to the Planning Proposal (or not) and if applying, is the Planning Proposal consistent with the provisions of the SEPP.

(Last updated 20 August 2010)

Title of State Environmental Planning Policy (SEPP)	Applicable	Consistent	Reason for inconsistency
SEPP No 1 – Development Standards	YES	YES	
SEPP No 4 – Development Without Consent and Miscellaneous Exempt and Complying Development	YES	YES	
SEPP No 6 – Number of Storeys in a Building	YES	YES	
SEPP No 14 – Coastal Wetlands	NO	N/A	
SEPP No 21 – Caravan Parks	NO	N/A	
SEPP No 22 – Shops and Commercial Premises	NO	N/A	
SEPP No 26 – Littoral Rainforests	NO	N/A	
SEPP No 30 – Intensive Agriculture	NO	N/A	
SEPP No 32 – Urban Consolidation (Redevelopment of Urban Land)	NO	N/A	
SEPP No 33 – Hazardous and Offensive Development	NO	N/A	
SEPP No 44 – Koala Habitat Protection	NO	N/A	
SEPP No 50 – Canal Estate Development	NO	N/A	
SEPP No 55 – Remediation of Land	NO	N/A	
SEPP No 60 – Exempt and Complying Development	YES	YES	
SEPP No 62 – Sustainable Aquaculture	NO	N/A	
SEPP No 64 – Advertising and Signage	YES	YES	

SEPP No 65 – Design Quality of Residential Flat Development	YES	YES	
SEPP No 70 – Affordable Housing (Revised Schemes)	YES	YES	
SEPP 71 – Coastal Protection	NO	N/A	
SEPP (Affordable Rental Housing) 2009	YES	YES	
SEPP (Building Sustainability Index: BASIX) 2004	YES	YES	
SEPP (Exempt and Complying Development Codes) 2008	YES	YES	
SEPP (Housing for Seniors or People with a Disability) 2004	YES	YES	
SEPP (Infrastructure) 2007	YES	YES	
SEPP (Major Development) 2005	NO	N/A	
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	NO	N/A	
SEPP (Rural Lands) 2008	NO	N/A	
SEPP (Temporary Structures) 2007	NO	N/A	
SEPP (Urban Renewal) 2010	NO	N/A	

The following is a list of the deemed SEPP's (formerly Sydney Regional Environmental Plans) relevant to the Pittwater Local Government Area.

Title of deemed SEPP, being Sydney Regional Environmental Plan (SREP)	Applicable	Consistent	Reason for inconsistency
SREP No 20 – Hawkesbury-Nepean River (No 2 -1997)	NO	N/A	

Justification for inconsistency

NIL

Checklist – Consideration of Section 117 Ministerial Directions

1 Employment and Resources

	Direction	Applicable	Consistent
1.1	Business and Industrial Zones	NO	N/A
1.2	Rural Zones	NO	N/A
1.3	Mining, Petroleum Production and Extractive Industries	NO	N/A
1.4	Oyster Aquaculture	NO	N/A
1.5	Rural Lands	NO	N/A

Justification for inconsistency

NIL

2 Environment and Heritage

	Direction	Applicable	Consistent
2.1	Environmental Protection Zones	NO	N/A
2.2	Coastal Protection	NO	N/A
2.3	Heritage Conservation	YES	NO
2.4	Recreation Vehicle Areas	NO	N/A

Justification for inconsistency with Direction 2.3

The Planning Proposal relates to changes to the maximum dwelling yield permitted in Sector 1 and Buffer Area 1 of the Warriewood Valley Release Area. Provisions already exist in Pittwater LEP 1993 for the protection and conservation of environmentally sensitive area and the conservation of heritage items, areas, objects and places. These provisions will continue to apply to the lands the subject to this Planning Proposal.

3 Housing, Infrastructure and Urban Development

	Direction	Applicable	Consistent
3.1	Residential Zones	YES	YES
3.2	Caravan Parks and Manufactured Home Estates	YES	NO
3.3	Home Occupations	YES	YES
3.4	Integrating Land Use and Transport	YES	YES
3.5	Development Near Licensed Aerodromes	NO	N/A
3.6	Shooting Ranges	NO	N/A

Justification for inconsistency with Direction 3.2

The Planning Proposal relates to changes to the maximum dwelling yield permitted in Sector 1 and the former Buffer Area 1 of the Warriewood Valley Release Area. The subject lands are already zoned 2(f) (Urban Purposes – Mixed Residential) and have been identified in the MDP. The planning and development of Warriewood Valley is based on a suite of environmental studies and objectives relating to environmental issues, community facilities and infrastructure, heritage, urban design and financial viability. These objectives form the basis for the planning and implementation of development in Warriewood Valley and have been consistently applied by Pittwater Council and agreed to by the Department of Planning and Infrastructure over the years. In this regard, it did not contemplate opportunities for caravan parks and manufactured home estates.

4 Hazard and Risk

	Direction	Applicable	Consistent
4.1	Acid Sulphate Soils	NO	N/A
4.2	Mine Subsidence and Unstable Land	NO	N/A
4.3	Flood Prone Land	YES	NO
4.4	Planning For Bushfire Protection	YES	NO

Justification for inconsistency with Direction 4.3

Sections of Narrabeen Creek traverse Buffer 1a to 1m (former Buffer Area 1). The planning and development of Warriewood Valley is based on utilising the creek line corridor to convey the 1% AEP flood event. The subject lands are already zoned 2(f) (Urban Purposes – Mixed Residential) which allows for development to occur on the land. Despite this, no vertical structures are permitted on that part of the land comprising the creek line corridor. This land is required to be rehabilitated and subsequently dedicated to Council in accordance with the *Warriewood Valley Section 94 Contributions Plan*.

Justification for inconsistency with Direction 4.4

The subject lands are already zoned 2(f) (Urban Purposes – Mixed Residential) which allows for residential development to occur on the land. This Planning Proposal is inconsistent with the direction insofar as the NSW Rural Fire Service has not yet been consulted.

5 Regional Planning

	Direction	Applicable	Consistent
5.1	Implementation of Regional Strategies	NO	N/A
5.2	Sydney Drinking Water Catchments	NO	N/A
5.3	Farmland of State and Regional Significance on NSW Far North Coast	NO	N/A
5.4	Commercial and Retail Development along the Pacific Hwy, North Coast	NO	N/A
5.5	Development in the vicinity of Ellalong, Paxton and Millfield	NO	N/A
5.8	Second Sydney Airport: Badgerys Creek	NO	N/A

Justification for inconsistency

NIL

6 Local Plan Making

	Direction	Applicable	Consistent
6.1	Approval and Referral Requirements	YES	YES
6.2	Reserving Land for Public Purposes	YES	YES
6.3	Site Specific Purposes	YES	NO

Justification for inconsistency with Direction 6.3

The Planning Proposal seeks to amend the maximum permissible dwelling yield provisions contained in Clause 30C of the Pittwater LEP. The application of Clause 30C, stipulating the maximum number of dwellings, is well established for the Warriewood Valley Release Area and is not a new provision.

7 Metropolitan Planning

	Direction	Applicable	Consistent
7.1	Implementation of the Metropolitan Strategy	YES	YES

Justification for inconsistency

NIL

Planning Proposal

**prepared in accordance with point 5 of
the recommendation**



PLANNING PROPOSAL

To rezone Sectors 901A and adjoining Orchard Street Road Reserve, 901B, 901C, and 901F of the Warriewood Valley Urban Land Release Area to a residential zone

To introduce/increase the maximum dwellings permitted in Sectors 301-303, 5, 801, 901A and adjoining Orchard Street road reserve, 901B, 901C, 901F, 10B, Buffer 2a and Buffer 3b of the Warriewood Valley Urban Land Release Area

PART 1 OBJECTIVES OR INTENDED OUTCOMES

To rezone specific land 2(f) (Urban Purposes – Mixed Residential) under Pittwater LEP, being:

- Lot 13 DP1092788, 9 & 10 Fern Creek Road, 2, 4, & 6 Orchard Street, 204 & 206 Garden Street, Warriewood and north-west portion of Orchard Street Road reserve (*identified as Sector 901A and adjoining Orchard Street Road Reserve*)
- 2 Fern Creek Road (*identified as Sector 901B*),
- 12 Fern Creek Road Warriewood (*identified as Sector 901C*),
- 14 Orchard Street Warriewood (*identified as Sector 901F*).

To introduce/amend the minimum and maximum numbers of dwellings permitted in:

- Sector 301, 302 and 303,
- Sector 5,
- Sector 801,
- Sector 901A and adjoining Orchard Street Road Reserve, 901B, 901C and 901F
- Sector 10B,
- Buffer 2a and
- Buffer 3b.

of the Warriewood Valley Release Area, representing an increase in dwelling density from 25 to 32 dwellings per developable hectare.

Developable hectare refers to the total area of the site exclusive of environmentally sensitive land, including the creekline corridor land (as measured 25 metres, either side of the creek centreline) expressed in hectares.

PART 2 EXPLANATION OF PROVISIONS

The proposed outcome will be achieved by:

- An amended zoning map is provided for this Planning Proposal (See **MAP 3**) and will require amending Clause 5 of the *Pittwater Local Environmental Plan 1993* as follows:-

Insert at the end of definition of “the Zoning Map” contained in subclause (1), this paragraph:

[Pittwater Local Environmental Plan 1993 \(Amendment No. #\) – Sheet 1](#)

- A series of new maps are provided for this Planning Proposal (See **MAP 4, 6, 8, 9, 11, 12, 14**) and will require amending Clause 30B of the *Pittwater Local Environmental Plan 1993* as follows:-

Delete at end of subclause (1), these paragraphs:

~~Land at Warriewood within Sector 3 of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 1 of the map marked “Pittwater Local Environmental Plan 1993 (amendment No 87)”~~

~~Land at Warriewood within Sector 5 of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 1 of the map marked “Pittwater Local Environmental Plan 1993 (amendment No 91)”~~

Insert at the end of subclause (1), this paragraph:

Land at Warriewood within Sector 301, 302 and 303 of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 4 of the map marked "Pittwater Local Environmental Plan 1993 (Amendment No. #)".

Land at Warriewood within Sector 5 of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 6 of the map marked "Pittwater Local Environmental Plan 1993 (Amendment No. #)".

Land at Warriewood within Sector 8 including Sector 801 of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 7 of the map marked "Pittwater Local Environmental Plan 1993 (Amendment No. #)".

Land at Warriewood within Sector 901A and adjoining Orchard Street Road Reserve, 901B, 901C and 901D of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 2 of the map marked "Pittwater Local Environmental Plan 1993 (Amendment No. #)".

Land at Warriewood within Sector 10 including Sector 10B of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 9 of the map marked "Pittwater Local Environmental Plan 1993 (Amendment No. #)".

Land at Warriewood within Buffer 2a of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 10 of the map marked "Pittwater Local Environmental Plan 1993 (Amendment No. #)".

Land at Warriewood within Buffer 3b of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 12 of the map marked "Pittwater Local Environmental Plan 1993 (Amendment No. #)".

- Amending Clause 30C of the *Pittwater Local Environmental Plan 1993* as follows:-

~~Sector 3 – not more than 165 dwellings~~

Sector 301 – not more than 53 dwellings or less than 42 dwellings

Sector 302 – not more than 84 dwellings or less than 66 dwellings

Sector 303 – not more than 23 dwellings or less than 23 dwellings

Sector 5 – not more than ~~75~~ 94 or less than ~~65~~ 75 dwellings

Sector 8 (excluding Sector 801) – not more than 159 dwellings

Sector 801 – not more than 38 dwellings or less than 19 dwellings

Sector 10 (excluding Sector 10B) – not more than 164 dwellings or less than 147 dwellings

Sector 10B – not more than 45 dwellings or less than 28 dwellings

Sector 901A (including adjoining road reserve) – not more than 192 dwellings or less than 156 dwellings

Sector 901B – not more than 36 dwellings or less than 12 dwellings

Sector 901C – not more than 22 dwellings or less than 17 dwellings

Sector 901F – not more than 14 dwellings

Buffer 2a – not more than 29 dwellings or less than 20 dwellings

Buffer 3b – not more than 9 dwellings or less than 7 dwellings

- A series of new maps are provided for this Planning Proposal (See **MAP 12 & 14**) and will require amending Clause 30D of the *Pittwater Local Environmental Plan 1993* as follows:-

Insert at the end of subclause (1), this paragraph:

(b) This clause applies to land shown edged heavy black on the map marked “Pittwater Local Environmental Plan 1993 (Amendment No. #) – Sheet 10”.

(c) This clause applies to land shown edged heavy black on the map marked “Pittwater Local Environmental Plan 1993 (Amendment No. #) – Sheet 12”.

- A series of new maps are provided for this Planning Proposal (See **MAP 5, 7, 10, 11, 13 & 14**) and will require amending Clause 30E of the *Pittwater Local Environmental Plan 1993* as follows:-

Delete at end of subclause (8), these paragraphs:

~~Land at Warriewood within Sector 3 of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 1 of the map marked “Pittwater Local Environmental Plan 1993 (amendment No 87)”~~

Insert at the end of subclause (8), these paragraphs:

Sector 301, 302 and 303 of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 5 of the map marked “Pittwater Local Environmental Plan 1993 (Amendment No. #)”.

Sector 8 including Sector 801 of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 8 of the map marked “Pittwater Local Environmental Plan 1993 (Amendment No. #)”.

Sector 901A and road reserve, 901B, 901C and 901F of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 3 of the map marked “Pittwater Local Environmental Plan 1993 (Amendment No. #)”.

Sector 10 including Sector 10B of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 9 of the map marked “Pittwater Local Environmental Plan 1993 (Amendment No. #)”.

Buffer 2a of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 11 of the map marked “Pittwater Local Environmental Plan 1993 (Amendment No. #)”.

Buffer 3b of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 12 of the map marked “Pittwater Local Environmental Plan 1993 (Amendment No. #)”.

PART 3 JUSTIFICATION

Section A Need for the Planning Proposal

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

Yes. The recently adopted *Warriewood Valley Strategic Review Report 2012* was the result of a joint undertaking by the Department of Planning & Infrastructure and Council to review the height and density standards for residential development within the Release Area. This report also confirmed those sectors, prepared to be rezoned 2(f) are capable of residential development and is supported by mapping layers adopted by Council in 2011 as part of the *Pittwater Local Planning Strategy*.

The Strategic Review Report has been endorsed by the Director-General of Planning & Infrastructure.

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

Yes. The Planning Proposal is the best means of achieving the intended outcome as Council is only able to grant consent for residential development on lands in Warriewood Valley listed in Clause 30B. Progressing the Planning Proposal is also the only mechanism of enabling changes to be made to Clause 30C of Pittwater LEP and amending/introducing maximum dwelling numbers for Sector 301, 302, 303, 5, 801, 901A and adjoining Orchard Street Road Reserve, 901B, 901C, 901F, 10B, Buffer 2a and Buffer 3b.

Section B Relationship to Strategic Planning Framework

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

This Planning Proposal is consistent with the objectives of the Sydney Metropolitan Strategy, in line with the State Plan, and the Draft North-East Subregional Strategy, where goals are set for housing and land supply.

Action C1 in the Draft North-East Subregional Strategy calls for ensuring the adequate supply of land and sites for residential development through the MDP. As Warriewood Valley forms part of the MDP, it is subsequently identified for accommodating new residential development. This Planning Proposal will increase housing supply and is therefore consistent with such an action.

This Planning Proposal would also be consistent with Action C4 of the Draft North-East Subregional Strategy, which calls for improving housing affordability. Once again, by increasing housing supply the Planning Proposal is consistent with such an action.

As the intended outcome of this Planning Proposal is to allow more dwellings to be built in the Warriewood Valley Release Area, it is subsequently consistent with the objectives and actions contained within the relevant strategic planning framework.

4. Is the planning proposal consistent with the council's local strategy or other local strategic plan?

This Planning Proposal is consistent with the recently adopted *Warriewood Valley Strategic Review Report 2012* which recommends an increase in the numbers of dwellings in the Warriewood Valley Release Area. This review report is supported by mapping layers adopted by Council in 2011 as part of the *Pittwater Local Planning Strategy*.

This report also confirmed those sectors, prepared to be rezoned 2(f) are capable of residential development and also consistent with Council's adopted *Warriewood Valley Planning Framework 2010* (adopted 3 May 2010) insofar as these sectors to be rezoned are designated for medium density form of residential development.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

This Planning Proposal is generally consistent with the relevant State Environmental Planning Policies (see Appendix 1).

6. Is the planning proposal consistent with applicable Ministerial Directions (S117 Directions)?

The Planning Proposal is generally consistent with the applicable Ministerial Directions. Where there are inconsistencies, justification has been provided addressing how the inconsistency can be waived consistent with the Directions (see Appendix 2).

C Environmental, social and economic impact

7. 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?

Sector 301, 302 and 303 (formerly known as Sector 3), Sector 501 (formerly known as Sector 5), Sector 801 (part of Sector 8), Sector 10B (part of Sector 10), Buffer 2a and Buffer 3b (part of Buffer Area 2 and 3 respectively), are already zoned for urban development and have a maximum dwelling yield applying to each sector. The original rezoning of these lands would have considered the likely habitats and threatened species that may exist or be adversely affected by the initial rezoning of this land.

Sectors 901A and road reserve, 901B, 901C and 901F will be rezoned for urban development under this planning proposal. The zoning of these lands for residential development is consistent with the recommendations of the recently adopted *Warriewood Valley Strategic Review Report 2012* which is supported by mapping layers adopted by Council in 2011 as part of the *Pittwater Local Planning Strategy* and the findings of several environmental studies. The likelihood of critical habitats or threatened species, populations or ecological communities occurring in these lands did not arise during the investigative stages of the Warriewood Valley Strategic Review.

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

This Planning Proposal seeks a modest increase in the number of dwellings permitted in these sectors as forecast under *Warriewood Valley Planning Framework 2010* (adopted by Council on 3 May 2010).

This Planning Proposal is consistent with the recommendations of the recently adopted *Warriewood Valley Strategic Review Report 2012* which is supported by mapping layers adopted by Council in 2011 as part of the *Pittwater Local Planning Strategy* and the findings of several environmental studies which considered flooding and water management, traffic and transport, urban design and economic feasibility issues.

Any future Development Application will require assessment under Section 79C of the EP&A Act and will be subject to several provisions and development controls, including those related to flooding, bushfire prone land, waste, land contamination, geotechnical hazards, heritage and traffic, through the Pittwater LEP and Pittwater 21 DCP.

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

The lands the subject of this Planning Proposal comprises identified residential sectors within the Warriewood Valley Release Area (land release identified in the State Government's MDP). A suite of studies were undertaken for the original Warriewood Valley urban land release, including consideration of social and economic effects. This Planning Proposal will therefore not have any marked negative social or economic effects.

The north-east portion of Orchard Street Road Reserve to be rezoned does not require reclassification under the Local Government Act. It will however need to be "closed" under the Roads Act and subsequent subdivision, to be undertaken separate to this Planning Proposal.

D State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

As the subject lands form part of the Warriewood Valley Land Release, public infrastructure is provided through the *Warriewood Valley Section 94 Contributions Plan No. 15 (Amendment 16)*. Council has commenced a review of this plan to account for the additional infrastructure required as a result of the additional dwellings now anticipated in the release area.

11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway Determination?

The Department of Planning & Infrastructure is attending to a review of flood evacuation requirements in regard to emergency flood evacuation policy and the requirements of the NSW State Emergency Service (SES) which arose during the investigative stages of the Warriewood Valley Strategic Review. It is understood that this intra-government review of its flood evacuation policy to resolve a consistent approach to land release development and flood evacuation requirements is due for completion in 2013. Council in forwarding this Planning Proposal to the Department seeks that a flood emergency response policy satisfactory to the State Government is established before the Gateway Determination is issued for this Planning Proposal.

The following preliminary views were expressed by state and service agencies during the public exhibition of Council's local strategic plan for Warriewood Valley which recommends an increase in the numbers of dwellings in the release area.

Response from Department of Education & Communities (DEC):

- Based on up to an additional 500 dwellings, the DEC advises that there is adequate capacity at Narrabeen Sports High School to accommodate senior students.
- For primary students, the Department expects that there would be a need to increase capacity at either Narrabeen North Public School or Mona Vale Public School.

Response from Roads & Maritime Services (RMS):

- The RMS has advised that it supports the Strategic Review's recommendations, provided that:-
 - The maximum number of approved dwellings in the Warriewood study area does not exceed 2544 dwellings, and
 - No further development is approved for the area identified as the Southern Buffer until further traffic modelling is carried out on the Pittwater Road/Warriewood Road and Pittwater Road/Mona Vale Road intersections.

Response from Sydney Water:

- Sydney Water advises there is capacity in both water and wastewater systems to service the proposed density increase in Warriewood Valley.

Response from Ausgrid:

- Ausgrid expects that supply to the proposed development would be able to be provided from the electricity substations at Mona Vale or Narrabeen.

Response from Department of Health – Northern Sydney Local Health District (NSLHD):

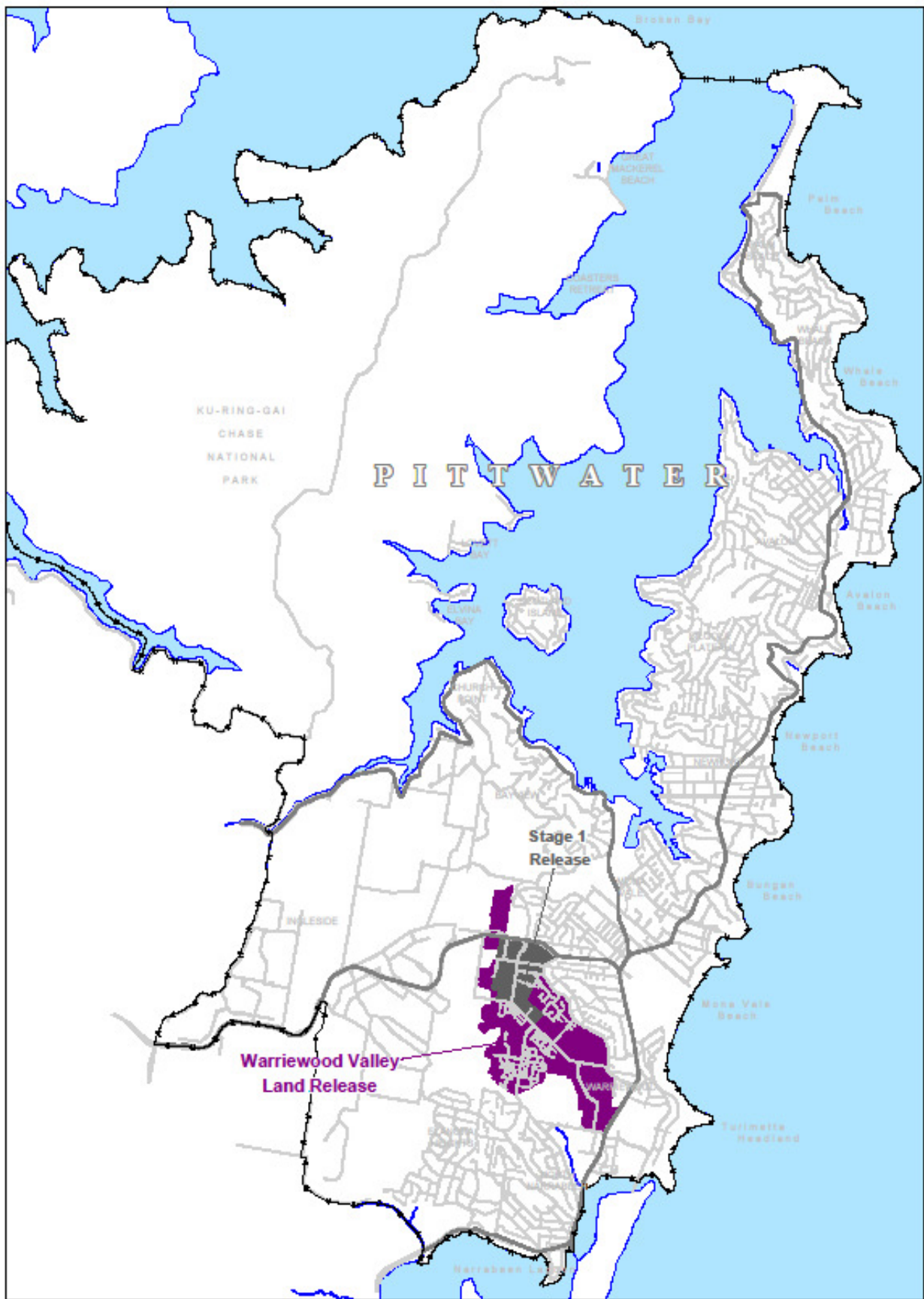
- NSLHD notes that the northeast is Sydney's most car dependent subregion and recommends that the frequency and the capacity of the public transport system be improved to accommodate the proposed increase in density.
- NSLHD commends the inclusion of pedestrian and cycle links throughout Warriewood, but recommends that cycleways be separated from traffic to allow for safe, active transport and to increase participant numbers.

Response from Office of Environment & Heritage (OEH)"

- The OEH generally supports the proposed increase in residential density, provided that flooding issues and bushfire protection issues are adequately considered and that riparian corridors can be retained and protected.

PART 4 MAPPING

Map 1: Location Map – Warriewood Land Release Area



Map 2: Current Sectors – Warriewood Valley Planning Framework 2010



The map displays a residential area with several lots highlighted in pink and outlined in red. These lots are labeled '2(f)'. The highlighted lots are situated along Green Creek Road, which runs diagonally from the top center towards the bottom right. To the north of these lots is Macpherson Street, and to the east is Garden Street. To the south is Orchard Street, and further south is Shearwater Drive. Various lot numbers and DP (Development Plan) numbers are visible on the map, including DP 1083731, DP 1092802, DP 5464, DP 30594, DP 370360, DP 1083729, and DP 1083730. The map also shows other streets like Callistemon Way and Shearwater Drive.

DRAWN BY M TURNBULL DATE: 21.05.13	STATEMENT OF RELATIONSHIP WITH OTHER PLANS AMEND PITTWATER LOCAL ENVIRONMENTAL PLAN 1993 CLAUSE 5 - "The Zoning Map"
PLANNING OFFICER T. STAGNI	
CERTIFICATE PLAN NO. PP831	
COUNCIL FILE NO.	
DEPT. FILE NO.	CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 AND REGULATION
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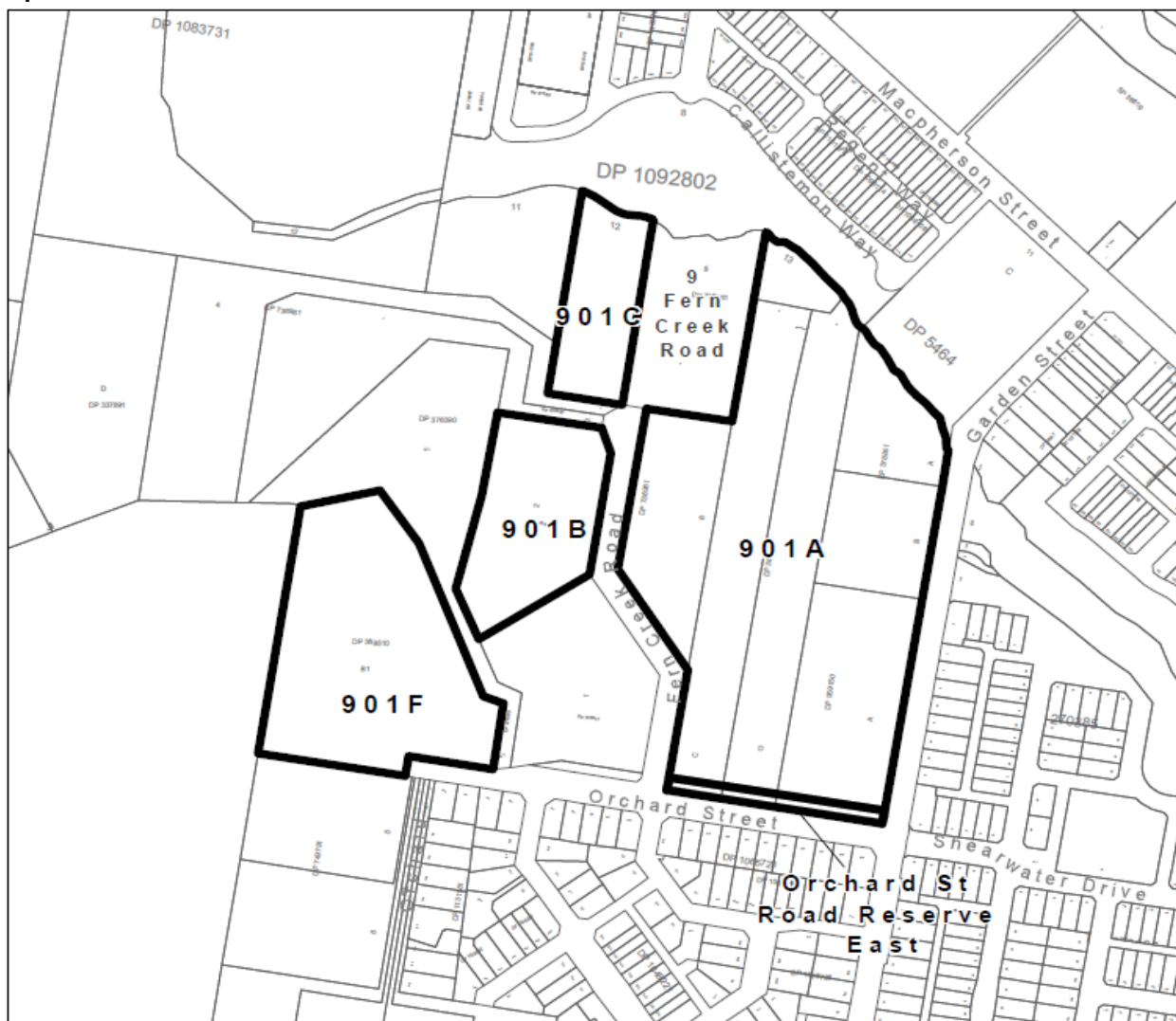
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Sheet 2 of 12

LOCAL ENVIRONMENTAL PLAN 1993 (AMENDMENT NO. XX)

DRAWN BY M TURNBULL DATE: 21.05.13	STATEMENT OF RELATIONSHIP WITH OTHER PLANS AMEND PITTWATER LOCAL ENVIRONMENTAL PLAN 1993 CLAUSE 30B - "Development of UDP land in Warriewood Valley" CLAUSE 30C - "Dwelling Yield"
PLANNING OFFICER T. STAGNI	
CERTIFICATE PLAN NO. PP831	
COUNCIL FILE NO.	
DEPT. FILE NO.	CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 AND REGULATION
GATEWAY DETERMINATION DATE	
PLAN PUBLISHED ON NSW LEGISLATION WEBSITE ON	
GENERAL MANAGER DATE:	

Map 5: Pittwater Local Environmental Plan 1993 Sheet 3



SCALE 1:5000

SUBJECT LAND SHOWN THUS



LOCALITY WARRIEWOOD

Sheet 3 of 12

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

PITTWATER

LOCAL ENVIRONMENTAL PLAN 1993 (AMENDMENT NO. XX)

DRAWN BY M TURNBULL DATE: 21.05.13

PLANNING OFFICER T. STAGNI

CERTIFICATE PLAN NO. PP831

COUNCIL FILE NO.

DEPT. FILE NO.

GATEWAY DETERMINATION DATE

PLAN PUBLISHED ON NSW LEGISLATION WEBSITE ON

STATEMENT OF RELATIONSHIP WITH OTHER PLANS

AMEND PITTWATER LOCAL ENVIRONMENTAL PLAN 1993

CLAUSE 30E - "Public infrastructure in urban release areas"

CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 AND REGULATION

GENERAL MANAGER
DATE:

Map 6: Pittwater Local Environmental Plan 1993 Sheet 4



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SUBJECT LAND SHOWN THUS



LOCALITY WARRIEWOOD

Sheet 4 of 12

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

PITTWATER

LOCAL ENVIRONMENTAL PLAN 1993 (AMENDMENT NO. XX)

DRAWN BY M TURNBULL	DATE: 21.05.13	STATEMENT OF RELATIONSHIP WITH OTHER PLANS AMEND PITTWATER LOCAL ENVIRONMENTAL PLAN 1993 CLAUSE 30B - "Development of UDP land in Warriewood Valley" CLAUSE 30C - "Dwelling Yield"
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GATEWAY DETERMINATION	DATE	
PLAN PUBLISHED ON NSW LEGISLATION WEBSITE ON		



Sheet 5 of 12

LOCAL ENVIRONMENTAL PLAN 1993 (AMENDMENT NO. XX)

DRAWN BY M TURNBULL	DATE: 21.05.13	STATEMENT OF RELATIONSHIP WITH OTHER PLANS AMEND PITTSWATER LOCAL ENVIRONMENTAL PLAN 1993 CLAUSE 30E - "Public infrastructure in urban release areas"
PLANNING OFFICER T. STAGNI		
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GATEWAY DETERMINATION	DATE	
PLAN PUBLISHED ON NSW LEGISLATION WEBSITE ON		
		GENERAL MANAGER DATE:

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Sheet 6 of 12

LOCAL ENVIRONMENTAL PLAN 1993 (AMENDMENT NO. XX)

GENERAL MANAGER

DATE:

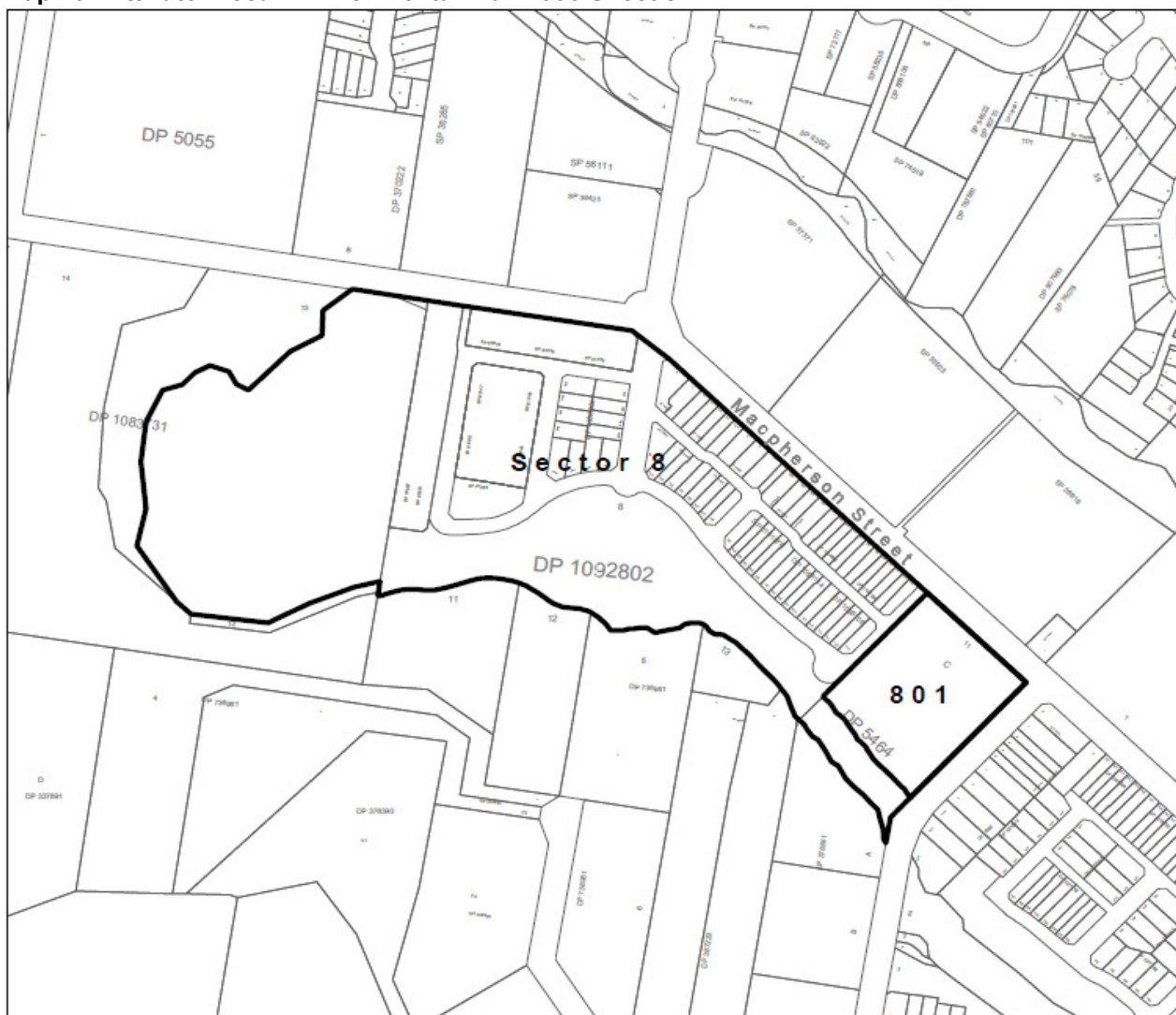


Sheet 7 of 12

LOCAL ENVIRONMENTAL PLAN 1993 (AMENDMENT NO. XX)

DATE:

Map 10: Pittwater Local Environmental Plan 1993 Sheet 8



SCALE 1:5000

SUBJECT LAND SHOWN THUS



LOCALITY WARRIEWOOD

Sheet 8 of 12

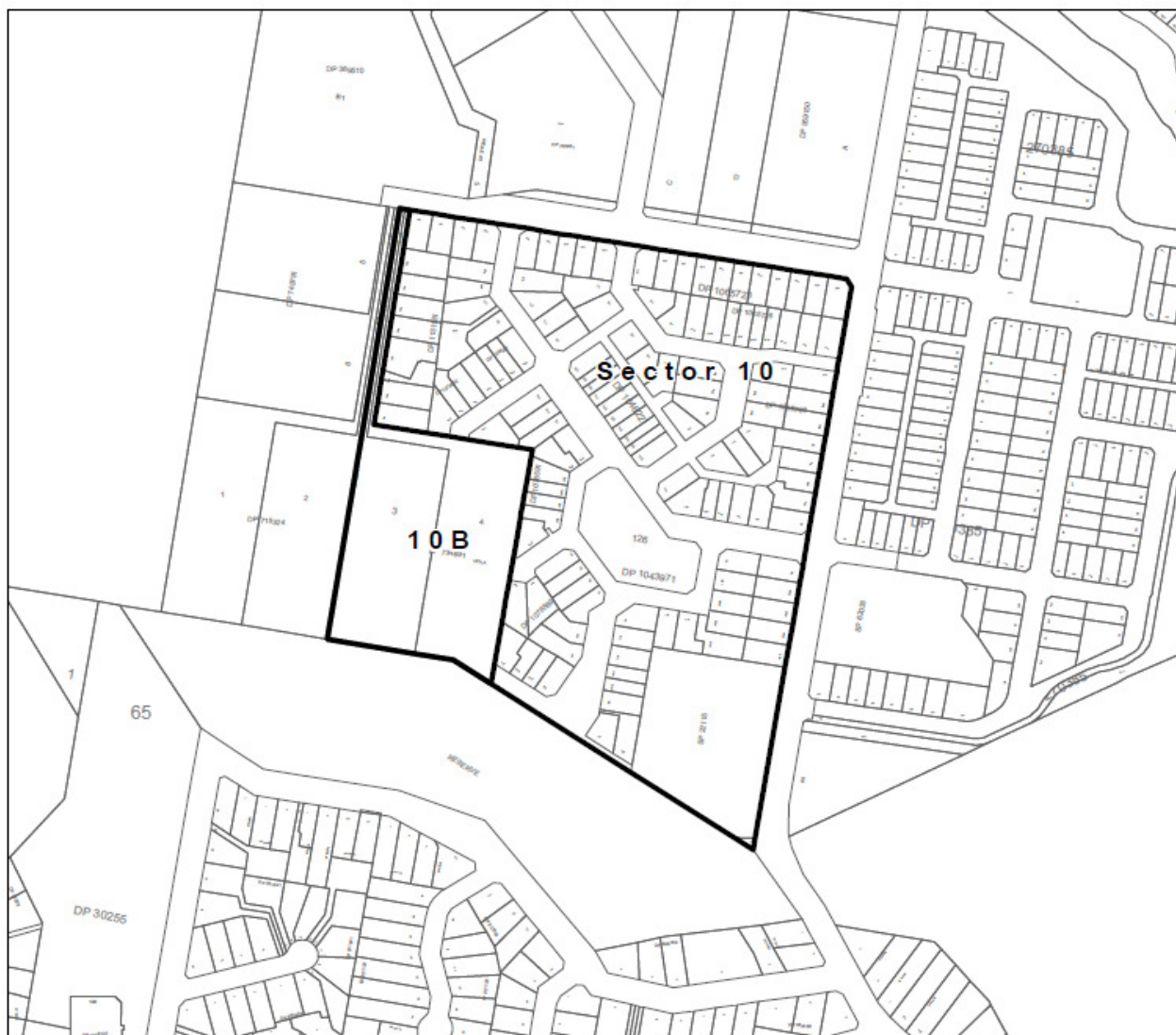
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

PITTWATER

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PLANNING OFFICER T. STAGNI		
CERTIFICATE PLAN NO. PP831		
COUNCIL FILE NO.		
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GATEWAY DETERMINATION	DATE	
PLAN PUBLISHED ON NSW LEGISLATION WEBSITE ON		

Map 11: Pittwater Local Environmental Plan 1993 Sheet 9



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SUBJECT LAND SHOWN THUS



LOCALITY WARRIEWOOD

Sheet 9 of 12

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

PITTWATER

LOCAL ENVIRONMENTAL PLAN 1993 (AMENDMENT NO. XX)

DRAWN BY M TURNBULL DATE: 21.05.13

PLANNING OFFICER T. STAGNI

CERTIFICATE PLAN NO. PP831

COUNCIL FILE NO.

DEPT. FILE NO.

GATEWAY DETERMINATION DATE

PLAN PUBLISHED ON NSW LEGISLATION WEBSITE ON

STATEMENT OF RELATIONSHIP WITH OTHER PLANS

AMEND PITTWATER LOCAL ENVIRONMENTAL PLAN 1993

CLAUSE 30B - "Development of UDP land in Warriewood Valley"

CLAUSE 30C - "Dwelling Yield"

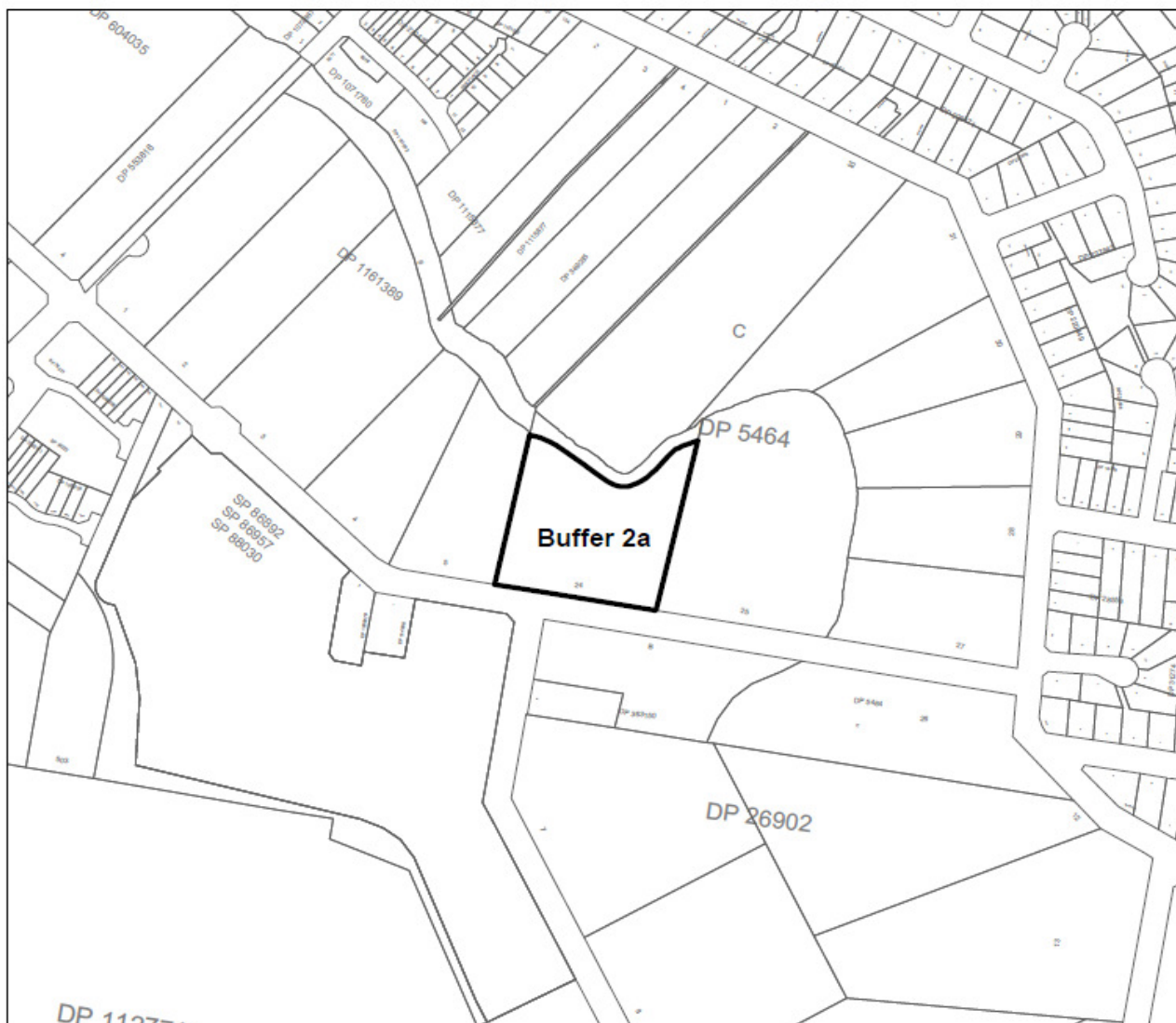
CLAUSE 30E - "Public infrastructure in urban release areas"

CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 AND REGULATION

GENERAL MANAGER

DATE:

Map 12: Pittwater Local Environmental Plan 1993 Sheet 10



SCALE 1:5000

SUBJECT LAND SHOWN THUS



LOCALITY WARRIEWOOD

Sheet 10 of 12

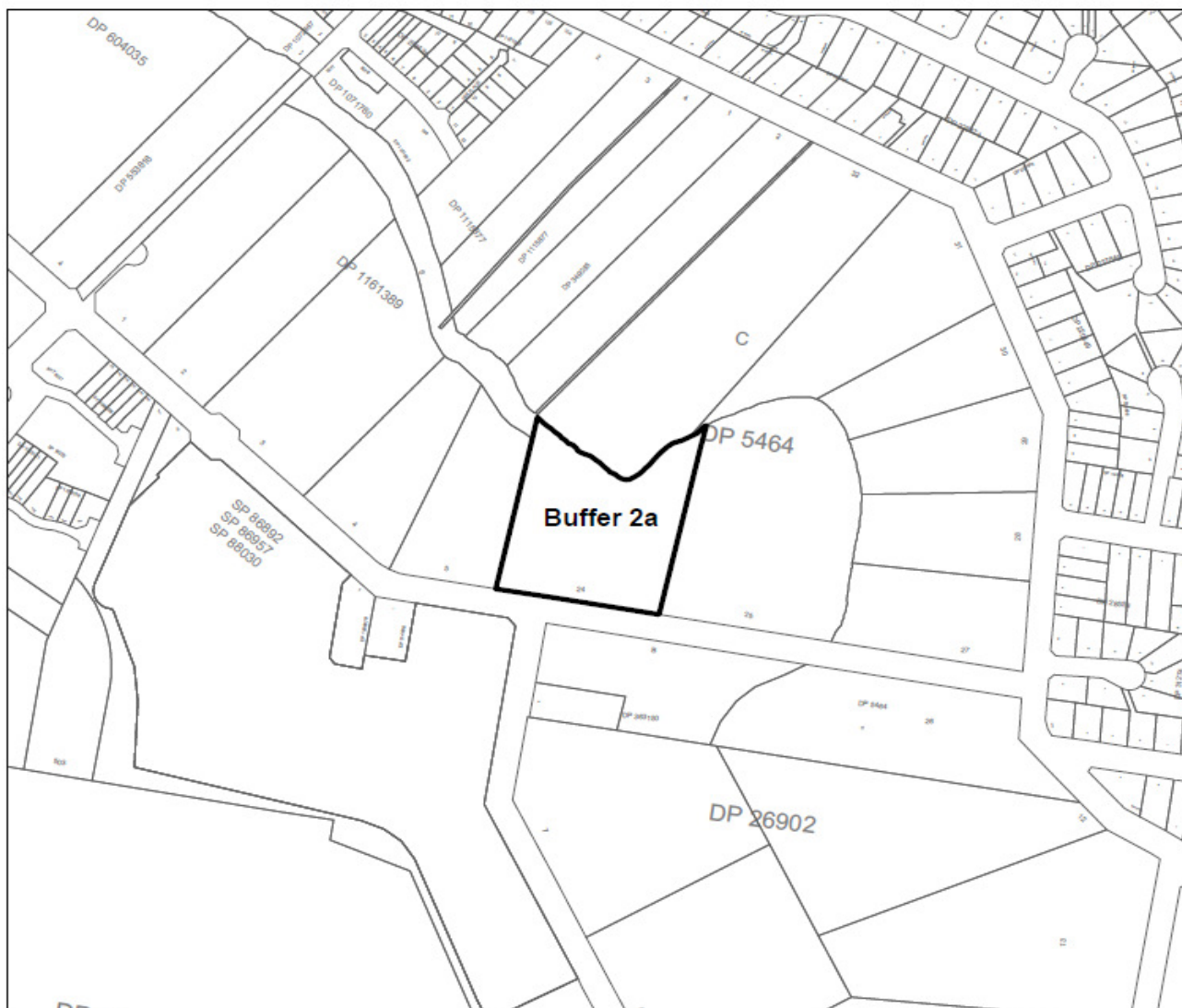
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

PITTWATER

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PLANNING OFFICER T. STAGNI		
CERTIFICATE PLAN NO. PP831		
COUNCIL FILE NO.		
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PLAN PUBLISHED ON NSW LEGISLATION WEBSITE ON		
		GENERAL MANAGER DATE:

Map 13: Pittwater Local Environmental Plan 1993 Sheet 11



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SUBJECT LAND SHOWN THUS



LOCALITY WARRIEWOOD

Sheet 11 of 12

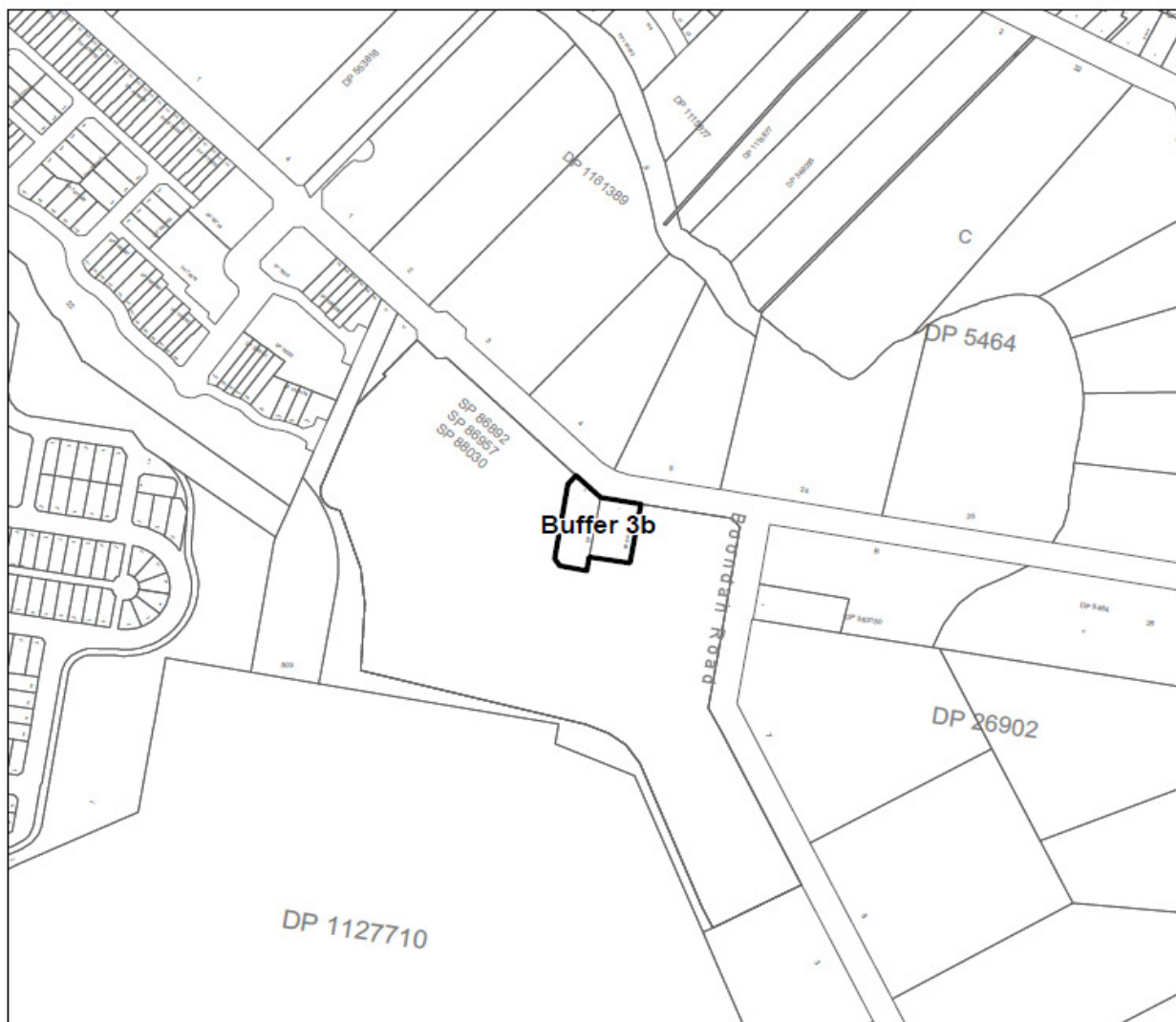
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

PITTWATER

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PLANNING OFFICER T. STAGNI		
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GATEWAY DETERMINATION	DATE	
PLAN PUBLISHED ON NSW LEGISLATION WEBSITE ON		
		GENERAL MANAGER DATE:

Map 14: Pittwater Local Environmental Plan 1993 Sheet 12



SCALE 1:5000

SUBJECT LAND SHOWN THUS



LOCALITY WARRIEWOOD

Sheet 12 of 12

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

PITTWATER

LOCAL ENVIRONMENTAL PLAN 1993 (AMENDMENT NO. XX)

DRAWN BY M TURNBULL DATE: 21.05.13

PLANNING OFFICER T. STAGNI

CERTIFICATE PLAN NO. PP831

COUNCIL FILE NO.

DEPT. FILE NO.

GATEWAY DETERMINATION DATE

PLAN PUBLISHED ON NSW LEGISLATION WEBSITE ON

STATEMENT OF RELATIONSHIP WITH OTHER PLANS

AMEND PITTWATER LOCAL ENVIRONMENTAL PLAN 1993

CLAUSE 30B - "Development of UDP land in Warriewood Valley"

CLAUSE 30C - "Dwelling Yield"

CLAUSE 30D - "Mitigation of odours from the Warriewood Sewerage Treatment Plant"

CLAUSE 30E - "Public infrastructure in urban release areas"

CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 AND REGULATION

GENERAL MANAGER

DATE:

PART 5 COMMUNITY CONSULTATION

The recently adopted *Warriewood Valley Strategic Review Report 2012* identifies increased development capacity, up to 32 dwellings per hectare, for Sectors 301, 302, 303; 5; 801 901A, 901B, 901C, 901F and Orchard Street road reserve and Buffer 2a & 3a.

The *Warriewood Valley Strategic Review Report 2012* was the subject of a comprehensive community consultation process and was endorsed by the Director-General of the Department of Planning & Infrastructure.

Infrastructure within the Warriewood Valley Release Area is provided through the *Warriewood Valley Section 94 Contributions Plan No. 15 (Amendment 16)* which is currently being reviewed to account for additional infrastructure required as a result the additional dwellings now anticipated in the release area.

Subsequently, this Planning Proposal is considered a 'low impact' proposal.

In keeping with *A guide to preparing local environmental plans* (Department of Planning & Infrastructure, 2012) the following consultation is considered appropriate:

- 14 day exhibition period (*this may need to be extended if the exhibition occurs during the December to January school holiday period*)
- Notification in local newspaper at commencement of exhibition period
- Notification on Council's website for the duration of the exhibition
- Notification in writing to affected and adjoining landowners at commencement of exhibition period
- Notification in writing to the Warriewood Residents Association Incorporated at commencement of exhibition period

PART 6 PROJECT TIMELINE

Planning Proposal Milestone	Timeframe	Anticipated Completion Date
Date of Gateway determination	6 weeks from Council decision to forward Planning Proposal to Gateway	Mid July 2013
Completion of required technical information		COMPLETED 2012
Government agency consultation		Pre-exhibition consultation COMPLETED 2012
Public exhibition	14 days (<i>pending school holiday period</i>)	August 2013
Consideration of submissions	4 weeks from close of public exhibition	Early September 2013
Consideration of proposal post-exhibition and report to Council	6 weeks from close of public exhibition	October 2013
Submission to Department to finalise LEP		Late October 2013 following Council decision
*RPA to make plan (if delegated)	6 weeks from Council decision	December 2013

**Council's General Manager (Council's sub-delegate) seeks to exercise the LEP making powers delegated under section 59 of the Environmental Planning & Assessment Act in regard to this Planning Proposal. Council's General Manager requests that a Written Authorisation to Exercise Delegation be issued in regard to this Planning Proposal.*

Checklist – Consideration of State Environmental Planning Policies

The following SEPP's are relevant to the Pittwater Local Government Area. The Table identifies which of the relevant SEPPs apply to the Planning Proposal (or not) and if applying, is the Planning Proposal consistent with the provisions of the SEPP.

Title of State Environmental Planning Policy (SEPP)	Applicable	Consistent	Reason for inconsistency
SEPP No 1 – Development Standards	YES	YES	
SEPP No 4 – Development Without Consent and Miscellaneous Exempt and Complying Development	YES	YES	
SEPP No 6 – Number of Storeys in a Building	YES	YES	
SEPP No 14 – Coastal Wetlands	NO	N/A	
SEPP No 21 – Caravan Parks	NO	N/A	
SEPP No 22 – Shops and Commercial Premises	NO	N/A	
SEPP No 26 – Littoral Rainforests	NO	N/A	
SEPP No 30 – Intensive Agriculture	NO	N/A	
SEPP No 32 – Urban Consolidation (Redevelopment of Urban Land)	NO	N/A	
SEPP No 33 – Hazardous and Offensive Development	NO	N/A	
SEPP No 44 – Koala Habitat Protection	NO	N/A	
SEPP No 50 – Canal Estate Development	NO	N/A	
SEPP No 55 – Remediation of Land	NO	N/A	
SEPP No 60 – Exempt and Complying Development	YES	YES	
SEPP No 62 – Sustainable Aquaculture	NO	N/A	
SEPP No 64 – Advertising and Signage	YES	YES	
SEPP No 65 – Design Quality of Residential Flat Development	YES	YES	

SEPP No 70 – Affordable Housing (Revised Schemes)	YES	YES	
SEPP 71 – Coastal Protection	NO	N/A	
SEPP (Affordable Rental Housing) 2009	YES	YES	
SEPP (Building Sustainability Index: BASIX) 2004	YES	YES	
SEPP (Exempt and Complying Development Codes) 2008	YES	YES	
SEPP (Housing for Seniors or People with a Disability) 2004	YES	YES	
SEPP (Infrastructure) 2007	YES	YES	
SEPP (Major Development) 2005	NO	N/A	
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	NO	N/A	
SEPP (Rural Lands) 2008	NO	N/A	
SEPP (Temporary Structures) 2007	NO	N/A	
SEPP (Urban Renewal) 2010	NO	N/A	

The following is a list of the deemed SEPP's (formerly Sydney Regional Environmental Plans) relevant to the Pittwater Local Government Area.

Title of deemed SEPP, being Sydney Regional Environmental Plan (SREP)	Applicable	Consistent	Reason for inconsistency
SREP No 20 – Hawkesbury-Nepean River (No 2 -1997)	NO	N/A	

Justification for inconsistency
NIL

Checklist – Consideration of Section 117 Ministerial Directions

1 Employment and Resources

	Direction	Applicable	Consistent
1.1	Business and Industrial Zones	NO	N/A
1.2	Rural Zones	YES	NO
1.3	Mining, Petroleum Production and Extractive Industries	NO	N/A
1.4	Oyster Aquaculture	NO	N/A
1.5	Rural Lands	NO	N/A

Justification for inconsistency with Director 1.2

The Planning Proposal so far as it is inconsistent with Direction 1.2 relates to the rezoning of Sectors 901A and adjoining Orchard Street Road Reserve, 901B, 901C & 901F in the Warriewood Valley Release Area from a rural zone to a residential zone.

Warriewood Valley is identified in the State Government's MDP. The proposed rezoning is consistent with recommendations of the *Warriewood Valley Strategic Review Report 2012* which has been endorsed by the Director-General of Planning & Infrastructure.

2 Environment and Heritage

	Direction	Applicable	Consistent
2.1	Environmental Protection Zones	NO	N/A
2.2	Coastal Protection	NO	N/A
2.3	Heritage Conservation	YES	NO
2.4	Recreation Vehicle Areas	NO	N/A

Justification for inconsistency with Direction 2.3

The Planning Proposal rezones Sectors 901A and adjoining Orchard Street Road Reserve, 901B, 901C & 901F from a rural zone to a residential zone and introduces/amends the maximum dwelling yield permitted in Sectors 301, 302, 303; 501; 801; 901A, 90B, 901C & 901F; 10B; and Buffer 2a & 3a. Provisions already exist in Pittwater LEP 1993 for the protection and conservation of environmentally sensitive area and the conservation of heritage items, areas, objects and places. These provisions will continue to apply to the lands the subject to this Planning Proposal.

3 Housing, Infrastructure and Urban Development

	Direction	Applicable	Consistent
3.1	Residential Zones	YES	YES
3.2	Caravan Parks and Manufactured Home Estates	YES	NO
3.3	Home Occupations	YES	YES
3.4	Integrating Land Use and Transport	YES	YES
3.5	Development Near Licensed Aerodromes	NO	N/A
3.6	Shooting Ranges	NO	N/A

Justification for inconsistency with Direction 3.2

The Planning Proposal relates to lands in the Warriewood Valley Release Area, identified in the State Government's MDP.

The Planning Proposal rezones Sectors 901A and adjoining Orchard Street Road Reserve, 901B, 901C & 901F from a rural zone to a residential zone and to the introduces maximum permitted dwelling yields in these sectors.

An amendment is also proposed to the maximum dwelling yield permitted in Sectors 301, 302, 303; 5, 801; 10B; and Buffer 2a & 3a, being lands are already zoned 2(f) (Urban Purposes – Mixed Residential).

The planning and development of Warriewood Valley is based on a suite of environmental studies and objectives relating to environmental issues, community facilities and infrastructure, heritage, urban design and financial viability. These objectives form the basis for the planning and implementation of development in Warriewood Valley and have been consistently applied by Pittwater Council and agreed to by the Department of Planning and Infrastructure over the years. In this regard, it did not contemplate opportunities for caravan parks and manufactured home estates.

4 Hazard and Risk

	Direction	Applicable	Consistent
4.1	Acid Sulphate Soils	NO	N/A
4.2	Mine Subsidence and Unstable Land	NO	N/A
4.3	Flood Prone Land	YES	NO
4.4	Planning For Bushfire Protection	YES	NO

Justification for inconsistency with Direction 4.3

Sections of Fern Creek traverse Sectors 901A and 901C. The planning and development of Warriewood Valley is based on utilising the creek line corridor to convey the 1% AEP flood event. Development Controls prohibit vertical structures to be erected on that part of the land comprising the creek line corridor. This land is required to be rehabilitated and subsequently dedicated to Council in accordance with the *Warriewood Valley Section 94 Contributions Plan*.

Justification for inconsistency with Direction 4.4

This Planning Proposal is inconsistent with the direction insofar as consultation has not occurred with the Rural Fire Service.

5 Regional Planning

	Direction	Applicable	Consistent
5.1	Implementation of Regional Strategies	NO	N/A
5.2	Sydney Drinking Water Catchments	NO	N/A
5.3	Farmland of State and Regional Significance on NSW Far North Coast	NO	N/A
5.4	Commercial and Retail Development along the Pacific Hwy, North Coast	NO	N/A
5.5	Development in the vicinity of Ellalong, Paxton and Millfield	NO	N/A
5.8	Second Sydney Airport: Badgerys Creek	NO	N/A

Justification for inconsistency

NIL

6 Local Plan Making

	Direction	Applicable	Consistent
6.1	Approval and Referral Requirements	YES	YES
6.2	Reserving Land for Public Purposes	YES	YES
6.3	Site Specific Purposes	YES	NO

Justification for inconsistency with Direction 6.3

The Planning Proposal seeks to introduce/amend the maximum permissible dwelling yield provisions contained in Clause 30C of the Pittwater LEP. The application of Clause 30C, stipulating the maximum number of dwellings, is well established for the Warriewood Valley Release Area and is not a new provision.

7 Metropolitan Planning

	Direction	Applicable	Consistent
7.1	Implementation of the Metropolitan Strategy	YES	YES

Justification for inconsistency

NIL



Joint Regional Planning Panels

7 May 2013

Mr Mark Ferguson
General Manager
Pittwater Council
PO Box 882
Mona Vale NSW 1660

Our ref: ADV2013SYE001

Attention: Liza Cordoba

Dear Mr Ferguson

The Deputy Director General, Planning Operations and Regional Delivery of the Department of Planning and Infrastructure has requested the Sydney East Joint Regional Planning Panel (regional panel) to undertake a pre-gateway review and prepare advice to the Minister of Planning and Infrastructure on following planning proposal:

- 120 - 122 Mona Vale Road, Warriewood - Rezone site from non-urban to residential use (Pittwater Local government Area; Proponent: Opera Properties Pty Ltd)

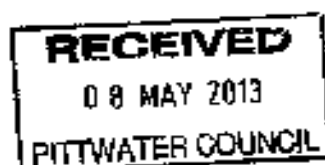
Briefing with regional panel

The regional panel would like to provide you with an opportunity to brief the panel on the proposal. The meeting is scheduled to be held at Planning Assessment Commission, on Wednesday 22 May 2013 at 2.30pm.

If you have any questions about the regional panel procedures about this matter, please contact Angela Kenna, Project Officer of the Regional Panels Secretariat on 02 9228 2064 or angela.kenna@planning.nsw.gov.au.

Yours sincerely

Stuart Withington
Manager
Regional Panels Secretariat



Regional Panels Secretariat 23-33 Bridge Street, Sydney NSW 2000
GPO Box 39, Sydney NSW 2001 Phone 02 9228 2060 Fax 02 9228 2060 www.jrpp.nsw.gov.au

Planning Proposal

**prepared in accordance with point 6 of
the recommendation**



PLANNING PROPOSAL

To rezone Sectors 901D and adjoining Orchard Street Road Reserve, 901E and 901G and 9 Fern Creek Road of the Warriewood Valley Urban Land Release Area to a residential zone

To introduce maximum dwellings permitted in Sectors 901D and adjoining Orchard Street Road Reserve, 901E and 901G of the Warriewood Valley Urban Land Release Area

PART 1 OBJECTIVES OR INTENDED OUTCOMES

To rezone specific land 2(f) (Urban Purposes – Mixed Residential) under Pittwater LEP, being:

- 1 Fern Creek Rd (Lot 1 DP 736961) and adjoining Orchard Street Road Reserve (*identified as Sector 901D and adjoining Orchard Street Road Reserve*)
- 12 Orchard Street (Lot C1 DP 373690) - *battle axe portion only (identified as Sector 901E)*,
- Lot 11 DP 1092788 (*identified as Sector 901G*),
- 9 Fern Creek Road (*Lot 5 DP736961*)

To introduce maximum numbers of dwelling number permitted in:

- Sector 901D and adjoining Orchard Street Road Reserve and Sector 901E
- Sector 901G

of the Warriewood Valley Release Area.

It is not intended to state a dwelling yield for 9 Fern Creek Road.

PART 2 EXPLANATION OF PROVISIONS

The proposed outcome will be achieved by:

- An amended zoning map is provided for this Planning Proposal (See **MAP 3**) and will require amending Clause 5 of the *Pittwater Local Environmental Plan 1993* as follows:-

Insert at the end of definition of “the Zoning Map” contained in subclause (1), this paragraph:

[Pittwater Local Environmental Plan 1993 \(Amendment No. #\) – Sheet 1](#)

- A new map is provided for this Planning Proposal (See **MAP 4**) and will require amending Clause 30B of the *Pittwater Local Environmental Plan 1993* as follows:-

Insert at the end of subclause (1), this paragraph:

[Land at Warriewood within Sector 901D including north-west portion of road reserve, 901E and 901G of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 2 of the map marked “Pittwater Local Environmental Plan 1993 \(Amendment No. #\)”.](#)

- Amending Clause 30C of the *Pittwater Local Environmental Plan 1993* as follows:-

Sectors 901D and 901E including adjoining Orchard Street road reserve – not more than 12 dwellings

Sector 901G – not more than 6 dwellings

- A new map is provided for this Planning Proposal (See **MAP 5**) and will require amending Clause 30E of the *Pittwater Local Environmental Plan 1993* as follows:-

Insert at the end of subclause (8), these paragraphs:

Sector 901D including northern portion of road reserve, 901E and 901G of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 3 of the map marked “Pittwater Local Environmental Plan 1993 (Amendment No. #)”.

PART 3 JUSTIFICATION

Section A Need for the Planning Proposal

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

The recently adopted *Warriewood Valley Strategic Review Report 2012* was the result of a joint undertaking by the Department of Planning & Infrastructure and Council to review the height and density standards for medium density residential development (being 25 to 60 dwellings per hectare) within the Release Area. The Strategic Review Report, endorsed by the Director-General of Planning & Infrastructure, however identified Sectors 901D including adjoining Orchard Street road reserve (north-west portion), 901E and 901G as not capable, due to environmental constraints, of development above 25 dwellings per hectare.

Council’s adopted Warriewood Valley Planning Framework 2010 (adopted 3 May 2010) identified these lands had capacity for development at a lower density, and was further confirmed in Council’s report of 12 June 2013 namely:

“Although the Final Draft Strategic Review Report recognised no development potential greater than 25 dwellings per hectare for some sectors, potential capacity for low density development (less than 25 dwellings per hectare) on Sector 901D, 901E, 901G is noted.

Sector 901D, 901E and Orchard Street road reserve

The Urban Design Consultant recommended Sector 901D be set aside as a park and lookout. Council staff have identified that Sector 901D is constrained by biodiversity, visual impact issues and high voltage overhead cables while Sector 901E comprises a battle-axe handle only. There is potential for Sectors 901D and 901E including the Orchard Street road reserve (north-east portion) to conglomerate, enabling more appropriate setbacks to constraints whilst maximise development potential across the two sectors.

Development controls will be developed to be incorporated into Pittwater 21 DCP as a future amendment to facilitate suitable residential form and retention of significant vegetation.

Sector 901G

Sector 901G adjoins Sector 901C which was recommended for development at 32 dwellings per hectare under the Strategic Review. The Urban Design Consultant recommended Sectors 901G and 901C be amalgamated for development (with the majority of the development placed on 901C, recognising asset protection zone and creekline buffer requirements constraining development on Sector 901G). Although Sector 901G is land-locked and constrained by biodiversity and the creekline corridor, this sector is owned by the same entity as Sector 901C, increasing likely opportunity of both sectors to be developed together...

Orchard Street Road Reserve

Council's Urban Infrastructure Unit advised that the Orchard Street road reserve, being 30 metres wide, is unnecessarily wide and can be narrowed to a local street with designated on-street parking in accordance with the adopted Warriewood Valley Roads Masterplan (2006). The 30m road reserve width could be reduced to:-

- 20 metres between to Fern Creek Road and Garden Street, and
- 16 metres, west of Fern Creek Road.

The unnecessary portions of the Orchard Street road reserve... comprise approximately 1,150 square metres of additional land that can be utilized, for residential development, subject to rezoning, if amalgamated with the already closed road reserve parcels and adjoining privately owned properties fronting Orchard Street.

If agreed, administrative provisions to "close" the two portions of road reserve under the Roads Act and subsequent subdivision need to be undertaken separate to rezoning."

This Planning Proposal is the outcome of the recommendation of Council staff to rezone this land to residential to facilitate low density development, consistent with Council's adopted Warriewood Valley Planning Framework 2010. These lands would be the last remaining parcels identified for residential development under the Warriewood Valley Planning Framework 2010 and the recently adopted 2012 Strategic Review Report required to be rezoned. Rezoning of these lands will facilitate residential development that in turn, enables a range of densities and housing forms to occur in the Warriewood Valley Release Area.

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

Yes. The Planning Proposal is the best means of achieving the intended outcome as Council is only able to grant consent for residential development on lands in Warriewood Valley listed in Clause 30B. Progressing the Planning Proposal is also the only mechanism of enabling changes to be made to Clause 30C of Pittwater LEP and introducing maximum dwelling numbers for Sector 901D and road reserve, 901E and 901G.

Section B Relationship to Strategic Planning Framework

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

This Planning Proposal is consistent with the objectives of the Sydney Metropolitan Strategy, in line with the State Plan, and the Draft North-East Subregional Strategy, where goals are set for housing and land supply.

Action C1 in the Draft North-East Subregional Strategy calls for ensuring the adequate supply of land and sites for residential development through the MDP. As Warriewood Valley forms part of the MDP, it is subsequently identified for accommodating new residential development. This Planning Proposal will increase housing supply and is therefore consistent with such an action.

This Planning Proposal would also be consistent with Action C4 of the Draft North-East Subregional Strategy, which calls for improving housing affordability. Once again, by increasing housing supply the Planning Proposal is consistent with such an action.

As the intended outcome of this Planning Proposal is to allow more dwellings to be built in the Warriewood Valley Release Area, it is subsequently consistent with the objectives and actions contained within the relevant strategic planning framework.

4. Is the planning proposal consistent with the council's local strategy or other local strategic plan?

This Planning Proposal is the outcome of the recommendation of Council staff to rezone this land to residential to facilitate low density development, supported by mapping layers adopted by Council in 2011 as part of the *Pittwater Local Planning Strategy*.

The Planning Proposal is consistent with Council's adopted Warriewood Valley Planning Framework 2010 (adopted May 2010) insofar as it identified these lands to be designated residential under the Warriewood Valley Release Area, and Council's report of 12 June 2013 (agreed to by Council resolution) which detailed the development potential of these sectors.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

This Planning Proposal is generally consistent with the relevant State Environmental Planning Policies (see Appendix 1).

6. Is the planning proposal consistent with applicable Ministerial Directions (S117 Directions)?

The Planning Proposal is generally consistent with the applicable Ministerial Directions. Where there are inconsistencies, justification has been provided addressing how the inconsistency can be waived consistent with the Directions (see Appendix 2).

C Environmental, social and economic impact

7. 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?

Sectors 901D, 901E, adjoining Orchard Street Road Reserve (north-west portion), and 901G will be rezoned for urban development under this planning proposal.

The likelihood of critical habitats or threatened species, populations or ecological communities occurring in these lands did not arise during the investigative stages of the Warriewood Valley Strategic Review, which is supported by mapping layers adopted by Council in 2011 as part of the *Pittwater Local Planning Strategy*.

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

This Planning Proposal is supported by mapping layers adopted by Council in 2011 as part of the *Pittwater Local Planning Strategy* and the findings of several environmental studies undertaken during the *Warriewood Valley Strategic Review* which considered flooding and water management, traffic and transport, urban design and economic feasibility issues.

Any future Development Application will require assessment under Section 79C of the EP&A Act and will be subject to several provisions and development controls, including those related to flooding, bushfire prone land, waste, land contamination, geotechnical hazards, heritage and traffic, through the Pittwater LEP and Pittwater 21 DCP.

Additionally site specific development controls subservient to statutory provisions, will be incorporated into Pittwater 21 DCP to facilitate suitable residential form and retention of significant vegetation.

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

The lands the subject of this Planning Proposal comprises identified residential sectors within the Warriewood Valley Release Area (land release identified in the State Government's MDP). A suite of studies were undertaken for the original Warriewood Valley urban land release, including consideration of social and economic effects. This Planning Proposal will therefore not have any marked negative social or economic effects.

The north-west portion of Orchard Street Road Reserve to be rezoned does not require reclassification under the Local Government Act. It will however need to be "closed" under the Roads Act and subsequent subdivision, to be undertaken separate to this Planning Proposal.

D State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

As the subject lands form part of the Warriewood Valley Land Release, public infrastructure is provided through the *Warriewood Valley Section 94 Contributions Plan No. 15 (Amendment 16)*. Council has commenced a review of this plan to account for the additional infrastructure required as a result of the additional dwellings now anticipated in the release area.

11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway Determination?

The Department of Planning & Infrastructure is attending to a review of flood evacuation requirements in regard to emergency flood evacuation policy and the requirements of the NSW State Emergency Service (SES) which arose during the investigative stages of the Warriewood Valley Strategic Review. It is understood that this intra-government review of its flood evacuation policy to resolve a consistent approach to land release development and flood evacuation requirements is due for completion in 2013. Council in forwarding this Planning Proposal to the Department, seeks that a flood emergency response policy satisfactory to the State Government is established before the Gateway Determination is issued for this Planning Proposal.

The following preliminary views were expressed by state and service agencies during the public exhibition of Council's local strategic plan for Warriewood Valley which recommends an increase in the numbers of dwellings in the release area.

Response from Department of Education & Communities (DEC):

- Based on up to an additional 500 dwellings, the DEC advises that there is adequate capacity at Narrabeen Sports High School to accommodate senior students.
- For primary students, the Department expects that there would be a need to increase capacity at either Narrabeen North Public School or Mona Vale Public School.

Response from Roads & Maritime Services (RMS):

- The RMS has advised that it supports the Strategic Review's recommendations, provided that:-
 - The maximum number of approved dwellings in the Warriewood study area does not exceed 2544 dwellings, and

- No further development is approved for the area identified as the Southern Buffer until further traffic modelling is carried out on the Pittwater Road/Warriewood Road and Pittwater Road/Mona Vale Road intersections.

Response from Sydney Water:

- Sydney Water advises there is capacity in both water and wastewater systems to service the proposed density increase in Warriewood Valley.

Response from Ausgrid:

- Ausgrid expects that supply to the proposed development would be able to be provided from the electricity substations at Mona Vale or Narrabeen.

Response from Department of Health – Northern Sydney Local Health District (NSLHD):

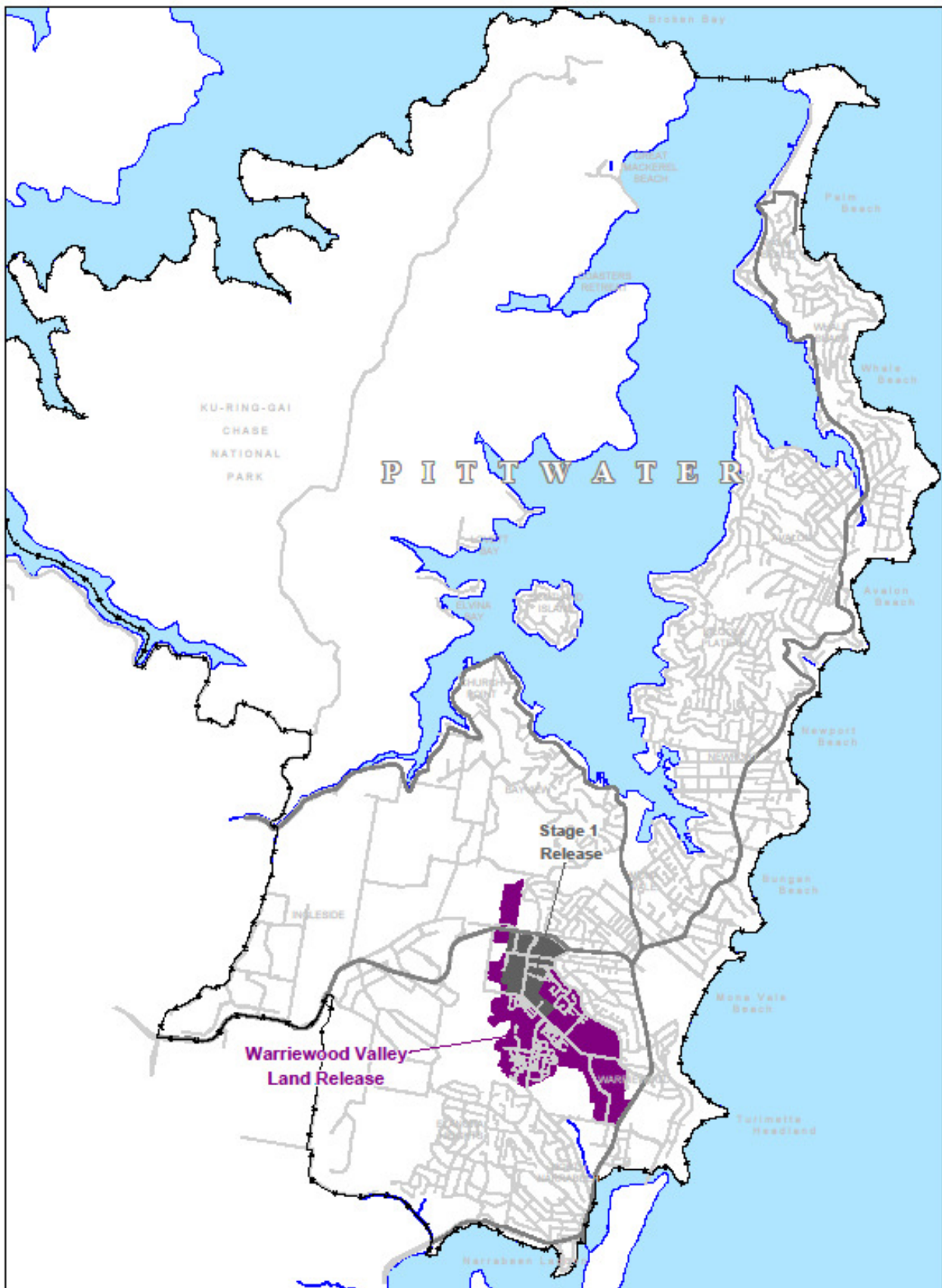
- NSLHD notes that the northeast is Sydney's most car dependent subregion and recommends that the frequency and the capacity of the public transport system be improved to accommodate the proposed increase in density.
- NSLHD commends the inclusion of pedestrian and cycle links throughout Warriewood, but recommends that cycleways be separated from traffic to allow for safe, active transport and to increase participant numbers.

Response from Office of Environment & Heritage (OEH)"

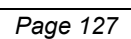
- The OEH generally supports the proposed increase in residential density, provided that flooding issues and bushfire protection issues are adequately considered and that riparian corridors can be retained and protected.

PART 4 MAPPING

Map 1: Location Map – Warriewood Land Release Area



Report to Council for the meeting to be held on 12 June 2013



Map 3: Pittwater Local Environmental Plan 1993 Sheet 1



SCALE 1:5000

LOCALITY WARRIEWOOD

Sheet 1 of 3

2(f) - Urban Purposes - Mixed Residential

2 (f)

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

PITTWATER

LOCAL ENVIRONMENTAL PLAN 1993 (AMENDMENT NO. XX)

DRAWN BY M TURNBULL DATE: 21.05.13

PLANNING OFFICER T. STAGNI

CERTIFICATE PLAN NO. PP832

COUNCIL FILE NO.

DEPT. FILE NO.

GATEWAY DETERMINATION DATE

PLAN PUBLISHED ON NSW LEGISLATION WEBSITE ON

STATEMENT OF RELATIONSHIP WITH OTHER PLANS

AMEND PITTWATER LOCAL ENVIRONMENTAL PLAN 1993

CLAUSE 5 - "The Zoning Map

CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 AND REGULATION

GENERAL MANAGER

DATE:

Map 4: Pittwater Local Environmental Plan Sheet 2



SCALE 1:5000

SUBJECT LAND SHOWN THUS



LOCALITY WARRIEWOOD

Sheet 2 of 3

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

PITTWATER

LOCAL ENVIRONMENTAL PLAN 1993 (AMENDMENT NO. XX)

DRAWN BY M TURNBULL DATE: 21.05.13

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STATEMENT OF RELATIONSHIP WITH OTHER PLANS

AMEND PITTWATER LOCAL ENVIRONMENTAL PLAN 1993

CLAUSE 30B - "Development of UDP land in Warriewood Valley"
CLAUSE 30C - "Dwelling Yield"

CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 AND REGULATION

GENERAL MANAGER

DATE:

Map 5: Pittwater Local Environmental Plan Sheet 3



SCALE 1:5000

SUBJECT LAND SHOWN THUS



LOCALITY WARRIEWOOD

Sheet 3 of 3

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

PITTWATER

LOCAL ENVIRONMENTAL PLAN 1993 (AMENDMENT NO. XX)

DRAWN BY M TURNBULL DATE: 21.05.13

PLANNING OFFICER T. STAGNI

CERTIFICATE PLAN NO. PP832

COUNCIL FILE NO.

DEPT. FILE NO.

GATEWAY DETERMINATION DATE

PLAN PUBLISHED ON NSW LEGISLATION WEBSITE ON

STATEMENT OF RELATIONSHIP WITH OTHER PLANS

AMEND PITTWATER LOCAL ENVIRONMENTAL PLAN 1993

CLAUSE 30E - "Public infrastructure in urban release areas"

CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 AND REGULATION

GENERAL MANAGER

DATE:

PART 5 COMMUNITY CONSULTATION

This Planning Proposal is consistent with the pattern of surrounding land uses.

Infrastructure within the Warriewood Valley Release Area is provided through the *Warriewood Valley Section 94 Contributions Plan No. 15 (Amendment 16)* which is currently being reviewed to account for additional infrastructure required as a result the additional dwellings now anticipated in the release area.

Subsequently, this Planning Proposal is considered a 'low impact' proposal.

In keeping with *A guide to preparing local environmental plans* (Department of Planning & Infrastructure, 2012) the following consultation is considered appropriate:

- 14 day exhibition period (*this may need to be extended if the exhibition occurs during the December to January school holiday period*)
- Notification in local newspaper at commencement of exhibition period
- Notification on Council's website for the duration of the exhibition
- Notification in writing to affected and adjoining landowners at commencement of exhibition period
- Notification in writing to the Warriewood Residents Association Incorporated at commencement of exhibition period
-

PART 6 PROJECT TIMELINE

Planning Proposal Milestone	Timeframe	Anticipated Completion Date
Date of Gateway determination	6 weeks from Council decision to forward Planning Proposal to Gateway	Mid July 2013
Completion of required technical information		COMPLETED 2012
Government agency consultation		Pre-exhibition consultation COMPLETED 2012
Public exhibition	14 days (<i>pending school holiday period</i>)	August 2013
Consideration of submissions	4 weeks from close of public exhibition	Early September 2013
Consideration of proposal post-exhibition and report to Council	6 weeks from close of public exhibition	October 2013
Submission to Department to finalise LEP		Late October 2013 following Council decision
*RPA to make plan (if delegated)	6 weeks from Council decision	December 2013

**Council's General Manager (Council's sub-delegate) seeks to exercise the LEP making powers delegated under section 59 of the Environmental Planning & Assessment Act in regard to this Planning Proposal. Council's General Manager requests that a Written Authorisation to Exercise Delegation be issued in regard to this Planning Proposal.*

Checklist – Consideration of State Environmental Planning Policies

The following SEPP's are relevant to the Pittwater Local Government Area. The Table identifies which of the relevant SEPPs apply to the Planning Proposal (or not) and if applying, is the Planning Proposal consistent with the provisions of the SEPP.

Title of State Environmental Planning Policy (SEPP)	Applicable	Consistent	Reason for inconsistency
SEPP No 1 – Development Standards	YES	YES	
SEPP No 4 – Development Without Consent and Miscellaneous Exempt and Complying Development	YES	YES	
SEPP No 6 – Number of Storeys in a Building	YES	YES	
SEPP No 14 – Coastal Wetlands	NO	N/A	
SEPP No 21 – Caravan Parks	NO	N/A	
SEPP No 22 – Shops and Commercial Premises	NO	N/A	
SEPP No 26 – Littoral Rainforests	NO	N/A	
SEPP No 30 – Intensive Agriculture	NO	N/A	
SEPP No 32 – Urban Consolidation (Redevelopment of Urban Land)	NO	N/A	
SEPP No 33 – Hazardous and Offensive Development	NO	N/A	
SEPP No 44 – Koala Habitat Protection	NO	N/A	
SEPP No 50 – Canal Estate Development	NO	N/A	
SEPP No 55 – Remediation of Land	NO	N/A	
SEPP No 60 – Exempt and Complying Development	YES	YES	
SEPP No 62 – Sustainable Aquaculture	NO	N/A	
SEPP No 64 – Advertising and Signage	YES	YES	
SEPP No 65 – Design Quality of Residential Flat Development	YES	YES	

SEPP No 70 – Affordable Housing (Revised Schemes)	YES	YES	
SEPP 71 – Coastal Protection	NO	N/A	
SEPP (Affordable Rental Housing) 2009	YES	YES	
SEPP (Building Sustainability Index: BASIX) 2004	YES	YES	
SEPP (Exempt and Complying Development Codes) 2008	YES	YES	
SEPP (Housing for Seniors or People with a Disability) 2004	YES	YES	
SEPP (Infrastructure) 2007	YES	YES	
SEPP (Major Development) 2005	NO	N/A	
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	NO	N/A	
SEPP (Rural Lands) 2008	NO	N/A	
SEPP (Temporary Structures) 2007	NO	N/A	
SEPP (Urban Renewal) 2010	NO	N/A	

The following is a list of the deemed SEPP's (formerly Sydney Regional Environmental Plans) relevant to the Pittwater Local Government Area.

Title of deemed SEPP, being Sydney Regional Environmental Plan (SREP)	Applicable	Consistent	Reason for inconsistency
SREP No 20 – Hawkesbury-Nepean River (No 2 -1997)	NO	N/A	

Justification for inconsistency
NIL

Checklist – Consideration of Section 117 Ministerial Directions

1 Employment and Resources

	Direction	Applicable	Consistent
1.1	Business and Industrial Zones	NO	N/A
1.2	Rural Zones	YES	NO
1.3	Mining, Petroleum Production and Extractive Industries	NO	N/A
1.4	Oyster Aquaculture	NO	N/A
1.5	Rural Lands	NO	N/A

Justification for inconsistency with Direction 1.2

The Planning Proposal so far as it is inconsistent with Direction 1.2 relates to the rezoning of Sectors 901D and adjoining Orchard Street road reserve, 901E and 901G in the Warriewood Valley Release Area from a rural zone to a residential zone. The subject lands have been identified in the State Government's MDP. The proposed rezoning is consistent with Council's Warriewood Valley Planning Framework 2010 (adopted May 2010).

2 Environment and Heritage

	Direction	Applicable	Consistent
2.1	Environmental Protection Zones	NO	N/A
2.2	Coastal Protection	NO	N/A
2.3	Heritage Conservation	YES	NO
2.4	Recreation Vehicle Areas	NO	N/A

Justification for inconsistency with Direction 2.3

The Planning Proposal seeks to rezone Sectors 901D and adjoining Orchard Street Road Reserve, 901E and 901G from a rural zone to a residential zone and seeks to introduce to maximum permissible dwelling yield provisions in regard to these sectors.

Provisions already exist in Pittwater LEP 1993 for the protection and conservation of environmentally sensitive area and the conservation of heritage items, areas, objects and places. These provisions will continue to apply to the lands the subject to this Planning Proposal.

3 Housing, Infrastructure and Urban Development

	Direction	Applicable	Consistent
3.1	Residential Zones	YES	YES
3.2	Caravan Parks and Manufactured Home Estates	YES	NO
3.3	Home Occupations	YES	YES
3.4	Integrating Land Use and Transport	YES	YES
3.5	Development Near Licensed Aerodromes	NO	N/A
3.6	Shooting Ranges	NO	N/A

Justification for inconsistency with Direction 3.2

The Planning Proposal seeks to rezone Sectors 901D and adjoining Orchard Street Road Reserve, 901E and 901G from a rural zone to a residential zone and seeks to introduce to maximum permissible dwelling yield provisions in regard to these sectors.

The subject lands have been identified in the State Government's MDP. The planning and development of Warriewood Valley is based on a suite of environmental studies and objectives relating to environmental issues, community facilities and infrastructure, heritage, urban design and financial viability. These objectives form the basis for the planning and implementation of development in Warriewood Valley and have been consistently applied by Pittwater Council and agreed to by the Department of Planning and Infrastructure over the years. In this regard, it did not contemplate opportunities for caravan parks and manufactured home estates.

4 Hazard and Risk

	Direction	Applicable	Consistent
4.1	Acid Sulphate Soils	NO	N/A
4.2	Mine Subsidence and Unstable Land	NO	N/A
4.3	Flood Prone Land	YES	NO
4.4	Planning For Bushfire Protection	YES	NO

Justification for inconsistency with Direction 4.3

Sections of Fern Creek traverse Sector 901G and 9 Fern Creek Road. The planning and development of Warriewood Valley is based on utilising the creek line corridor to convey the 1% AEP flood event. Development Controls prohibit vertical structures to be erected on that part of the land comprising the creek line corridor. This land is required to be rehabilitated and subsequently dedicated to Council in accordance with the *Warriewood Valley Section 94 Contributions Plan*.

Justification for inconsistency with Direction 4.4

This Planning Proposal is inconsistent with the direction insofar as consultation has not occurred with the NSW Rural Fire Service.

5 Regional Planning

	Direction	Applicable	Consistent
5.1	Implementation of Regional Strategies	NO	N/A
5.2	Sydney Drinking Water Catchments	NO	N/A
5.3	Farmland of State and Regional Significance on NSW Far North Coast	NO	N/A
5.4	Commercial and Retail Development along the Pacific Hwy, North Coast	NO	N/A
5.5	Development in the vicinity of Ellalong, Paxton and Millfield	NO	N/A
5.8	Second Sydney Airport: Badgerys Creek	NO	N/A

Justification for inconsistency

NIL

6 Local Plan Making

	Direction	Applicable	Consistent
6.1	Approval and Referral Requirements	YES	YES
6.2	Reserving Land for Public Purposes	YES	YES
6.3	Site Specific Purposes	YES	NO

Justification for inconsistency with Direction 6.3

The Planning Proposal in rezoning specified lands in the Warriewood Valley Release Area seeks a maximum permissible dwelling yield be applied. The application of Clause 30C, stipulating the maximum number of dwellings, is well established for the Warriewood Valley Release Area and is not a new provision.

7 Metropolitan Planning

	Direction	Applicable	Consistent
7.1	Implementation of the Metropolitan Strategy	YES	YES

Justification for inconsistency

NIL