

SUBMISSION

To Department of Planning on Preferred
Project Report for Major Project Application
MP 09_0162 at 14-18 Boondah Road,
Warriewood

Prepared by Pittwater Council 8 October 2010



PITTWATER COUNCIL

EXECUTIVE SUMMARY

This document constitutes Pittwater Council's submission objecting to the Preferred Project for the Major Application MP09_0162, by Meriton Apartments Pty. Ltd. for a major intensification of 14-18 Boondah Road, Warriewood.

The site is within Buffer Area 3 of the Warriewood Valley Urban Land Release Area (see Sector Map in **APPENDIX A**), which is part of the State Government's Metropolitan Development Program (MDP), and therefore its prescribed development potential is underpinned by an extensive and orderly planning process.

Meriton's Preferred Project varies widely from the prescribed development scenario previously established for this site, and should be considered in light of the Objects of the *Environmental Planning and Assessment Act 1979* (the Act), which are as follows:

- '(a) *to encourage:*
 - (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
 - (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*
 - (iii) *the protection, provision and co-ordination of communication and utility services,*
 - (iv) *the provision of land for public purposes,*
 - (v) *the provision and co-ordination of community services and facilities, and*
 - (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
 - (vii) *ecologically sustainable development, and*

- (viii) the provision and maintenance of affordable housing, and*
- (b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*
- (c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.'*

Meriton's Preferred Project fails the overall test imposed by the Objects of the Act in regard to the following:

- It removes the previous certainty provided through the Sub-Regional Plan and Warriewood Valley Planning Framework and replaces this with major uncertainty.
- It establishes a precedent for substantial intensification on other undeveloped areas in Warriewood Valley, without adequate consideration of the impact of that development.
- It disregards the outcomes of the Sydney Metropolitan Strategy (*City of Cities – A Plan for Sydney's Future* (2005)), the draft *North East Subregional Strategy* and the *Warriewood Valley Planning Framework 2010*, which together form the basis of an orderly planning prescription for development within Warriewood Valley as well as the Pittwater Local Government Area (LGA) and Warringah Peninsula.
- It disregards the adopted infrastructure provision plan as expressed through the *Warriewood Valley Section 94 Contributions Plan No. 15 Amendment No. 16*, which has been endorsed by the Minister. This departure would subsequently lead to substandard public amenities and works in particular, roads and intersections, open space and sportsgrounds, community facilities.
- It would imbed an urban form that will severely impact on the desired character of Warriewood Valley and significant adversely impact on the amenity of the residents and surrounding community.
- It would vary widely from the established community expectations in terms of the form of development, and infrastructure and services provision in Warriewood Valley.

Council's detailed evaluation of Meriton's Preferred Project identifies a comprehensive list of issues and deficiencies, which can be amalgamated into five principal areas of concern. These are as follows:

1. Equity and precedent
2. Departure from the orderly planning process
3. Inadequate infrastructure and services provision and funding
4. Impact on amenity
5. Community expectation and participation

These are the same five principal areas of concern raised in Council's Submission of 15 June 2010 to the exhibited Environmental Assessment for MP09_0162 for 14-18 Boondah Road Warriewood.

Pittwater Council challenges the validity and efficacy of Meriton's Preferred Project Report in addressing the issues raised by Council in its Submission of 15 June 2010. Additionally, Council contends that the Preferred Project Report fails to properly address the issues raised by the Department of Planning and a number of individual objectors where these issues are similar to those raised by Council.

It is Council's opinion that Meriton's Preferred Project failure to address these issues constitutes a flaw in the statutory process. The principal areas of concern in regard to Meriton's Preferred Project are discussed in more detail below.

1. EQUITY AND PRECEDENT

Consideration of Meriton's Preferred Project on a stand-alone basis is not compliant with the Objects of the Act, which requires development to be responsive to, and in accordance with, the framework of applicable strategic planning documents which together form the basis for coordinated and orderly planning and development.

It is essential to consider that if Meriton's Preferred Project is approved, a potential outcome would be the precedent established as a result of the significant increase in dwelling yields. Undeveloped land in Warriewood Valley would be subject to similar dwelling yields, which would ultimately be at odds with the orderly planning process established at the subregional and local level.

To not take into account the precedent that approval of the Meriton proposal would only set for the remaining undeveloped land in Warriewood Valley, would be to confer an inequitable and unjustifiable commercial advantage to Meriton.

This is not to infer that Council supports this intense form of development being approved and extrapolated across the remainder of the land release as an equitable outcome, rather Council considers that the established orderly planning framework for the Warriewood Valley Urban Land Release has embedded within it, equitable outcomes and certainty for all stakeholders and should be maintained.

It would also be reasonable to also assume that if the Meriton proposal is approved, past developers would question as to why Meriton has been given a financial advantage and been permitted to develop outside of the established planning framework.

Pittwater Council also asserts that the Department's Strategic Review on the Buffer Areas (upon which the Meriton proposal relies) is incomplete as it has not addressed the likely impacts of increasing density in the Buffer Areas in terms of visual amenity, traffic and transport (in particular car parking), infrastructure and services requirements including provision of open space, sportsgrounds and community facilities.

Accordingly, the Department's Draft Strategic Review Report, which Council understands remains in draft form and should be expanded to include all other undeveloped lands within the Warriewood Valley, should not be given any weight in the assessment of Meriton's Preferred Project MP 09_0162 for 14-18 Boondah Road Warriewood.

The Meriton submission is inadequate and incomplete as it relies on the Draft Strategic Review Report to justify an increased density.

2. DEPARTURE FROM THE ORDERLY PLANNING PROCESS

The Objects of the Act require an orderly approach to planning and development, and in this regard, it is appropriate to reflect on the planning process that has preceded this application at a metropolitan, subregional and local level.

The outcomes of the Sydney Metropolitan Strategy, the draft *North East Subregional Strategy*, the *Warriewood Valley Planning Framework 2010*, the *Pittwater Local Environmental Plan 1993* (LEP), and the *Pittwater 21 Development Control Plan* (DCP) encapsulate the intent of the Objects of the Act.

The Objects of the Act contain terms such as:

“...proper management..., social and economic welfare of the community...orderly and economic use and development of land...coordination...to promote the sharing of responsibility for planning between the different levels of government in the State.”

In relation to the Sydney Metropolitan Strategy, the then Premier of NSW stated:

“...The Plan is a broad framework to facilitate and manage growth and development over the next 25 years. It sets the scene for more detailed planning in the sub-regions of Metropolitan Sydney and in the regional areas of New South Wales. It sets the parameters for future residential development in new release and existing urban areas. It ensures that sufficient land is available for industrial and employment development. It also identifies how Local Government will work with State Government to translate the aims and actions into local plans... By identifying these needs, and ensuring adequate land is zoned and available, the Plan provides a sound basis for future investment. It allows the Government and the market to confidently respond to economic growth and housing and infrastructure needs, at the right time, and in the right location, to support Sydney in the next 25 years. The Plan has been prepared on the basis that well managed growth will strengthen and secure Sydney’s economic competitiveness, and will make the city a better place to live for future generations.”

Following the release of the Sydney Metropolitan Strategy, Manly Council, Warringah Council and Pittwater Council, in cooperation with the Department of Planning, achieved the draft *North East Subregional Strategy*, which provides a target of an additional 4,600 dwellings in Pittwater, including the completion of Warriewood Valley but excluding

Ingleside. The dwelling yields in the relevant planning framework for Warriewood Valley at the time were incorporated into the Subregional Strategy.

In releasing the Subregional Strategy, the then Premier of NSW stated:

“...The draft North-East Sub-Regional Strategy has been prepared on the basis that well managed growth will strengthen and enhance the North-East as an attractive place to live, work and visit. Above all, development must be managed sustainably - financially, economically, environmentally and socially...”

Also, the then Minister for Planning stated:

*“...Sub-Regional planning is vital to the implementation of the Metropolitan Strategy...This draft North-East Sub-Regional Strategy...**will provide certainty** for the community, Local Government, industry and business by identifying areas for future growth, areas for conservation, items of infrastructure and key corridors...”*

Since its inception, Pittwater Council has accepted responsibility with regard to the applicable State Government planning policies, strategies and the directions that preceded them, particularly with regard to Warriewood Valley. Since Warriewood Valley was incorporated into the MDP, Pittwater Council has worked cooperatively with the State Government to investigate, plan and deliver the Warriewood Valley Urban Land Release, which is an award winning example of coordinated and sustainable development, and a highly desirable place to live¹.

In particular, Pittwater Council in accordance with the Minister's Statement, has to date been able to provide the necessary certainty for development within the Warriewood Valley Urban Land Release. Meriton's Preferred Project however, disregards the outcomes and targets of the State, Metropolitan, Subregional, and Local strategic documents, which would have consequential impacts on infrastructure, employment, transport, and, in effect, sets asunder the balance between residential development, employment generating development, and traffic and transport issues, which are all so

¹ UDIA Awards for Excellence for Public Sector Leadership for Urban Development (2008)

closely analysed and planned for at the State, Metropolitan, Subregional, and Local level.

In relation to employment alone, the substantial increase in population as a result of Meriton's Preferred Project, and the significant additional population which would likely flow on from the precedent its approval would set, would either result in a need to create more employment opportunities within the Warringah Peninsula (already a difficult task to cater for existing growth) or cause additional traffic movement to external employment areas on already over-congested road systems.

3. INADEQUATE INFRASTRUCTURE AND SERVICES PROVISION AND FUNDING

In assessing this application, it is essential to understand the long-term management role that Pittwater Council fulfils for Warriewood Valley in terms of future development control, traffic management, compliance management, and provision of services and infrastructure.

Long after the developer has walked away, it is Council that will be left facing the expectations of the existing and incoming community in regard to inadequate open space, overused playing fields, congested streets, inadequate parking, and environmental issues that would result from approval of the Meriton proposal and the precedent that would set.

Local infrastructure and services

The provision of local infrastructure and services for Warriewood Valley, like many other land release areas with fractionalised ownership, requires a method of funding common infrastructure and services that the developers of large land release areas under single ownership (or owners consortium) would otherwise directly provide.

To provide appropriate infrastructure and services in Warriewood Valley, the *Warriewood Valley Section 94 Contributions Plan No. 15 Amendment No. 16* has been

an integral component of the development and implementation of the land release process since commencement in 1998.

Without a complete review of the strategic land use and infrastructure and services planning carried out as part of an orderly planning process for Warriewood Valley, it is not possible to determine the potential impact the additional unplanned development, such as that being proposed by Meriton and that which could result following the precedent it would set, or to provide additional infrastructure and services without significant financial and amenity impacts.

It is noted that Meriton's Preferred Project Report relies on the Department's Strategic Review of the Buffer Areas to address this matter, as follows:

"It is understand [sic] the Department of Planning are undertaking a review of the existing planning framework applying to the subject site and other sectors and buffer areas in the Warriewood Valley and the capacity to accommodate additional dwellings."²

Meriton had argued there will be virtually no requirements for additional infrastructure and services as a result of the substantial increase in dwellings proposed and the resultant population. Further the Preferred Project Report in no way addresses the impact on demand for these facilities that would flow from increased development as a result of the precedent approval of its proposal would set. The provision of functional active open space areas (such as sportsfields) is one example of the unsatisfactory nature of the Meriton's Preferred Project as it does not intend to provide anywhere near enough additional active open space for the expected population, and will place an unacceptable and unsustainable burden on existing facilities.

State infrastructure and services

Additional funding of State infrastructure and service projects necessary to support Warriewood Valley, and other intensification of land in the Pittwater LGA (such as

² Architectus, *Preferred Project Report for Major Project Application MP09_0162*, August 2010, p53.

Ingleside) and the Warringah Peninsula are referenced in projects in the draft *North East Subregional Strategy*.

Pittwater Council understands that a State Infrastructure Contribution (SIC), of approximately \$20,000 per dwelling, applies to the rezoning of land in land release areas as a contribution towards planned State infrastructure necessary to support development in the subregion.

If the opportunity to collect the SIC for the significantly increased dwelling yield proposed by Meriton is set aside, it would be severely inequitable to continue to levy current and future proposed developments in Warriewood Valley, the Pittwater LGA and the Warringah Peninsula.

The Meriton proposal does not acknowledge that the SIC should be applied to the number of additional dwellings approved beyond the current allowance of 136 dwellings for the site in accordance with the Pittwater LEP or 186 dwellings as proposed in the current *Warriewood valley Planning Framework 2010* as adopted by Pittwater Council.

Utilities

In general, utilities are provided through direct agreements between the utility provider and developers at direct cost to the developer.

The Meriton proposal, in part, denies responsibility for the delivery of utility services to a standard commensurate with contemporary development as a direct part of the development process at full cost to Meriton.

Capping the Warriewood Sewage Treatment Plant

Residential development surrounding the Warriewood Sewage Treatment Plant (STP) was contingent upon Sydney Water “capping” the STP to prevent the emanation of offensive odours, which otherwise embargoes that area from residential development. This area is known as the STP Buffer Area and is where the subject site is located.

Should Meriton be able to increase its dwelling yields as proposed, and other developable areas within the STP Buffer Area retain their current development density, then Meriton's contribution per dwelling for the capping works will be significantly less than required and, in effect, be subsidised by other developers.

Should the Meriton proposal proceed, it is appropriate that an equitable contribution rate be required for capping the STP.

4. IMPACT ON AMENITY

Amenity is considered in two ways:

- internal issues within the site of the development that will affect future residents;
- external issues resulting from the development that will impact on the local and wider Pittwater community.

To ascertain the amenity impacts, various elements of the built form including its layout, height, bulk, scale and appearance of the buildings, its relationship with the internal road system, open space and parking provision and its overall presentation to adjoining properties and the streetscape have been considered.

This assessment focuses on the details contained in the Stage 1 Preferred Project and translates those characteristics across the remainder of the site.

Amenity – Within the site

The liveability of the proposed dwellings would be severely diminished as a result of poor visual privacy, acoustic privacy, and utility of private open space areas currently proposed. This will affect the enjoyment of future residents in their home and undoubtedly affect their amenity. Further, safety and security measures have an effect on amenity and should be considered accordingly.

No provision has been made for delivery or removalist vehicles, or designated areas for car washing. Further, the layout of the basement parking levels, the parking spaces themselves and storage areas do not provide for manoeuvring and access of the spaces

or storage areas. The location of the spaces for persons with a disability is dispersed within the parking levels, and when combined with the parking layout, makes these spaces difficult to find. The utility and relative ease of manoeuvring within these areas are added convenience features for residents typically contributing towards resident's enjoyment of the development. None of these features however, are evident in Meriton's Preferred Project and it is likely to increase traffic congestion within the internal and external road system as delivery/removalist vehicles compete for the limited street parking spaces available.

The encroachments of the front building setbacks to Macpherson Street and the internal road system will affect the internal environment of the dwellings in those buildings. Further, many of the proposed dwellings will incur noise impacts as they are oriented towards the common open space areas, transitional areas or carpark exhaust vents. This is particularly the case for the studio dwelling in Building D, which is located directly above the car parking ramp, and adjacent to the carpark exhaust vent and garbage truck turning area.

Only 70% of the 295 dwellings (Stage One) comply with the minimum solar access requirements. For the remaining 30% of dwellings (ie approximately 88 dwellings), typically in the ground level of the buildings, with south and south-west facing dwellings or having single aspect, the thermal comfort of residents in these dwellings will be affected as these dwellings will not receive sufficient solar access into the principle living areas. While this may comply with SEPP65, Council contends that this does not achieve the 'best practice' requirement specified in Key Issue 11 of the Director-General's Requirements.

The private open space areas for the majority of dwellings are below the minimum area and dimensions required, and are subsequently grossly insufficient in their utility as private open space areas. Additionally, these areas in the dwellings facing south and south-west will be predominantly shadowed, further affecting the utility and enjoyment of these areas by residents.

Very limited opportunities are given to effective landscaping in the private open space areas. The ground floor units include courtyard areas with 2m wide planters, which are

insufficient to support vegetation over 3-4m in height due to restricted root volume and the extent of shadowing from adjacent buildings within the development. This also will affect the amenity of future residents to these dwellings.

The central open space area, triangular in shape, will be surrounded by buildings. Whilst this area may provide opportunities for a safe and secure area for children to play, or an area for social interaction, it will likely result in noise disturbance for residents of those buildings. Overshadowing, wind effects and noise from the surrounding buildings also detracts from the utility of this space for residents. Given the context of the space and the inappropriate landscape treatment proposed, the design and treatment of the central open space area does not provide the amenity for residents and visitors alike to want to sit in the western section of this area for social gatherings, or result in noise disturbances emanating from the eastern, grassed section of this area (earmarked for informal play).

A children's play area is proposed to be located adjacent to the swimming pool/gym building. However this is at the same location as the proposed ramp into the basement car park and hence its location is inappropriate. Another area designated as an outdoor 'exercise station' is proposed in Stage Two, surrounded by an internal road and readily visible from the surrounding buildings. The utility of this visible space as an outdoor 'exercise station' is unlikely to have a broad appeal when compared to a central landscaped area that incorporates tree and shrub planting.

Visual privacy, acoustic privacy, solar access, and private open space areas are all affected due to the scale of the development proposed. These design elements affect the liveability of dwellings, and, in this case, reduces the liveability of the proposed dwellings.

With regard to parking, Meriton's Preferred Project Stage 1 provides 471 off-street parking spaces including 42 visitor spaces for 295 dwellings. There is a shortfall of 133 parking spaces, including 17 visitor spaces (equivalent to 798m of kerbside parking if not provided on site). This deficiency in parking spaces cannot be accommodated within the internal road system. In addition, the proposal does not provide any designated

washbay areas for car washing, storage areas for individual dwellings or any designated spaces for removalist or delivery trucks.

It may be assumed that visitor parking provision for the remaining 264 dwellings (for Stage 2) is at the same rate used for Stage 1, and amounts to 53 spaces (as compared to the 88 spaces required under Pittwater 21 DCP). It is envisaged that Stage 2 will also have a short fall of residential spaces based on pro-rata calculations as per Stage One. The shortfall for Stage 2 is estimated to be 119 spaces. This would result in a total shortfall of 252 spaces for Stages 1 and 2, which equates to approximately 1608m of overflow on-street parking into adjacent local streets creating an unacceptable adverse impact on the community. Any deficiency in on-site visitor parking results in greater demand on parking in the street (or surrounding streets).

Shortfalls in resident and visitor parking, parking within the internal road system, and no designated spaces for removalist trucks or car washing bays for residential developments of this size, will have serious knock-on effects and will be severely detrimental to not only the specific development but also will greatly affect the amenity of future residents within the development and Warriewood Valley.

With regard to the proposed main internal road, Council does not consider it will be sufficient to cater for the amount of traffic that would be generated by the 559 dwellings proposed. Additionally, likely conflicts will arise between the residential and various non-residential uses. The resultant impact is increased traffic congestion within the site, leading to adverse amenity impacts for the residents.

Amenity – External to the site

Height of buildings and visual impact

The 16 residential buildings are 3 to 5 storeys high and are well above 8.5m in height. The design does not, in any way, give the appearance of being 2-storey either from Macpherson Street or Boondah Road. The proposed height combined with the extent of cut and fill on site means that the buildings will dominate the streetscape along

Macpherson Street (and later, Boondah Road), will be highly visible in the surrounding area and become the dominant feature in the skyline.

The visual impacts resulting from this development, adversely affects the wider Pittwater community, in that it significantly departs from the planning vision for Warriewood Valley and the Pittwater LGA. These planning visions, as encapsulated in the various planning documents and policies that govern development in Pittwater, are the result of an orderly planning process that involved extensive community involvement and consultation.

Traffic issues

The main internal road is insufficient to cater for the amount of traffic that will be generated by the 559 dwellings proposed and has no capacity, and should not be the default, to meet the carpark deficiency through kerbside parking. The combined shortfalls in off-street parking and kerbside parking (on both the internal and external road system) for Stages One and Two is a deficiency of 252 spaces (which equates to approximately 1.6km) results in increased demand on the limited, available kerbside parking in the surrounding streets that, in turn, leads to serious impacts on the local road network, causing traffic congestion in Macpherson Street, Boondah Road and adjoining streets. Traffic congestion in the local road network, combined with noise and air pollution generated by vehicular traffic, would adversely affect the amenity of existing and future residents in the area.

Council considers the resultant traffic congestion, safety and amenity impact on existing and future residents within Warriewood Valley to be unacceptable.

The impact of Insufficient Infrastructure

Warriewood Valley is now over half completed in accordance with the planning framework already established and the certainty this has provided to date. If the additional population as a result of this development (and the precedent it sets) requires additional road and footpath infrastructure, it is unclear as to whether it can actually be provided without significant impact on amenity and safety, and significant additional financial costs. The ramifications of the Meriton development and the precedent it may

set for the remainder of the Valley would necessitate reconstruction of previously upgraded infrastructure and potentially the need to widen the overall road reservation and/or subsequent loss of existing carparking and streetscape safety and amenity.

It would be difficult, if not impossible, to provide land suitable for active open space in Warriewood Valley under current provision arrangements for the massive increase in dwelling yields and the added population density associated with the Meriton proposal and the precedent it would establish.

Any additional active open space needs to be located reasonably near to, and be available for the use of, future residents. There is a shortage of available land suitable for active open space in the vicinity of the proposed development without moving into areas of existing residential development where the cost of acquisition would be excessive, and land suitable (and assigned) for residential or employment development would be forfeited.

Meriton's Preferred Project does not address this issue at all. Rather, it argues that there will be virtually no requirements for additional infrastructure and services as a result of the increased dwellings proposed or the significantly expanded rate of development, which is likely following the precedent that would be set. Subsequently, increased demand will simply be placed on existing facilities, which is unacceptable.

Provision of active open space is but one example of the unsatisfactory nature of the Meriton proposal and the knock on precedent impact this would create.

5. COMMUNITY EXPECTATION AND PARTICIPATION

'Warriewood Valley Urban Land Release Area will be developed into a desirable urban community in accordance with the Warriewood Valley Urban Land Release Planning Framework, and will include a mix of low to medium density housing with dwelling houses a maximum of two storeys in any one place, attached and detached dual occupancy dwellings, multi-unit housing, a neighbourhood focal centre, industrial/commercial development and open space and community services...Development will incorporate native canopy trees and vegetation to

*minimise the bulk and scale of development and enhance the new community with a high quality landscape character. Development will integrate with the landform and landscape.*³

This statement is Pittwater Council's vision for Warriewood Valley. This vision is expressed in the original planning strategy for Warriewood Valley – the *Warriewood Valley Urban Land Release Draft Planning Framework 1997* – and is based on an extensive community consultation process that was an integral part of the orderly planning process, which continues through to the Pittwater LEP, the Pittwater 21 DCP and the *Warriewood Valley Planning Framework 2010*.

Given this long-held vision, Pittwater Council developed statutory provisions ensuring that its vision for Warriewood Valley can be achieved. The community was consulted during the planning and preparation of the strategic documents that led to their adoption.

To this end, residents should be able to rely on what has been planned for Warriewood Valley, and they should be confident that they will be made aware of and actively encouraged to participate in proposals for the Valley. Further, as per the Minister for Planning's Statement, there needs to be certainty for all stakeholders associated with strategic planning outcomes.

Warriewood Valley continues to be developed as a mix of low to medium density housing of up to 25 dwellings per hectare at certain locations. With the exception of the Anglican Retirement Village (ARV) development, which is on the north side of Macpherson Street, directly opposite the subject site (approved under the former Seniors Housing SEPP and not originally anticipated as part of the land release⁴), the form and scale of the residential development in the Valley to date has generally been 2-storeys or at least had the appearance of 2-storeys at the street frontage (that is along Macpherson Street, Garden Street and Warriewood Road).

³ Desired Character Statement for Warriewood Valley Land Release Area, Part A4.16 of *Pittwater 21 DCP Amendment No 5*, adopted 15 June 2009.

⁴ This site was zoned Non-Urban when the DA for the ARV development was approved by Pittwater Council in April 2006. This site was rezoned 2(f) on 21 July 2006 (Amendment No. 71 to Pittwater LEP 1993), and became part of the Warriewood Valley Land Release Area.

A clear example of the relevance of community expectation, as a valued component of the planning process, is a recent determination by the State Government's Joint Regional Planning Panel (Sydney East Region). In planning Warriewood Valley, a small-scale retail offering was identified as being one of the facilities that would be required for the new community. This retail offering would take the form of a Focal Neighbourhood Centre, and provide a dual purpose of serving the daily retail convenience needs and becoming a community/social hub for residents and employees in the Valley.

When determining the recent Development Application for a Focal Neighbourhood Centre that proposed a substantially greater floorspace to that planned for in the Warriewood Valley strategic planning documents and Pittwater 21 DCP, the Joint Regional Planning Panel (Sydney East Region) stated:

*'The Panel notes that DCP21 has a range of 800 to 2,222m² GFA, and the Panel puts major weight on this size range. This is because buyers into the area are likely to have consulted the DCP and made their decision on the basis that the maximum size of a shopping centre on the site will be 2,222m². To allow a shopping centre that is 75% larger than the maximum size indicated in the DCP, seems to us to breach the faith of those who relied on the DCP being upheld.'*⁵

Clearly Meriton's Preferred Project varies widely from the community expectation for development of the site as encompassed in Pittwater Council's vision statement. Further, the precedent effect of Meriton's Preferred Project would cause such a significant change to the form and scale of the envisioned style of development both on individual sites and for the Valley as a whole that it would be impossible to conclude that the outcome was consistent with that derived from the extensive community consultation process originally undertaken or was in any way consistent with established community expectation.

CONCLUSION

⁵ Extract from minutes of meeting by the Sydney East Joint Regional Planning Panel held 12 November 2009 (in regard to DA ref.N0283/09)

Meriton's Preferred Project for 14-18 Boondah Road, Warriewood fails to address the issues originally raised by Pittwater Council in its Submission to the exhibited Environmental Assessment for MP 09_162. This failure means that there is a flaw in the statutory process.

Pittwater Council contends that the Strategic Review on the Buffer Areas, commissioned by the Department of Planning, is incomplete as it has not addressed the likely impacts of increasing density in the Buffer Areas in terms of visual amenity, traffic and transport (in particular car parking), infrastructure and services requirements. Council has identified significant deficiencies with the Draft Report (prepared by Worley Parsons on behalf of the Department) and its conclusions, raising flaws in the Department's strategic review process. Accordingly, the Draft Strategic Review Report should not be given any weight in the assessment of Meriton's Preferred Project MP 09_0162 for 14-18 Boondah Road Warriewood.

Meriton's Preferred Project must be refused because it and the precedent it would set would cause significant unplanned increases in dwelling yields in the Warriewood Valley, resulting in localised over-development, lacking in infrastructure and services that would be incompatible with the pre-planning for Warriewood Valley in particular, and Pittwater LGA and Warringah Peninsula in general, for the reasons outlined in the following summary of issues.

SUMMARY OF ISSUES AND REASONS FOR REFUSAL

The following is a summary of reasons for refusal, under the five principal areas of concern, identified by Pittwater Council following evaluation of Meriton's Preferred Project.

1 *Equity and Precedent*

Meriton's Preferred Project Report fails to address the issues previously raised by Council's Submission to the exhibited Environmental Assessment to Major Project MP 09_0162 for 14-18 Boondah Road Warriewood.

On the basis that there is no substantial difference between the subject site and most other undeveloped land in Warriewood Valley, the Meriton proposal would set a clear precedent for similar development forms on other land, otherwise Meriton is being given an inequitable advantage in terms of assigning a higher density development capability to its site.

Meriton's Preferred Project does not provide the Pittwater Community any public benefit warranting support or approval of a development that so dramatically departs from that established and orderly planning requirements established for the development site, and Warriewood Valley Release Area.

The Pittwater Community should not be burdened by a development that was not originally planned or anticipated, and therefore not provided for through planned infrastructure and service provision.

2 *Departure from the Orderly Planning Process*

Meriton's Preferred Project is inconsistent with and undermines the Metropolitan, Subregional and Local planning processes. The Preferred Project does not demonstrate:

- how the State Goal of Improving Housing Affordability and Increasing the Supply of Affordable Housing for low and moderate income households would be achieved;
- how it can assist in achieving the NSW State Plan targets and goals in relation to Priority E5 'Jobs Closer to Home', and Improve Housing Affordability and Increase the supply of affordable housing for low and moderate income households;
- how the targets established in the Waste Avoidance and Resource Recovery Strategy 2007 will be achieved;
- provision of an appropriate level of infrastructure and services commensurate with the increased population that the additional dwellings will generate;
- why a substantial increase in density is warranted and the consequence of such an increase.

The Meriton proposal significantly undermines the orderly and coordinated planning approach and certainty, established and consistently implemented by Pittwater Council since 1997, of delivering a sustainable residential community with timely provision of infrastructure and services, and conservation and rehabilitation of significant environments, which has long been established for Warriewood Valley.

The proposed childcare centre is not permissible in the 2(f) zone under Pittwater LEP.

The proposal is grossly inconsistent with the dwelling yields in Clause 30C of the Pittwater LEP 142 dwellings and greatly exceeds the 186 dwellings allocated for this site under the *Warriewood Valley Planning Framework 2010* and Draft Planning Proposal. No argument that would meet the test of a SEPP 1 objection has been provided, which would otherwise be required.

The Meriton proposal has significant non-compliances with development provisions under Pittwater 21 DCP – as identified in this submission.

Meriton's Preferred Project is contrary to the Objects of the Environmental Planning and Assessment Act for the reasons listed above.

The application is deficient as it does not address the issue of an increased density and its consequence but rather relies on an incomplete and deficient Draft Strategic Review commissioned by the Department of Planning, which, inter alia, does not address Regional and Subregional planning issues.

3 *Inadequate Infrastructure and Services Provision and Funding*

Meriton's Preferred Project will cause significant adverse impacts on the local road network and will place undue demand on adjacent streets due to the significant deficiencies in resident and visitor parking.

The Meriton proposal fails to demonstrate:

- how users of the development will be able to make travel choices, particularly as there is no substantiated evidence that Sydney Buses will expand services or that the RTA will upgrade roads to allow expanded public transport services;
- how it will assist to increase the journey to work travel mode via public transport (under the State Plan's Priority E5 'Jobs Closer to Home') as pedestrian links to public transport nodes are non-existent.

Meriton's Preferred Project and its Revised Statement of Commitments fails to provide an adequate level of infrastructure and services commensurate with the development (and the additional population it will generate) in terms of:

- provision of sufficient Developer Contributions to provide for equitable funding of common infrastructure and services through the development process that if not provided will result in a significant lack of safety (i.e. insufficient road works and water management structures) and amenity (i.e. lack of open space and community facilities) that will otherwise need to be funded by the Pittwater ratepayers;
- works in Macpherson Street and Boondah Road, the provision of utility services including the undergrounding of overhead services (which, in terms of contemporary development standards, would be directly provided by the developer) or active open space areas such as sports fields;
- an equitable contribution rate towards capping of the Warriewood STP to control odour that would otherwise prevent residential development on the subject site.

The Pittwater Community will be unduly burdened by a development that was not originally planned or anticipated, and not provided for through planned infrastructure and service provision. Approval of the Meriton proposal is inequitable.

4 *Impact on Amenity and Environment*

Meriton's Preferred Project Report fails to address the issues originally raised by Council in its Submission to the exhibited Environmental Assessment for MP 09_162 and fails to address the Key Issues outlined in the Director-General's

Requirements. This failure means that there is a flaw in the statutory process for this application.

Meriton's Preferred Project includes land that is not part of the Major Project Declaration.

Meriton's Preferred Project Report and accompanying documents fails to address the provisions of the *Threatened Species Conservation Act* regarding:

- impacts on the Warriewood Wetlands and its Endangered Ecological Communities from the Asset Protection Zone;
- the impact of flood storage area on the Swamp Sclerophyll Forest and Freshwater Wetland (both Endangered Ecological Communities);
- the likely impact on the Bangalay Sand Forest;
- insufficient assessment has been carried on the impact of groundwater into the Warriewood Wetlands and its Endangered Ecological Communities and the threatened species that utilise this area.

Meriton's proposal does not comply with the RFS *Planning for Bushfire Protection 2006* as the APZ is located outside of the development site and restricts emergency vehicle access to the more vulnerable section of the development site, adjacent to the hazard.

In accordance with the precautionary principle, to allow incorporation of State Government Climate Change and Sea Level Rise considerations for development proposals and to provide a higher level of confidence, consideration of the flood planning floor levels, carpark entry freeboard and emergency management for this form of intense development that introduces a much higher population density, should await the results of the Narrabeen Lagoon Flood Study Update that takes into consideration climate Change and Sea Level Rise impacts including potential changes to entrance dynamics, tailwater effects and increased rainfall intensity.

The Water Management Report fails to address the total impervious area proposed by Meriton's Preferred Project, which, in turn, fails to address the environmental

implications resulting from the commensurate on-site detention storage requirements and the corresponding earthworks.

The Traffic and Accessibility Impact Study is inadequate due to the following:

- The proposed parking rates for residents/visitors are not consistent with the RTA's *Guidelines for Traffic Generating Developments* or Pittwater 21 DCP;
- No provision for on-street parking opportunities within the site;
- There are no measures to promote or to improve public transport by either Sydney Buses or the RTA to cater for increased demand;
- There are no proposed measures to upgrade the existing road system within and adjacent to Warriewood Valley to ensure an appropriate level of services is maintained. The resultant impact will be significant congestion on the local road network that will adversely impact Warriewood Valley residents and the wider community;
- There is no consideration for the specifications in the *Warriewood Valley Roads Master Plan* (2006 Review) in terms of the internal main road and the number of dwellings that will utilise the road. Further, this main internal road is required to be a collector road (not a local road, as currently proposed) to cater for the increased traffic and parking demands generated by the Meriton proposal. Subsequently, Council will not support dedication of the main internal road in its current form.

Meriton's Preferred Project fails to address access, loading and unloading, and car parking arrangements for the non-residential uses, and has not demonstrated how conflicts arising from parking and access arrangements required by the various non-residential uses, and residents/visitors within the development are to be managed/minimised.

Meriton's Preferred Project is significantly deficient in carparking provisions (in both on-site and on-street car parking spaces) including visitor parking spaces and parking for people with disabilities, and the designated areas for car washing and racks for the storage of bicycles. Additionally, the parking spaces and manoeuvrability in the aisles do not comply with the relevant Australian Standards, parking spaces for persons with disabilities.

Deficiencies identified in the layout of the basement parking, parking spaces and storage areas greatly affect the useability of these areas and may result in further deficiencies in on-site parking provision.

Meriton's Preferred Project will result in adverse impacts for the wider Pittwater Community, resulting in increased traffic congestion on the local road system, and will not assist increasing the journey to work travel mode via public transport under State Priority E5 'Jobs Closer to Home'.

Meriton's Preferred Project fails to demonstrate efficiency with the design of the main internal road and the water management facilities, enabling these infrastructure items to be dedicated to Pittwater Council. The ongoing management and maintenance of these facilities will not be undertaken by Pittwater Council.

Meriton's Preferred Project fails to *"...demonstrate that the proposal has been assessed against a suitability accredited rating scheme to meet industry best practice."* as required under Key Issue 11 of the Director-General's Requirements for MP 09_0162.

The design of the proposal fails to minimise visual and acoustic privacy, and does not provide for adequate solar access and private open space areas. This adversely affects the liveability of the proposed dwellings and, in turn, will affect the enjoyment and amenity of future residents.

Meriton's Preferred Project does not sufficiently integrate landscaping with the built form. The proposed landscaping ineffectively screens the bulk and scale of the proposed buildings, which, in its current form, will cast significant shadows onto dwellings and open space areas. Landscaping, as envisaged, will be significantly affected by this lack of sunlight.

The central open space area in Stage 1 will be affected by wind and shadowing, noise impacts and the micro-climate in this area, significantly detracting from the usefulness of this space as a recreational area for the future residents.

The proposed children's play area and 'exercise station' area are inappropriately located and will result in conflicts due to its proximity to the access road.

Meriton's Preferred Project fails to demonstrate how the proposal complies with the '*Compatibility in the urban environment*' principle (Land and Environment Court).

The height, scale and bulk of the proposed buildings will be the dominant built form in Warriewood Valley clearly visible from adjoining areas detracting from the streetscape along Macpherson Street and Warriewood Valley generally, and is grossly inconsistent with the desired future character of the Valley.

Pittwater Council does not support the proposed finishes, which are, for no apparent reason, inconsistent with Control D16.2 (of Pittwater 21 DCP). This control aims to minimise the visual impact of the development in terms of colours and materials, and has been consistently applied to all development within Warriewood Valley to date.

5 *Community Expectation and Participation*

Meriton's Preferred Project Report fails to address the issues originally raised by Council in its Submission to the exhibited Environmental Assessment for MP 09_162. This failure means that there is a flaw in the statutory process for this application.

Meriton's Preferred Project provides insufficient information regarding the child care centre, resulting in an inability to undertake a complete assessment of this component, and it fails to address the likely traffic and parking conflicts arising from the childcare centre and residential dwellings, particularly where shortfalls occur for both the residential development and childcare centre component.

Meriton's Preferred Project seriously departs from the community's expectations, and Council's vision for orderly, well planned and sustainable development in Warriewood Valley. Residents who already live in and near to Warriewood Valley should be able to rely on what has been planned for the release area and the

certainty this has provided to date and should be able to provide into the future, and be confident that they will be made aware of and able to meaningfully participate in proposals to change the established development framework for the Valley.

Meriton's Preferred Project does not provide the Pittwater Community any public benefit that warrants approval of a development that so dramatically departs from that which has been specified for the site following an orderly planning process that established the applicable dwelling yields and the planning and design criteria for Warriewood Valley.

The Pittwater Community should not be burdened by this development given it was not anticipated, and therefore not provided for through planned infrastructure and service provision.

ANALYSIS OF PROPOSAL

1 Brief description of the Major Project Application

Pittwater Council is responding to the Preferred Project Report for the Major Project Application (MP_09_0162) relevant to 14-18 Boondah Road Warriewood.

The Preferred Project Report is described by the Applicant to be:

- a total of 16 residential apartment buildings of 3, 4, Part 4/Part 5 and 5 storeys in height
- a total of 559 dwelling units
- a gymnasium and swimming pools
- a childcare centre
- an internal network of public and private roads
- a combined cycleway and pedestrian pathway
- landscaping of private, communal and public open space and ecological rehabilitation works

Stage 1 of the Preferred Project is described by the Applicant as comprising:

- demolition of existing dwellings and structures and removal of vegetation on the subject site
- excavation, earthworks and flood mitigation works
- construction of 7 residential apartment buildings ranging in height from 3 to 5 storeys providing 295 dwelling units
- basement parking for 471 cars comprising 429 resident car spaces and 42 visitor spaces
- a gymnasium and swimming pools
- construction of an internal access road and connection with Macpherson Street and Boondah Road including utilities and services infrastructure within the road reserves for electricity, potable water, gas and telecommunications

- landscape works to public, communal and private open space areas associated with the Stage 1 development and ecological rehabilitation works to Fern Creek corridor and the vegetated buffer to the Warriewood Wetlands
- bushfire management works including vegetation removal associated with the proposed Asset Protection Zone
- a public pedestrian cycle way through the site
- flood mitigation works including bulk earthworks to establish flood storage areas and bio-retention basins

With regard to Stage 1, three of the seven residential buildings (Buildings A, B and C) are three storeys and directly front Macpherson Street. Behind Buildings A, B and C are the remaining four buildings proposed – two of which remain at five storeys (Buildings D and G), and two of which are part four and part five storeys (Buildings E and F).

The following table provides a breakdown of the dwelling size proposed in the Stage 1 residential buildings, based on the number of bedrooms:

Dwelling type (based on number of bedrooms)	Number of dwellings
Studio	4
1 bedroom	41
2 bedroom (medium)	65
2 bedroom (large)	168
3 bedroom	17
Total	295 dwellings

Two levels of basement car parking, comprising a total of 471 parking spaces, including 42 visitor spaces, and 30 spaces for bicycles, are proposed, and entry/egress ramps are located between Buildings D and F, and behind Building G.

The proposed childcare centre is a single storey building, aligning the western boundary of the site and fronting Macpherson Street. Another single storey building located

immediately behind an adjoining property, known as 7 Macpherson Street, will contain the 25m indoor swimming pool and gymnasium.

2 Equity and Precedent

2.1 EQUITY

Equity is a fundamental planning principle that ascribes social justice and fairness to be a consideration in the planning process. The planning for the Warriewood Valley Release Area embodies this principle through:

- The implementation of a coordinated planning process widely communicated through the Warriewood Valley planning framework documents that had been in place since 1997, and reviewed over time.
- The equitable distribution of funding provision for infrastructure and services generated by the development of Warriewood Valley.
- The sector-based collaborative approach implemented by Pittwater Council and landowners has been successful in developing quality development outcomes that achieves the aims and objectives established for Warriewood Valley, in the Planning Framework.

A key element that underpins the planning framework is the allocation of dwelling density established for the various sectors in Warriewood Valley (based on the total developable area for that sector⁶) and, in turn, provides an estimate of the total dwellings for Warriewood Valley. This translates to identifying the infrastructure and services likely to be required in Warriewood Valley, delivered either by direct provision (by the developer) and/or development contributions/ State Infrastructure levy.

The dwelling density in Warriewood Valley ranges from 10 dwellings per developable hectare to 25 dwellings per developable hectare, based on the physical constraints⁷ of the land. The development form envisaged for Warriewood Valley and what has been built thus far, is a consequence of the dwelling density that applied to the sectors. The Buffer Area Sectors, including the subject site, has a density of 25 dwellings per

⁶ “Developable area” is calculated as the area of the land identified as capable of being developed, and does not include the “creekline corridor land” or “environmental constraints land” identified in the Warriewood Valley Planning Framework Map.

⁷ Physical constraints of the land did not include “creekline corridor” or “environmental constraints land” that is identified in the Warriewood Valley Planning Framework Map.

developable hectare. This translates to 186 dwellings anticipated on the subject site, 14-18 Boondah Road Warriewood.

Meriton's proposal for 559 dwellings in the Concept Plan (and Stage 1) is a significantly different form of development to that anticipated by both Pittwater Council and its community for 14-18 Boondah Road Warriewood, and is more a consequence of the tripling in density (at 75 dwellings per developable hectare). This increase in development capacity or colloquially 'changing the rules' for a specific site/ landowner is grossly unfair and inequitable given that one landowner has undue development advantage over other sites. This is not to infer that Council supports this intense form of development being approved and extrapolated across the remainder of the land release as an equitable outcome, rather Council considers that the established orderly planning framework for the Warriewood Valley Urban Land Release has embedded within it, equitable outcomes and certainty for all stakeholders and should be maintained

2.2 THE MERITON PROPOSAL

To date, the Warriewood Valley Urban Land Release development is approximately half complete with 52% of the 2012 dwellings already delivered, which was based on the accepted dwelling density and yields established since 1997⁸.

Council reiterates that the Meriton proposal is on land that is identical in environmental or topographical constraints to other areas of the Valley still to be developed, and has been identified through zoning or the investigation and planning process and subsequent planning framework documents to be suitable for residential development at the density prescribed as part of the orderly planning framework. On the basis there is no substantial difference between the Meriton development site and most other undeveloped sections of Warriewood Valley, the Meriton proposal for a massive increase in density sets an unacceptable precedent for that form of development to be

⁸ Since 1997, two other reviews have been completed by Pittwater Council that increased the total number of dwellings anticipated in the Warriewood Valley Land Release Area either due to the inclusion of additional land (being the STP Buffer Areas for residential development, in 2001) or adopting the maximum dwelling density in specific sectors (originally considered in the 1990's but not adopted until 2010) under recently adopted the *Warriewood Valley Planning Framework 2010*.

proposed on other land. Otherwise Meriton is being given an inequitable advantage in terms of assigning a higher density development capability.

Both the exhibited Environmental Assessment (April 2010) and Meriton's Preferred Project Report (August 2010) are deficient in providing justification for the proposed major increase in dwelling yield and floor space. The Meriton proposal has not justified why increasing the density on 14-18 Boondah Road is appropriate, particularly as it dismisses the likely impacts resulting from that major increase in density and further the Meriton submission states that any additional infrastructure or service demands generated by the increased density be provided at no additional cost to Meriton – this is totally unacceptable.

Council's Submission of 15 June 2010 raised concerns regarding equity and precedent. Meriton's Preferred Project Report (August 2010) responds to Council's concern as follows:

"It is understand (sic) the Department of Planning are undertaking a review of the existing planning framework applying to the subject site and other sectors and buffer areas in the Warriewood Valley and the capacity to accommodate additional dwellings."⁹

This statement heightens Council's concerns that there is, *prima facie*, acceptance of the increased density of the Meriton Concept Plan as an equitable proposition.

Pittwater Council reiterates that Meriton's Preferred Project Report dismisses the Director-General's requirements, and has not complied with the requirements to address Key Issue 4 "Land Uses and Density".

The Meriton development should be scaled back such that it fully complies with the already established planning framework for the Warriewood Valley Urban Land Release and by doing so, no adverse precedent or unfair equity issues should arise.

⁹ Architectus, *Major Project MP09_0162 Preferred Project Report*, Prepared for Meriton Apartments Pty Ltd, August 2010 (p53).

2.3 THE DEPARTMENT'S STRATEGIC REVIEW OF THE BUFFER AREAS

In May 2010, the Department commissioned Worley Parsons to undertake a Strategic Review of Buffer Areas 1, 2 and 3, to review the existing environmental constraints of the Buffer Areas and to liaise with servicing agencies to determine any servicing constraints towards higher density residential development in the Buffer Areas.

As the Strategic Review has not been finalised, no comment can be made as to its content or conclusions. Given Meriton's Preferred Project Report relies on this review, a substantial inadequacy and flaw in Meriton's documentation is evident.

Notwithstanding this the following is provided in relation to the Draft Review.

The Department of Planning's Draft Strategic Review of the Buffer Areas aimed to undertake a strategic review of the residential development capacity of Buffer Areas 1, 2 and 3 having regard to environmental and infrastructure constraints, and was a two-fold exercise:

- (a) Review and provide advice on the robustness of the environmental constraints analysis carried out by Pittwater Council in 2010¹⁰, including:
 - Test the suitability of the proposed density (of the Part 3A Proposal at 14-18 Boondah Road Warriewood) across all developable land in the three Buffer Areas excluding the Retirement Village,
 - Assess the implications of the residential density across all developable land in the three Buffer Areas on flooding and sea level rise, and
 - Consider the visual and locational impact of the form and scale of a residential density of 75 dwellings per hectare.
- (b) DoP is to liaise with the Roads and Traffic Authority regarding the local and regional traffic implications likely to arise from the total combined development within the buffer areas and other developable areas.

The first phase of the Strategic Review was undertaken by Worley Parsons. The Draft Report¹¹ serves to confirm Council's view that equity considerations have been

¹⁰ Pittwater Council, *Warriewood Valley Planning Framework 2010*, adopted 3 May 2010 (placed on exhibition 1 March to 1 April 2010)

dismissed. Other undeveloped lands in Warriewood Valley are also identified as Class 1 High Development Capability as the Buffer Areas. These other lands however, are not part of the Department's Strategic Review.

Given the Report was commissioned by the State's planning authority, there are clear deficiencies with the Draft Report, including:

- No assessment of the likely impacts of increasing density in the Buffer Areas, particularly impacts on groundwater given that multi-level underground parking structures will be essential to the development form likely from increased density.
- No assessment is made on infrastructure requirements external of the individual land holdings (within the Buffer Areas), or potential impact of density external of the Buffer Areas regarding equity and precedent, in terms of visual impact and vision/character of the Warriewood Valley Release Area that has been established and accepted by the wider community since 1997.
- No assessment on the impact of increased density within the Warriewood Valley Release Area (part of the Metropolitan Development Program).
- No consideration on the impact of increased density in a limited area and its relationship with the wider Pittwater LGA and in the strategic context of the SHOROC region in terms of housing, employment, transport and infrastructure; health services; groundwater quality; urban design outcomes arising from proposed increase in density including the desired future character of the locality; impact on traffic and transport, and infrastructure including the capacity to deliver additional infrastructure due to increased population/demand, in particular open space, sportsgrounds and community and library facilities.

The deficiencies in the Draft Strategic Review Report have resulted in conclusions that are inaccurate and inadequate, raising flaws in the Department's strategic review process.

At the time of drafting this Submission, uncertainty remains whether Council's comments to the Draft Strategic Review Report are incorporated in the Final Report by Worley Parsons. Council has not been afforded the opportunity to review the RTA's

¹¹ Worley Parsons, *Draft Warriewood Valley Strategic Review*, Report prepared for the Department of Planning, 25 June 2010

commentary as it relates to the second phase of the Strategic Review of the Buffer Areas. Uncertainty also remains whether Council's request that the following matters be included in the assessment of traffic and transport impacts as part this Strategic Review, namely:

- An assessment of the adequacy of parking rates and off-street parking provision for medium density development in conjunction with the specific criteria under Pittwater 21 DCP and the RTA's *Guide to Traffic Generating Developments*.
- An assessment of the capacity of the existing road network and the potential impacts to the local road network, including the intersections approaching the Warriewood Valley Release Area.
- An assessment of the capacity of, and likely impact on the regional road network as well as the ability to provide any required upgrades in the regional road network (outside of the local development contributions).
- Assess likely traffic implications resulting from increased density and hence, an increased workforce-age population in regard to job containment issues, analyses of travel modes/patterns taking account the poor public transport system (local and direct regional or cross-regional), geographical isolation and topographical terrain of Pittwater, and the fact that only 20% of Pittwater residents (of workforce-age) work in Sydney CBD/ North Sydney.

Equity is clearly disregarded in the Draft Strategic Review. The Draft Strategic Review is not independent of the assessment process for the Meriton Concept Plan, particularly as the documentation originally submitted for this Part 3A application is a term of reference for the Strategic Review. The Meriton application also makes reference/relies upon the Draft Strategic Review Report which is inconclusive and not in a final form and as such cannot be relied upon to support this application.

Limiting the focus of the Draft Strategic Review to the Buffer Areas also provides the Buffer Areas an inequitable development advantage over other remaining lands by greatly increasing the potential of higher density development capability as a consequence of the Meriton Concept Plan being approved or the Department adopting the flawed outcomes presented by an incomplete Strategic Review.

The principle of equity is a contradiction particularly in the Department's Strategic Review given that *"The aim of the review is to enable an equitable outcome for all landowners, having regard to the environmental and infrastructure constraints that have been identified within the Warriewood Valley."* In this regard, Pittwater Council already has an adopted planning framework for the Warriewood Valley Urban Land Release that has to date, and will continue to provide, equitable outcomes for both developers and the community.

Pittwater Council contends that Meriton's proposal must be refused as the Strategic Review report, upon which Meriton, relies is not complete and therefore should not be a matter for consideration in relation to the Meriton's Preferred Project (Concept Plan and Stage 1).

2.4 THE ARV DEVELOPMENT (6-14 Macpherson Street, Warriewood)

Pittwater Council asserts that the approval of the adjoining ARV development is not a precedent for 3 storey buildings in Warriewood Valley or increasing the dwelling density in the Buffer Area. The ARV development, unlike the Meriton proposal, was considered and determined by Pittwater Council under the former *SEPP Seniors Living (2004)* in April 2006. At the time, the land was zoned Part Non-urban and Part 2(e) Residential "E" under Pittwater LEP 1993, and not formally zoned in the Warriewood Valley Release Area.¹²

The ARV development is over two sectors, Sector 3 and Buffer Area 2, as shown on the map in **APPENDIX A**. The following addresses the density and infrastructure/services arrangements for ARV across the two sectors:

Sector 3

- The maximum yield for Sector 3 is 165 dwellings, anticipating 462 residents (based on an occupancy rate of 2.8 persons per 3 bedroom dwelling¹³).

¹² The ARV development site was rezoned 2(f) (Amendment No. 71 to Pittwater LEP 1993, gazetted 21 July 2006), after the DA was approved. The site is now part of the Warriewood Valley Land Release Area.

¹³ Occupancy rate based in accordance with the *Warriewood Valley Section 94 Contributions Plan*, underpinned by the *Demographic and Facility/ Service Needs Studies, Ingleside-Warriewood Urban Release Area*.

- The pro-rata dwelling yield calculation for that part of the ARV development in Sector 3 is 29 dwellings (for 81 residents).
- The part of the ARV development in Sector 3 accommodates Building A, provides 22 dwellings (independent living units).
- The Residential Assisted Care facility is also on that part of the land in Sector 3, accommodating 86 beds. Council did not consider the beds as separate dwellings therefore were not considered in the density calculation. The beds are for dementia patients who are expected to have minimal impact on demand for services etc., and there is recognition that the demand on services will be significantly lower than the independent living units.
- The occupancy rate for a seniors living development, which is significantly less than a standard residential development, is 1.4 persons per dwelling. The expected population for the development on this site is therefore 31 persons (not the 81 persons anticipated by Council for a standard residential development).

Buffer Area 2

- The maximum yield for this sector is 132 dwellings (based on 22 dwellings per developable hectare), anticipating up to 370 residents⁶.
- 238 dwellings are expected on that portion of land (in Buffer Area 2) which is greater than the pro-rata calculation of 114 dwellings.
- The eastern half of the Residential Assisted Care facility, containing 33 beds, is in Buffer Area 2. As with the western half of this facility, the beds are not 'dwellings' and Council did not consider it appropriate to calculate these beds in the same manner as the independent living units, in regard to density.
- Using the same occupancy rate for seniors living development, of 1.4 persons per dwelling, the development within this portion of Buffer Area 2 will generate demand for 334 persons as compared to 320 people for a standard residential development.

Pittwater Council asserts that, although the number of dwellings will exceed the 114 allocated to the ARV land (in Buffer Area 2), the approval of the ARV development does not act as precedent for other development for the following reasons:

- Approval of the built form along Macpherson Street is no higher than 2 storeys, and clearly has the appearance of two storeys. This built form fronting

Macpherson Street (to the corner of Brands Lane) is Stage 3 of the ARV development, and is the next stage to be constructed.

- The distance between buildings, including building setbacks to roads (external and internal of the site) are sufficient and achieves in providing substantial landscaped and recreational areas within the site.
- The use of substantial landscape and recreation areas within the site, and ability for canopy trees to be planted minimises the bulk and scale of the built form.
- The ARV development provides significant social benefit to Warriewood Valley by providing specialised housing for the elderly as well as providing additional community services.
- The ARV development is, in itself, an employment generating development and a specialised housing provider.

Additionally and more significantly, Council recognised that the resultant demand for services and infrastructure and the level of impacts generated by the ARV development will be significantly lower than a standard residential development.

Conversely, the increased density proposed by the Meriton Concept Plan and Stage 1 generates demand for services and infrastructure identical to a standard residential development. Additionally, the parking and traffic demand for the Meriton Concept Plan and Stage 1 will be identical to standard residential development. Meriton considers that its Preferred Project will not generate any additional demand for services, infrastructure and parking.

2.5 EQUITABLE PROVISION & FUNDING OF INFRASTRUCTURE & SERVICES

Essential to the provision of infrastructure and services is the equitable distribution of the total cost across all development within a land release area. In regard to Warriewood Valley, infrastructure and services may be fixed or interchangeable depending on development changes over time:

- For infrastructure which **does not** require expansion as a result of the additional development and hence there is no increase in cost (e.g. creekline corridors) if there is more development available for collection of contributions, then the associated element contribution rates will reduce per dwelling.

- For infrastructure that **does** require expansion as a result of the additional development and hence there is an increase in cost (e.g. open space, sportsgrounds, community facilities, traffic facilities) then the associated element contribution rates may increase per dwelling.

In both of the above instances, the cost of infrastructure to be provided to meet the demands of the additional population should be shared amongst all future development.

Pittwater Council, in **APPENDIX B**, calculates the projected total dwellings should the Meriton proposal become accepted as being a precedent, and has expressed the yield in terms of equivalent 3 bedroom dwellings. The precedent scenario identifies the demand on additional infrastructure and services generated by the greatly increased number of dwellings in Warriewood Valley including the likely impacts resulting from such an increase (from the adopted 2,012 dwellings under Council's adopted planning framework to potentially 2,787 equivalent dwellings¹⁴). For example, if the additional population as a result of the Concept Plan, and the precedent it sets, requires additional road and footpath infrastructure, open space or other common infrastructure and services, it is unclear as to whether it can actually be provided without significant impact on amenity and safety and/or additional costs.

Pittwater Council considers that this creates an unacceptable precedent for this locality and for Pittwater in general.

¹⁴ The sum of 1,056 already completed dwellings plus 1,731 equivalent dwellings (based on the Meriton precedent).

SUMMARY OF ISSUES

Equity and precedent

Pittwater Council's strategic planning framework for the Warriewood Valley Urban Land Release has provided certainty for Sub Regional Planning outcomes. The Meriton proposal creates high levels of uncertainty.

On the basis that there is no substantial difference between the subject site and most other undeveloped land in Warriewood Valley, the Meriton proposal would set a clear precedent for similar development forms on other land, otherwise Meriton is being given an inequitable advantage in terms of assigning a higher density development capability to its site. This is not to infer that the Meriton proposal should be approved as such approval would set an unacceptable precedent for the remainder of the Warriewood Valley and the Pittwater LGA as a whole.

Approval of the ARV development does not act as precedent for the Meriton proposal.

The Meriton proposal does not provide the Pittwater Community any public benefit that warrants support or approval of a development that so dramatically departs from that specified for the site as a result of the orderly planning process that established the applicable dwelling yields, and planning and design criteria for Warriewood Valley.

The Pittwater Community should not be burdened by a development that was not originally planned or anticipated, and therefore not provided for through planned infrastructure and service provision.

Pittwater Council contends that the Department of Planning's Strategic Review of the Buffer Areas Report should not be a matter for consideration in relation to the Meriton's Preferred Project (Concept Plan and Stage 1).

Meriton's Preferred Project Report fails to address the issues previously raised by Council's Submission and specifically fails to address the Director-General's requirement relating to justifying the proposed residential density.

3 Departure from the Orderly Planning Process

The *Environmental Planning and Assessment Act 1979* (the Act) is the planning legislation that regulates development of land and the built form in NSW. The Objects of the Act, under Section 5, are as follows:

- ‘(a) to encourage:*
 - (ii) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
 - (iii) the promotion and co-ordination of the orderly and economic use and development of land,*
 - (iv) the protection, provision and co-ordination of communication and utility services,*
 - (v) the provision of land for public purposes,*
 - (vi) the provision and co-ordination of community services and facilities, and*
 - (vii) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
 - (viii) ecologically sustainable development, and*
 - (ix) the provision and maintenance of affordable housing, and*
- (d) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*
- (e) to provide increased opportunity for public involvement and participation in environmental planning and assessment.’*

Planning is a collaborative process upon which strategic land use decisions are made, in concert with its community, for the long-term sustainability of an area. The planning and decision-making process is greatly improved through better coordination of uses, designating the most efficient use of the land that, in turn, facilitates well-planned

compatible and sustainable development whilst giving the community confidence in such institutions. Planning for new or infill developments, including new release areas must be based on the principles of sustainability, ensuring that our social, economic and environmental systems can function effectively and in an integrated way serving both present and future generations. In this way, the planning process must contribute towards achieving the aims and targets established by the State Government, and:

- ensure there is sufficient investment in local (and regional) facilities to support additional dwellings and increasing population,
- facilitate the coordination of State agency involvement and asset management,
- ensure that the unique, environmental attributes of an area (such as ecologically and culturally significant landscapes and places) are protected and enhanced, and
- ensure that the existing lifestyle attributes of an area are retained and enhanced.

Planning in NSW is underlain by State and Commonwealth legislation requiring a considered assessment of the unique natural, rural and urban environments balanced by competing factors (economic, environmental and community, together with the myriad of strategic documents and strategies developed across all tiers of Government).

The objects of the Act facilitates an orderly planning process, aimed to create an area that is liveable and desirable, an attractive place to live, work and play, and is shared by all residents in that community – ‘*A cohesive community where people are able to fully participate in community life and value the qualities of Pittwater.*’¹⁵

3.1 STATE PLANNING CONTEXT

The *State Plan: A New Direction for NSW* (the State Plan) defines the over-arching goals and outcomes that shapes public policy for the next ten years (up to 2020), and acts to deliver the best possible services to the people of NSW. In this regard, targets are set for service improvement for the next ten years, in particular:

- Priority E5 ‘Jobs Closer to Home’,
- Improve Housing Affordability and Increase the supply of affordable housing for low and moderate income households,

¹⁵ Pittwater Council's 2020 Strategic Plan *Our Sustainable Future*

- Reduce Waste and meet the 2014 NSW waste recycling targets (as specified in the Waste Avoidance and Resource Recovery Strategy¹⁶) by increasing the amount of waste to be recycled, namely:
 - Municipal waste – from a baseline 26% to 66%
 - Commercial and industrial (C&I) waste – from a baseline 28% to 63%
 - Construction and demolition (C&D) waste – from a baseline 65% to 76%, and thereby reduce the amount going to landfill.

Supplementing the State Plan are:

- The *Urban Transport Statement* identifies the major transport corridors across the Sydney Region as the focus points for planning and delivery of integrated transport services to achieve targets of improved road network efficiency and includes initiatives to increase availability and reliability of the public transport network. In terms of the Pittwater LGA, Wakehurst Parkway, Warringah Road, Mona Vale Road, Powderworks Road and Pittwater Road are identified.
- The *State Infrastructure Strategy* identifies the Government's key infrastructure projects and directions, with strong links to long term infrastructure requirements necessary to achieve the Sydney Metropolitan Strategy. Based on 2006-2016 Strategy, the planned infrastructure upgrades in regard to Pittwater are:
 - Manly Hospital Intensive Care Unit
 - Mona Vale Hospital Emergency Department
 - Mona Vale Hospital Transitional Care Unit and Community Health Service refurbishment)
 - Widening of Mona Vale Road at Ingleside
 - Mona Vale Substation (Installation 33/11 KN Transformer)
 - Warriewood Sewage Treatment Plant.

The Sydney Metropolitan Strategy is the broad framework document outlining the vision for Sydney in 2031 (that is, to secure Sydney's place in the global economy by promoting and managing growth). The actions and directions of the Sydney Metropolitan Strategy (underwritten by the subregional strategies) strongly contribute to

¹⁶ *Waste Avoidance and Resource Recovery Strategy 2007* (Waste Strategy 2007) updates the *Waste Avoidance and Resource Recovery Strategy 2003* (Waste Strategy 2003).

the priorities identified in the NSW State Plan, in particular building harmonious and healthy communities, providing a high quality transport system as well as improving urban environments and stimulating business investment.

The draft *North East Subregional Strategy* provides a vision for the role of the North East subregion to 2031 – how it fits within the wider metropolitan area of Sydney, particularly the future roles of centres in the North East subregion, and specifies the housing and employment capacity targets for each LGA within the North East subregion.

The implementation of the Sydney Metropolitan Strategy and the draft *North East Subregional Strategy* (as well as the other nine subregional strategies) is fundamental to achieving the priorities and targets identified in the State Plan for NSW, and include:

- An extra 4,600 dwellings to be accommodated in the Pittwater LGA (does not include the potential Ingleside Land Release that is currently under investigation under the draft *North East Subregional Strategy*).
- An additional 6,000 jobs in Pittwater LGA (under the draft *North East Subregional Strategy*).
- Increasing the Journey to Work public transport mode share to achieve the target of 25% by 2016 (under the NSW State Plan).
- Committing to provision of additional Strategic buses along the Strategic Bus Corridors of Pittwater Road up to Mona Vale Town Centre, and Mona Vale Road over the next 10 years (up to 2020) under the Metropolitan Transport Plan.

3.2 LOCAL PLANNING CONTEXT

This section provides an overview of the State and Regional Planning context, the development planning conditions that prevail in the Pittwater LGA, and an assessment of the Major Project Application against the relevant applicable provisions.

The primary premise of the proponent's justification for the Major Project Application is based on Pittwater Council's housing target and that the proposed 559 dwellings will go in some way, towards Pittwater achieving this target. This premise is disputed by Pittwater Council.

3.2.1 PITTWATER'S RESPONSE TO MEET STATE GOVERNMENT HOUSING TARGET

Sydney's Metropolitan Strategy – City of Cities – A Plan for Sydney's Future

The then Premier of NSW states in this document, inter alia:

'... The Plan is a broad framework to facilitate and manage growth and development over the next 25 years. It sets the scene for more detailed planning in the sub-regions of Metropolitan Sydney and in the regional areas of New South Wales. It sets the parameters for future residential development in new release and existing urban areas....'

Draft North East Subregional Strategy

The then Minister for Planning states in this document, inter alia:

'....This draft North East Sub-Regional Strategy, part of an ongoing process to manage growth in the North East, will provide certainty for the community, Local Government, industry and business by identifying areas for future growth, areas for conservation, items of infrastructure and key corridors....'

The Sydney Metropolitan Strategy housing target for the North East Subregion is 17,300 new dwellings by 2031.

Through the subregional planning process, the Councils which comprise the North East subregion reviewed the housing target and agreed on its distribution between the three Local Government Areas.

Pittwater Council's share of this housing target¹⁷, as outlined in the draft *North East Subregional Strategy* (exclusive of the potential Ingleside Land Release), is an additional 4,600 dwellings by 2031.

¹⁷ The housing target relates only to new dwellings within the established residential area including Warriewood Valley, and does not include the potential Ingleside Land Release Area.

This housing target has been established via an orderly planning process that has included detailed analysis of historical subdivision and residential construction data in the Pittwater LGA.

Pittwater Council and the Pittwater community have previously confirmed that the housing target will be met. Council again re-affirms that we are able to meet this housing target without the need for additional rezonings or development in excess of what has already been planned in the Warriewood Valley Urban Land Release Area.

The increased density of development proposed by Meriton is **not** required to meet the housing targets in the metropolitan and subregional strategies.

Outlined below is a detailed breakdown of Pittwater's housing target formulated to meet the requirements of the draft *North East Subregional Strategy*.

Types of residential development	Dwellings
Subdivision	212
Dual Occupancy	300
SEPP (Housing for Seniors or People with a Disability)	960
Secondary Dwellings ¹⁸	945
Multi-Unit Housing and Shop Top Housing (in centres)	1,058
Warriewood Valley Urban Land Release Area	1,143
Total	4,618

Again, the housing target set by the Department of Planning can be met within the current orderly planning framework for Pittwater. The increased unplanned dwelling yields proposed by Meriton are not required.

¹⁸ Amendment No. 58 to *Pittwater LEP 1993*, gazetted 28 November 2008.

Council is currently preparing a Land Use Planning Strategy to inform the preparation of our Standard Instrument LEP. The Draft Land Use Planning Strategy reiterates the subregional targets and elaborates on the manner in which the housing target will be achieved. It should be noted that this includes unused capacity within current land use zonings and does not include or envisage increased dwelling yields in the Valley over and above that specified in the Warriewood Valley Framework or Pittwater LEP.

Further, it is noted that the Sydney Metropolitan Strategy is currently undergoing review. The dwelling targets to 2036 shown in the Metropolitan Transport Plan for the North East subregion have been reviewed and are achievable within the current planning framework for the Pittwater LGA.

3.2.2 THE DEPARTMENT'S STRATEGIC REVIEW OF THE BUFFER AREAS

In May 2010, the Department commissioned Worley Parsons to undertake a Strategic Review of Buffer Areas 1, 2 and 3, to review the existing environmental constraints of the Buffer Areas and to liaise with servicing agencies to determine any servicing constraints towards higher density residential development in the Buffer Areas.

Meriton's Preferred Project relies on the Strategic Review report to respond to the Director-General's requirement that the proponent justify the increase in density.

At the time of drafting this Submission, Council had advised the Department of deficiencies with the Draft Strategic Review Report. The Draft Strategic Review Report has not assessed the likely impacts of increasing density in the Buffer Areas in regard to existing environmental conditions, given that density increases will result in a different form and scale of development to that already developed in Warriewood Valley. In this regard, the following environmental conditions have not been addressed or detailed in the Draft Strategic Review Report:

- Groundwater impacts including the water table in particular have not been considered, particularly given that multi-level underground parking structures will be typical and essential to the development form resulting from increased density.
- The impact of increased density within the Warriewood Valley Release Area (part of the Metropolitan Development Program), in terms of additional infrastructure

requirements to accommodate the increased density such as the capacity of the existing local and regional road network, open space, sportsgrounds and community facilities provision.

- Given that the Strategic Review is limited to the Buffer Areas (1, 2 and 3), no assessment has been made to likely impacts of density external of the Buffer Areas regarding equity and precedent, in terms of visual impact and vision/character of the Warriewood Valley Release Area that has been established and accepted by the wider community since 1997.

In addition, the Draft Report has not considered likely impacts of increased density in regard to urban design outcomes or the strategic planning context. The strategic planning context relates to the Pittwater LGA and the SHOROC Region.

Context of the Pittwater LGA

No assessment is made on the likely impacts on the existing centres in the Pittwater LGA already zoned for mixed use and medium density development in the form similar to that proposed under this Draft Report.

MUH zoned areas*	Developed as at June 2010	Current Density achieved⁺	Obstacles for development so far
Mona Vale	75%	42 dwellings per ha	Existing centre – lot fragmentation (Strata)
Avalon	100%	45 dwellings per ha	Fully developed
Newport	40%	51 dwellings per ha	Fragmented ownership
Narrabeen	0%		Within 400m of STP, was awaiting the capping of STP. <i>Now, no impediment to development</i>

**Areas adjacent to the existing centres. The existing centres also permit residential development of similar density to the MUH zones.*

⁺ No applicable development standard in regard to dwelling density.

Council's analysis indicates there is latent capacity for development in the existing centres. Increasing density outside the existing centres planned by Council has adverse

ramifications for the vitality and viability of these centres as redevelopment in the centres will inevitably be delayed. Such impact has not been addressed in the Draft Report, and fails the aims of the Department's *Draft Activity Centres Policy* (May 2010).

Context of the SHOROC Region

The Draft Report does not provide a housing analysis that refutes Council's ability to meet the housing target established in the Draft *North East Subregional Strategy*, and therefore requires an increase in density in the Buffer Areas. Council's Submission to the Part 3A application reaffirms its commitment to meeting the housing target without the need for additional rezonings or development in excess of what has already been planned in the Warriewood Valley Urban Land Release Area. The increased density in the Buffer Areas therefore, is **not** required to meet the housing targets in the metropolitan and subregional strategies.

No assessment is made in the Draft Report on the impact from an increased workforce-age population resulting from an increased density, in terms of employment and job containment. There needs to be demonstrable assessment of how job containment within the SHOROC region will be managed, the adequacy of opportunities for employment generating development that minimises journey-to-work distances/times particularly with the increased density not previously planned for in the Valley.

Other matters raised

Council is uncertain whether its request to the Department of Planning for, inter alia, an assessment of traffic and transport impacts, to be undertaken by the RTA, has been carried out for Buffer Areas 1, 2 and 3. This included an assessment of the following matters:

- the adequacy of parking rates and off-street parking provision for medium density development in conjunction with the specific criteria under the RTA's *Guide to Traffic Generating Developments*;
- the capacity of the existing road network and the potential impacts to the local road network, including the intersections approaching the Warriewood Valley Release Area;

- the capacity of, and likely impact on the regional road network as well as the ability to provide any required upgrades in the regional road network (outside of the local development contributions);
- likely traffic implications resulting from increased density and hence, an increased workforce-age population in regard to job containment issues, analyses of travel modes/patterns taking account the poor public transport system (local and direct regional or cross-regional), geographical isolation and topographical terrain of Pittwater, and the fact that only 20% of Pittwater residents (of workforce-age) work in Sydney CBD/ North Sydney.

Status of the Department's Strategic Review

It remains uncertain whether Council's comments to the Draft Strategic Review Report are incorporated in the Final Report by Worley Parsons. Council has not been afforded the opportunity to review the RTA's commentary as it relates to the second phase of the Strategic Review of the Buffer Areas.

Nonetheless, the deficiencies in the Draft Strategic Review Report have resulted in conclusions that are inaccurate and inadequate, raising flaws in the Department's strategic review process. Pittwater Council contends that the Draft Strategic Review Report should not be a matter for consideration in relation to the Meriton's Preferred Project (Concept Plan and Stage 1).

3.2.3 SUMMARY OF STATE AND LOCAL POLICIES, STRATEGIC DOCUMENTS

The following State and local policies and strategic documents are primary to the application:

- **State Environmental Planning Policies (SEPP)**
 - SEPP (Major Development) 2005
 - SEPP 65 – Design Quality of Residential Flat Development
 - SEPP (Building Sustainability Index: BASIX) 2004
 - SEPP 55 – Remediation of Land
 - SEPP (Infrastructure) 2005

- **Pittwater LEP 1993 (as amended)**
 - Clause 9 Zone 2(f) (Urban Purposes - Mixed Residential)
 - Division 7A – Warriewood Valley Urban Land Release
 - Clauses 30A, 30B, 30C, 30E
 - Clause 46 – Provision of adequate water and sewerage services
 - Schedule 11, Part 2 – Zone Objectives for the Warriewood Valley Urban Land Release
 - Part III – Consents (Clause 5(2)) of the EP&A Model Provisions 1980
- **Pittwater 21 DCP¹⁹**

Incorporating the provisions of the now repealed DCP 29. “Warriewood Valley Urban Land Release Planning Context and Criteria” forms part of Pittwater 21 DCP as Appendix 3.
- **Warriewood Valley Section 94 Contributions Plan Amendment No 16**
- **Adopted Strategies and Policies of Pittwater Council, specifically applicable to the Warriewood Valley release Area:**
 - *Warriewood Valley Planning Framework 2010*

These documents specify the tasks to be carried out to achieve environmentally and economically sustainable development of the Release Area
 - *Warriewood Valley Urban Release Area Landscape Masterplan and Design Guidelines*

The basis upon which planning and design of streetscape, open space and creekline improvements can be undertaken.
 - *Warriewood Valley Roads Masterplan (2006 Review)*

Details the road cross sections, traffic calming and management measures for implementation in the Warriewood Valley Urban Land Release area, including pedestrian and cycle routes.

Water Management Specification for Warriewood Valley

Details the documentation on water management required for the various phases of development, including the rezoning phase for implementation in the Warriewood Valley Urban Land Release Area.

¹⁹ *Pittwater 21 DCP (Amendment No. 5)* was adopted by Pittwater Council on 15 June 2009 (in force from 6 July 2009).

3.2.4 SEPP (MAJOR DEVELOPMENT) 2005

SEPP (Major Development) 2005 identified classes of development that could be declared as Part 3A projects. Schedule 1 of this SEPP specifically identifies:

‘...Residential, commercial or retail projects

- (3)** *Development for the purpose of residential, commercial or retail projects with a capital investment of more than \$100 million...’*

The Director-General, in declaring the subject development a Major Project Application under Part 3A of the Act has also issued the Director General’s Requirements (DGR) to this Major Project Application.

Two key issues identified in the Director General’s Requirements (DGR), which will be discussed later in this section, relate to:

- Planning provisions applying to the site including permissibility (Key Issue 1),
- Land uses and density (Key Issue 4).

The matters required to be addressed in both Key Issues are interrelated, as they relate to permissibility and consideration of planning provisions under the relevant planning instruments that apply to the site/development. The following sections deal with permissibility of all proposed land uses, dwelling yield and consideration of the applicable development provisions, including State Environmental Planning Policy 65 – Quality Design of Residential Flat Buildings (SEPP 65).

3.2.5 PERMISSIBILITY

The site is zoned 2(f) (Urban Purposes – Mixed Residential) under Pittwater LEP 1993 as amended.

Clause 9 – Zone No. 2(f) (Urban Purposes – Mixed Residential)

Clause 9 and the zoning table for the 2(f) Zone indicate that there is no development permissible in the Zone without consent. The table lists the following uses as being permissible only with development consent:

Residential buildings; associated community and urban infrastructure

Any other purpose other than *Residential buildings, associated community and urban infrastructure* is prohibited.

Neither “*Residential buildings*” or “*associated community and urban infrastructure*” are defined terms within the Pittwater LEP.

The question arises whether the land uses proposed in the Major Project Application can be considered as “*residential buildings*” or “*associated community and urban infrastructure*”, and would therefore be permitted. The proposed land uses are:

- Residential flat buildings (between 3 and 5 storeys in height)
- Childcare centre
- Swimming pool and gym.

The permissibility of each component of the development is discussed below:

a) *Residential flat buildings*

Although “*residential building*” is not defined, Pittwater LEP does however adopt a definition of “group buildings”, “multi-unit housing” and “residential flat building”, “cluster housing” and “integrated residential development”.

In considering whether the development proposal can be construed as being permissible as “residential building”, consideration of the objectives of the Zone 2(f) (Urban Purposes – Mixed Residential) is relevant.

The Objectives of 2(f) are:

“(a) *to identify land within the Warriewood Valley Urban Land Release which is suitable for residential development and which will be provided with adequate*

physical and social infrastructure in accordance with a planning strategy for the area; and

- (b) to provide opportunities for more varied forms of housing and wider housing choice; and*
- (c) to provide opportunities for a mixture of residential buildings which can be in the form of detached dwellings, integrated development, cluster housing, group buildings and the like.”*

When read as a whole (including consideration of the zone title Urban Purposes – Mixed Residential) it is reasonable to contend that the intent of the Zone is to allow diverse types of dwelling types. Therefore, whilst the use of the site for residential development is **permissible in the zone**, the form of the development is at significant variance to Pittwater 21 DCP and the Warriewood Valley planning framework.

(b) Childcare centre

As mentioned above, neither “*residential buildings*” or “*associated community and urban infrastructure*” are defined terms within Pittwater LEP.

Pittwater LEP does adopt a definition of “child care centre”. The Pittwater LEP also adopts the definition of an “educational establishment” which includes “child care centres”.

The question arises as to whether the “child care centre” is more appropriately defined as ‘*associated community and urban infrastructure*’ as opposed to *child care centre or educational establishment* and would therefore be permitted.

The meaning of *associated community and urban infrastructure* is not clear. There is no LEP definition and the term brings together broad descriptors that have multiple natural meanings. It may be argued that the *community and urban infrastructure* permitted is that which is *associated* with residential development, i.e. works that contribute to the land being made suitable for a residential purpose. It is agreed that the reference to *infrastructure* could mean more than the provision

of power, water, sewer and roads (although this in itself covers a significant range of works required for residential development). In the context of a land release area, it is reasonable to interpret *associated community and urban infrastructure* to mean works required to make the land suitable for residential development, and this might include footpaths and cycleways, telecommunications, stormwater works, street lighting, in addition to power, water, sewer, and roads.

To abandon the clear and obviously applicable definition of “child care centre” or “educational establishment “ for a broader and less certain interpretation, does not appear reasonable in this circumstance.

Whilst it may be meritorious to provide correctly formed and placed child care facilities in a residential area, the term “child care centre” nor “educational establishment” as defined, are listed as being permitted either with or without consent, and **therefore is not permissible in the zone.**

(c) *Swimming pool and gym*

These are ancillary to the residential development as they will be used by residents and their visitors, not by the general public or for commercial use. The pool and gym are therefore **permissible in the zone.**

Division 7A – Warriewood Valley Urban Land Release

The Objectives of this Division are to:

- “(a) permit development for urban purposes on land within the Warriewood Valley Urban Land Release in accordance with a planning strategy for the release area; and*
- (b) permit staged development for urban purposes in the various sectors of the Warriewood Valley Urban Land Release that has regard to a development control plan applying to the release area; and*
- (c) permit greater housing diversity and wider housing choice in areas provided with adequate physical and social infrastructure in accordance with a planning strategy for the release area.”*

The objectives relate specifically to the considerations of Division 7A and are not a mechanism for creating additional or alternative permissibility within the 2(f) Zone. A development proposal must demonstrate that it meets the requirements of this Division, in addition to being permissible.

The *planning strategy* for the area comprises a number of documents, including the *Warriewood Valley Planning Framework 2010*²⁰, the *Ingleside/Warriewood Urban Land Release Area Draft Planning Strategy* and suite of background studies and documents; and *Pittwater 21 DCP* including Appendix 3 entitled 'Warriewood Valley Urban Land Release Planning Context and Criteria'.

These documents led to and identified the maximum density that could be permitted on land within Warriewood Valley as a result of an orderly land capability identification process. In this regard, it identified that the subject site is capable of medium density development of up to maximum 25 dwellings per hectare.

The proposal is inconsistent with the planning strategy, in that it does not reflect the scale of medium density development nominated in the strategy and greatly exceeds the 186 dwellings allocated for this site under the recently adopted *Warriewood Valley Planning Framework 2010*. To this extent, the aims of the Division are not achieved by the proposal.

Clause 30B (3) of Pittwater LEP contains a significant number and range of matters of which Council must be satisfied prior to the granting of consent. These include the consideration of slope and soil structure, hazards, significant flora and fauna, contamination, significant visual elements, significant heritage items or sites, stormwater, traffic, and bushfire. These matters have been considered through the detailed assessment of the DCP requirements.

3.2.6 DWELLING YIELD APPLICABLE FOR THIS SITE

²⁰ Adopted by Pittwater Council on 3 May 2010. It incorporates the former Planning Framework documents, *Draft Warriewood Valley Urban Land Release Planning Framework 1997* and *STP Buffer Sectors Planning Framework 2001*.

In determining the dwelling yield, Pittwater Council in 1997 adopted an approach to pro-rata the dwelling yield across all properties within the sectors to ensure equity.

This has been implemented to present day.

The Pittwater LEP specifies that this Sector has a capacity for not less than 135 dwellings and not more than 142 dwellings (to which 136 dwellings are applicable to the Meriton site on a pro-rata basis). The Concept Plan now proposes 559 dwellings on the site, quadrupling the density of dwellings in the current LEP. Meriton's justification for the additional dwellings is based on the premise that the additional 423²¹ dwellings will go towards Pittwater Council achieving the housing target set by the draft *North East Subregional Strategy* and will increase housing affordability. Pittwater Council again re-affirms that housing target is being met without the need for additional rezonings or development in excess of what has already been planned in the Warriewood Valley Urban Land Release Area.

Pittwater Council planned the Warriewood Valley Release Area based on a maximum dwelling density of 25 dwellings per hectare at certain locations in Warriewood Valley, in accordance with the Warriewood Valley planning framework²² which has been supported by the Pittwater community and the State Government. Infrastructure and services/facilities associated with the Warriewood Valley Release Area has been identified on a complete development based on the 25 dwellings per hectare at certain locations. Meriton does not consider its Preferred Concept Plan (of 559 dwellings and 40 place childcare centre) will generate additional infrastructure and services/ facilities required to accommodate the additional 423 dwellings proposed for this site. Further, Council in its Warriewood Valley Section 94 Contributions Plan, has not contemplated the additional dwellings.

The lack of merit of intensification of development will be further discussed in the following Chapters of the Submission.

²¹ 559 less 136 dwellings (being the pro-rata dwelling yield for the Meriton site under Buffer Area 3). The prescribed dwelling yield for Buffer Area 3 is 142 dwellings under Clause 30C of *Pittwater LEP 1993*.

²² This includes the *Warriewood Valley Planning Framework 2010* adopted by Pittwater Council on 3 May 2010, and the former Planning Framework documents – the *Draft Warriewood Valley Urban Land Release Planning Framework 1997* and the *STP Buffer Sectors Planning Framework 2001*.

The Major Project Application grossly exceeds the dwelling density planned for this site and will result in significant adverse impacts.

3.2.7 COMPLIANCE WITH DEVELOPMENT CONTROLS

An assessment has been carried against the provisions of Pittwater 21 DCP, in order to ascertain the likely impacts of such a development on this site. As the form of development proposed was not envisaged on land in Warriewood Valley, a number of DCP provisions specifically applying to multi-unit housing²³ have been included for consideration (see **APPENDIX D**).

To provide a complete picture of the assessment against Council's statutory provisions, a Compliance Table regarding the relevant provisions Pittwater LEP is provided in **APPENDIX C**. A consideration of the Design Quality Principles under SEPP 65 has also been carried out and is in **APPENDIX E**.

A summary of the significant non-compliances to Pittwater 21 DCP is tabled below and briefly explains the likely impacts resulting from the development not complying with the provisions.

²³ *Multi-unit housing* means residential development (other than dual occupancy development) in Pittwater 21 DCP

DCP reference	Matter	Requirement	Proposed	Impact
B6.6 & C1.18	On-site parking (Residential component)	Stage 1 residential only: 295 dwellings = 604 parking spaces, including 59 visitor parking spaces, and 98 bicycle spaces.	471 parking spaces, including 42 visitor spaces, and 30 bicycle spaces over two levels of basement parking area.	Insufficient off-street parking will increase demand for kerbside parking (which cannot be accommodated) and will affect traffic congestion on the road network. Parking provision is essential at this location given the limitations of the public transport system.
		Designated washbay areas for car washing plus provision for garbage, removalist or delivery, and emergency service vehicles.	No allocated area for car washing or spaces for removalist trucks/emergency services in basement parking area.	Insufficient designated space for washbays, removalist trucks and emergency service vehicles affects ease of accessibility, which will impact residents who are in need of emergency services or are moving.
	On-site parking (childcare centre)	One space per four children i.e. 10 spaces.	A total of eight spaces.	Insufficient parking spaces provided for the child care centre will contribute to the demand for kerbside parking, which is also limited. No details provided for garbage and delivery vehicles servicing this facility.
C1.1	Landscaping	Stage 1 residential only: Communal area for children to play.	Central open space area proposed will be affected by overshadowing, noise and wind.	Unlikely to be conducive as common open space area, particularly in colder months, and unlikely to be used by residents, which will impact the amenity/wellbeing of future residents.
C1.7	Private open space	Stage 1 residential only: Ground floor units = Minimum 30m ² , with minimum 4m dimensions. Upper floor units = Minimum 10m ² , with minimum 2.4m width.	Studio = No typical unit plan with dimensions provided. 1 bedroom = 9.3m ² (2m wide). 2 bedroom = range from 7.5-23.4m ² (1.6-3m wide)	Insufficient details for studio and ground floor dwellings to reasonably demonstrate POS areas comply or do not comply. Most units (shown on Typical Unit Plans DA70 B) have insufficient POS

			<p>however only one unit ('BLOCK 'E' 2 BED') has a POS area of 23.4m². The next largest POS area is 14.5m².</p> <p>3 bedroom = 9-10.4m² (1.7-2.2m wide).</p>	<p>areas resulting in adverse amenity impact for future residents.</p> <p>No typical unit plan with dimensions was provided for ground floor units (i.e. units with courtyards) however minimum dimensions proposed for ground floor units (as shown on Podium Plan) are generally inconsistent with control i.e. dimensions are less than 4m.</p>
C6.17	Social environment	<p>Stage 1 residential only:</p> <p>Provide common open space areas to encourage opportunities for social interaction among residents.</p>	Central open space area proposed will be affected by overshadowing, noise and wind.	Unlikely to be conducive as common open space area, particularly in colder months, and unlikely to be used by residents, which will impact the amenity/wellbeing of future residents.
C6.23	Site coverage, sector development	<p>Preferred Concept Plan and Stage 1 Project Application:</p> <p>50% sector area (i.e. no more than 42,068m² of Buffer Area 3).</p>	Total built upon area, including the potential future building on 5 and 7 Macpherson Street, equates to 47.4% (39,847.3m ²) of the sector.	The extent of impervious area affects the site storage requirements under Council's Water Management Specifications and has not been factored into the submitted Water Management report.
D16.1	Character as viewed from public place	<p>Preferred Concept Plan and Stage 1 Project Application:</p> <p>Landscaping is integrated with building design to screen visual impact of built form.</p>	Minimal landscaping proposed for development, which will result in the scale and height of the buildings becoming the dominant feature, particularly along Macpherson Street.	Adverse visual impacts where the built form will dominate the streetscape with minimal attempt to soften the appearance with landscaping.
D16.6	Site coverage	<p>Preferred Concept Plan & Stage 1 Project Application:</p> <p>Max 55% of site area (i.e. no more than 44,638m² of the site area). Site Area is 8.116 hectares.</p>	Total built upon area equates to 47.8% (38,787.3m ²) of the site area.	The extent of built upon area can affect the bulk and scale of the built form, as well as solar access and privacy, which can influence the overall amenity for residents.

D16.13	Solar access	Stage 1 residential only: Windows to principal living area of dwellings should receive a minimum of four hours of sunlight between 9am and 3pm on June 21.	South and southwest facing dwellings will not receive minimum solar access.	Impact on amenity of future residents to these dwellings in terms of thermal comfort of the south and southwest facing dwellings.
D16.14	Height of building or structure	Stage 1 residential and childcare/retail building: 8.5m maximum measured from the highest point of the building (including the top of the ridgeline) in a vertical line to natural ground level.	Building A = 12.45m (3 storeys). Building B = 12.35m (3 storeys). Building C = 13.95m (3 storeys). Building D = 18.55m (5 storeys). Building E = 19.35m (4 and 5 storeys). Building F = 18.75m (4 and 5 storeys). Building G = 18.55m (5 storeys). Swimming pool/gym = 4.95m (1 storey). Childcare/retail = 1 storey.	Adverse visual impacts due to the scale and height of the buildings, which will affect the amenity of residents in the wider community.

3.3 PITTWATER COUNCIL'S ADOPTED STRATEGY FOR WARRIEWOOD VALLEY

*'Development of the Valley must achieve the objectives of environmental and economic sustainability, and provide an amenable neighbourhood for its occupants. In addition, the development must be compatible with surrounding land uses and be supported by the appropriate levels of community infrastructure and facilities.'*²⁴

On 3 May 2010, Council adopted the *Warriewood Valley Planning Framework 2010*, which is the contemporary strategic document for development of land in Warriewood Valley. The 2010 Planning Framework anticipated a total of 2,012 new dwellings being

²⁴ Executive Summary of the *Warriewood Valley Planning Framework 2010*; and Executive Summary of the *Draft Warriewood Valley Urban Land Release Planning Framework 1997*.

built in Warriewood Valley, with an average household occupancy of 2.8 persons per household, as well as 33 hectares of land for industrial/commercial development, with development being completed by 2020.

The *Warriewood Valley Planning Framework 2010* also reiterated the following principles, which are long established in the precursor documents – the *Draft Warriewood Valley Urban Land Release Planning Framework 1997* and the *Ingleside/Warriewood Urban Land Release Draft Planning Strategy*:

- The outcomes of a range of environmental, demographic and infrastructure studies that identify the capability of the land to sustain different forms of land use and assess the likely requirements of future development
- Allocated the land use for each sector to be developed, based on the environmental characteristics of the land and its ability to sustain development
- Prescribed development densities and, for those sectors earmarked for residential development, population projections
- The ability for community facility and infrastructure providers, including Council and State Government to ascertain what impact development will have at local, regional and state levels, and therefore require the appropriate facilities
- Identified the need for a Focal Neighbourhood Centre, providing limited scale retail that can also become the social hub for the Warriewood Valley release area. The location of the Focal Neighbourhood Centre is now defined at 23B Macpherson Street, Warriewood following Council's decision to progress a rezoning of the subject site to permit 'neighbourhood shops' and "restaurants" on the site

The *Draft Warriewood Valley Urban Land Release Planning Framework 1997* was the document that provided the planning and implementation of developing land for the majority of Warriewood Valley. The *STP Buffer Sectors Draft Planning Framework 2001* related to the area within 400m of the Warriewood Valley Sewerage Treatment Plant (STP), enabling residential development to occur following a decision to cap the STP to control odours that otherwise restricted residential development within 400m of the STP. At the time, it was anticipated that 1,886 new dwellings would be built in Warriewood

Valley, facilitating an additional population of 5,281 residents²⁵, as well as 27 hectares of industrial/commercial development.

The 1997 and 2001 Planning Framework documents supplemented by the *Ingleside/Warriewood Urban Land Release Draft Planning Strategy* and the suite of environmental background studies (undertaken in the early 1990's), which were adopted by Pittwater Council as the strategic background documents for progressing each sector in Warriewood Valley, and formally accepted by NSW Government in the rezoning process for each sector. The 2010 Planning Framework continues the approach established and implemented by Pittwater Council since 1997.

Pittwater Council's recent review of residential development capacity for the Warriewood Valley has been incorporated in the *Warriewood Valley Planning Framework 2010* (that is 2,012 new dwellings rather than 1,886 dwellings, which is an increase of 126 dwellings) and has been based on the following:

- Maintain the integrity of the original findings of the background environmental studies.
- Maintain the maximum dwelling density of 25 dwellings per hectare at certain locations in Warriewood Valley, as established by the *Ingleside/Warriewood Urban Land Release Draft Planning Strategy*, based on the underlying studies.
- Ensure consistency with the *Ingleside/Warriewood Urban Land Release Draft Planning Strategy* regarding development capability of the land (unless further detailed studies led to changes to development capability), and dwelling densities suitable for specific areas in Warriewood Valley.
- Ensure equity across the Valley particularly in those sectors that are developed or, for the most part, completed except for one or two lots in the sector that still has to be developed.

In terms of the subject site, the *Warriewood Valley Planning Framework 2010* anticipates up to 186 dwellings to be developed on this site, based on 25 dwellings per developable hectare.

²⁵ Based on an average household occupancy of 2.8 persons (Morgan Travers *Ingleside/Warriewood Combined Demographic Study 1994*).

As the planning framework guides the release of land in Warriewood Valley, the Warriewood Valley Section 94 Contributions Plan has been the vehicle upon which funding has been established identifying the common infrastructure and facilities needed to support the new development that could not be directly provided by individual developments. As such, the total development capacity of Warriewood Valley determines the level of common infrastructure and facilities generated, and identifies what will be required via Section 94 (rather than direct provision).

Pittwater Council has planned for 2,012 dwellings in Warriewood Valley based on the maximum dwelling density of 25 dwellings per developable hectare at certain locations, including infrastructure and services requirements (and timely delivery) for 5,634 residents (2.8 persons x 2012 dwellings). By comparison, the Preferred Concept Plan for 559 dwellings is based on a dwelling density of 75 dwellings per developable hectare. The resultant increase in dwellings and population will require additional infrastructure and service requirements, not been planned for or identified by Pittwater Council under the Warriewood Valley Section 94 Contributions Plan.

The Meriton proposal seriously undermines the coordinated planning approach adopted by Pittwater Council since the establishment of the Warriewood Valley Urban Land Release Area in 1997 and significant impacts the orderly development of Warriewood Valley.

SUMMARY OF ASSESSMENT ISSUES

Departure from the orderly planning process

The proposal is inconsistent with and in excess of the metropolitan and subregional strategy targets, it undermines the metropolitan, subregional and local planning processes, and it is contrary to the objects of the *Environmental Planning and Assessment Act*.

The Meriton proposal significantly undermines the orderly and coordinated planning approach and previous certainty, established and consistently implemented by Pittwater Council since 1997, of delivering a sustainable residential community with timely provision of infrastructure and services, and conservation and rehabilitation of significant environments, which has long been established for Warriewood Valley.

The proposal is grossly inconsistent with the dwelling yields in Clause 30C of the Pittwater LEP 1993, and greatly exceeds the 186 dwellings allocated for this site under the *Warriewood Valley Planning Framework 2010*.

The proposed childcare centre is not permissible in the 2(f) zone under Pittwater LEP.

The Meriton proposal does not provide an appropriate level of infrastructure and services. Rather, it proposes that there will be virtually no requirements for additional infrastructure and services as a result of the increase in dwellings it proposes to build, or the significantly expanded rate of development in the Valley which would likely result from the precedent approval of the Meriton proposal would create.

Without a complete review of the strategic land use and infrastructure and services planning carried out as part of an orderly planning process for the Warriewood Valley, it is not possible to determine the impact of the additional unplanned development that would result from the Meriton proposal and the precedent it would set, and the ability to provide expanded infrastructure and services to cater for that additional development cannot be fully evaluated. Any such process needs to be a complete re-evaluation of development opportunities, constraints and be carried out totally independently from any particular development proposal.

The Meriton proposal does not include any substantiated evidence that demonstrates how the State Goal of Improving Housing Affordability and Increasing the Supply of Affordable Housing for low and moderate income households would be achieved.

The Meriton proposal has not demonstrated how it can assist in achieving the *NSW State Plan* targets and goals in relation to Priority E5 'Jobs Closer to Home', and Improve Housing Affordability and Increase the supply of affordable housing for low and moderate income households, when there is little demonstrable increase and efficiency in public transport services in the Pittwater area.

The Meriton proposal does not provide sufficient details to demonstrate how the targets established in the *Waste Avoidance and Resource Recovery Strategy 2007* will be achieved.

The Meriton proposal does not provide the Pittwater Community any public benefit that warrants support or approval of a development that so dramatically departs from that specified for the site as a result of the orderly planning process that established the applicable dwelling yields, and planning and design criteria for Warriewood Valley.

The Pittwater Community should not be burdened by a development that was not originally planned or anticipated, and therefore not provided for through planned infrastructure and service provision.

4 Inadequate infrastructure and services provision and funding

Provision of infrastructure, which ensures public safety, reasonable amenity and adequate provision of services for development, is a fundamental component of the land release process.

In the case of the Warriewood Valley, a strategy and plan to provide appropriate infrastructure and services has been an integral component of the development and implementation of the land release process for the Warriewood Valley Urban Land Release Area since its commencement in 1993.

Infrastructure and services provision issues which apply to Warriewood Valley fall into three fundamental categories:

- Local infrastructure and services, which relate specifically to the projected development within the Warriewood Valley Urban Land Release Area
- State infrastructure issues, including the enhancement and improvement of State infrastructure items necessary to support additional development in Warriewood Valley and the wider Pittwater area (including potential future development in Ingleside) as well as the North East subregion
- Utility services, including the provision of water, sewer, electricity, gas and telecommunication services by the various relevant instrumentalities and providers

4.1 PROVISION OF LOCAL INFRASTRUCTURE AND SERVICES IN WARRIEWOOD VALLEY

The provision of local infrastructure and services for the Warriewood Valley Urban Land Release, like many other land release areas with fractionalised ownership, requires a method of funding common infrastructure and services that the developers of large land release areas under single ownership (or owners consortium) would otherwise directly provide.

In the case of Warriewood Valley, every opportunity has been taken to maximise opportunity for direct provision, however, the fractionalised land ownership pattern

required a method of planning and funding the provision of common infrastructure and services needed to support the projected development.

Associated with the preparation of the Planning Framework for Warriewood Valley, was the development of an Infrastructure and Services Provision Strategy and subsequently the preparation and implementation of the Warriewood Valley Section 94 Contributions Plan.

This Plan provides a funding and delivery mechanism for the following common infrastructure and services:

- Traffic and Transport Facilities
- Multi-functional Creekline Corridors
- Community Service Facilities
- Open Space and Recreation Areas
- Pedestrian and Cycle Facilities
- Bushfire Protection Facilities
- Library Services
- Plan Management

The level of provision and location of these common infrastructure and services is based on the extensive and detailed studies carried out as part of the investigation and planning phase for the Warriewood Valley Urban Land Release.

In the case of the Meriton proposal the specific provisions of Warriewood Valley Section 94 Contributions (Plan) (and the range of studies and technical documents on which it is based) form the relevant document for establishing the principles for determining the appropriate developer contributions rate.

However the Warriewood Valley Section 94 Contributions Plan does not take into account the type or scale of development proposed by Meriton, or the impact that the increased development (or the precedent it would set) will have on the demand for common infrastructure and services.

4.1.1 THE DIFFERENT TYPES OF DEVELOPMENT IN THE MERITON PROPOSAL

The Meriton proposal includes bed-sitters, 1 bedroom units, 2 bedroom units and 3 bedroom units.

This component of the proposal is significantly different from the model for development in Warriewood Valley, which anticipated a predominance of 3 bedroom (or plus) dwellings. It should be noted that the predominant form of development in the Valley to date has been of this nature.

Clearly, the differing forms of development as proposed by Meriton (ie the smaller dwellings component) needs to be addressed in terms of the adjusted demand for infrastructure and services.

Based on projections of occupancy rates, the 559 proposed dwellings ranging from studios to three bedroom units, is the equivalent in terms of demand for infrastructure and services to 367 three (plus) bedroom dwellings, each having an equivalent demand for infrastructure and services to the predominant three bedroom (or plus) dwellings already constructed, or likely to be constructed under the *Warriewood Valley Planning Framework 2010*.

On this basis, in order to determine an equitable developer contribution rate for the Meriton proposal, the proposed development should be considered as 367 equivalent dwellings.

This concept and the supporting calculations necessary to determine an equitable developer contribution rate are outlined in **APPENDIX B**.

4.1.2 THE SCALE OF DEVELOPMENT THAT WOULD RESULT FROM THE MERITON PROPOSAL AND THE PRECEDENT IT WOULD SET

The Plan does not provide for the additional infrastructure and services required by the proposed development which is 225 equivalent dwellings more than that proposed by the current zoning of the land. Nor does it determine contribution rates which take into

account the significant changes in the number (and type) of anticipated dwellings within the land release area that would occur should the density proposed by Meriton become the standard for other undeveloped land in the Warriewood Valley of similar development potential.

APPENDIX B contains the calculations necessary to determine the changed demand for infrastructure and services as a result of the differing nature and scale of development proposed by Meriton from that outlined in the *Warriewood Valley Planning Framework 2010* and determines the equitable contribution rate that would apply to the Meriton development.

4.1.3 APPLICABLE CONTRIBUTION

In accordance with the calculations in **APPENDIX B**, should the Meriton development proceed as a stand-alone development and not set a precedent for intense development in the remaining undeveloped areas of Warriewood Valley, the developer contribution required from the Meriton proposal referred to as Scenario 2 is as follows:

Scenario 2 total calculated contribution (559 dwellings)

\$19,267,289 monetary contribution together with a dedication of 6,681m²
of creekline corridor land available on site free of cost

Calculated contribution rate per dwelling

\$34,467:50 monetary contribution together with a dedication of 11.95m²
of creekline corridor land available on site free of cost

Should the Meriton development set a precedent for similar development of similar densities over the remaining undeveloped areas in Warriewood Valley, the development contribution required for the Meriton proposal, as determined by the calculations in **APPENDIX B**, and referred to as Scenario 3, is as follows:

Scenario 3 total calculated contribution (559 dwellings)

\$18,555,778 monetary contribution together with a dedication of 6,681m² of creekline corridor land available on site free of cost

Calculated contribution rate per dwelling

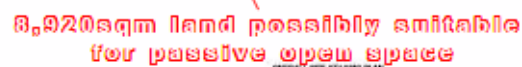
\$33,194:50 monetary contribution together with a dedication of 11.95m² of creekline corridor land and of open space land

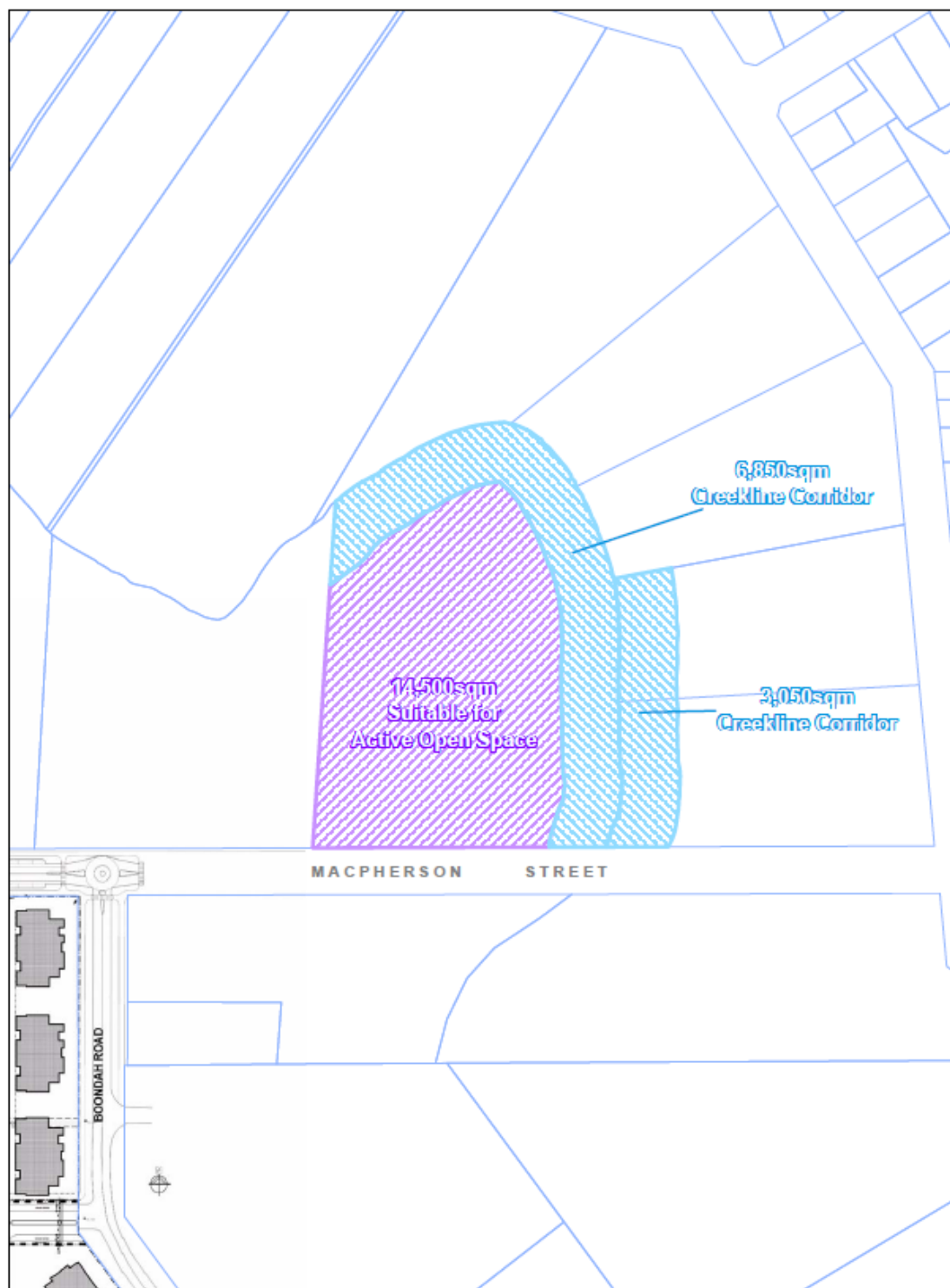
By comparison if the Current Plan was applied it would seek to levy \$62,100 per dwelling for 559 dwellings. If adjusted to take into account the reduced demand resulting from the decrease in average dwelling size (i.e. $367 \div 559 \times \$62,100$) the average levy rate would be \$40,770 per dwelling for 559 dwellings. Note: this contribution rate includes a notional monetary amount for land acquisition as specified in the current Section 94 Contribution Plan.

The following maps shows the 6681m² section of land on the Meriton site required to be dedicated free of cost as well as other land that may be suitable for a open space and creekline corridor on the site and on land owned by Meriton in the immediate vicinity.

*Note: For Scenario 3 dedication of off site land up to a maximum 4362m² for creekline corridor (in addition to the 6691m² of creekline corridor land on the Meriton site required to be dedicated free of cost) and 2.1ha of open space, both on and off site, has the potential to reduce the total monetary contribution by \$441,759 for the creekline corridor land and \$6,832,072 for open space land. (The potential to reduce the monetary component of the Developer Contribution payable by Meriton is as outlined in detail in **Appendix B** and discussed in 5.1.5.*

In the context of the above, any potential land dedication needs to be balanced against the requirement for the Bushfire Asset Protection Zones necessary to protect the development to be in private land ownership and subject to private management arrangements rather than on Council-owned land requiring it to provide and fund the necessary management activities.





4.1.4 INDEXING OF APPLICABLE DEVELOPER CONTRIBUTION RATES

The calculation of the monetary contribution rates as stated in Section 5.1.2 are based on simplified formulas that provide indicative contribution rates for each scenario in July 2010 dollars.

In order to keep pace with inflationary pressures such as rising infrastructure costs and time value of money, the Contribution Rate applicable to each element is to be indexed to reflect the average of the two quarterly variations of the Consumer Price Index, All Group Index Number for Sydney and the Building Price Index for NSW between the date the proposed Contribution Rate was determined by Council and the date the levy is paid.

The formula governing indexation of the contribution rates is as follows:

$$\text{ICR} = \text{OCR} \times \frac{((\text{CP2}/\text{CP1}) + (\text{BPI2}/\text{BPI1}))}{2}$$

Where:

ICR = the Indexed Contribution Rate at time of Payment.

OCR = the Original Contribution Rate determined by the Council.

CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment.

CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition (Original Contribution Rate).

BP2 = the Building Price Index, NSW, in respect of the quarter ending immediately prior to the date of payment.

BP1 = the Building Price Index, NSW in respect of the quarter ending immediately prior to the date of imposition of the condition (Original Contribution Rate).

Estimated Developer Contributions over the next 4 years taking into account the above at a forecast index movement of approximately 3% p.a. is as set out in the following table.

Year	Scenario 2 (Meriton Stand-Alone) Developer Contribution per dwelling	Scenario 3 (Meriton Density sets Precedent) Developer Contribution per dwelling
2010	\$34,467.50 plus dedication of 11.95m ² of on site creekline corridor land free of cost.	\$33,194.50 plus dedication of 11.95m ² of on site creekline corridor land free of cost.
2011	\$35,513.50 plus dedication of 11.95m ² of on site creekline corridor land free of cost.	\$34,201.86 plus dedication of 11.95m ² of on site creekline corridor land free of cost.
2012	\$36,569.48 plus dedication of 11.95m ² of on site creekline corridor land free of cost.	\$35,218.84 plus dedication of 11.95m ² of on site creekline corridor land free of cost.
2013	\$37,665.69 plus dedication of 11.95m ² of on site creekline corridor land free of cost.	\$36,274.57 plus dedication of 11.95m ² of on site creekline corridor land free of cost.

4.1.5 OPPORTUNITY FOR DIRECT PROVISION AND REDUCTION OF CASH COMPONENT OF CONTRIBUTION

APPENDIX B also outlines the opportunity Council has identified as available for Meriton to directly provide infrastructure and services (including the dedication of up to 4,362m² off site land suitable for creekline corridors and up to 2.1ha of land on and off site suitable for open space). For Scenario 3 there is potential for the monetary contribution to be reduced by as much as \$9,584,992 subject to an appropriate agreement being reached for direct provision between Meriton and Council.

4.1.6 DEFICIENCIES IN THE MERITON PROPOSAL

Meriton propose paying \$11,180,000 or \$20,000 per dwelling in developer contributions (subject to deduction for land dedication and works it considered should be funded by developer contributions).

Meriton's justification for the reduced payment is based on the now overridden Ministers Direction of the 4th June 2010 limiting Section 94 Contributions to a maximum of \$20,000 per dwelling.

In effect, the Meriton proposal means that unless the overall provision of infrastructure and services is to be reduced, other development in the Valley will continue to pay the full rate while Meriton get a reduced rate. That is, other development will subsidise the Meriton development.

If that subsidy is not provided by other development and all future development contributes at the reduced rate, the amount of money available to pay for infrastructure and services will reduce significantly.

This would result in dramatic shortfalls in provision of infrastructure and services or would require Pittwater ratepayers to directly provide infrastructure and services to an acceptable level.

In short, Meriton are seeking to have its development subsidised by other developers in Warriewood Valley or by the Pittwater Council ratepayers.

Meriton further proposes significant reductions in this payment for items it considers that it directly provide, regardless of whether or not they comprise items that would be covered by the existing Warriewood Valley Section 94 Contribution Plan or normally be recovered through developer contributions.

The Meriton proposal for refunding the cost of these items is discussed in **APPENDIX B**.

The items for which Meriton seek compensation are as outlined the following table.

Item Specified by Meriton	Meriton Estimate of Value
Item1. Roundabout on Macpherson Street	\$72,563
Item 2. Road widening on Macpherson Street	\$1,516,634
Item 3. Undergrounding of existing services along Macpherson Street – High voltage, Low voltage and cable television	\$982,450
Item 5&6. Road widening Boondah Road	\$900,663
Item 7. New Public Road through the site (Road No. 1)	\$3,657,328
Overland Flow path from Boondah Road	\$735,304

All of these items are directly associated with the Meriton development and are therefore not included as infrastructure and services to be funded either by the Plan or by the applicable developer contributions as determined in Appendix B.

As outlined in **Appendix B** reduction of payable developer contributions for these items is preposterous.

4.1.7 INABILITY TO PROVIDE ADDITIONAL INFRASTRUCTURE

While it may be possible to deduce a contribution rate which takes into account the Meriton proposal as a stand-alone development, or a rate for a scenario that is based on the precedent it sets, there remains the problem that the infrastructure and services originally planned for Warriewood Valley may not be able to be expanded, sufficient to provide for the increased development.

For example, the Infrastructure Provision Strategy for Warriewood Valley and the associated planning restricted road width for major roads within the Valley to prevent through traffic and provide a safer pedestrian traffic and environment.

Development is now over half completed, if the additional population as a result of this development (and the precedent it sets) requires additional road and footpath infrastructure. It is unclear as to whether it can actually be provided without significant impact on amenity and safety and/or additional costs.

Likewise, there is difficulty in providing land suitable for “active open space” in the Warriewood Valley area under current provision arrangements for the planned dwelling yields.

It should be noted that in order to address the issue of active open space provision, Council has already had to adopt a range of innovative measures including alliance with local schools, to provide for increased active recreation opportunities in an attempt to meet contemporary standards of provision as set out in the *Warriewood Valley Section 94 Contribution Plan* and the documents on which it is based.

Obviously additional demand created as a result of significantly expanded development in Warriewood Valley would require the provision of additional areas of suitably developed active open space because, increasing the “load” on already deficient resources is unacceptable and unsustainable.

Any additional active open space needs to be located reasonably near to (and be available for the use of) future residents. There is a shortage of available land suitable for active open space in the vicinity without moving into areas of existing residential development (where the cost of acquisition would be excessive) or forfeiting the development opportunity for land otherwise suitable (and assigned for) residential or employment development.

If sufficient land suitable for active open space land cannot be provided, this limitation places a threshold on increases in development yield. The Meriton development should be scaled back to the density proposed under the Warriewood Valley planning framework and as such, the provision of open space can be suitably accommodated in that context.

Without a complete review of the Strategic Land Use and Infrastructure and Services planning carried out as part of an orderly planning process for the Warriewood Valley, it is not possible to determine the impact of additional unplanned development and the ability to provide expanded infrastructure and services. Any such process needs to be a

complete re evaluation of development opportunities, constraint, and be carried out totally independently from any particular development proposal.

The Meriton proposal does not address this issue at all, rather, it proposes that there will be virtually no requirements for additional infrastructure and services as a result of the increase in dwellings it proposes to build or the significantly expanded rate of development in the Valley which would likely result from the precedent approval of the Meriton proposal would create.

Provision of active open space is one clear example of the unsatisfactory nature of the Meriton proposal, which does not intend to provide sufficient fund for an additional active open space for the additional population that will flow from its proposal. Rather it proposes that further load be placed on existing facilities.

4.2 STATE INFRASTRUCTURE LEVY

Funding of State infrastructure and service projects necessary to support the Warriewood Valley Urban Land Release in particular, and other further intensification of development in Pittwater and the Warringah peninsula area referenced in projects the draft *North East Subregional Strategy*, based on the 2006 State infrastructure Strategy include:

- Manly Hospital Intensive Care Unit
- Mona Vale Hospital Emergency Department
- Mona Vale Hospital Transitional Care Unit and Community Health Service Refurbishment
- Mona Vale Road Widening Ingleside
- Mona Vale Substation, Installation of Additional 33/11KV Transformer
- Upgrade Warriewood Sewage Treatment Plant to Protect Oceans

Of particular significance, is the upgrading of Mona Vale Road (and other road outlets from the peninsula) which are directly impacted by development in Warriewood Valley.

In order to fund this State infrastructure, a State Infrastructure Contribution applies.

Pittwater Council understands that this levy applies to rezoning of land in Warriewood Valley, Ingleside, Pittwater and other peninsula Council areas to the tune of \$20,000 per additional dwelling facilitated through the planning process.

Currently, the Meriton proposal is on land zoned for 136 dwellings (subject to a Planning Proposal endorsed by Pittwater Council to increase the yield to 187 dwellings) and if any rezoning of land were to occur, then a State Infrastructure Contribution of \$20,000 per dwelling would apply.

It is understood that the Department of Planning will apply this levy to all other rezonings in the Valley and it would apply it to the increases in density for each of the remaining undeveloped sectors in Warriewood Valley, for which the Planning Proposal currently been submitted to the Department of Planning applies.

Should the Meriton proposal proceed, and the Minister for Planning allows an additional 453 dwellings above the current zoning allocation, then the applicable State Infrastructure Contribution would be in the order of \$9 million.

Even if the equivalent dwelling principle as outlined above was applied, there would still be an additional 217 equivalent dwellings as a result of a planning decision, requiring Meriton to pay a State Infrastructure Contribution in the order of \$4.3 million.

On the assumption that Meriton would be required to pay the State Infrastructure Contribution of \$20,000 for 367 dwellings (rather than 559 dwellings of varying size) and that precedent would pass to other development in the Valley, which equates to approximately 800 equivalent dwellings above the current zoning. This would equate to a State Infrastructure Contribution in the order of \$16 million.

Further potential for collection of funds from rezonings in Pittwater, including land in Ingleside, is in the order of 5,000 further dwellings, which, if the \$20,000 State Infrastructure Contribution is applied, has the potential to raise in the order of \$100 million.

This is of the level of funding necessary to carry out the required upgrades of Mona Vale Road and significant improvements to State infrastructure and services in the Pittwater LGA for the benefit of the Pittwater residents and those in adjoining the Local Government Areas.

Quite clearly, if the opportunity to collect the State Infrastructure Contribution from the significantly increased dwelling yield proposed by Meriton is set aside, it would be so inequitable and beyond comprehension to continue to charge this levy for other proposed developments Warriewood Valley and the Warringah Peninsula.

If the Meriton proposal proceeds, the State Infrastructure Contribution should be applied to the number of additional dwellings approved beyond the current zoning allowance of 136 dwellings for the site.

5.3 UTILITIES

In general, utilities are provided through direct agreements between the utility providers and developers at direct cost to the developer.

Meriton have indicated in its proposal that they are not prepared to provide an undergrounding of overhead services in Boondah Road and Macpherson Street adjoining the site and have indicated they seek reimbursement from Developer Contribution Funds should they be required to do so.

No funds have been collected or are proposed to be collected through any Developer Contribution system for these services and instead, Council relies on the developer directly fund the cost of carrying out this exercise.

Contemporary development of the type proposed by Meriton and already existing (and proposed) for the wider Warriewood Valley, is of such a standard that retention of aboveground services including electricity and Telco facilities is so out of character as to be unacceptable.

Should the Meriton proposal proceed it should be required to provide for undergrounding of overhead services in the road adjoining the development site as a direct part of the development process at full cost to Meriton.

5.4 'CAPPING' OF WARRIEWOOD SEWAGE TREATMENT PLANT

Residential development surrounding the Warriewood Sewerage Treatment Plant (STP) was contingent upon Sydney Water "capping" the Warriewood STP to prevent the emanation of offensive odours which otherwise embargoed that area (including the Meriton site) from residential development. This area is known as the Buffer Area and extends 400m from the STP boundary.

Sydney Water applied a charge per developable hectare for land within the Buffer Area to be paid at subdivision/development stage to fund these works.

It is understood (as stated in their proposal) that Meriton have a fixed agreement with Sydney Water to pay \$3 million towards the capping of the plant. In essence, Meriton is seeking to significantly expand the quantum of development on their site without increasing the contribution to Sydney Water.

As for other infrastructure items, should Meriton be able to increase its dwelling yields substantially as proposed, and other developable areas within the STP Buffer Area retain their current development density, then Meriton's contribution per dwelling for capping of the plant will significantly reduce and in effect be subsidised by other developers.

Should the Meriton proposal proceed, it is appropriate in determining the application that an equitable contribution rate towards capping of the STP is applied.

SUMMARY OF ASSESSMENT ISSUES

Inadequate infrastructure and services provision and funding

The Meriton proposal does not provide an appropriate level of infrastructure and services. Rather, it proposes that there will be virtually no requirements for additional infrastructure and services as a result of the increase in dwellings it proposes to build or the significantly expanded rate of development in the Valley which would likely result from the precedent approval of the Meriton proposal would create.

The Meriton proposal to pay a developer contribution of \$20,000 per dwelling (559 Dwellings) is flawed and would result in the Meriton development be subsidised by other developers or the Pittwater Council ratepayers. Without such subsidy the proposal would result in substandard and potentially unsafe infrastructure and services in Warriewood Valley.

Despite its considerable deficiencies should the development be approved and therefore set a precedent for similar densities on other undeveloped land in Warriewood Valley, Meriton should make the following contribution: \$18,555,778 and dedication of 6,618m² of land on site for creekline corridor. Calculated for 2010 and subject to indexation.

It should be recognised that Meriton have opportunity to reduce this contribution by up to \$9,584,992 through direct provision of works and dedication of land suitable for open space and creekline corridor (on and off site) as outlined in Appendix B.

The Meriton proposal will cause significant adverse impacts on the local road network and will place undue demand on adjacent streets due to the significant deficiencies in resident and visitor parking.

The Meriton proposal does not provide for an appropriate level of works in Macpherson Street and Boondah Road or the provision of utility services (including the undergrounding of overhead services), which, in terms of contemporary development standards, would be directly provided by the developer. The Meriton proposal for

reimbursement from developer contributions for these and other onsite works directly associated with the proposal is preposterous.

The Meriton proposal does not provide for an equitable contribution rate towards capping of the Warriewood STP to control odour that would otherwise prevent residential development on the subject site.

The Meriton proposal does not demonstrate how users of the development will be able to make travel choices, particularly as there is no substantiated evidence that Sydney Buses will expand services or that the RTA will upgrade roads to allow expanded public transport services.

The Meriton proposal will result in adverse impacts for the wider Pittwater Community due to a greater dependency on private cars, resulting in increased traffic congestion on the local road system, and does not assist in increasing the journey to work travel mode via public transport in accordance with the State Plan's Priority E5 'Jobs Closer to Home'.

Without a complete review of the strategic land use and infrastructure and services planning carried out as part of an orderly planning process for the Warriewood Valley, the impact of the additional unplanned development that would result from the Meriton proposal and the precedent it would set, and the ability to provide expanded infrastructure and services to cater for that additional development cannot be fully evaluated. Any such process needs to be a complete re evaluation of development opportunities, constraint, and be carried out totally independently from any particular development proposal.

The Pittwater Community should not be burdened by a development that was not originally planned or anticipated, and therefore not provided for through planned infrastructure and service provision.

5 Impact on Amenity and the Environment

*'To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing built and natural environment. To enhance the existing streetscapes and promote a scale and density that is in scale with the height of the natural environment... Buildings do not dominate the streetscape and are at 'human scale'. Within residential and rural residential areas, buildings give the appearance of being two storey maximum.'*²⁶

As expressed above, this is the desired character of Warriewood Valley and is the vision of how the built form of the Valley would be developed. The statutory provisions applying to land in Warriewood Valley, developed by Pittwater Council, are to ensure that new buildings do not stand out in or above the skyline, and that development does not dominate the streetscape in residential and rural areas.

This Chapter discusses how the Meriton proposal does not fit within the desired character for Warriewood Valley. To undertake this, Council has assessed the applicable statutory provisions relevant to the development under Pittwater LEP and Pittwater 21 DCP (see **APPENDIX C and D** respectively). Pittwater Council, in this Chapter, discusses the impacts resulting from the non-compliances with the statutory provisions that results in adverse impacts. Additionally, Pittwater Council asserts that this development is not compatible with the residential development (existing and desired future) in Warriewood Valley and the wider Pittwater community.

5.1 SITE CONTEXT

14-18 Boondah Road is at the corner of Macpherson Street and Boondah Road, and is at a prominent gateway location in Warriewood Valley. Two privately owned properties (with a single storey house on each) with frontage to Macpherson Street bisect the development site.

²⁶ Control D16.1 'Character as viewed from a public place', as it applies to the Warriewood Valley Land Release Locality under *Pittwater 21 DCP*.

Fern Creek straddles the south-west corner of the site, and contains remnant vegetation. Warriewood Wetlands is to the south-west of the site. The Anglican Retirement Village development is located on the opposite side of Macpherson Street. Warriewood Sewage Treatment Plant is on the opposite side of Boondah Road, east of this site.

The development site slopes gently away from Macpherson Street. The development site is visible from adjoining residential development in Macpherson Street, and will, with the removal of the poplar trees on site, also be highly visible from adjoining residential development known as Sector 12.

5.1.1 CONSTRAINTS AND OPPORTUNITIES

As highlighted in Council's original Submission to the exhibited Environmental Assessment for MP 09_0162, the Site Analysis diagram (as depicted in page 21 of the exhibited Environmental Assessment) does not provide a full analysis ~ where it showed that the site had views out when certainly the site will be seen from adjoining properties especially when the existing vegetation is removed. It also does not acknowledge the site's prominent location in Warriewood Valley as was the Department's commissioned Strategic Review of the Buffer Areas. Council reiterates that 14-18 Boondah Road Warriewood is a prominent corner site enjoying prime frontages to Macpherson Street and Boondah Road, two of the three 'main' streets in the Warriewood Valley Release Area, and significantly an eastern gateway into the Release Area.

This issue has not been addressed in Meriton's Preferred Project Report.

5.2 BUILT FORM

Meriton's Preferred Project Concept Plan proposes 16 residential buildings of between three to five storeys accommodating 559 dwellings, and associated single storey building containing a swimming pool and gym. A single storey, child care centre is proposed along the Macpherson Street frontage of the site. Meriton's Preferred Project is to be built on a developable area of 7.4427 hectares (excluding the Fern Creek corridor land).

This Section will discuss the various elements of the built form – its layout, height, bulk, scale and appearance of the buildings, its relationship with the internal road system and open space, to its overall presentation to adjoining properties and within the streetscape. Although the discussion will focus on what has been detailed in the Stage 1 Preferred Project, there is sufficient information to enable translation across the remainder of the site. The Table below is a numerical summary of the various elements of the built form for individual buildings in the Stage 1 Preferred Project and the two single storey buildings (as details have been provided for these buildings only).

Building	Height²⁷	No. of storeys	Front building setback	Secondary St setback	Other setback
Child Care	5m	1 storey	Nil setback to Macpherson Street	Nil setback to main internal road	15m to western (side) property boundary
A	13.4m (including 400mm fill)	3 storey	6.5m to building façade to Macpherson Street	5.4m to main internal road	Between Buildings A and B = 12m (balcony to balcony) Between Buildings A and D = 13.9m (balcony to bedroom)
B	14m (including 1m fill)	3 storey	6.5m to building façade to Macpherson Street	<i>Not Applicable</i>	Between Buildings B and C = 12m (balcony to balcony) Between Buildings B and D = 13.9m (balcony to bedroom)
C	13m (including 1m fill)	3 storey	6.5m to building façade to Macpherson Street	<i>Not Applicable</i>	Minimum 7m to eastern (side) property boundary Between Buildings C and E (4 storey) = 13.175m (balcony to balcony)
D	19m (including 600mm fill)	5 storey	<i>Not Applicable</i> (due to building orientation)	7.46m to main internal road	Between Buildings D and E (5 storey) = 12m (bedroom to bedroom) Between Buildings D and F (4 storey) =

²⁷ Height of building is measured in a vertical line from natural ground level (before cut and fill) to the uppermost point of the building (including the top of the ridge line), in accordance with Pittwater 21 DCP

					13.51m (bedroom to bedroom)
E	18m (including 600mm fill)	Part 4, Part 5 storeys	<i>Not Applicable</i>	<i>Not applicable</i>	Between Buildings E (4 storey) and G = 12m (habitable to balcony) 22m to eastern side property boundary
F	20.5m (including 2.5m fill)	Part 4, Part 5 storeys	3.3m to main internal road	<i>Not applicable</i>	Between Buildings F (4 storey) and D = 13.51m (bedroom to bedroom) Between Buildings F and G = 12m (laundry to bedroom)
G	18m (including 600mm cut)	5 storey	3.5m to main internal road	<i>Not applicable</i>	Minimum 6.5m to eastern side property boundary
Swimming pool/gym	5.7m (including 2.5m cut)	1 storey	18m to main internal road 2m to basement parking ramp	<i>Not applicable</i>	5m to adjoining property (7 Macpherson Street)

5.2.1 SITE LAYOUT AND SITE COVERAGE

Pittwater Council asserts that the scale of development proposed on 14-18 Boondah Road impacts on the orderly layout of the site, and is a gross overdevelopment of the site.

The Table (under Section 5.2) provides a summary of the numerical provisions influencing site layout. Although Meriton's Preferred Project appears to generally comply with the numerical standards under Pittwater 21 DCP, the size and scale of development affects the amenity as follows:

- the building heights and the impact on visual amenity,
- design and capacity of the main internal road to accommodate the proposed number of dwellings, leading to increased traffic congestion and reduced parking

opportunities, accessibility for emergency services and general service vehicles (such as delivery or removalist trucks),

- shortfalls in on-site parking provision leading to 'parking out' of kerbside parking spaces in surrounding streets beyond the development site resulting in an increase in traffic congestion and pedestrian safety.

These issues (discussed later in this Chapter) relates to the scale and layout of the development, and impact resident amenity.

The development footprint of the Preferred Project's Concept Plan utilises 47.8% of the 8.116 hectares (approximately 3.8787 hectares of the site area), which is below the 55% maximum site coverage for multi unit housing.²⁸ The site coverage calculates the amount of development footprint at ground level, aimed at minimising the development footprint at ground level to achieve a reasonable level of privacy, amenity and solar access. The site coverage however, does not account for any subsurface structures (below ground) which impacts groundwater movement and minimises deep soil planting areas that, in turn, will impact the ability of landscaping to increase privacy and amenity, and may result in decreasing privacy, amenity and solar access. The Preferred Project proposes two levels of basement parking area, accounting for 22,139.8m² floor space.

The sector coverage provision²⁹ as it relates to the whole sector, to which the development site is in Buffer Area 3 sector, also aims to minimise the development footprint on site, and correlates with the site storage requirements and water cycle management for the sector in accordance with the *Warriewood Valley Water Management Specification*. This provision requires that only 50% of the whole sector may be built on (or impervious area). The Department's Strategic Review of the Buffer Areas confirmed that the 50% sector coverage requirement is critical for the water cycle management and must not be exceeded as a result of density increase. The Strategic Review reaffirmed that any basement structures be included in calculating impervious area, which is reiterated in the Department's letter to Meriton on 15 July 2010. To calculate the sector coverage, the following was undertaken:

²⁸ Control D16.6 'Site Coverage – Warriewood Valley Residential Sectors', under *Pittwater 21 DCP*.

²⁹ Control C6.23 'Site Coverage, Sector Development – Warriewood Valley Land Release Area', under *Pittwater 21 DCP*.

Total built upon area (including where the basement parking levels extend beyond the proposed building footprints) = 3.8787 hectares (Meriton's Preferred Project)

Meriton's Preferred Project + Conceptual design for two privately owned properties (as provided by Meriton) = Sector Coverage Area

3.8787 hectares + 0.106 hectares = 3.9847 hectares (Sector Coverage Area)

Buffer Area 3 has a total site area of 8.4135 hectares (including the Fern Creek corridor). In terms of the sector coverage proposed by Meriton's Preferred Project, 3.9847 hectares of the 8.4135 hectares will be hard surface area, equating to 47.4% of the sector.

Meriton's Preferred Project Report calculates its impervious area to be 3.46 hectares, equating to 43% of the site area (as per Deep Planting plan DA07(B)). The submitted Landscape Masterplan (LA101(B)) however, indicates other internal pathways, the coloured concrete and the softfall surface material used for the central park, playground and exercise station precinct, and several areas of entry paving, which have not been included in Meriton's calculations for site coverage.

Given Meriton's lower impervious calculation, the site coverage requirement of 47.8% is unlikely to have been factored into the submitted Water Management Report prepared by Brown Consulting. This would result in the need for additional on-site detention storage (OSD) and corresponding earthworks to compensate. This could further exacerbate already identified adverse environmental implications, further complicated if roads need to be widened to accommodate higher traffic generation, onroad parking and service/emergency access.

By comparison, the adjoining Anglican Retirement Village (ARV) on the opposite side of Macpherson Street is built on 51% of the site (the site area is approximately 6.7 hectares), below the maximum 55% site cover provision but 1% above the 50% sector coverage requirement. Notwithstanding, a significant point of difference between Meriton's Preferred Project Concept Plan and ARV, is that ARV provided generous road

widths sufficient to accommodate street parking, accessible paths of travel required for a seniors housing development, a landscaped median strip along its main internal road, generous setbacks between buildings, and full compliance with the 6.5m front building setback to Macpherson Street as well as other setback requirements, achieves spatial separation between the built forms with reasonable landscaping treatments including mature tree canopy that visually enhances the development.

Conversely, Meriton's Stage 1 Preferred Project proposes a 3.3m to 3.5m front building setback (for Buildings F and G) that immediately front the main internal road, below the minimum 4m setback. Given the extent of the basement parking structure and inadequacy of root growth area, it is unlikely that the planting and landscape treatment to be established in those areas directly above the basement parking structure will be sufficient to minimise the visual bulk and scale of the proposed buildings. The buildings will become visually dominant in both the streetscape and the skyline.

5.2.2 FRONT BUILDING SETBACKS

Setback to Macpherson Street and Boondah Road

Meriton's Stage 1 proposes a 6.5m front setback to Macpherson Street and complies with *Pittwater 21 DCP*³⁰. Nonetheless, the basement parking structure encroaches into this front setback area. This encroachment provides little opportunity for canopy trees to be planted in the setback area that would have otherwise assisted in reducing the visual bulk and scale of the three storey buildings immediately fronting Macpherson Street. The photomontage titled East - Buildings A, B and C (received 8 September 2010) demonstrates this issue and does little to alleviate this concern.

The encroachment is exacerbated by the single storey, child care centre being built directly on the front property boundary. Given that the subject site is in a residential area where front building setbacks are established and achieved, introducing a significant non-compliance is, in this setting, grossly inappropriate. Council does not support the proposal for no setback from the front property boundary and recommends that the child care centre comply with the front building setback of 6.5m.

³⁰ Control D16.3 Front building lines under *Pittwater 21 DCP*.

Conversely, the adjoining ARV development has been approved with single and two storey buildings fronting Macpherson Street and will be setback 6.5m from the front property line that, in turn, will be landscaped including canopy trees.

No details are provided for Stage 2, articulating the front building setback proposed along the Boondah Road frontage. Given the encroachment of the basement structure along Macpherson Street, it is likely that a similar encroachment will occur in Stage 2.

Setback to Main Internal Road

Buildings F and G, in Stage 1 of the Preferred Project, proposes to be setback 3.3m and 3.5m from the main internal road respectively. This is below the minimum 4m front building setback to an internal road. This encroachment does not provide sufficient room for landscaping including canopy trees, and does little to minimise the visual bulk and scale of the four and five storey buildings along this road frontage.

5.2.3 HEIGHT AND STOREYS OF BUILDINGS

The two fundamental built design elements required in Warriewood Valley are that residential buildings do not exceed 8.5m in height and for buildings to have a 2 storey appearance. Both these fundamental elements, developed by Pittwater Council in consultation with the Pittwater community, are ignored. The 16 residential buildings are 3 to 5 storeys high, well above 8.5m in height. The design of the buildings immediately fronting Macpherson Street and Boondah Road does not, in any way, give a two storey appearance from either road frontage.

Due to the slope of the land, the building footprint for the 7 buildings in Stage 1 will require cut and fill, adding more height to the buildings. It is also likely that fill will be required for the remaining 9 buildings (for Stage 2), again resulting in additional height to these buildings. The height proposed combined with the extent of cut and fill on site means that the buildings will become the dominant feature in this relatively two storey residential setting that will be visible in the surrounding area. Additionally, the removal of trees on site that are currently seen in the skyline (such as poplar trees) and the

topography of the surrounding area will ensure that the 5 storey buildings will be visible in the skyline. It is also likely that the 3 storey buildings will be dominant in the skyline. Pittwater Council asserts that the heights of the Meriton proposal becomes a visual 'blight' in the canopied skyline, and will act as a precedent in the future and seriously erode Pittwater Council's ability to preserve the skyline – to which Council has consistently applied this principle under Pittwater 21 DCP. This has long term impact on the wider community as the canopied skyline has been, since the inception of Pittwater Council in 1992, highly valued by the Pittwater community.

Council acknowledges there are 3 storey buildings (or buildings above 8.5m) in the area. Warriewood Square Shopping Centre, located south of the subject site at Jacksons Road, is 12.5m high at its highest point and is visible from the sportsfields on Boondah Road. The adjoining ARV development, approved by Council under the former *Seniors Housing SEPP* (2004) comprises 8 of the 11 buildings that are 3 storeys. Notwithstanding, Council contends that unlike the Meriton proposal, the ARV development complies with a number of specific requirements that cumulatively minimise the visual bulk and scale of its buildings. These are:

- A single storey building and two storey building are sited at the Macpherson Street frontage of the site, and achieves a 6.5m front building setback from Macpherson Street.
- The height of the buildings fronting Macpherson Street does not exceed 8.5m.
- The taller, 3 storey buildings are located at the centre and rear of the site, including the tallest building in ARV (which is 3 storeys and 10.8m high to the roof ridge). The impacts of these buildings are mitigated by substantial landscaped areas and its location behind smaller buildings, greatly reducing the visual bulk and scale of these buildings when viewed from surrounding areas particularly along Macpherson Street
- The distance between buildings, including building setbacks to roads (external and internal of the site) are sufficient, and achieves in providing substantial landscaped and recreational areas within the site as well as compliance with the site coverage area requirements.
- The use of substantial landscape and recreation areas within the site, and ability for canopy trees to be planted minimises the bulk and scale of the built form.

By comparison, Meriton's 3 storey buildings (in Stage 1) fronting Macpherson Street are approximately 13m - 14m high, well above the tallest 3 storey building in the ARV development. The trees proposed are not mass planting and will not assist to minimise visual bulk and scale of the buildings. The actual soil volume in the front building setback that is unimpeded by the basement parking structure and other structures may not be sufficient to sustain the tree and plant species to maturity at these locations. Consequently, the Meriton buildings will certainly be visible, dominating the skyline as there is no obvious means of visually screening the built form. The increased height of the Meriton development to the Macpherson Street and Boondah Road frontages along with the backdrop of higher buildings will totally dominate the Macpherson Street and Boondah Road street frontage.

5.2.4 AMENITY OF FUTURE RESIDENTS

The liveability of the dwellings, with particular regard to visual privacy, acoustic privacy, solar access, utility of private open space areas and accessibility/serviceability of the dwellings affect the enjoyment of future residents in their home and in part, their amenity. Safety and security features need to be incorporated into the design of the overall development and assist with the serviceability of development, combining to influence the liveability of the dwelling and enjoyment of residents and, in turn, resident amenity.

The orientation of dwellings within buildings will incur noise impacts as the noise-sensitive rooms (eg bedrooms) are located adjacent to the common open space areas, transitional areas, or car park exhaust or air supply. This is specially the case for the Studio dwelling in Building D, which is located directly above the car parking ramp, and adjacent to the car park exhaust and garbage truck turning area.

70% of the dwellings in the development comply with the minimum solar access requirements. Nonetheless for the remaining 30% of dwellings, typically in the ground level of the buildings, with south and south-west facing dwellings or having single aspect, the thermal comfort of residents in these dwellings will be affected as these dwellings will not receive sufficient solar access, particularly in mid-winter.

The private open space areas for individual dwellings are, in the main, below the minimum area and dimensions, and are grossly insufficient in their utility as private open space areas. The private open space areas facing south and south-west will also be in shadow, further affecting the utility and enjoyment of these areas by residents.

As an alternative, a triangular shaped common open space area is proposed within the development - surrounded by two, 5 storey buildings and two, Part 4 Part 5 storey buildings. This common open space area comprises two distinct areas – a shade garden at the western end comprising palms, trees and 300m² area of crushed sandstone; while a large turfed area earmarked as an active area such informal ball sports, is in the eastern half. This grassed area, earmarked for active informal play, is surrounded by 4 and 5 storey buildings, and any noise generated from any activity in this area (particularly children playing) will be amplified and audible to dwellings within these buildings. The buildings surrounding this triangular shaped, grassed common area together with the scale of this space results in a canyoning-effect affected by wind and noise such that it may affect the amenity of residents in these dwellings.

A landscaped area is now contemplated behind Buildings A, B and C replacing the internal road that provided vehicular access directly to the pedestrian entrances into Buildings D and E. The planting proposed in this area is limited to the pedestrian path meandering in a direction parallel to Macpherson Street and does not maximise the opportunities presented. Conversely, the loss of an internal roadway means further difficulties for emergency services and delivery/ removalist vehicles to efficiently service future residents of Buildings D and E, particularly as street parking along Macpherson Street will be limited and the nearest parking spaces available will be within the main internal road (within the development) located some distance away after the garbage turning area (beside Building F).

Typically, developments of this scale include designated areas for car washing and parking for delivery vehicles/ removalist vehicles within its parking areas. These areas provide convenience for residents of these developments and contribute towards resident's enjoyment of the development. None of these features however, are evident in the Preferred Project and it is likely to increase traffic congestion within the road

system as delivery/removalist vehicles compete for the limited street parking spaces available.

Visual privacy, acoustic privacy, solar access, private open space areas and accessibility/serviceability of the dwellings are all affected due to the scale of the development proposed. These design elements contribute to the liveability of dwellings or in this case, reduce the liveability of the dwellings due to design deficiencies that affect the internal environment of these dwellings and, in turn, adversely affect the amenity of future residents.

5.2.5 PROPOSED COLOURS AND MATERIALS

Council, in its Submission of 25 June 2010, raised concern that proposed building finishes referred to in Figure 32 (of the exhibited Environmental Assessment) does not comply with Control D16.2 Building colours and materials, under *Pittwater 21 DCP*, which specifies the use of natural earthy tones such as green, brown and dark earthy colours, and that the finishes are low reflectivity. The outcomes of this Control are as follows:

'Achieve the desired future character of the Locality.

The development enhances the visual quality and identity of the streetscape.

The colours and materials of the development harmonise with the natural environment.

To provide attractive building facades which establish identity and contribute to the streetscape.

To ensure building colours and materials compliments and enhances the visual character its location with the natural landscapes of Pittwater.

The visual prominence of the development is minimised.

The development reflects the natural amphitheatre of the locality.

Damage to existing native vegetation and habitat is minimised.

Colours and materials harmonise with the escarpment.'

This issue has not been addressed by the Preferred Project.

Rather, the photomontages accompanying the Preferred Project continues to use the same colour palette originally selected and does not minimise the visual prominence of the development. Visual interest can still be achieved with the variety of architectural elements introduced for individual buildings, the landscaping on site, and selected building materials and finishes complementary to the natural environment and associated landscaping without the colours needing to be visually prominent in the streetscape.

Accordingly, Pittwater Council does not support the proposed Finishes as submitted. It is acknowledged that the consent authority can impose a condition that enables compliance with Control D16.2 to minimise the visual impact of the development, and Council therefore requests that such a condition be imposed should the development be approved.

5.3 URBAN DESIGN/PUBLIC DOMAIN

*'Landscaping enhances and complements the natural environment and surrounding landscape character, reinstates elements of the natural environment, reduces the visual bulk and scale of development, and complements the design of the proposed development.'*³¹

The predominant issues are the resulting amenity of the development (from a landscape perspective) and its visual/environmental impact on the locality and the living environment within it. Council's initial concerns with the exhibited Environmental Assessment remain with the Preferred Project, particularly as little has been done in the landscape treatment to address visual and environment impact issues.

The proposed introduction of three, partially four and five storey buildings on one of the highest knolls in the release area needs to be weighed against the ability of landscape elements (intrinsic to the character of the valley) to blend and reduce the scale of such a development if at all possible.

³¹ Control D16.12 'Landscaping', as it applies to the Warriewood Valley Land Release Locality under *Pittwater 21 DCP*.

5.3.1 MACPHERSON STREET AND BOONDAH STREET ROAD RESERVES

The street trees proposed along Macpherson Street and Boondah Road are unlikely to screen the bulk and scale of the development particularly in the short to medium term. Additionally, any root volume that is available for root growth within the street frontage is restricted by the surrounding infrastructure, that is the road/footpath (including the subsurface services) and the retaining wall for the development.

The child care centre building proposes no front building setback to Macpherson Street. Inconsistencies between the various plans make it difficult to confirm the setback to the main internal road. Nonetheless, it is more likely that any landscaping proposed would be minimal.

As Council previously raised, the landscape treatment at the access entries into the site are and continue to be minimal, and are not significant entry statements. Additionally, the landscape treatment does little to screen the bulk and height of the buildings at these entry locations.

5.3.2 LANDSCAPING ASSOCIATED WITH INTERNAL ROAD SYSTEM AND DIRECTLY ABOVE THE CARPARK

Landscaped areas are located between buildings and as part of street landscaping in the internal road system. Much of these areas however, are located directly above the basement parking structure. The soil depths at these locations appear to be less than 500mm, and are unlikely to provide effective landscaping (other than grass and ground cover) being unsuitable for medium to large tree growth. In regard to growing medium and the proposal to grow plant material over the top of the slab (above the basement parking), the depth of soil is critical. Any slab would need to be waterproofed and a drainage layer established to facilitate drainage across the planted area. Drainage is normally achieved through provision of drainage membrane (Atlantis Drainage Cell or similar proprietary product). This is normally a 200mm depth. For planting of turf, a minimum of 200mm soil/growing medium plus the drainage waterproofing layer would be required – total depth 300-400mm. Depths for growing trees and shrubs would need to

increase to 500mm minimum with 700mm being ideal plus an allowance for waterproofing/drainage 200mm – total depth 700-900mm above finished slab level.

There are limited opportunities for street planting within the internal road system. There is insufficient room between the internal roads and retaining walls/buildings to enable root growth. This, together with the fact that these areas will be overshadowed by the buildings themselves, will result in low quality landscaping that will not screen the bulk, scale and height of the development. Any canopy trees and landscaping south of the internal main road will be assisted by having better access to soil volume. Buildings F and G however, will still overshadow the southern side of the internal main road during winter.

A landscaped area is now contemplated behind Buildings A, B and C replacing the internal road that provided vehicular access directly to the pedestrian entrances into Buildings D and E. The planting proposed in this area is limited to the pedestrian path meandering in a direction parallel to Macpherson Street and does not maximise the opportunities presented. Conversely, the loss of an internal roadway means further difficulties for emergency services and delivery/ removalist vehicles to efficiently service future residents of Buildings D and E, particularly as street parking along Macpherson Street will be limited and the nearest parking spaces available will be within the main internal road (within the development) located some distance away after the garbage turning area (beside Building F).

Given the east/west orientation of the proposed buildings, the majority of the buildings' southern edges will be in constant shade. This will, in turn, have a major impact on the ability to establish any significant landscape.

Planting will be restricted to ferns and rainforest species generally which will be relatively slow growing. The orientation of such buildings will also have a major impact on the street tree planting as proposed for the western access roadway. Affected tree planting will be relatively stunted due to their position in constant shade and prevent short term screening of the proposed built form.

The transitional areas, between buildings in Stage 1, lead into the common open space area. Tree and shrub planting in these areas are minimal when compared to the expanse area of turf, and have been positioned as islands against the access path providing hidden spaces between the path and building which, in turn, will result in safety and security risks and not serve to frame the path or, at best, visually screen the subject buildings.

5.3.3 LANDSCAPING THE PRIVATE OPEN SPACE AREAS

Very limited opportunities are given to effective landscaping in private open space areas. The ground floor units include courtyard areas with 2m wide planters. The widths of the planters are insufficient to support vegetation over 3 to 4m in height, with restricted root volume and the extent of shadowing from the buildings. This, in turn, has impacts on the amenity of future residents to these dwellings.

5.3.4 CENTRAL OPEN SPACE AREA(S)

This common open space area comprises two distinct areas – a shade garden at the western end comprising palms, trees and 300m² area of crushed sandstone; while a large turfed area earmarked as an active area such informal ball sports, is in the eastern half. Concern is raised to the presentation of the shade garden, the use of materials and selection of plant species particularly as it is located adjacent to the 4 and 5 storey buildings.

This grassed area, earmarked for active informal play, is surrounded by 4 and 5 storey buildings, and any noise generated from any activity in this area (particularly children playing) will be amplified and audible to dwellings within these buildings. The buildings surrounding this triangular shaped, grassed common area together with the scale of this space results in a canyoning-effect affected by wind and noise such that it may affect the amenity of residents in these dwellings.

Additionally, a children's play area is proposed outside the swimming pool/gym building at the same location as the proposed ramp into the basement car park. Siting a

children's play area at the most inappropriate location seems ludicrous given the heightened risk and conflict placed between users of these areas.

An island, containing an 'exercise station', is proposed in Stage 2 as another common open space area for activity. This area will be surrounded by an internal road and readily visible from the surrounding buildings. Given its visibility from the internal roadway and surrounding dwellings, the utility of this space is questionable. There is a lack of communal/ passive open space area at this portion of the development and the island could be better utilised as a central landscape area incorporating tree and shrub planting, resulting in a higher aesthetic appeal to a broader range of users that overlook this space.

5.4 CONSIDERATION OF THE PLANNING PRINCIPLE – COMPATIBILITY

A key question regarding the design and appearance of the Meriton proposal relates to the Land and Environment Court's planning principle entitled *Compatibility in the urban environment*. In considering this principle and determining whether a proposal is compatible with its context are two questions:

1. *Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.*
2. *Is the proposal's appearance in harmony with the buildings around it and the character of the street?*

The proposal's physical impact on surrounding development relates specifically to the resultant impacts from shortfalls in parking on the internal road system (within the site), which is exacerbated by the:

- 'Knock on' effect from shortfalls in resident and visitor parking, no designated spaces to park removalist trucks or areas for car washing associated with residential developments of this size
- Likely conflicts arising between the various non-residential uses (child care facilities) and residential dwellings

- Serious impacts on the local road network, causing traffic congestion as it places further demand on the limited, available parking along Macpherson Street, Boondah Road and adjoining streets

The resultant traffic congestion in the local road network will adversely affect the amenity of existing and future residents of this area. Traffic congestion and amenity impact on existing and future residents on surrounding development is not, in Council's opinion, acceptable.

Question two relates more specifically to the Stage 1 Preferred Project as the three residential buildings fronting Macpherson Street significantly exceed the maximum 8.5m building height (above existing natural ground at the boundary) and will dominate the streetscape. Insufficient landscaping proposed between buildings, and within front and side setbacks, will not minimise the visual bulk and scale of the buildings. By comparison, the adjoining ARV development provides:

- A single storey and 2 storey building fronting Macpherson Street
- All the buildings fronting Macpherson Street give the appearance of 8.5m or below at the street level
- All the buildings fronting Macpherson Street are setback 6.5m from the front building line
- The impact from the taller 3 storey buildings (located at the centre and rear of the site) will be mitigated by substantial landscaped areas and the smaller buildings along Macpherson Street, which combine to reduce the visual bulk and scale of these buildings when viewed from Macpherson Street and surrounding areas

Conversely, the Meriton proposal comprises 3 to 5 storey residential buildings, which will dominate the streetscapes of Macpherson Street and Boondah Road, and will be the prevailing built form noticeable in the skyline.

The Meriton proposal is not compatible with its context, and is not consistent with the desired future character of Warriewood Valley.

These matters were previously raised by Council in its Submission to the exhibited Environmental Assessment for MP 09_0162. Meriton's Preferred Project however, did not address any of the matters raised above.

5.5 TECHNICAL COMPLIANCE AND ENVIRONMENTAL PROTECTION

'The Environmental Assessment (EA) for the Major Project Application MP 09_0162 must address the following key issues, as issued by the Director General's Requirements under Section 75F of the Environmental Planning and Assessment Act 1979.'

5.5.1 BUSHFIRE

The Preferred Project Report, together with the Bushfire Assessment Report (dated August 2010) has been reviewed for the purposes of this submission.

Location of Asset Protection Zone

The deficiencies initially raised by Council, during the exhibition of the Environmental Assessment, have not been addressed by the Preferred Project. The Asset Protection Zones still do not relate to the dwellings proposed by the Preferred Project Concept Plan as required by the RFS *Planning For Bushfire Protection 2006*. The Asset Protection Zone requires an Inner Protection Zone at the asset (i.e. commence at the buildings proposed by the Preferred Project) and move out from the asset towards the hazard.

Meriton's Preferred Project proposes an Inner Protection Zone at the wetland buffer zone moving outwards to Meriton's proposed buildings. Incorrectly applying the Asset Protection Zone requirements prevents the wetland buffer and environmental improvements to be a fully vegetated "10m" buffer to Warriewood Wetlands. Meriton's proposal of less than a 10m buffer, with appropriate native landscaping, will not minimise the environmental impact on the significant adjacent wetland, and will result in serious impact on the ecological endangered communities in Warriewood Wetlands and the threatened species that utilise this area.

Although the NSW Rural Fire Service has not included this environmental issue in their assessment, this issue will result in significant environmental impacts as the proposed Asset Protection Zone are located:

- in an endangered ecological community (being the Warriewood Wetlands),
- outside the development site and does not comply with RFS *Planning For Bushfire Protection 2006*, and
- will reduce the adequacy of compensatory plantings.

Inadequate Vehicular Access Arrangements for Emergency Vehicles

The Preferred Project incorporates changes to the layout and siting of buildings across the site, including access arrangements. Significant changes to the Preferred Project's Concept Plan has meant the relocation of the water quality basin 'B' and deletion of a continuous vehicular access to the rear of the development at the southern portion of the site (adjacent Boondah Road), resulting in inadequate access arrangements for emergency vehicles to access the part of the site where potential hazard currently exists. This is inconsistent with the RFS own requirements, under section 4.1.2 entitled "Specific Objectives for Subdivisions" of *the Planning for Bushfire Protection 2006* and Council's own bushfire risk management planning for the Warriewood Valley Urban Land Release.

Summary of Bushfire Issues

Meriton's Preferred Project Concept Plan proposes to apply an Asset Protection Zone outside of the development site, and does not comply with RFS *Planning For Bushfire Protection 2006*.

More significantly, applying the Asset Protection Zone as proposed will seriously impact ecological endangered communities in Warriewood Wetlands and the threatened species that utilise this area. The impacts are unlikely to have been considered by the Preferred Project in accordance with the *Threatened Species Conservation Act*.

These issues, previously raised by Council in its submission of 15 June 2010, are still not addressed by the Meriton Preferred Project Report.

5.5.2 CAR PARKING

The Preferred Project Report has been reviewed for the purposes of this submission.

The carparking provision for the Meriton Preferred Project for residential parking and visitor parking does not comply with *Pittwater 21 DCP* carparking requirements. As a result there is a serious and unacceptable deficiency of carparking for this development and as a consequence, this will result in significant overflow of long and short term parking from the development site into the adjacent local street system, causing added traffic congestion, loss of amenity, erosion of the streetscape environment, and a reduction in safety.

The proposal is reliant on the existing north/south public transport bus system on Pittwater Road with bus stops located 1km from the centre of the site with no safe and amenable footpath connections. Limited bus services to the City pass the site with no direct services to various parts of Pittwater or to the areas west of Pittwater. The resultant outcome of which is more likely to be a continuation of the strong car culture necessary for residents to undertake their essential day to day activities.

Meriton, under Key Issue 9 Carparking of the Director-General Requirements, was to *“Demonstrate the provision of sufficient on-site carparking for the proposal, having regard to local planning controls and RTA Guidelines.”* It is considered that the environmental assessment does not demonstrate that sufficient ‘on-site’ carparking is proposed for this development.

Pittwater Council does not agree with the NSW Transport and Infrastructure support for a low level of visitor parking and a reduced resident parking rate for this development. *Pittwater 21 DCP* must remain as the operative control as this takes into account specific local influences, in particular remoteness of the area, poor provision of public transport and hence a high reliance on private vehicles. When assessed in accordance with *Pittwater 21 DCP*, the Meriton proposal has a significant shortfall in parking provision, as explained in the following analysis.

Discussion of Issues

Stage One of the Preferred Project proposes 295 dwellings with 471 residential carparking spaces (including 42 visitor spaces) and bicycle storage area for 30 bicycles within two levels of basement parking area, based on a parking rate of:

- Studio and one bedroom dwellings - one car space per dwelling
- Two bedroom dwellings - 1.5 car spaces per dwelling
- Three bedroom dwellings - two spaces per dwelling
- Visitor - one space per 10 dwellings

A total of 614 parking spaces are required under the *Pittwater 21 DCP* for Stage One (295 dwellings) and the 40 place child care centre. In terms of the residential component for Stage One, parking for 98 bicycles as well as 3% of the visitor parking is to be designated parking for disabled people, that is 2 of the 59 visitor parking spaces. In addition, designated areas are also required for the washing of cars. A breakdown of parking requirements under *Pittwater 21 DCP*, for Stage One, is tabled below:

STAGE ONE - RESIDENTIAL				
295 dwellings	Parking rate	Required	Spaces Provided	Deficiency and Impact
4 x studio dwellings	One per dwelling	4	4	✓
41 x 1 bedroom dwellings	One per dwelling	41	41	✓
233 x 2 bedroom dwellings	Two per dwelling	466	350	116
17 x 3 bedroom dwellings	Two per dwelling	34	34	✓
Visitor spaces	DCP One per three dwellings – accept RTA rate one per five dwellings	59	42	17
Subtotal (residential)		604 spaces	471	133 (equivalent to approx 800m kerbside parking)

STAGE ONE - RESIDENTIAL				
295 dwellings	Parking rate	Required	Spaces Provided	Deficiency and Impact
Designated car wash bay	One per 10 dwellings	(31) or provide area	0	✖
Bike storage area	One rack per three dwellings	98 bike racks	30 bike racks	68

STAGE ONE – NON RESIDENTIAL				
	Parking rate Pittwater 21 DCP	Required under Pittwater 21 DCP	Spaces Provided	Deficiency and Impact
Childcare centre (40 children)	One per four children*	10	8	2
TOTAL		614 spaces plus designated areas(s) for car washbay	479	

* RTA, *Guide to Traffic Generating Developments* (2002)

The proposed residential component of on-site parking provision for 295 dwellings for Stage One is deficient by:

- Residential parking – 116 spaces
- Visitor spaces – 17 spaces

Total Deficient – 133 spaces

Further, the development is deficient in providing:

- Parking spaces for people with disabilities (minimum 2 of the 59 visitor spaces are required)
- Designated areas for car washing
- Designated taxi spaces at ground level
- Designated spaces for removalist trucks/service vehicles either at street/ground level or within the basement parking area as required by RTA Guidelines (can be part of visitor parking provision if designed to suit)

While the parking provision for Stage Two (264 dwellings) is not fully defined beyond indicating 471 resident parking spaces would be provided, it is estimated that the total

short fall of residential spaces for Stage Two would be 119, based on pro-rata calculations as per Stage One. This would result in a total shortfall in parking spaces for Stages 1 and 2 combined of 252 spaces, which equates to approximately 1608m of overflow on-street parking into adjacent local streets creating an unacceptable adverse impact on the community. This impact will be especially severe noting that on-street parking in Macpherson Street and Boondah Road adjacent to the site will be extremely limited and that on-street parking in/near adjacent developments is currently extensively utilised.

Carparking Provision for Preferred Project

Pittwater Council asserts that the carparking rates under *Pittwater 21 DCP* is consistent with the recommendations of the RTA's *Guide to Traffic Generating Developments* for medium density residential flat buildings as the parking rates are established with consideration of the specified factors influencing local demand.

Council has requested the Department, in its Strategic Review of the Buffer Areas, to assess the adequacy of parking rates and off-street parking provision as part of the traffic and transport implications on increasing density in Buffer Areas 1, 2 and 3. As Council has not been advised of the outcomes of this phase of the Strategic Review it is uncertain whether such assessment was undertaken.

Notwithstanding, the applicant's traffic report by Halcrow, did not reasonably assess the factors specified under the RTA Guidelines in determining parking rates. These factors are public transport accessibility, geography, socio-economic, the locality and large development, and visitor parking. Response to each determining factor is as follows:

a) *Public transport accessibility*

- The high rate of car ownership per dwelling/household in Pittwater is primarily due to the fact that the existing limited bus system does not provide a viable and convenient alternative to the use of the private car.
- The existing bus service to the City in Macpherson Street is adjacent to the site, however this bus service does not provide access to many areas of Pittwater, Warringah and adjacent Council areas (such as Chatswood and

Macquarie Park), and is irregular out of peak hours, particularly at night and during weekends.

- The Strategic Bus / Regional Transport Corridor operating in Pittwater Road is approximately 1km from the development site. Over the 1km length, only 250 metres of footpath has been constructed between the development site and Pittwater Road. Additionally, the section of Macpherson Street east of the site is currently a rural road prone to frequent flooding, and will only be upgraded when local development contributions are received to fully fund the upgrade of this section of Macpherson Street.
- The current rural conditions of section of the pedestrian walk together with the distance to the Strategic Bus Corridor (at Pittwater Road) will, in fact, discourage public transport usage. Further, these conditions do not comply with requirements established and adopted by various State Departments, including the Department of Planning, Department of Health and Department of Infrastructure and Investment (formerly NSW Ministry of Transport).
- Sydney Buses has no current proposal to provide new services to areas not already being serviced, nor of providing direct cross regional bus services for Pittwater residents. The lack of direct cross-regional public transport services for which comfortable bus interchanges are available associated with the crowding and extended travel times, make the few existing services unattractive to Pittwater residents, resulting in private cars being the preferred choice of travel mode (includes travel to work trips to employment centres in adjacent Council areas where the aim of subregional plans is for these trips to be by public transport). In fact, recent proposals by Sydney Buses have included suggestions to cease vital services to areas off the main roads as they were not profitable (steep terrain and narrow roads mean Sydney Buses cannot access many areas, forcing dependence upon cars by the residents and their visitors).
- The RTA has no current proposals to upgrade any main road servicing Pittwater, Warringah or adjacent Local Government Areas to increase the traffic capacity in the foreseeable future.
- While the Metropolitan Transport Plan identifies Pittwater Road and Mona Vale Road as transport corridors (bus only lanes are being introduced to Pittwater Road), the additional buses being provided by this Plan to service

this area will reduce the current level of crowding and reduce travel times especially on peak hour and late night services, however will do little to improve the attractiveness of the service due to ongoing passenger congestion south of Dee Why (including Military Road) and further, there are almost no services on Mona Vale Road. The Metropolitan Transport Plan does not propose to increase the capacity of Pittwater Road, Mona Vale Road and Wakehurst Parkway to facilitate improvements to public transport.

In terms of Public Transport Accessibility, the assumption of the Traffic Report (by Halcrow) that public transport will somehow be improved in the future is not a sustainable argument when recent history of the public transport service demonstrates otherwise and therefore cannot be used to approve a development that would be built now, by allowing a decreased parking rate.

b) Geography

- The Pittwater Council area is large, spread out and isolated from the rest of Sydney with all access being via only three main roads which are heavily congested. Sydney GPO is approximately 30km from development site. The current bus timetables estimate a travel time of 55 minutes (for buses only) during the peak period.
- Internally, much of the terrain is steep so that bikes/walking/public transport are not realistic options. For this reason, cars remain the transport option of choice for all residents (including future residents of this proposed development) to visit friends, obtain goods/services and travel to work journeys both within Pittwater and to other Local Government Areas.

The terrain and geographical location of Pittwater does not make it a reasonable conclusion by the Applicant to reduce the resident parking rate below that specified in *Pittwater 21 DCP*.

c) Socio-economic

- Pittwater residents/households are generally mobile and affluent, who can afford and demand private vehicles to support their lifestyle, and for convenient access to the services/facilities they use in Pittwater and the rest

of Sydney. This desire cannot be satisfied by the existing public transport system which is evident in Pittwater.

The future residents of this development will experience the same difficulties and needs. It is unreasonable and inappropriate to reduce the resident parking rate below that specified in Pittwater 21 DCP.

d) *Locality and large developments*

- On-street parking opportunities in Warriewood Valley, particularly in the streets surrounding the site are already extremely limited. With the exception of Macpherson Street west of the site, sections of Macpherson Street east and Boondah Road south, currently are substantially rural roads.
- There is evidence that demand exceeds supply in adjacent developments where the DCP parking rates were applied.
- A reduction in the resident parking rate applied to the site is unreasonable as there would be significant parking shortfall. This will result in congestion in surrounding streets as people try and park in available limited kerbside parking and, in turn, adversely impacting the safety and amenity of residents in the surrounding area.

e) *Visitor parking*

Pittwater 21 DCP requires visitor parking to be provided at 1 space per 3 dwellings and has been developed for multi unit housing (typically up to 3 storey 'walk-up'), rather than the form of development currently proposed.

The RTA *Guidelines for Traffic Generating Developments* requires visitor parking at 1 space per 5 to 7 dwellings, for medium density development. It is considered appropriate that the RTA rate may be used for visitor parking as this reflects a more accurate representation of the nature of visitations likely to occur to a development of this size in Warriewood Valley. In accepting the RTA rate of one visitor space per five dwellings (in lieu of the DCP requirement), the number of visitor spaces required for 295 dwellings for Stage One is 59 visitor parking spaces or a total 112 visitor spaces for the 559 dwellings of Stages 1 and 2 combined.

Nonetheless, 42 visitor spaces are only proposed for Stage One and will be short by 17 visitor spaces. It may be assumed that visitor parking provision for the remaining 264 dwellings (for Stage Two) is at the same rate used for Stage One, and amounts to 15 spaces. The total shortfall in visitor spaces for 559 dwellings is 32 spaces. Any deficiency in on-site visitor parking results in greater demand on parking in the street (or surrounding streets).

Whilst it is considered that some reliance on on-street parking is acceptable in principle, the on-street demands for visitor parking for a development of this size must be able to be satisfactorily accommodated on the internal road system of the development site, with no adverse amenity or safety implications.

The shortfall of 17 visitor spaces plus a shortfall of 116 residential spaces for the Stage One - 295 dwellings (total 133 deficient carparking spaces) equates to 800 metres of kerbside parallel parking being required. The total shortfall of visitor and residential parking spaces for the overall project (ie Stages One and Two) comprising 559 dwellings would equate to approximately 252 deficient carparking spaces which equates to approximately 1500 metres of kerbside parallel parking being required. Such significant shortfall and impost on the street system is unreasonable for a development of this size. Residents and visitors would be required to park from 500 to 1000 metres away from the development.

Accordingly, Council contends that a reduction in carparking rate is unsustainable and inappropriate at this location for the reasons already mentioned.

Further, should this create a precedent for other developments to have major carparking deficiencies, then this combined impact would swamp the Warriewood Valley and surrounding areas with spill over cars requiring parking spaces. This could also adversely affect parking areas associated with adjoining sportsgrounds and shopping centres.

Child Care Centre Facility

For the proposed 40 child childcare facility, *Pittwater 21 DCP* (in accordance with RTA Guidelines suggested one space per four children) requires a minimum 10 parking spaces to be located separate to the parking allocated to the residential component on the site.

A designated area for delivery and waste vehicles associated with this use is also required, and must be separate from the residential component.

The proposal suggests that the RTA parking rate can be decreased and has proposed only eight spaces be provided (shortfall of two spaces) on the basis that the future residents of Meriton's Preferred Project would account for up to 40% of child placements. Council accepts that the provision of only eight spaces is marginal.

Carpark Layout

There is insufficient detail provided to reasonably demonstrate how conflicts arising from parking and access arrangements required by the childcare facilities and residential component are to be managed/minimised.

The design and layout of the basement carparking levels (DA03) do not demonstrate full compliance with the requirements of AS2890:2004, in particular:

- All dead end parking aisle treatments do not comply.
- All carpark spaces adjacent to walls do not comply with width.
- All carpark spaces adjacent to building support columns do not comply in respect to the location of the columns.
- Height clearances at the ramp and individual levels.
- No provision is shown for service/removalist vehicles to gain access.

In addition, the parking spaces designated for persons with a disability do not comply with the AS 1428.1.

The layout of the basement parking levels is illegible, particularly the sections to be accessed by visitors and people with a disability.

Typically, developments of this size provide designated areas for carwashing as well as spaces for removalist and delivery vehicles, for the convenience of residents. Meriton's Preferred Project does not provide such complimentary spaces, and is detrimental and inconvenient nuisance for incoming residents.

Parking in the Internal and External Road System

The *Warriewood Valley Roads Master Plan* has a requirement for street parking to cater for visitor parking on the basis that the Meriton development would be required to provide 148 spaces based on the 295 dwellings in Stage One (the criteria is one on-street space per two dwellings) which is 89 more than the 59 visitor parking spaces required at the RTA rate of 1 per 5 to 7 dwellings. These shortfalls would be similar for Stage Two of Meriton's Preferred Project. Whilst the *Warriewood Valley Roads Master Plan* visitor parking requirement is applicable to small and medium size developments and single dwellings, the principle of providing adequate visitor parking either on the development site or directly adjacent to the site applies equally to this development.

Meriton's Preferred Project Concept Plan identifies 29 spaces available in the (external) street system immediately adjoining the site. 25 street parking spaces are proposed along the main internal road within the site (shown as Local Street on the plan). However, the 25 parking spaces along the main internal road cannot be used as the proposed local road width of 7.5m is insufficient to accommodate the proposed traffic volumes generated by the development as well as kerbside parking. Parking restrictions will be required on both sides of the main internal road.

Therefore, at best, only 29 on-street parking spaces for Stages 1 and 2 located within the indented parking bays along Macpherson Street and Boondah Road would be available for visitors on site.

The parking deficiency within the internal road system results in further deficiencies in parking requirements for Stage One. The impacts that result from the overall parking deficiency are exacerbated due to:

- The 'knock on' effect from shortfalls in resident parking and visitor parking, no provision for removalist trucks/service vehicles, no provision for taxis or areas for car washing associated with residential developments of this size.
- The likely conflicts arising between the non-residential uses and residential dwellings.

The shortfall in on-street parking provision within the internal road system will exacerbate in the long term knock-on effect in congestion in the surrounding street system and not provide acceptable levels of parking opportunities for taxis and service vehicles requiring short term, easily accessible on-street parking.

Summary of carparking issues

Limited public transport alternatives currently exist in the Pittwater LGA with a strong reliance on use of the motor vehicle for transport. Additionally, the planning of future public transport alternatives is not currently being considered and as such there would continue to be a car-dependency for residents in Pittwater.

The parking provision inadequacies of the development are:

- A shortfall of 133 spaces (116 residential and 17 visitor) for Stages 1 and a total of 268 for Stages 1 and 2, equating to approximately 1.6km of overflow on-street parking onto adjacent streets.
- No identified provision of 2 disabled parking spaces.
- No identified provision for car wash areas, taxi spaces or removalist/service areas on the site.
- Inadequate on-street parking spaces to provide for the short term parking needs of service vehicles/taxis.

Meriton's proposal to reduce residential and visitor vehicle parking below that required under *Pittwater 21 DCP* is unacceptable as this places a heavy reliance for parking to be provided off the site in the surrounding street system within which there is simply no surplus capacity and should this development set a precedent for the remainder of the Warriewood Valley Urban Land Release, this would have serious safety and amenity

implications as raised by Council's Traffic consultant (Trafix)³² and raised in Council's submission to the Department Strategic Review of the Buffer Areas.

5.5.3 TRANSPORT AND ACCESSIBILITY

The traffic management and accessibility provisions of the Preferred Project Report, as with the exhibited Environmental Assessment for MP09-0162, are inadequate, do not demonstrate that the proposed roads with the development site comply with the *Warriewood Valley Roads Master Plan* (WVRMP), and do not address how the likely road impacts resulting from increased traffic volumes exceeding the maximum environmental capacities (1000vph peak) can be mitigated.

Meriton's Preferred Project fails to satisfy the Department of Planning requirements of the adequacy of:

- the internal road system of the site servicing the development (having regard to the *Warriewood Valley Roads Masterplan* 2006) and
- demonstration that the external local road network within the Warriewood Valley Urban Land Release area is able to provide a continuation of an acceptable level of service in coping with the traffic generated by this development.

This is particularly significant if the increased development density were to extend to the remaining undeveloped sites throughout the Warriewood Valley Urban Land Release as the existing road network would have to be widened or on-street parking eliminated and intersections upgraded possibly to traffic signalisation. The precedent impacts have been raised in Council's submission to the draft Strategic review of the Warriewood Valley Urban Land Release.

Pittwater Council does not support dedication of the main internal road to Council as proposed.

Discussion of the Issues

³² Pittwater Council, *Submission to Department of Planning on Major Project Application MP09_0162 at 14-18 Boondah Road Warriewood*, 15 June 2010 (Appendix F).

Warriewood Valley Roads Masterplan (2006 Review)

The Preferred Project, as with the exhibited Environmental Assessment (EA), does not adequately address the requirements of Council's *Warriewood Valley Roads Masterplan*, in particular it does not address:

- The necessary upgrade of the main internal road (proposed to be dedicated to Council as a public road) from local road (7.5m road width) (up to 2000 vpd) to collector road (up to 3000vpd) specifications (11.4m road width) to cater for increased traffic generation by the development (approximately 2500vpd) over that of the development for which the road was approved. Council will not accept the dedication of this road as a public road noting that its deficiencies and need for this road to be part of the bushfire protection access for this development.
- How the two isolated, privately-owned properties within Buffer Area 3 (fronting Macpherson Street) will gain legal access to the proposed road system within the development site (community title), as direct vehicular access to Macpherson Street is not permitted in the future redevelopment from this land.
- How the provision of no long term on-street parking within the development site satisfies the requirements of the *Warriewood Valley Roads Masterplan*.

Mid-block traffic volumes

The following table demonstrates further deterioration of service level for the road network in Warriewood Valley as a result of this development:

Mid Block Traffic Volumes		
Road	Traffic volumes current Warriewood Valley Roads Masterplan	Traffic volumes including proposed Stages 1 and 2
Garden Street	1,177 vph	1,188 vph
Macpherson Street	1,220 vph	1,303 vph
Ponderosa Parade	1,264 vph	1,318 vph
Warriewood Road	904 vph	1,014 vph

Note: that those traffic volumes as provided in the traffic report are related to the number of on-site parking spaces proposed to be provided which is approximately 25% less than is required. Therefore, their estimation of 315 trips generated by the development would be low by 80 trips and therefore predicted traffic volumes in the streets would also be low.

Whilst the existing road network would cope with the increased traffic generation resulting from Stages 1 and 2, the level of service will further deteriorate beyond the 1000vph traffic volume considered to be the environmental maximum for the road system as it is currently being constructed.

The following table demonstrates the level of service for adjacent intersections where A = the potential level of service being the best.

Intersection level of service		
Intersection	Traffic volumes current Warriewood Valley Roads Masterplan	Traffic volumes including proposed Stages 1 and 2
Warriewood Road/Pittwater Road	B	B*
Jubilee Avenue/Ponderosa Parade	B	B
Ponderosa Parade/Mona Vale Road	C	C*
Macpherson Street/Ponderosa Parade	B	B

**Likely level of service to reduce by one level*

The Traffic Management and Accessibility Plan is also deficient in regard to pedestrian accessibility to public transport services. For instance, the distance to the Strategic Bus Corridor (at Pittwater Road) is 1km distance from the centre of the site and be greater than the required 400m distance established and adopted by various State Departments, including the Department of Planning, Department of Health and Department of Infrastructure and Investment (formerly NSW Ministry of Transport).

Internal road system (within Development Site)

The main internal road as proposed is 7.5m wide (configured as a Local Road) with kerbside parking for 25 cars proposed, and dedicated to Council as a public road. Given the location of carpark accesses and the density of development on this site, this road is considered of inadequate width under the provisions of the *Warriewood Valley Roads Masterplan* to cater for the proposed traffic and parking demands generated by the Development. Concern is raised that the proposed width of the main internal road is

insufficient, or has not demonstrated capacity, to cater for Emergency Service Vehicles³³ and waste service vehicles if heavily parked out with service vehicles not able to access the basement carparking. Notwithstanding, increasing the width of the main internal road to resolve this issue will, in turn, result in greater exceedance in the site coverage requirements and in turn affects the water management requirements for this site and available area for landscaping.

Further, the proposal includes provision of a second road connection to Boondah Road that has no connection to any other internal street in the Development Site and is not designed as a Sector entry street. The *Warriewood Valley Roads Masterplan* objective is to minimise the number of uncontrolled intersections of collector street system with sub arterial roads or local roads with collector roads in order to maximise vehicular/pedestrian safety and traffic capacity of the streets. This additional proposed intersection is not permissible under the *Warriewood Valley Roads Masterplan* and it is therefore Pittwater Council required that the proposed road be treated as a private driveway from the proposed development.

External Road System

The works proposed do not include roadworks within the public road reserves of either Boondah Road or Macpherson Street. It is a requirement of the Pittwater 21 DCP for all developments in Warriewood Valley that the Developer must construct roadworks for the full length of all road frontages of the development site up to the centreline of the road reserve in accordance with the *Warriewood Valley Roads Masterplan*.

It is also a recommendation of the RTA's SRDAC that the road intersections serving the site be installed prior to occupation of Stage One. This work would be at full cost to the Developer as it is required for the development to proceed.

The Preferred Project Report and the exhibited Environmental Assessment (EA) for, the Concept Plan are based on traffic studies that do not adequately assess the implications of the proposed development for non-car travel modes, specifically by inadequate analysis of the public transport system in Pittwater.

³³ NSW Fire Brigade, *Code of Practice – Building Construction – NSWFB Vehicle Requirements*.

The EA does not demonstrate how 'users of the development will be able to make travel choices' as it simply refers to existing bus services as being adequate, even though the main road bus services are approximately 1km away (exceeds the 400m Sydney Buses guideline) and that there is unlikely to be a constructed footpath (separate to the roadway) connection until well after the proposed development is completed (if it were to be approved) unless it were to be provided by the developer as part of this development. It produces no evidence that Sydney Buses is expanding its services, or that the RTA is scheduling road upgrades to allow expanded public transport services in the short to medium term.

The Traffic and Accessibility Impact Study is inadequate due to the following:

- The proposed parking rates for residents/visitors are not consistent with the Pittwater 21 DCP which is based on the RTA's Guidelines for Traffic Generating Developments.
- No adequate provision for on-street parking opportunities within the site.
- No evidence of realistic measures to promote or to improve public transport (other than peak hour to the City via Pittwater Road) by either Sydney Buses or the RTA to cater for increased demand to access other areas of Pittwater or other Sydney regions.
- No measure to upgrade the existing road system within and adjacent to Warriewood Valley to ensure appropriate levels of services are maintained. The resultant impact of this development is significant congestion in the local road network that adversely impacts on Warriewood Valley residents and the wider community.
- No consideration has been made to the specifications under the Warriewood Valley Roads Master Plan in regard to the main internal road within the development site and the number of dwellings that will utilise this main road. This main internal road is not of sufficient width to cater for the proposed traffic and parking demands generated by the Major Project Application.

Accordingly, **Council does not support dedication of the main internal road to Council as proposed.**

- In respect to visitor cycle parking (on the grounds of the development, not in the basement carpark), Council considers that the proposal does not satisfy the NSW Transport and Infrastructure requirements in that the proposed provision of 30

racks is 68 racks short of Council's requirements as it does not encourage the integration of pedestrian and cycle paths between the site and surrounding centres of activity.

- The proposal fails to identify that it will be necessary for the developer at their cost to reconstruct both Boondah Road and Macpherson Street for the full length of the road frontages of the site in accordance with the requirements of the *Pittwater 21 DCP*.

5.5.4 ECOLOGICALLY SUSTAINABLE DEVELOPMENT (ESD)

A core objective of the Sydney Metropolitan Strategy and Pittwater Council's 2020 Strategic Plan, *Our Sustainable Future*, is sustainability. In particular, how Sustainability is considered against any new development or new infill/ release area development?

Future new developments should:

- Reduce the area's ecological footprint (water, energy, land, materials, waste)
- Enhance the environment
- Improve quality of life (health, housing, employment, community) within the capacity constraints of the area and bioregion

Key Issue 11 of the Director-General's Requirements (DGR) relates to Sustainability, and requires the Meriton proposal to:

'...demonstrate that the proposal has been assessed against a suitability accredited rating scheme to meet industry best practice.'

Pittwater Council contends that this issues, originally raised in its submission of 15 June 2010, has not been addressed in Meriton's Preferred Project Report.

As a minimum, BASIX Certificates are submitted for the 295 dwellings proposed in Stage 1. Nonetheless, BASIX only applies to individual residential buildings and, in part, do not consider how the configuration of other buildings or trees/landscaping may affect the internal environment of buildings. Having said this, the development clearly has not considered the 'whole of development' approach of sustainability. For instance, dwellings on the southern and south-western elevations are greatly affected by

overshadowing (from both adjoining buildings and landscaping) and will affect the amenity of future residents in these dwellings.

Section J of the Building Code of Australia (BCA) is the minimum requirement for certain classes of non-residential development, and relates only to minimum energy performance requirements that need to be met for the proposed childcare centre and the swimming pool/gym building.

BASIX and Section J of the BCA are minimum requirements, and are the stated commitments for the Meriton proposal. Nonetheless, these requirements **are not the industry best practice**.

The Green Star Rating by the Green Building Council of Australia is an industry-accepted rating tool, and undertakes a sustainability assessment based on the 'whole of development' approach.

Green Star is a comprehensive, national, voluntary environmental rating system that evaluates the environmental design and construction of buildings and, with 11 per cent of Australia's CBD commercial office buildings Green Star certified, building green is now a business imperative.

Green Star was developed for the property industry in order to:

- *Establish a common language;*
- *Set a standard of measurement for green buildings;*
- *Promote integrated, whole-building design;*
- *Recognise environmental leadership;*
- *Identify building life-cycle impacts; and*
- *Raise awareness of green building benefits.*

Green Star has established individual environmental measurement criteria with particular relevance to the Australian marketplace and environmental context.³⁴

³⁴ Background to Green Star, website <http://www.gbca.org.au/green-star/what-is-green-star/background/2140.htm>

Green Star is widely used by leading companies in the construction and development industry however it is not applied in the subject Meriton proposal.

Pittwater Council asserts that Green Star be used for the Meriton proposal (including any other stages of development for this site) to ensure compliance with Key Issue 11 of the DGR. This rating tool can be applied for the various components of this development:

- Green Star Multi-Unit rating tool for the residential buildings.
- Green Star Education rating tool for the childcare centre.

Although Green Star does not have rating tool that can be applied to the swimming pool/gym building, greater commitments to sustainability should also be incorporated into the design/construction and maintenance of the swimming pool/gym building, including (but not limited to) water conservation, energy conservation, waste minimisation and material selection.

The State Plan, Sydney Metropolitan Strategy and draft *North East Subregional Strategy* are all based on sustainability. The Meriton's Preferred Project still, has **not demonstrated** how the development will assist to achieve various State targets, as identified under these documents. In this regard:

- The development has not demonstrated how it can assist in achieving the State Plan targets and goals in relation to Priority E5 'Jobs Closer to Home', and Improve Housing Affordability and Increase the supply of affordable housing for low and moderate income households, when there is little demonstrable increase and efficiency in public transport services in the Pittwater area.
- The development has not demonstrated how household waste generated by this development can achieve a 66% reduction and reduce 63% of commercial waste (for the child care centre and swimming pool/gym,) going to landfill, as targeted by the Waste Avoidance and Resource Recovery Strategy 2007. In addition, there needs to be clear demonstration how the construction and demolition phase of this development will achieve a reduction of such waste going to landfill (of up to 76%).
- No provision has been made for on-site storage of garden organic wastes (from the private residences or communal areas) between collections by the private waste contractor.

- The landscaping should be integrated with the built form. This is not the case given the distances between buildings together with the building height, the landscaping is unable to efficiently screen the bulk and scale of the building and in fact, will cast shadows onto dwellings and open space area that could have provided residents with 'private' albeit communal open area.
- The high density of development, out of sync with the orderly delivery of houses over and above the planned 4,600 dwellings target in the draft *North East Subregional Strategy*, has detrimental effects on regional transport given the lack of subregional jobs.

5.5.5 FLORA

The Preferred Project Report, together with the revised Flora and Fauna Assessment Report (dated August 2010) has been reviewed for the purposes of this submission.

Native Vegetation

Swamp Sclerophyll Forest and Freshwater Wetland

The majority of the Swamp Sclerophyll Forest and Freshwater Wetland (both Endangered Ecological Communities) are proposed to be removed or modified:

- 33% of the 6023m² of Swamp Sclerophyll Forest being removed (or 2003m²),
- another 20.7% of Swamp Sclerophyll Forest will be modified (equating to 1247m²), and
- 40% of the 905m² of Freshwater Wetland will be removed (or 362m²).

These figures however, are conservative as both Endangered Ecological Communities are in the footprint of the proposed "flood storage area". The revised Report (p20) confirms that actual area for the flood storage area has not been quantified and in effect, the actual quantity of trees and native vegetation to be removed has not been quantified.

In addition, the volume of groundwater displaced as a result of the large and deep seated impervious areas associated with the basement carpark structure(s) along with the proposed deep well dewatering system will alter groundwater flows across the site

and cause a groundwater draw down impact beyond the perimeter of the buildings. This will adversely impact the ability of the development to provide and sustain native flora habitat given the loss of deep soil planting areas and impact on groundwater dependent native vegetation communities.

The Arborist Report by TALC Tree and Landscape Consultants (19th February 2010) was revised prior to the most recent design and does not relate to the current Landscape Plan (Site Image Drawing No LA101 B 13th August 2010). The Arborist Report quantifies that 43 Casuarinas, 3 Angophoras and one Bangalay will require removal (as well as exotic Poplars and Coral Trees). The report (p65) also states the trees to be removed include *“Casuarinas within area A, B and C affected by roadworks and flood storage requirements”* as well as stating *“all remaining trees within and adjacent to areas A, B and C outside the area of the flood storage requirements are to be retained and protected”*. This leaves a large number of trees open to unquantified removal based on the scale of the flood storage requirements, which is likely to lead to wholesale tree loss on the site and particularly in the riparian zone.

The likely impact on the Swamp Sclerophyll Forest and Freshwater Wetland communities, including existing trees/vegetation have not been sufficiently assessed and remains outstanding.

Bangalay Sand Forest (Angophora Costata along Boondah Road frontage)

A number of Angophora Costata trees currently exist around the edges of the site, in particular along the Boondah Road reserve nature strip. This area has been classed as Bangalay Sand Forest. This stand is some of the last remaining remnant Angophoras in the Warriewood Valley floor and as such has distinct genetics. The current application and landscape plans do not discuss nor indicate the retention of any of this Bangalay Sand Forest community.

Previous considerations of development on this site emphasised the retention of this stand of trees and its understorey. Council, in its initial Submission to the exhibited Environmental Assessment for MP 09_0162, advised it did not support removal of the

Angophora trees due to their local significance as the last remnant Angophoras in the Warriewood Valley lowlands and therefore of significant genetic stock.

The NSW Department of Environment, Climate Change and Water³⁵ (DECCW) classed this stand of trees and its understorey as Bangalay Sand Forest, not previously identified in the Pittwater LGA and maybe a distinct, isolated community type, and have highlighted its retention.

Meriton's Preferred Project does not address this issue. The proposal fails the Seven Part Test of Significance, assessment C for this vegetation type (under the *Threatened Species Conservation Amendment Act 2002*):

- "c) in the case of an endangered ecological community or critically endangered ecological community, whether the action proposed:*
- (i) is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or*
 - (ii) is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction."*

As a rare occurrence in Pittwater, it is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction and/or is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction.

A Species Impact Statement for this Endangered Ecological Community is required ahead of any determination of this application.

Core Riparian Zone and Use of Public Land as Offset

³⁵ Department of Environment, Climate Change and Water letter of 16 June 2010, to the Department of Planning in regard to the exhibition of MP 09_0162 (this application).

Much of the proposed compensatory measures occur in the so called “Core Riparian Zone”, upon which 70% is wholly within the current Warriewood Wetland Reserve and already contains the Endangered Ecological Community at risk. As a compensatory measure it is irrelevant.

The initial 10m wetland buffer developed between Council, DIPNR and DECCW in 2003 has been retained in this proposal as has the buffers to the creek. However, a zone known as the “core riparian zone” of 20m adjacent to the southern wetland buffer has been created outside of the development site. This core riparian zone is mainly within the Warriewood Wetland Reserve owned by Pittwater Council. Existing Council reserve land cannot be used as an offset against environmental impact on private land as a result of the proposal.

Preferred Project’s Vegetation Management Plan and Landscape Plan

The Vegetation Management Plan (prepared by Site Image) contains scant detail in restoration and does adequately incorporate the recommendations from the Flora and Fauna Assessment, it contains inappropriate vegetation and methods to stabilise cleared areas.

The proposal must address the outstanding issue of replacement of all native trees to be removed during the development (currently unquantified).

The deficiencies with the Vegetation Management Plan and Landscape Plan are detailed below.

Selection of Inappropriate Species

The plant species provided on the Landscape Masterplan - Vegetation Plan by Site Image LA101 B 13th August 2010 are generally in accordance with those prescribed by the *Warriewood Valley Urban Release Area Masterplan and Design Guidelines*. A notable exception is the inclusion of *Pennisetum* ‘Nafray’ grass in the overland flowpath and along the cycleway. *Pennisetum* grasses are not locally native and are considered to be invasive grasses which could easily spread into the adjacent Warriewood Wetland

and threaten ecological communities. This species should be deleted from the landscape plan and not be part of any future landscaping at the site.

Stenocarpus sinuatus (Firewheel Tree) is also proposed as part of the “Rainforest Planting”. This species is not locally native and is also to be deleted from the landscape plans. The soils and site conditions and locality are not suitable for rainforest vegetation and planting of rainforest species within the riparian zone is not appropriate.

Landscaping between the wetland buffer and development

There is little environmental mitigation or amelioration with the landscaping between the wetland buffer and the development, landscaping of this area should be planted out with relevant species, instead of turf to provide a fully vegetated buffer to the Warriewood Wetland. Given the inappropriate location of the asset protection zone this planting can readily be undertaken.

The majority of the Endangered Ecological Communities, Swamp Sclerophyll Forest and Freshwater Wetland, currently on site will be removed or modified. It is unlikely that any of this can be compensated across the site, this is due to:

- the inappropriate location of the Asset Protection Zone,
- the Core riparian Zone being on public land,
- reduction in an effective wetland “buffer,
- proposed “flood storage area” excavation area,
- inappropriate species selected in the Vegetation Management Plan.

Given the significant risks associated with groundwater flow pattern modification discussed below, the significant excavation likely required for flood storage, weed proliferation, ongoing pollution from the development, etc, the potential to impact offsite on endangered ecological communities within the Warriewood Wetland is significant.

Impact on wetland buffer and riparian plantings

The Preferred Project Report proposes to excavate a large area to provide “Flood Storage”. This is shown in the Landscape Masterplan – Landscape Management Zones

plan by Site Image, and discussed conceptually in the Stormwater and Environmental Management Plan prepared by Brown Consulting.

The Preferred Project Report is deficient as no details are provided on the scale, extent or depth of excavation required for the flood storage area. Additionally, the impact of such a large excavation on either the site itself or the large wetland reserve adjacent to the site has not been addressed, nor the impact on the proposed buffer zones, landscaping or stormwater treatment structures. No sediment and erosion control plan has been submitted, or areolation plan for when it is completed.

Meriton's Preferred Project Report has clearly not addressed the Department's request of 15 July 2010, requiring details of the extent of cut and fill across the site and particular Key Issue 12 of the DGR.

Failure to adequately manage this and provide effective ongoing mitigation may cause a significant impact on the adjacent wetlands reserve. The area is likely to be invaded by exotic species which will quickly spread to the adjacent Warriewood Wetland and there is a threat of erosion and movement of sediment to the wetlands. Given that Warriewood Wetlands is an Endangered Ecological Community, the deficiency in such assessment or mitigation continues to be a significant concern.

Clearly the Landscape Masterplan - Vegetation Plan by Site Image does not meet any of the relevant guidelines for management of waterfront land, nor does it provide details for the long-term restoration of this excavation area or provide any detail on adequate remediation for long-term riparian management (ie. planting densities, erosion control, stabilisation, etc). Additionally, the plant species selected are not appropriate for such a sensitive site and are inconsistent with the *Warriewood Valley Landscape Masterplan*. There is no recognition of the potential for high groundwater or continual inundation in the submitted Plan.

Impact on Wetland 'Buffer' area

The relocation of Basin B is within the proposed wetland buffer area, (as shown in Site Image Landscape Masterplan – Vegetation Plan), and significantly reduces the buffer's

effectiveness in this location. It also means that the basin will discharge directly into the wetlands. There is a lack of clarity towards ongoing maintenance of the basin and potential impact on the Warriewood Wetland and its endangered ecological communities. This will not only be through stormwater pollutants, but exotic species and a newly created discharge point.

Reduction in an effective wetland 'buffer'

The Preferred Project Report has been reviewed, including the Total Earth Care – Revised Flora and Fauna Assessment August 2010 and shown in the Landscape Masterplan – Vegetation Plan prepared by Site image. The initial “10m” wetland buffer developed between Council, DIPNR and DECCW in 2003 has been retained in this proposal as has the buffers to the creek.

At the time, the 10m wetland buffer was intended to be fully vegetated as per the area (Warriewood Wetland) it aims to protect. This is clearly not the case as this 10m buffer from the agreed wetland edge is now proposed as part of the Asset Protection Zone. The current submission is summed up best by the submission from the Department of Climate Change and Water 14th April 2010 “....*the attendant vegetation clearing or intensive modification of vegetation, are inconsistent with protecting riparian and ecological values of the waterway and wetlands*”.

Both the NSW Office of Water and DECCW have indicated that the proposal is deficient in the level of riparian plantings and the impact of the development in the provision of riparian areas and an appropriate wetland buffer. Clearly the application could have been amended to cover the clear deficiency that the asset protection zones do not relate to the dwellings as per ‘Planning for Bushfire Protection 2006’, Figure A2.1. An asset protection zone should begin with an inner protection zone at the asset and move out from the asset towards the hazard.

This prevents the wetland buffer having a protective measure of a fully vegetated “10m” buffer to the wetlands and appropriate native landscaping minimising the short and long-term environmental impacts of such a development on the significant adjacent wetland. Failure to provide this buffer could cause serious impact to the endangered ecological

communities in the wetland and the threatened species that utilise this area, particularly given the inappropriate landscaping proposed for this area.

Summary of Flora Issues

In summary, the Preferred Project has not addressed the fundamental issues raised by Council in its initial Submission to MP 09_0162, namely:

- There is insufficient information quantifying the number of trees to be removed, and the extent of removal on the Endangered Ecological Communities of Swamp Sclerophyll Forest, Freshwater Wetland and Bangalay Sand Forest.
- The area of Bangalay Sand Forest is potentially the only local occurrence in the Pittwater Local Government Area and must be retained. This Endangered Ecological Community has not been addressed (either by the Preferred Project Report or the exhibited Environmental Assessment for MP 09_0162), and requires the preparation of a Species Impact Statement.
- An assessment of likely impacts on the Endangered Ecological Communities is still deficient, regardless of the submission of the Preferred Project Report.
- Significant omissions in the detail in vegetation management plan needs to be addressed, including inappropriate species selection
- The cumulative issues regarding the inappropriate location of the Asset Protection Zone, the application of the Core Riparian Zone on publicly owned land rather than on the development site, and the reduction of an effective wetland 'buffer' impact the adjacent Warriewood Wetlands and the endangered ecological communities within it.
- short and long term restoration of the proposed "flood storage area" excavation area

Additional, amendments via conditions are required to reduce environmental impacts on site and minimise impact on the Warriewood Wetland:

- turfed landscaping in the proposed asset protection zone must not be turf but be appropriate locally native species as detailed in the Warriewood Valley landscape Masterplan and Design Guidelines;
- the cycleway/footpath to the south and east of the site must not run through the 10m buffer in any location, to meet the previous requirements of Dept of Water and Energy requirements, it should run along the base of the road.

5.5.6 FAUNA

The Preferred Project Report has been reviewed for the purposes of this submission. The issues originally raised in Council's submission of 15 June 2010 (to MP09_0162) remains.

No assessment has been made to the issue of companion animals impacting on the threatened species that utilise the Warriewood Wetlands adjacent to 14-18 Boondah Road. Measures regarding the management of companion animals must be developed to ensure that no companion animals migrate from the proposed residential site into the wetlands. This must include the replacement of all trees to be removed during the development.

Conditions must be implemented as recommended in the applicant's flora and fauna assessment to ensure that building and construction works (particularly noise) does not impact on the nesting and roosting of threatened species within the adjacent Warriewood Wetlands.

Exact details of habitat replacement on the site, ie. artificial substrates, nest boxes, etc need to be provided or conditions imposed by the consent authority for adequate numbers and ongoing monitoring and maintenance.

5.5.7 DRAINAGE AND SURFACE WATER MANAGEMENT

For the purposes of this section of the submission, the following reports and plans have been reviewed:

- Preferred Project Report
- Appendix D: Civil and Infrastructure Drawings
- Appendix F: Stormwater and Environmental Management Plan — Buffer Area 3 — Warriewood Valley, 14–18 Boondah Road, Warriewood (Brown Consulting, August 2010, Project No. X08066_03C)
- Environmental Assessment Proposed Concept Plan and Stage One Project Application No. MP_09_0162

- Appendix A – Letter from Department of Planning (DoP) to Meriton dated 15 July 2010
- Appendix M: Government Submissions.

The drainage and surface water management provisions of the submitted documentation do not adequately address a number of key issues aimed at protecting the environment, particularly the adjoining Warriewood Wetlands.

The key issues considered to be inadequately addressed include:

- Water cycle assessment,
- Water quality monitoring,
- Stormwater drainage system including onsite detention (OSD), stormwater pipe drainage sizing, flow capacities, easement requirements,
- Discharge into the Warriewood Wetlands,
- Acid sulphate soils,
- Mosquito Risk Assessment.

Despite having environmental management measures in the “Revised Statement of Commitments” that seek to “Manage stormwater, wastewater and runoff as per the *Pittwater 21 DCP* and design plans in relation to the sites proximity to a significant wetland”, this commitment is poorly demonstrated by the Plans and supporting documents.

Pittwater 21 DCP Control 6.23 (Site Coverage, Sector Development - Warriewood Valley Land Release Area) requires that “*The total site coverage within a residential sector shall not exceed 50% of the sector area. The remaining 50% of the sector area must be landscaped area.*” Meriton’s Preferred Project Report states that “*The proposal complies with the site coverage controls proposing a maximum site coverage of 43%, which is less than the maximum 50% site coverage requirement*”. However, the 43% does not account for the expanded underground carpark building footprint, which when considered increases the site coverage to 47.4%.

The submitted documentation does not fully address the Key Issue 14 of the DGR, the “relevant EPI’s, policies, and Guidelines to be addressed” (Appendix A of DGR), and the “Plans and Documents to accompany the application” (Appendix B of DGR) which include Pittwater Council’s *Warriewood Valley Urban Land Release Water Management Specification* (WMS).

Key Issue 14 (point one) states:

‘...address flooding/drainage issues associated with the development/site including: stormwater, drainage, infrastructure and incorporation of Water Sensitive Urban Design measures...’

Discussion of the Issues

Meriton’s Preferred Project Report still has not adequately addressed the issues originally raised by Council in its Submission dated 15 June 2010, and Council contends these issues remain outstanding, particularly the following deficiencies:

- Water cycle assessment
Inadequate existing and post-development water cycle assessment due to a reliance on incorrect and incomplete data that does not represent the current design nor demonstration that average annual flows off the site will not be significantly altered under the developed condition. In particular, the expanded underground building footprint of the proposed shallow underground carpark (which effectively increases the impervious area of the site) was not taken into account. The Department’s letter of 15 July 2010 requested Meriton to consider the proposed density, in particular *“...confirmation that the pervious area percentage for the site (being the area of land excluding the Fern Creek corridor) meets the 50% requirements and should include the footprint area of all basement carparking, roads, access driveways and paths as impervious area (based on a developable area of **7.05 hectares** which excludes the creekline corridor).”*

Council has calculated the developable area for this site to be 7.4427 hectares (not 7.05 hectares stated in the Department’s letter). The impervious area is 38,787.3m² equating to **52%** of the 7.4427ha of developable area. There is

obvious discrepancy between Meriton and Council's calculation of impervious area, with Meriton calculating 3.46ha impervious area (and has not accounted for specific impervious areas shown on the landscape plan). It is unlikely that the submitted Water Management Report has accounted for the actual % site coverage and the need to undertake appropriate water cycle assessment including increase on-site detention.

Further, the water cycle assessment does not take into account the increased population density.

- **Water quality monitoring**
Inadequate pre-development surface water quality monitoring due to a reliance on superseded data that does not represent the current design, namely the water quality monitoring program in the Warriewood Valley Buffer Area 3 Water Management Report – Rezoning Application Stage (Patterson Britton 2005) (which was accepted by Council at the time). It is unclear whether the application commits to post development surface water and sediment quality monitoring as the application omits a relevant and updated water quality monitoring plan.
- **Stormwater quality improvement devices**
Inadequate details on the location, type, flow capacities, pollutant removal efficiencies, and the general functioning of Stormwater Quality Improvement Devices (SQIDS). Inadequate details on the ongoing monitoring and maintenance of all SQIDS.
- **Creekline corridor**
Inadequate details and assessment of the proposed creekline corridor to meet Department of Water and Energy Guidelines (February 2008) and Pittwater Council requirements including: hydraulic controls, creek bed and geotechnical conditions, location of rock outcrop, pools and riffles; creekline corridor restoration plan; hydraulic assessment of Fern Creek crossing; potential or actual acid sulphate soils; and mosquito risk assessment.
- **Stormwater drainage**

Inadequate details/assessment on the proposed stormwater drainage system including on site detention (OSD) volume provision, stormwater pipe drainage sizing, flow capacities, easement requirements and mosquito risk assessment of OSD and gross pollutant traps. The OSD volumes have not taken account of the expanded underground building footprint of the proposed shallow underground carpark which effectively increases the impervious area of the site leading to greater site runoff (also a requirement of the DoP letter).

- Discharge into Warriewood Wetlands

The proposal indicates uncontrolled discharges to the Warriewood Wetlands. No assessment has been made on the quality of the discharged water. No amelioration and treatment details are provided in the assessment.

- Acid Sulphate Soils (ASS)

Inadequate consideration of the potential presence of ASS given the changed nature of the proposed development, noting that a limited assessment for acid sulphate soils was undertaken based on the previous development design, and the current proposed design for excavation works include underground carparking and significant cut and fill activities for floodplain/creek management.

- Mosquito risk assessment

Omission of a full Mosquito Risk Assessment for both the watercourse and water quality/quantity features.

Key Issue 14 (point four) requires the identification of:

‘...any water management structures proposed to service the Stage One Project Application and any subsequent stage of the Concept Plan, including any dams, swales or detention basins. Information regarding the size, location, capacity and purpose of any water management structures.’

The report identifies the water management infrastructure works required, however there are substantial omissions in critical details within the Preferred Project Report and associated plans, including:

- Bio-retention Basin A Detail Plan (Drawing No. C030) and the Bio-retention Basin B Detail Plan (Drawing No. C031) – these drawings have no content and have been left blank. The details that have been provided as part of the civil drawings have a negative impact on safety (steep steps and no safety fence), long term maintenance (potential to easily deteriorate), the environment (hazardous to wildlife), and aesthetics. The use of gabion baskets at this site is considered unacceptable and reflects a poor design solution.
- Cross-sections of the creek realignment with sufficient details of in-stream works.
- Where plans and cross-sections of water management infrastructure have been provided, these have been insufficient and omit key features.

The proposal includes a significant number of privately owned water management facilities located on the site between Warriewood Wetlands and the proposed built form. These facilities and areas are essential to the efficiency and the overall design of the proposal and will need to be maintained over its life by the future owners of this development. Pittwater Council will not take over or maintain these water management facilities with the strata management remaining responsible for the ongoing operational and maintenance of the water quality facilities of the development.

Pittwater Council will consider accepting into public ownership up to the 50m width of the Creekline Corridor of Fern Creek (25m width each side of the creekline centreline) in terms of the Section 94 Contributions Plan. This, along with other potential land dedication, will need to be balanced against the requirement for the bushfire asset protection zone to be in private ownership. This distinction between public and private lands has not been made as part of the preferred project application – see also Council's comments on Bushfire Risk Management.

5.5.8 FLOODING AND CLIMATE CHANGE

In accordance with the New South Wales Floodplain Development Manual (point two of Key Issue 14) the Applicant is required to:

‘...provide an assessment of any flood risk on site in consideration of any relevant provisions of the New South Wales Floodplain Development Manual

(NSW Government, 2005) including the potential effects of climate change, sea level rise and increase in rainfall intensity.'

For the purposes of this section of the submission, the flood risk related aspects only of the following reports and plans have been reviewed:

- Preferred Project Report
- Appendix D: Civil and Infrastructure Drawings
- Appendix F: Stormwater and Environmental Management Plan — Buffer Area 3 — Warriewood Valley, 14–18 Boondah Road, Warriewood (Brown Consulting, August 2010, Project No. X08066_03C)
- Environmental Assessment Proposed Concept Plan and Stage One Project Application No. MP_09_0162
- Appendix M: Government Submissions

It should be noted that inconsistencies between plans and particularly lack of detail on the architectural and civil/infrastructure plans, make a definitive assessment of flood risks and comparison between previous and current proposals difficult. However, from a flood risk perspective, there does not appear to be any significant changes to the proposal between the Preferred Project Report and the exhibited Environmental Assessment.

The flood risk assessment for the Meriton development is based upon the 1990 Narrabeen Lagoon Flood Study which at that time did not include allowances for sea level rise and climate change. Developments now need to take these impacts into consideration and assumptions have been made to estimate the impacts of climate change on the subject development to derive an interim Flood Planning Level.

Warringah and Pittwater Councils jointly are currently undertaking the Narrabeen Lagoon Flood Study Update, with completion anticipated for 2012. Until the updated Flood Study for Narrabeen Lagoon and its floodplain has been completed, there remains a level of uncertainty as to the full impact of climate change on this development, in particular the combined effects of sea level rise in the context of a potentially changed

Narrabeen Lagoon entrance dynamics, elevated backwater effects, together with an increase in rainfall intensity in the surrounding catchments.

Given the large scale of this proposed development and hence the increase in population at potential flood risk, the confidence level of long-term future flood risks for this community would be significantly increased if the development was to be able to await the incorporation of results of the Narrabeen Lagoon Flood Study Update in 2012. It should be noted that Council has deferred finalisation of its Masterplan for North Narrabeen Village pending the finalisation of the Narrabeen Lagoon Flood Study, for the same reasons of uncertainty of the impacts of climate change and sea level rise discussed in this submission.

For consistency and in accordance with the precautionary principle, the Meriton Development, which is connected to the same floodplain should be deferred and await the results of the Narrabeen Lagoon Flood Study update as well or if not deferred, incorporate into the design/construction to adjust/retrofit components as necessary to accommodate the updated flood levels, including minimum floor levels and minimum level of entry to underground carparking areas.

In addition, there is a need to complete a community flood emergency response plan, including emergency evacuation provisions from basement car parks.

Discussion of Issues

In reviewing the flood risk management issues, consideration has been provided under the following headings:

- Capacity to deal with uncertainties pertaining to design flood levels pending the completion of Narrabeen Lagoon Flood Study Update.
- Adequacy of climate change considerations— sea level rise and increased rainfall intensity.
- Minimum floor levels requirement of residential dwellings and enclosed garages.
- Requirements for minimum level of entry to basement carparking and emergency evacuation provisions from the basement car park.

- Requirement for no net loss of floodplain storage below the level of the 1% annual exceedance probability (AEP) flood level.
 - Requirement for no adverse flood impacts on neighbouring properties
 - Adequacy of flood emergency response considerations.
1. *Capacity to deal with uncertainties pertaining to design flood levels pending the completion of Narrabeen Lagoon Flood Study Update*

Warringah and Pittwater Councils jointly are currently undertaking the Narrabeen Lagoon Flood Study Update. The Narrabeen Lagoon Flood Study will consider impacts on flood behaviour not taken into account in the 1990 Flood Study, including dynamics of the ocean entrance to Narrabeen Lagoon and the impacts of climate change and sea level rise. Flood levels for the 1% annual exceedance probability (AEP) flood in Narrabeen Lagoon could change as a result of the Flood Study Update. This may in turn affect tailwater levels and hence flood planning levels at sites such as that at 14-18 Boondah Road (and other property owners around the edge of Narrabeen Lagoon and within Warriewood Valley). The results of the Narrabeen Lagoon Flood Study Update are expected for use in the development assessment process in early 2012.

In the absence of an updated Flood Study for the Narrabeen Lagoon floodplain that specifically takes into consideration climate change implications and remodels the flood extents, the Applicant's assessment of flood risk has been based on the currently available Flood Study (1990) and extrapolations for climate change. There is a level of uncertainty using this approach, in particular given that the entrance dynamics of the Lagoon may change as a result of sea level rise, possibly further exacerbating the flood impacts within Narrabeen Lagoon and its tributaries. This uncertainty could be significantly reduced with the benefit of the proposed updated Flood Study. This revised flood information is about 18 months from completion.

Ideally the results of this updated Flood Study should be used to determine the flood affectations for this site to improve the level of confidence. In the absence of this updated information, the application should incorporate into the design the

ability to adjust/retrofit components of the development such as the freeboard to basement carpark driveways which are the critical components to protect property.

2. *Adequacy of climate change considerations — sea level rise and increased rainfall intensity*

The Brown Consulting Report (Appendix F) has provided a discussion of the impact of climate change (sea level rise and increased rainfall intensity) on the proposed development site based on an assessment undertaken by Cardno Lawson Treloar which incorporates:

- Sea level rise benchmarks from the NSW Government Sea Level Rise Policy (October 2009) — namely a sea level increase of 0.4m by 2050 and 0.9m by 2100.
- Guidelines for increased rainfall intensity from the Floodplain Risk Management Guidelines – Practical Consideration of Climate Change (Department of Environment and Climate Change, 2007) — namely a sensitivity of the impacts of a 10%, 20% and 30% increase in rainfall intensity.
- Increases in flood levels for a low, medium, and high level climate change scenario based on best available data supplied by Cardno Lawson Treloar to estimate the possible effect of climate change on flood levels within the development site.

Increases in flood levels at 14-18 Boondah Road, calculated by Cardno Lawson Treloar, have been based on Council's best currently available information, namely 1% AEP flood levels calculated as part of the 1990 Narrabeen Lagoon Flood Study combined with results from more recent Flood Studies for Nareen Creek (North Narrabeen) (2005) and Warriewood Valley (2005), and extrapolated for climate change impacts.

The following climate change scenarios have been taken into consideration:

- Consideration of land use below RL4.0m AHD;
- Sea level rise only in 2050 (0.4m increase);
- Sea level rise only in 2100 (0.9m increase);

- Sea level rise in 2050 combined with 1% AEP catchment and Narrabeen Lagoon flooding (with no increase in rainfall intensity);
- Sea level rise in 2100 combined 1% AEP catchment and Narrabeen Lagoon flooding (with no increase in rainfall intensity).

Each of these scenarios would have less impact than the 2100 Climate Change scenario analysed by Cardno Lawson Treloar, which considers 0.9m sea level rise in 2100 with 1% AEP catchment and Narrabeen Lagoon flooding including 20% increase in rainfall intensity.

3. *Minimum floor levels requirement of residential dwellings and enclosed garages — to be at the Flood Planning Level that includes the 2100 Climate Change Scenario (0.9m sea level rise with 30% increase in rainfall intensity)*

In the absence of an updated Flood Study for the Narrabeen Lagoon floodplain that specifically takes into consideration climate change implications and remodels the flood extents, the Applicant's assessment of flood risk has been based on the currently available Flood Study (1990) and extrapolations for climate change. Noting the uncertainty of this approach, the Applicant's proposed minimum floor level of 4.5mAHD is deemed to be suitable to cater for 1% AEP flood event with a 2100 Climate Change Scenario plus 0.5m freeboard (even though only a 20% increase in local catchment rainfall intensity has been considered rather than a 30% increase). (Note, that the Flood Planning Level at the site with the climate changes scenario ranges from 4.06m to 4.35mAHD, not 3.56m to 3.85mAHD as stated in the Brown Consulting Report (Appendix F.)

The additional freeboard provided by the Applicant would also cater for some pit/pipe or culvert blockage due to debris, should this occur.

4. *Requirements for minimum level of entry to basement carparking — to be at the Flood Planning Level that includes the 2100 Climate Change Scenario (0.9m sea level rise with 30% increase in rainfall intensity) and emergency evacuation provisions from the basement car park*

The Brown Consulting Report (Appendix F) does not state the proposed minimum level of the entry to underground car parking areas nor does it refer to emergency evacuation provisions from these basement car parks.

The minimum level of the entry to all underground car parking shall be the Flood Planning Level that includes the 2100 Climate Change Scenario. This level ranges from 4.06m AHD to 4.35m AHD depending on the location on the site.

To provide emergency egress from the basement carparking, all access, ventilation and any other potential water entry points must be above the Flood Planning Level (that includes the 2100 Climate Change Scenario) and a clearly signposted pedestrian access via a low flood hazard area to a 'safe haven' above the Flood Planning Level separate to the vehicular access ramps, must be provided.

5. *Requirement for no net loss of floodplain storage below the level of the 1%AEP flood level*

The Brown Consulting Report (Appendix F) states that there would be no net loss for flood storage area below the level of the 1% AEP flood level as a result of the proposed development.

The strategy of compensatory works, which balances the cut and fill within the site to ensure there is no net loss of flood storage below the level of the 1% AEP flood level, is considered reasonable from a floodplain management perspective where the minimum fill level in areas to be filled is at 4.32m AHD as stated in the Brown Consulting Report (Appendix F). Notwithstanding, significant environmental impacts from the excavation work for the flood storage area are likely on the Warriewood Wetlands and its Endangered Ecological Communities as well as the riparian corridor. Such a compromise is an untenable solution particularly as the Wetlands are a unique and valuable ecological community.

It is of concern that limited earthwork cut and fill details are provided on the Civil and Infrastructure Plans (Appendix D) outlining cross sections through areas of proposed cut and fill. It is also noted that the environmental impacts of such cut and fill works are not discussed in the Brown Consulting Report (Appendix F).

6. *Requirement for no adverse impacts on neighbouring properties — including flood levels, flow velocities and flood hazard in all floods up to the probable maximum flood (PMF)*

It can only be inferred from the Brown Consulting Report (Appendix F) that hydraulic modelling was undertaken to determine the impacts on flood levels upstream and downstream of the site. No description of the modelling is provided. It is also inferred that the impacts of the development have not been assessed for the full range of flood events, as again, no information is provided.

The Brown Consulting Report (Appendix F) states that the maximum afflux (i.e. increase in flood level) of 20mm in a 1% AEP flood and 40mm in a probable maximum flood. This is considered reasonable to cause “no adverse impact”.

7. *Adequacy of flood emergency response considerations - Evacuation by foot to a safe-haven above the level of the probable maximum flood*

There may be minor inundation of the lowermost ground floor units in a probable maximum flood. (Note that the probable maximum flood level at the site without climate change ranges from 4.6m to 4.8m AHD.) This would cause some property damage but is unlikely to be a risk to life. If the basement carpark level entry is set at the minimum FPL, then for floods greater than the FPL up to the PMF, there would be inundation of the basement carpark. Without adequate emergency egress procedures, there could be significant risk to life and property damage within the basement.

Given the ‘high land’ of this development will be a ‘high flood island’ in times of extreme flood events and the time of isolation is likely not to be excessive, the safest emergency management response is to remain on site during a flood. The Brown Consulting Report (Appendix F) does not provide details on the likely duration of isolation during a large flood event.

It will be important that the entire development site be considered as one unit during the preparation of a flood emergency response plan. This may necessitate elevated walkways or boardwalks across lower lying areas of the site so that all

areas of the development can access each other during a probable maximum flood event.

It is important to note that roads surrounding the development are likely to be inundated during large floods which will disrupt emergency access.

It is acknowledged that the current application does not consider the impacts of a probable maximum flood with a 2100 Climate Change Scenario. The recently released NSW Government Guideline entitled “Flood Risk Management Guide — incorporating sea level rise benchmarks in flood risk assessments” (DECCW, August 2010) now requires an assessment of the sea level rise impacts on the probable maximum flood. This assessment will be incorporated into all new Flood Studies, including the Narrabeen Lagoon Flood Study. As this is such a recently released guideline, Pittwater Council currently does not require the impacts of a probable maximum flood with a 2100 Climate Change Scenario to be assessed as part of this development process.

Nevertheless, a community flood emergency response plan does not appear to have been provided by the applicant, and will be required to address the impacts of a probable maximum flood in and around the entire site.

5.5.9 GROUND WATER MANAGEMENT

The Preferred Project Report, the amended Jeffery and Katauskas – Hydrogeological Assessment dated 13 September 2010, letter from Meriton to DoP dated 31 August 2010 regarding Request for additional information, Environmental Assessment Proposed Concept Plan and Stage 1 Project Application No. MP_09_0162, Appendix H - Flora and Fauna Assessment of the Environmental Assessment, Appendix W- Jeffery and Katauskas - Hydrogeological Assessment dated 29 January 2010 of the Environmental Assessment, and AT& L Civil Plans Project No. 10-23 have been reviewed for the purposes of this submission.

The Hydrogeological Assessment determines that groundwater is an issue for the proposed development in that “the basement carpark will extend into bedrock and will also intersect the groundwater”.

The submitted documentation **does not adequately address** ground water and particularly does not identify or provide management options for any potential impacts on the adjacent Warriewood Wetlands during construction and for the long term management of the development.

Requirements to address groundwater issues

Key Issue 15 of DGR requires consideration of ground water management. Whilst Meriton’s Preferred Project Report mentions the *NSW Groundwater Quality Management and Protection Policy* and groundwater is discussed in several supporting documents, the Preferred Project Report does not adequately address:

Key Issue 15 (point one):

‘Identify ground water issues and potential degradation to ground water sources and identify mitigation measures required to remediate, reduce or manage potential impacts to the existing ground water resource and any dependent ground water environment or water users.’

Key Issue 15 (point two):

‘Provide details of the presence and distribution of Groundwater Dependent Ecosystems in the vicinity of the site and identify any potential impacts as a result of the proposal and any mitigation measures required to address identified impacts.’

Both NSW Office of Water and the Department of Environment, Climate Change and Water (DECCW) have recognised the groundwater impacts on the adjoining wetland as a major concern in their submissions. Further, the Department’s letter of 15 July 2010 expressly required such assessment to be provided (under schedule 2).

Notwithstanding these concerns and the Department's request, Meriton's Preferred Project Report provides no assessment addressing these issues.

Inadequate assessment of groundwater impacts

Whilst the Hydrogeological Assessment (Jeffery & Katauskas, September 2010) determines that "the groundwater will not be lowered below historical levels (other than possibly locally immediately adjacent to the basement) and groundwater flow (both volume and concentration) towards the Warriewood Wetlands will be maintained", the basis of this conclusion is not quantified.

There is no quantification of groundwater, although groundwater movement is partially considered, with indications that groundwater moves across the site from north east to the Warriewood Wetlands.

The applicant's submission omits groundwater quality monitoring and its relevant environmental assessment. Whilst the Hydrogeological Assessment (Jeffery & Katauskas, September 2010) states that the underground carparking structure will intercept groundwater, dewatering during construction will be required, and an ongoing management regime for groundwater is required, no assessment of groundwater quality impacts or procedures for the monitoring for groundwater quality has been detailed / provided.

Groundwater quality monitoring is necessary at the design and construction phases of the development. No assessment has been undertaken on the groundwater quality or its impacts, or any demonstration of commitment to monitor the groundwater regime during the construction and operational phases of the development.

Further no evaluation has been made of the potential for shallow groundwater impacts on the bio-retention basins.

The Hydrogeological Assessment (Jeffery & Katauskas, September 2010) relies on assumptions and makes the following statement "*...a geotechnical inspection should be carried out during excavation once groundwater has been encountered and once the*

bulk excavation is complete. The inspection is intended to confirm the groundwater conditions and refine the recommendations...”.

This assumption is insufficient and places significant undue impact on the Warriewood Wetlands and its Endangered Ecological Communities.

Impacts on groundwater dependent ecosystems

The adjacent Warriewood Wetlands are a groundwater dependent ecosystem, made up of several water dependent Endangered Ecological communities. No assessment has been made on the impact on the adjacent groundwater dependent Warriewood Wetlands, which is a mix of the Endangered Ecological Communities of Swamp Sclerophyll Forest, Swamp Oak Forest and Freshwater Wetlands.

Without adequate monitoring and information on the impacts of the development on the groundwater conditions on Groundwater Dependent Ecosystems and Warriewood Wetlands, it is not possible at this stage to assess this particular aspect of the proposal.

Council contends its concerns on the impacts on the Warriewood Wetlands, particularly discharge of groundwater without due consideration and management of the environmental consequences of discharges to Warriewood Wetlands, remains. This deficiency in the Preferred Project Report continues, and does not address Key Issue 12 of the DGR. The likely impact on the Warriewood Wetlands has implications on whether the Preferred Project Report is also deficient in its assessment of the Threatened Species Conservation Act, which includes *“alteration to the natural flow regimes of rivers, streams, floodplains & wetlands”* as a key threatening process, which includes changes to subsurface flows.

Adequacy of groundwater management recommendations

There is insufficient detail provided on groundwater impacts on the Warriewood Wetlands for the construction and post construction phases to determine whether the groundwater management recommendations are adequate. Also, the recommendations

from the Hydrogeological Assessment do not appear to be accompanied by any civil plans demonstrating the groundwater system.

The Hydrogeological Assessment (Jeffery & Katauskas, September 2010) provides a proposed groundwater bypass system however, there is no quantification on the appropriateness of this system. In particular there is no assessment of the long-term potential impacts on alteration of groundwater patterns across the site or the conversion of groundwater flows to surface flows and the potential for impacts on the adjacent Warriewood Wetland areas. The proposed drainage/bypass system for the groundwater around the basement has insufficient detail to outline the potential impacts on the groundwater system.

The Hydrogeological Assessment (Jeffery & Katauskas, September 2010) recommends that *“a number of wells be formed below the base of the proposed excavation. The wells should be pumped and the groundwater disposed downslope so it flows evenly to the nearby wetlands.”* There is an emphasis on wells to remove groundwater and pump water for dispersal into the Warriewood Wetlands, effectively drawing down and moving groundwater to surface water, however, there is no assessment of groundwater quality to be discharged into the Warriewood Wetlands.

Additionally, there will be substantial dewatering during the construction phase for the basement carpark again causing a drawdown impact with this water proposed to be directly channelled to the Warriewood Wetlands, again without consideration of the water quality impacts at discharge points.

Summary of Groundwater Issues

In summary, the assessment on groundwater impact is deficient. There is insufficient quantification of changes to impacts on natural groundwater movement from the extensive underground car parking on groundwater dependent ecosystems and water management facilities (bio-retention basins), in particular:

- there has been no assessment of groundwater water quality or other proposed potential impacts of the movement of water on the Warriewood Wetlands nor has

the groundwater issues been addressed in the Revised Flora and Fauna Assessment (TEC, August 2010),

- no assessment on environmental impacts of the discharge of untreated groundwater to Warriewood Wetlands, and no mitigation measures provided, and
- no assessment of potential impacts on ground and surface waters due to the drawdown associated with dewatering wells for the basement carpark(s)– this in conjunction with the large impervious footprint of the development may lower the water table affecting pre-existing water, soil and vegetation characteristics.

5.5.10 SUMMARY OF ISSUES

Meriton's Preferred Project Report fails to address the issues previously raised by Council's Submission, namely insufficient information/details failing to address the matters raised in the Director General's Requirements for MP 09_0162, in particular:

- Bushfire hazard, which is not compliant with the Planning for Bushfire Protection 2006,
- Identified deficiencies in the assessment to reduce car parking rate/provision,
- Deficiencies in the Traffic and Accessibility Impact Study,
- Failure to '*...demonstrate that the proposal has been assessed against a suitability accredited rating scheme to meet industry best practice*',
- Insufficient information on the final number of trees and native vegetation to be removed resulting in a deficiency of assessing impact on flora,
- Identified deficiencies in the Stormwater Concept Plans and Report and Soil and Water Management Plan (prepared by Brown Consulting), including no assessment of impact on groundwater, and
- Failure to assess the impact on the Warriewood Wetlands and its Endangered Ecological Communities.

Of significance are the non-compliances with car parking provision, traffic generation and sector coverage requirements leading to significant impacts on the amenity of residents both in the development and the wider community.

Pittwater Council asserts that the extent of non-compliances with the statutory provisions developed for this site in consultation with the Pittwater community will result in an

overdevelopment of the site. Pittwater Council reaffirms that the maximum density of 25 dwellings per hectare is the appropriate density for this site.

SUMMARY OF ASSESSMENT ISSUES

Impact on amenity

Meriton's Preferred Project Report fails to address the issues originally raised by Council in its Submission to the exhibited Environmental Assessment for MP 09_162. This failure means that there is a statutory flaw in the process for this application.

Meriton's Preferred Project Report and accompanying documents have not addressed the provisions of the *Threatened Species Conservation Act*, given that:

- the Asset Protection Zone, as located, will significantly impact the Warriewood Wetlands and its Endangered Ecological Communities,
- the impact of flood storage area on the Swamp Sclerophyll Forest and Freshwater Wetland (both Endangered Ecological Communities), the extent of which has not been quantified or assessed on either the flood storage area or, more significantly, such impact on the Endangered Ecological Communities,
- an area of Bangalay Sand Forest, an Endangered Ecological Community, was recently identified by DECCW, and the impact on this community has not been addressed through the preparation of Species Impact Statement,
- insufficient assessment has been carried on the impact of groundwater into the Warriewood Wetlands and its Endangered Ecological Communities and the threatened species that utilise this area.

Pittwater Council does not agree to or support the use of its land as an offset against environmental impact on privately-owned land.

Meriton's Preferred Project does not comply with the RFS *Planning for Bushfire Protection 2006* as the APZ is located outside of the development site and restricts emergency vehicle access to the more vulnerable section of the development site, adjacent to the hazard.

The Vegetation Management Plan and Landscape Plan accompanying Meriton's Preferred Project is deficient, selecting inappropriate species likely to adversely impact the Warriewood Wetlands and threaten its Endangered Ecological Communities

The assessment on groundwater impact is grossly deficient, and has not accounted for changes on natural groundwater movement as a result of the extensive underground parking structure and water management basins, and its impacts on the Warriewood Wetlands or its Endangered Ecological Communities and the threatened species that utilise this area.

No assessment has been made on the environmental impacts of the discharge of untreated groundwater to Warriewood Wetlands. Both Meriton's Preferred Project Report and its original Environmental Assessment for MP 09_0162 have not complied with the Director-General's Requirements, Key Issue 15 specifically on Groundwater Management.

Meriton's Preferred Project Report is still deficient, in terms of the information submitted in the Stormwater Concept Plans and Report and Soil and Water Management Plan (prepared by Brown Consulting).

Pittwater Council does not agree to the water management facilities being dedicated in its current form.

Pittwater Council asserts that the Department's Strategic Review on the Buffer Areas is incomplete, as it has not addressed the likely impacts of increasing density in the Buffer Areas in terms of visual amenity, traffic and transport (in particular car parking), infrastructure and services requirements. Accordingly, the Strategic Review Report should not be given any weight in the assessment of Meriton's Preferred Project MP 09_0162 for 14-18 Boondah Road Warriewood.

Pittwater Council asserts that the car parking rates in Pittwater 21 DCP are the appropriate parking rate for this development at this location, in accordance with the criteria established under the RTA's *Guidelines for Traffic Generation Developments*. Meriton's Preferred Project does not comply with the carparking provisions stated in

Pittwater 21 DCP in terms of the required number of on-site and on-street car parking spaces (including visitor parking spaces and parking for people with disabilities) and the designated areas for car washing and racks for the storage of bicycles. Additionally, the parking spaces and manoeuvrability in the aisles do not comply with the relevant Australian Standards, parking the spaces for persons with disabilities.

The Traffic and Accessibility Impact Study is inadequate due to the following:

- The proposed parking rates for residents/visitors are not consistent with the RTA's *Guidelines for Traffic Generating Developments* or Pittwater 21 DCP.
- There is no provision for on-street parking opportunities within the site, apart from 16 short term drop-off spaces provided as part of Stage 1.
- There are no measures to promote or to improve public transport by either Sydney Buses or the RTA to cater for increased demand.
- There are no proposed measures to upgrade the existing road system within and adjacent to Warriewood Valley to ensure an appropriate level of services is maintained. The resultant impact will be significant congestion on the local road network that will adversely impact Warriewood Valley residents and the wider community.
- There is no consideration for the specifications in the *Warriewood Valley Roads Master Plan* (2006 Review) in terms of the internal main road and the number of dwellings that will utilise the road. Further, this main internal road is required to be a collector road (not a local road, as currently proposed) to cater for the increased traffic and parking demands generated by the Meriton proposal. Subsequently, **Council will not support dedication of the main internal road** in its current form.

Meriton's Preferred Project does not adequately address access, loading and unloading, and car parking arrangements for the non-residential uses, and has not demonstrated how conflicts arising from parking and access arrangements required by the various non-residential uses, and residents/visitors within the development are to be managed/minimised.

Deficiencies identified in the layout of the basement parking, parking spaces and storage areas greatly affect the useability of these areas and may result in further deficiencies in on-site parking provision.

Meriton's Preferred Project will result in adverse impacts for the wider Pittwater Community due to a greater dependency on private cars, resulting in increased traffic congestion on the local road system, and will not assist increasing the journey to work travel mode via public transport under State Priority E5 'Jobs Closer to Home'.

The height, scale and bulk of the proposed buildings would become the dominant built form in Warriewood Valley, which would be clearly visible from adjoining areas and grossly inconsistent with the desired future character of the Valley.

Meriton's Preferred Project fails to *"...demonstrate that the proposal has been assessed against a suitability accredited rating scheme to meet industry best practice."* as required under Key Issue 11 of the Director-General's Requirements for Mp 09_0162. Although the proposed development meets the requirements of BASIX and Section J of the BCA, they are minimum mandatory requirements only. No consideration is made to the 'whole of development' approach in terms of sustainability.

The design of the proposal has failed to minimise visual and acoustic privacy, and does not provide for adequate solar access and private open space areas. This adversely affects the liveability of the proposed dwellings and, in turn, will affect the enjoyment and amenity of future residents.

Meriton's Preferred Project does not sufficiently integrate landscaping with the built form. The proposed landscaping ineffectively screens the bulk and scale of the proposed buildings, which, in its current form, will cast significant shadows onto dwellings and open space areas.

The central open space area is surrounded by the taller buildings (in Stage 1) and will be affected by wind and shadowing, noise impacts and the micro-climate in this area. This will significantly detract from the usefulness of this space as a recreational area for the future residents.

Meriton's Preferred Project includes a children's play area and 'exercise station'. Both areas are inappropriately located, particularly the children's play area adjacent to the driveway into the basement parking area while the other is an island surrounded by road and less likely to be utilised.

Pittwater Council asserts that Meriton's Preferred Project fails to demonstrate the proposal's *Compatibility in the urban environment*, a planning principle established by the Land and Environment Court to determine if such a proposal is compatible with its context.

Pittwater Council does not support the proposed finishes, which are, for no apparent reason, inconsistent with Control D16.2 (of Pittwater 21 DCP). This control aims to minimise the visual impact of the development in terms of colours and materials, and has been consistently applied to all development within Warriewood Valley to date.

6 Community Expectation and Participation

*'Warriewood Valley Urban Land Release Area will be developed into a desirable urban community in accordance with the Warriewood Valley Urban Land Release Planning Framework, and will include a mix of low to medium density housing with dwelling houses a maximum of two storeys in any one place, attached and detached dual occupancy dwellings, multi-unit housing, a neighbourhood focal centre, industrial/commercial development and open space and community services...Development will incorporate native canopy trees and vegetation to minimise the bulk and scale of development and enhance the new community with a high quality landscape character. Development will integrate with the landform and landscape.'*³⁶

This statement is Pittwater Council's vision for Warriewood Valley. This vision is expressed in the original planning strategy for Warriewood Valley, the *Warriewood Valley Urban Land Release Draft Planning Framework 1997*, and continues through to Pittwater LEP, Pittwater 21 DCP and the current planning strategy entitled *Warriewood Valley Planning Framework 2010*.

Warriewood Valley continues to be developed as a mix of low to medium density housing, of up to 25 dwellings per developable hectare at certain locations in the Valley. The majority of residential development in the Valley is 2 storeys or has the appearance of 2 storeys along Macpherson Street, Garden Street and Warriewood Road (being the main roads in Warriewood Valley). The exception is the Anglican Retirement Village development, approved under the former Senior Housing SEPP when that land was zoned Non-Urban (at the time, was not part of the Warriewood Valley Release Area³⁷).

Given this long-held vision, Pittwater Council developed statutory provisions ensuring that its vision for Warriewood Valley can be achieved. The community was consulted during the planning and preparation of the strategic documents that led to their adoption.

³⁶ Desired Character Statement for Warriewood Valley Land Release Area, Part A4.16 of *Pittwater 21 DCP Amendment No. 5*, adopted 15 June 2009.

³⁷ The DA for the ARV development was approved by Pittwater Council in April 2006. This site was rezoned 2(f) on 21 July 2006, becoming part of the Warriewood Valley Land Release Area (Amendment No. 71 to *Pittwater LEP 1993*).

To this end, residents should be able to rely on what has been planned for Warriewood Valley and they should be confident that they will be made aware of and actively encouraged to participate in proposals for the Valley. In this regard, the State Government's Joint Regional Planning Panel (Sydney East Region) when determining a Development Application for a Focal Neighbourhood Centre with a substantially greater floorspace to that planned for in the Warriewood Valley strategic planning documents and Pittwater 21 DCP stated:

*'The Panel notes that DCP21 has a range of 800 to 2,222m² GFA, and the Panel puts major weight on this size range. This is because buyers into the area are likely to have consulted the DCP and made their decision on the basis that the maximum size of a shopping centre on the site will be 2,222m². To allow a shopping centre that is 75% larger than the maximum size indicated in the DCP, seems to us to breach the faith of those who relied on the DCP being upheld.'*³⁸

6.1 NET PUBLIC BENEFIT

Pittwater Council's 2020 Strategic Plan, *Our Sustainable Future*, requires that:

*"People are entitled to a healthy and productive life in harmony with nature. Future generations must have the same or improved quality of life as the current generation in relation to health, well being, justice, access and equity. Within Pittwater, human activity must protect and enhance our environment. The environmental sphere provides the physical resources and ecosystems on which life depends. In addition, the economy must be managed to ensure it serves society's needs and aspirations by working within natural ecosystems, not exploiting, degrading or destroying them."*³⁹

Council's vision for a sustainable Pittwater community is for responsible management of its land and resources ensuring that it can be shared by future generations. This vision is also contemplated for developments proposed in the Pittwater LGA. Development

³⁸ Extract from Minutes of meeting by the Sydney East Joint Regional Planning Panel held 12 November 2009 (in regard to DA ref.N0283/09)

³⁹ Pittwater Council's 2020 Strategic Plan, *Our Sustainable Future*, p4

must be sustainable, and demonstrate its sustainability that, in turn, results in net community benefit.

“...net community benefit arises where the sum of all the benefits of a development or rezoning outweigh the sum of all costs.”⁴⁰

In order to determine whether Meriton Preferred Project is, in fact, sustainable development and achieves net community benefit the following questions are posed:

- What is the ‘triple bottom line’ for the Meriton proposal, upon which an evaluation is made on the net impacts of the development on a community and the environment?
- What are the net community benefits being provided by this development for 559 dwellings that make it unique such that it warrants approval regardless of inconsistencies with the *Warriewood Valley Planning Framework 2010*, the draft *North East Subregional Strategy*, Pittwater Council’s statutory provisions, and the community’s expectations?
- Additionally, does the Meriton proposal demonstrate best practice in economic, social and environmental sustainability?

This Chapter considers matters likely to determine whether Meriton’s Preferred Project adds value/benefit such that it delivers a net public benefit. The matters discussed here include the Statement of Commitments prepared on behalf of Meriton (as the proponent), housing affordability, affordable housing, and sustainability relating to a ‘whole of development’ approach. This includes equity, infrastructure and service/facilities requirements generated by Meriton’s Preferred Project (including the Stage 1), and its likely impact on the future residents of this proposal as well as the wider community (all of which are discussed in Chapters 3, 5, 6, and 7 of this Submission).

6.1.1 MERITON’S REVISED DRAFT STATEMENT OF COMMITMENTS

⁴⁰ Department of Planning, *Draft Centres Policy* (2009)

In Section 4 of the Preferred Project Report, Meriton provides a revised Draft Statement of Commitments for its Preferred Project (including the Stage 1 Project Plan). These are:

- Implement Environmental Management Measures as part of the Construction phase.
- Implement Vegetation Management Measures by implementing recommendations of the Vegetation Management Plan.
- Lodge separate application for Stage 2 comprising the remaining 264 dwellings.
- Lodge application for subdivision including dedication of land to Pittwater Council.
- Prepare a Demolition and Construction Environmental Management Plan.
- The dwellings comply with BASIX.
- Implement the Waste Management Plan.
- Incorporate the Arboricultural measures regarding tree removal and tree protection “in accordance with the Tree and Landscape Consultants submitted with the Environmental Assessment.”
- Implement the recommendations of the geotechnical assessment.
- Implement bushfire protection measures.

The following is Council’s response to each of the stated commitments to determine what public benefits (or otherwise) might result.

Implement Environmental Management Measures as part of the Construction phase

This commitment is a necessary one in any development of a site, and is not unique.

Nonetheless, no details are provided with the Preferred Project Report. As a minimum, the environmental management measures will need to incorporate:

- Sediment and erosion control measures
- Vegetation management measures including Arboricultural measures regarding tree removal and tree protection
- a Demolition and Construction Environmental Management Plan, including a waste management plan (aimed at reducing the amount of waste going to landfill and increasing material available for recycling)

- requirements from the geotechnical assessment.

These matters, as discussed below, have deficiencies that require addressing before these measures can be implemented on site.

Implementation of Vegetation Management Measures

This commitment is a necessary one in any development of a site, and is not unique. Notwithstanding, Council's assessment of the Preferred Project Report has highlighted significant deficiencies with the application. The provisions of the *Threatened Species Conservation Act*, have not addressed given that:

- the Asset Protection Zone, as located, will significantly impact the Warriewood Wetlands and its Endangered Ecological Communities,
- the impact of flood storage area on the Swamp Sclerophyll Forest and Freshwater Wetland (both Endangered Ecological Communities), the extent of which has not been quantified or assessed on either the flood storage area or, more significantly, such impact on the Endangered Ecological Communities,
- an area of Bangalay Sand Forest, an Endangered Ecological Community, was recently identified by DECCW, and the impact on this community has not been addressed through the preparation of Species Impact Statement,
- insufficient assessment has been carried on the impact of groundwater into the Warriewood Wetlands and its Endangered Ecological Communities and the threatened species that utilise this area.

The Vegetation Management Plan and Landscape Plan accompanying Meriton's Preferred Project is deficient, selecting inappropriate species likely to adversely impact the Warriewood Wetlands and threaten its Endangered Ecological Communities

A 'core riparian zone' of 20m adjacent to the southern wetland buffer is proposed outside of the development site, and will be on publicly-owned land known as the Warriewood Wetland Reserve. Pittwater Council does not agree to, or support, the use of reserve land as an offset against environmental impact on private land.

Lodge separate application for Stage 2 comprising the remaining 264 dwellings

If Meriton's Preferred Project Concept Plan is approved, Meriton proposes to lodge Stage 2 for the remaining 287 dwellings (which is the balance of the 559 dwellings). The increase in dwelling density, from Council's adopted 25 dwellings per developable hectare to the proposed 75 dwellings per developable hectare, is based on the premise that the dwelling yield will promote housing affordability by having more housing in the market. Council acknowledges that Meriton's Preferred Project proposes a range of dwelling sizes (from studio to 3 bedroom apartments) and will provide housing diversity. The premise that this will result in housing affordability however, is unsubstantiated and would still be outweighed by the resultant impacts, namely:

- The resultant shortfall in car parking spaces will place undue demand on available, on site parking spaces as well as the limited street parking that is presently available in surrounding streets (as detailed in Chapter 5.5.2).
- Significant adverse impacts on the local road network resulting from the traffic generated by this development alone, which has not been designed or planned to cater for a dwelling density exceeding above Council's planned 25 dwellings per hectare (as detailed in Chapter 5.5.3).
- Has not considered the fact there is limited options for mode of travel available in Pittwater, with the existing level of public transport services inadequate and no real commitment to improve service level provision (detailed in Chapter 5.5.3).
- Shortfalls in infrastructure provision required by the demand from the unplanned, increase in population including insufficient and ineffective open space areas proposed for individual dwellings in the development and likely amenity impacts as there will be issues with overshadowing and overlooking into these areas (as in Chapter 5), and in infrastructure and services generally (Chapter 4 and **APPENDIX B**).

Lodge application for subdivision including dedication of land to Pittwater Council

Meriton proposes to dedicate the main internal road and water management facilities. These are required to service and facilitate the development, and are not part of local development contributions imposed by Pittwater Council. The issues with this commitment are:

- The design of the main internal road is inadequate and in Pittwater Council's opinion, does not cater for the amount of traffic generated by this development. This road is contained solely within the development and any increase in width of the road reserve will result in further exceedances with site coverage and in turn, water management requirements. Pittwater Council does not agree to the main internal road being dedicated to Council (as detailed in Chapter 5.5.3).
- There is inadequate details and information regarding the water management facilities for this development, which is intended to then be dedicated to Pittwater Council. Given the deficiencies and uncertainty with the water management information (in terms of surface and ground water, as detailed in Chapter 5.5.7 to 5.5.9), it is unreasonable and inequitable for Pittwater Council to become responsible for the ongoing, operational and maintenance costs associated with the water management facilities. Therefore Pittwater Council does not agree to water management facilities being dedicated to Council.

Prepare a Demolition and Construction Environmental Management Plan

This commitment is a necessary one in any development of a site, and is not unique. Nonetheless, the Waste Management Plan has not demonstrated how the established targets under the Waste Avoidance and Resource Recovery Strategy 2007 can be achieved.

Further, potential short-term impacts on existing residents of Warriewood Valley during demolition and construction phase, particularly in terms of pollution and traffic/parking management and potential road closures, resulting in inconvenience, and demand for the limited street parking spaces that will be required for the construction workers.

The dwellings comply with BASIX

This commitment, although mandatory for residential development under the SEPP (BASIX), is a minimum requirement, considers only water conservation and energy consumption. BASIX, in part, does not consider how the configuration of other buildings or trees/landscaping affects the internal environment of buildings, and in turn the future amenity of residents (eg. Dwellings at the ground floor or on the southern and south-

western elevations are greatly affected by overshadowing (from both adjoining buildings and landscaping).

The Director-General's Requirements had, under Key Issue 11, required Meriton to *"Detail the incorporation of ESD principles...and demonstrate that the proposal has been assessed against a suitably accredited rating scheme to meet industry best practice."* The principles of ESD incorporate the 'whole of development approach' of sustainability of which water conservation and decreasing energy consumption (dealt with under BASIX) are two principles. Meriton's Preferred Project clearly does not considered the 'whole of development' approach of sustainability, for instance, and will affect the amenity of future residents in these dwellings.

Implement the Waste Management Plan

This commitment is also required and necessary for any development where demolition and construction are undertaken, and is not unique.

Nonetheless, the Waste Management Plan does not reasonably demonstrate how the established targets under the Waste Avoidance and Resource Recovery Strategy 2007 can be achieved, in particular where excavation and demolition are proposed.

Incorporate the Arboricultural measures regarding tree removal and tree protection

Uncertainty remains as to the actual number of trees being removed, and has impact on the future landscaped environment of the site and, in turn, its ability to screen the development and minimise visual impact of the built form.

Nonetheless, there is insufficient information quantifying the number of trees to be removed, and the extent of removal on the Endangered Ecological Communities of Swamp Sclerophyll Forest, Freshwater Wetland and Bangalay Sand Forest.

The area of Bangalay Sand Forest is potentially the only local occurrence in the Pittwater Local Government Area and must be retained. This Endangered Ecological Community has not been addressed (either by the Preferred Project Report or the

exhibited Environmental Assessment for MP 09_0162), and requires the preparation of a Species Impact Statement.

An assessment of likely impacts on the Endangered Ecological Communities is still deficient, regardless of the submission of the Preferred Project Report.

Implement the recommendations of the geotechnical assessment

Adopting the recommendations is necessary to ensure there is minimal risk of instability.

Implement bushfire protection measures

This commitment is a necessary one as the site is identified to be bushfire prone land.

Nonetheless, inadequacies with the application of the Asset Protection Zone is unreasonable and will adversely impact the ecological endangered communities in Warriewood Wetland and the threatened species that utilise this area.

Summary of Meriton's Revised Statement of Commitments

Pittwater Council considers that the Revised Draft Statement of Commitments are insufficient. Given the likely impacts generated by an unplanned development that grossly exceeds the planned density for the Warriewood Valley release area, the Revised Draft Statement of Commitments does very little to reasonably demonstrate how this development provides a net public benefit for residents in Warriewood Valley. Rather, Meriton's Preferred Project is more likely to significantly impact the community, and the ecological and urban environments of Warriewood Valley.

Council also acknowledges that the following matters, included in the Draft Statement of Commitments, dated April 2010 are now omitted, namely:

- *Separate application for childcare centre*

Meriton's Stage 1 Preferred Project does not provide details for the child care centre, other than the facility will cater for 40 children. Meriton's Preferred Project Report

and accompanying documents have not provided sufficient details to undertake a completed assessment of this component.

At present, there is insufficient assessment on the likely traffic and parking conflicts arising between the various non-residential uses and residential dwellings, particularly where shortfalls will occur for the residential development and may also be found for the non-residential landuses (as detailed in Chapters 5.5.2 and 5.5.3).

- *Vehicle Management Plan*

Council acknowledges that this commitment is likely to have been incorporated into the Demolition and Construction Environmental Management Plan.

- *Aboriginal archaeology and cultural heritage*

Council had not raised an issue with this commitment.

- *Infrastructure provision*

Council acknowledges that Meriton's commitments relates to site infrastructure works only. As raised in Council's original Submission, this commitment does not address additional infrastructure generated by the additional dwellings generated by this development.

Pittwater Council asserts there are deficiencies in infrastructure provision, being additional infrastructure and services/facilities generated by the increased population resulting from this unplanned development and therefore, have not been planned by Pittwater Council under its Warriewood Valley Section 94 Contributions Plan (Refer to Chapter 4 and **APPENDIX B**). Additionally, infrastructure works resulting from this unplanned development that are outside of the site requires identification and further consideration as to its provision (eg. No safe pedestrian footpath between this site and the Strategic Bus Corridor at Pittwater Road).

Infrastructure provision is a critical issue generated by Meriton's Preferred Project and the additional population it will generate, and must be addressed by Meriton.

- *Ecological restoration works*

These works are a fundamental component for Meriton's Preferred Project as it includes the rehabilitation of a section of Fern Creek that is in the subject site. Nonetheless, insufficient detail has provided.

6.1.2 MERITON JUSTIFICATION FOR INCREASED DWELLING YIELDS

Meriton, following the exhibition of its Environmental Assessment for MP 09_0162, was requested to again provide a justification for the increased dwelling yields by the Department. Meriton's Preferred Project Report provides the following statements as its justification for the increased dwelling yields on 14-18 Boondah Road Warriewood:

"In responding to the issues raised in submissions, the density of the development has been reduced from 600 dwellings to 559.⁴¹...

It is understand [sic] the Department of Planning are undertaking a review of the existing planning framework applying to the subject site and other sectors and buffer areas in the Warriewood Valley and the capacity to accommodate additional dwellings."⁴²

Council asserts that Meriton's Preferred Project has not given any valid planning justification for increasing dwelling yields, and the above statements (quoted from Meriton's Preferred Project Report) serve to highlight this deficiency and the fact that Meriton are relying on an incomplete Strategic Review of the Buffer Areas (further discussed in Chapter 2 of this Submission).

Pittwater Council reiterates that Meriton's Preferred Project Report dismisses the Director-General's requirements by not addressing Key Issue 4 "Land Uses and Density" and the Department's request for justification (made on 15 July 2010).

Meriton's Preferred Project is not required to meet the housing target for Pittwater

⁴¹ Architectus, *Preferred Project Report for major Project MP 09_0162*, August 2010, p29.

⁴² Architectus, *Preferred Project Report for major Project MP 09_0162*, August 2010, p53

Pittwater Council and the Pittwater community asserts that the housing target for an additional 4,600 dwellings by the year 2031⁴³ to be accommodated in the Pittwater LGA (does not include the potential Ingleside Land Release that is currently under investigation) can be met within the existing residential zones of Pittwater.

Pittwater Council again re-affirms that the housing target can be met without the need for additional rezonings or development in excess of what has already been planned in the Warriewood Valley Urban Land Release Area.

Meriton's Preferred Project will not achieve housing affordability

The State Plan has identified targets and goals in relation to Priority E5 'Jobs Closer to Home', and Improve Housing Affordability and Increase the supply of affordable housing for low and moderate income households.

Meriton suggests that the new housing stock delivered by this development will assist housing affordability, and considers this sufficient justification for an increase in density. This suggestion may be true however quantifying the extent is difficult. The form and scale of Meriton's Preferred Project is not commonplace in the Pittwater LGA therefore, quantifying whether there is an existing demand or market for this form of development in Pittwater remains uncertain. This concern was also reiterated in the Department's Strategic Review of the Buffer Areas, given that the price point of the final dwelling product does not, by itself, define housing affordability. There are other hidden costs associated with the dwelling such as property levies (that may maintenance of 'private facilities' within the development eg swimming pool, gym, water management facilities), its location to and ability to access (including the associated costs) available public infrastructure and services including public transport. Council considers that Meriton and the Department's Strategic Review has not demonstrated that increasing dwelling density and the range of dwelling products will lead to housing affordability.

Meriton suggests that the development will contribute, in some way, to providing alternative, affordable and key worker accommodation, and states that the dwellings "*are generally consistent with the minimum unit sizes that can contribute to housing*

⁴³ NSW Department of Planning, *Exhibited Draft North East Subregional Strategy*

affordability”⁴⁴, based on the Affordable Housing Service’s suggestion of minimum apartment sizes under the Residential Flat Design Code (RFDC) and are typically for affordable housing or subsidised rental housing. The RFDC however, confirms that the size of dwellings (or apartments) is only one factor influencing affordability.

Whilst there may be an argument that the development will create some greater diversity in housing stock, there is absolutely no evidence to suggest that this will, in any way, provide affordable housing (in relation to subsidised rental housing) or housing for key workers (with family accommodation).

Information from the Centre for Affordable Housing (based within Housing NSW) indicates there is a very significant issue in Pittwater and on the Northern Beaches in relation to affordable housing:

‘The Northern Beaches, including Pittwater, is one of the least affordable areas in NSW, both for rental and purchase. As at June 2008, 70% of low and moderate income earners in the area were experiencing housing stress in the private rental market (compared with the average of 56% across the Greater Metropolitan Region (GMR)). Only 10% of properties in the private rental market were affordable to households on 80% of median income (compared with 31% in the GMR), and only 0.3% of dwellings were affordable for purchase to households at 80% of median income in Pittwater (compared with 0.9% on average in the GMR). Indeed, the BankWest Key Worker Housing Affordability Report from March 2009 found that housing in Pittwater is not affordable for purchase by any of the five key worker groups investigated – nurses, teachers, police officers, fire fighters and ambulance officers. These lower income workers, who provide critical services to the community, may increasingly be priced out of the local housing market. This emerging problem will become increasingly evident as older lower income workers, who bought into the area before it became unaffordable, retire and businesses seeking to replace them with younger workers will either be forced to pay substantially more than 30% of their income in rent or purchase costs or locate some distance from jobs and services (at high personal and economic cost).’

⁴⁴ Architectus, Major Project MP 09_0162 Preferred Project Report Prepared for Meriton Apartments, August 2010 (p47).

At present, it is Council's opinion that this development does little to demonstratively achieve 'public benefit' in regards to affordable housing or accommodation for key workers, in particular demonstrating how this development will assist with the State Government's Priority 'Improve Housing Affordability', and Goal to 'Increase the supply of affordable housing for low and moderate income households' that, in turn, achieves employment containment (under Priority E5 'Jobs Closer to Home').

The only way that this development could contribute towards addressing this problem in some small measure, would be in the form of a dedication of housing stock which, in turn, could be managed by an appropriate Community Housing Provider (registered under the *Housing Act 2001*) for the purposes of affordable housing and specifically targeting key worker groups. For the project to achieve even a modest public benefit in relation to affordable housing, it would need to contribute 10% of the total approved dwellings in excess of the 186 dwellings (pro-rata for the development site).

Notwithstanding, housing affordability in terms of home purchase addresses one housing option whilst subsidised or assisted rental accommodation plays a vital housing option in the Pittwater community and planning to supply this option is essential for the long term sustainability of the community.

6.1.3 NO 'AGEING IN PLACE'

Pittwater Council, in its original Submission of 15 June 2010, identified the requirement for 50% of dwellings within an STP Buffer Area⁴⁵ to be designed to be capable of adaptation for disabled or elderly residents in accordance with Class B the Australian Adaptable Housing Standard (AS 4299-1995), which includes "pre-adaptation" design details to ensure adaptability is achieved. This has been ignored by Meriton.

Neither Meriton's Preferred Project nor the exhibited Environmental Assessment demonstrate compliance with this control. Further, **no parking for persons with a disability** (allocated to dwellings or visitors) have been nominated or shown.

⁴⁵ Control C1.9 'Adaptable Housing and Accessibility', under *Pittwater 21 DCP*.

By contrast, the adjoining ARV development is an employment generating development that provides an affordable housing product for older people and people with disabilities, as it incorporates the following elements:

- Independent living units via a 'loan licence' agreement,
- Provision of residential care facility, including provision for 68 dementia specific beds, which is a much-needed facility in Pittwater.

Meriton's Preferred Project Concept Plan, and certainly Stage 1, does not demonstrate how its dwellings are designed to capable of adaptation whereupon 50% of the dwellings (148 of the 295 dwellings under Stage 1) will be designed to be capable of adaptation for disabled or elderly residents, or that the lifts are sufficient to provide access from the basement to allow access for people with disabilities.

6.1.4 DOES NOT ACHIEVE 'WHOLE OF DEVELOPMENT' SUSTAINABLE OUTCOMES

'Developments should be designed and constructed beyond its initial/first use to ensure that building stock is durable and capable for adaptability in the future. This 'whole of building' approach should also consider how the building design, finishes and materials used in the construction phase affect the amenity and safety of future occupants of the building(s).'

Compliance with BASIX and Section J of the BCA are the stated commitments for the Meriton proposal. These however, are minimum requirements and **not industry best practice**.

Meriton's Preferred Project incorporates only the minimum requirements and therefore does little to achieve sustainability and/or negate the impacts of the development. In particular:

There is minimal reduction of the development's ecological footprint

- No demonstrable commitment to 'whole of building approach' including (but not limited to) water conservation (including minimising water consumption), waste

minimisation, improve the indoor environmental quality regard to the non-residential uses.

- No demonstrable commitment to how the development will achieve a 66% reduction for household waste and reduce 63% of commercial waste (for the child care centre, swimming pool/gym, and retail tenancies) going to landfill, as targeted by the Waste Avoidance and Resource Recovery Strategy 2007. In addition, there needs to be clear demonstration how the construction and demolition phase of this development will achieve a reduction of such waste going to landfill (of up to 76%).
- Reducing the number of parking spaces provided by the development will not result in reducing traffic generation to the site. The impact however will result in significant congestion in the local road network.
- Gross overdevelopment of the Meriton Preferred Project Concept Plan (and Stage 1).

Does little to enhance the environment and, in turn, enhance the liveability and amenity of the Pittwater community/villages

- The bulk, scale and height of the development is inappropriate for the locality and will become the dominant feature in what is otherwise a treed, landscaped setting.
- The existing canopy cover and natural landscape character of the area, greatly valued by the Pittwater community, will be eroded by this development.
- In regard to the Preferred Project's Stage 1, the landscaping will effectively cast shadows onto the dwellings, particularly the living areas, and the triangular shaped common open space area, and will affect the amenity and liveability of, and in turn, the enjoyment of future residents to these dwellings.
- In regard to the Preferred Project's Stage 1, the private open space areas proposed for each dwelling are either insufficient or will be cast in shadow by adjoining buildings or landscaping. The resultant outcome means reducing the amenity and liveability of and in turn, the enjoyment of future residents to these dwellings.
- The number of cars generated by the development, further burdened by insufficient provision of on-site parking spaces, will result in significant congestion in the local road network. The resultant outcome means that the amenity of residents in the proposed development and the wider community is greatly reduced.

- Does little to improve quality of life (health, housing, employment, community) within the capacity constraints of the area and bioregion.
- There is little demonstrable increase and efficiency in public transport services in the Pittwater area, resulting in an inability to achieve the State Plan targets and goals in relation to Priority E5 'Jobs Closer to Home'.
- No demonstrable commitment to provide affordable housing for targeted key workers in the Pittwater LGA.
- No consideration to employment containment.
- No demonstrable commitment that dwelling designs are 'pre-adaption' enabling 50% of all dwellings to be capable of adaptation for disabled or elderly residents in accordance with Class B the Australian Adaptable Housing Standard (AS 4299-1995).

SUMMARY OF ASSESSMENT ISSUES

Community expectation and participation

Meriton's Preferred Project Report fails to address the issues originally raised by Council in its Submission to the exhibited Environmental Assessment for MP 09_162. This failure means that there is a statutory flaw in the process for this application.

Meriton's Preferred Project seriously departs from the community's expectations, and Council's vision for orderly, well planned and sustainable development in Warriewood Valley.

Residents who already live in and near to Warriewood Valley should be able to rely on what has been planned for the release area, and be confident that they will be made aware of and able to meaningfully participate in proposals to change the established development framework for the Valley.

Meriton's Preferred Project does not provide the Pittwater Community any public benefit that warrants approval of a development that so dramatically departs from that which has been specified for the site following an orderly planning process that established the applicable dwelling yields and the planning and design criteria for Warriewood Valley.

Meriton's Preferred Project Report and accompanying documents have not provided sufficient details regarding the child care centre to undertake a completed assessment of this component. There is insufficient assessment on the likely traffic and parking conflicts arising from the childcare centre and residential dwellings, particularly where shortfalls occur for both the residential development and childcare centre component.

The Pittwater Community should not be burdened by a development that was not originally planned or anticipated, and therefore not provided for through planned infrastructure and service provision.

7 Conclusion

Meriton's Preferred Project for 14-18 Boondah Road, Warriewood fails to address the issues originally raised by Pittwater Council in its Submission to the exhibited Environmental Assessment for MP 09_162. This failure means that there is a statutory flaw in the current process.

Pittwater Council contends that the Strategic Review on the Buffer Areas, commissioned by the Department of Planning, is incomplete as it has not addressed the likely impacts of increasing density in the Buffer Areas in terms of visual amenity, traffic and transport (in particular car parking), infrastructure and services requirements. Council has identified significant deficiencies with the Draft Report (prepared by Worley Parsons on behalf of the Department) and its conclusions, raising flaws in the Department's strategic review process. Accordingly, the Strategic Review Report should not be given any weight in the assessment of Meriton's Preferred Project MP 09_0162 for 14-18 Boondah Road Warriewood.

Meriton's Preferred Project must be refused because it and the precedent it would set would cause significant unplanned increases in dwelling yields in the Warriewood Valley, resulting in localised over-development, lacking in infrastructure and services that would be incompatible with the pre-planning for Warriewood Valley in particular, and Pittwater LGA and Warringah Peninsula in general, for the reasons outlined in this submission.

Development of the subject site must retain the integrity and be consistent with the metropolitan, subregional and local strategic planning documents, which together constitute an orderly planning process for Warriewood Valley, the Pittwater LGA and Warringah Peninsula.

A future development proposal complying with the objects of the *Environmental Planning and Assessment Act*, strategic directions, local dwelling yields/development controls, infrastructure provision, and community expectations derived over years of public consultation and concurrence of stakeholders including the Department of Planning, would be welcomed.

APPENDICES

Submission to Department of Planning on
Preferred Project Report for Major Project
Application MP 09_0162 at 14-18 Boondah
Road, Warriewood

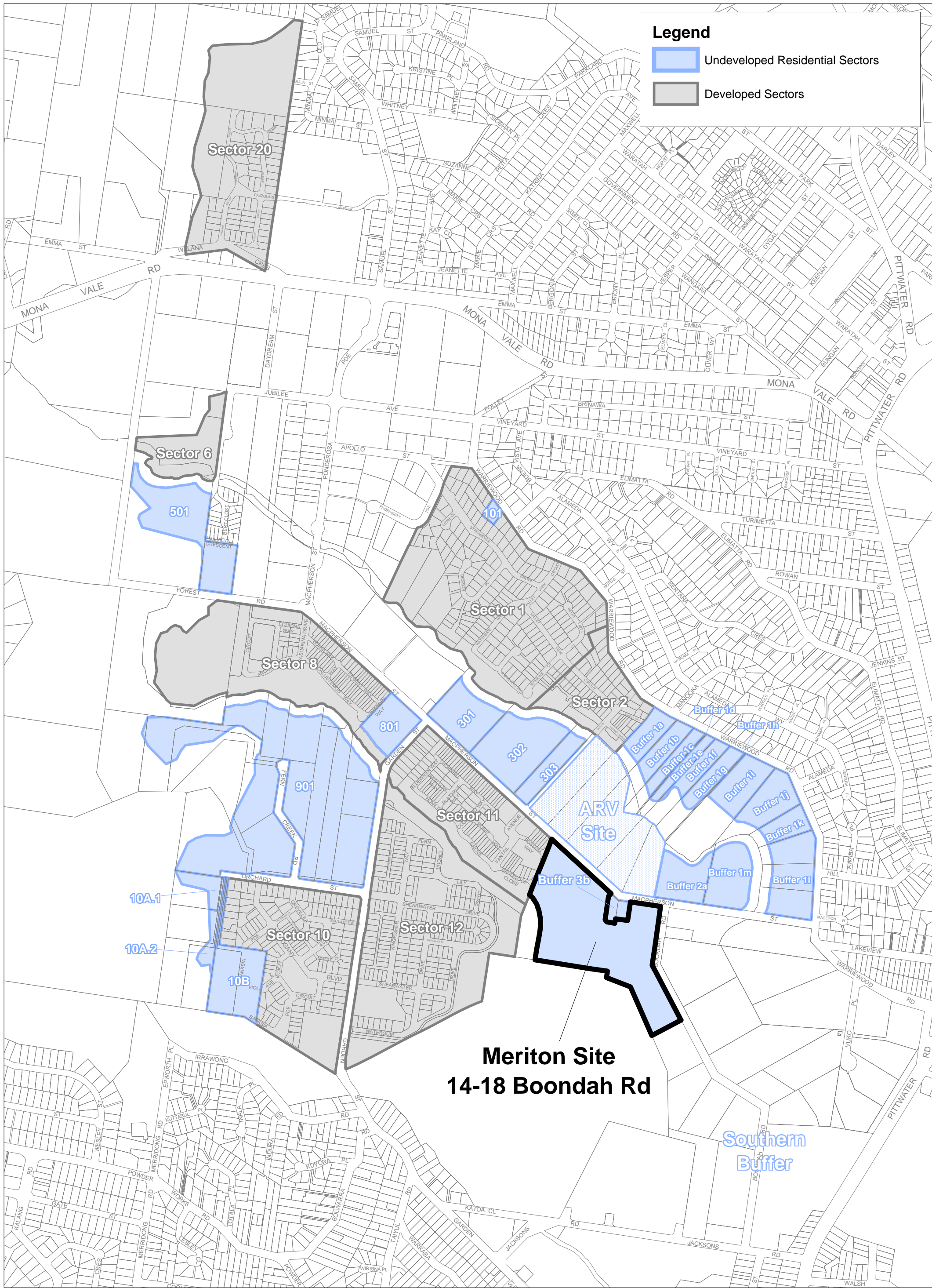
Prepared by Pittwater Council 8 October 2010



PITTWATER COUNCIL

APPENDIX A

Warriewood Valley sector locality map



APPENDIX B

Developer Contributions

Table of contents

1	Introduction	2
2	Applicability of the Warriewood Valley Section 94 Contributions Plan to the Meriton proposal	5
3	Estimate of contribution rates for infrastructure elements to be provided by Developer Contributions	9
4	Inability to provide additional infrastructure	82
5	Direct provision of infrastructure – Who pays?	84

Attachments

1	Warriewood Valley Section 94 Plan No. 15 Amendment No. 16 <i>(not attached – to be separately provided)</i>
2	Minister for Planning's Direction (10 July 2009)
3	Warriewood Valley Section 94 Contributions Plan – Independent Review by Hill PDA <i>(not attached – to be separately provided)</i>
4	Pittwater Council letter to the Department of Planning
5	Review by Traffix (for Pittwater Council) dated 30 April 2010
6	Minister for Planning's Direction (14 th September 2010)

1 Introduction

The proposed Meriton development is on land to which the *Warriewood Valley Section 94 Contributions Plan No. 15 Amendment No. 16* (the Plan) applies.

The purpose of this Plan is to enable Pittwater Council to require payment of a monetary contribution the direct dedication of land free of cost (where applicable) and/or to accept the provision of material public benefits (including the dedication of land) or the carrying out of works in kind, towards the provision, extension or augmentation of public amenities and public services that will, or are likely to be, required as a consequence of that development in the Warriewood Valley Urban Release Area.

The Plan provides the funding for Infrastructure and Services for the general use of the new residents and individual occupants in the land release area, where they cannot be directly and equitably provided through the development process.

This Plan seeks contributions for:

- Traffic and Transport Facilities
- Multi-functional Creekline Corridors
- Community Service Facilities
- Open Space & Recreation Areas
- Pedestrian and Cycle Facilities
- Bushfire Protection Facilities
- Library Services
- Plan Management

A copy of the Plan is attached (Attachment 1).

The contribution rate stated in the Plan is currently \$63,100 (including the value of land required to be dedicated for creekline corridor).

It should be noted that the value of any contributions under this Plan was capped at \$62,100 per dwelling through a Direction of the Minister for Planning, dated 10th July 2009.

In response to the Ministerial Direction of the 10 July 2009, the Plan was the subject of an independent external review, including development of a refined financial model, as well as a

comprehensive internal review to limit the contribution rates to a maximum of \$62,100 until 2012 (see Attachment 3).

As an outcome of this review process, Council forwarded a submission to the Department of Planning seeking its advice and concurrence on a series of issues fundamental to the final notes of a new Warriewood Valley Section 94 Contributions Plan to implement the Ministerial Direction (see Attachment 4).

This submission was forwarded to the Department on 8 February 2010 and was subsequently the subject of a meeting with Department staff where the need for an urgent response was emphasised. No response has been received to date.

This review process cannot be finalised and used to prepare a new Warriewood Valley Developer Contributions Plan until a response to the submission to the Department of Planning (as required by the Ministerial Direction) is received and the guidelines for Developer Contributions Plans finalised.

Pending the Department's response, Council has prepared an amended schedule of infrastructure and service works for inclusion in a revised Plan which using a revised financial model and costings, restricts contributions to the \$62,100 until 2012 as specified in the Ministerial Direction of the 10 July 2009.

An estimate of contribution rates based on the provision of local infrastructure and services, and direct dedication of land, necessary to provide a basic level of safety and amenity for the Warriewood Valley Urban Land Release has been determined in this document for the purpose of providing advice to the Minister for Planning & Infrastructure in relation to the Meriton 3A Proposal.

On 4 June 2010 a further Ministerial Direction was issued in relation to developer contributions for local infrastructure and services.

The effect of this direction (regardless of the previous Ministerial Direction of 10 July 2009) was to limit the monetary component of developer contributions for local infrastructure and services to a maximum of \$20,000 per dwelling with an additional allowance for the direct dedication of land.

On the 14th September 2010 a further Ministerial Direction revoked the Direction of the 4th June 2010 and advised that Warriewood Valley Section 94 Contributions Plan No.15 Amendment No.16 applies to the Meriton site. (see Attachment 6)

Council has recently reviewed its Warriewood Valley Planning Framework and increased development yields by 127 dwellings, in order to deal with the “tail” of development, where due to specific site constraints and levels of existing capitalisation it is unlikely that development will occur until 2015 to 2020. Otherwise the majority of remaining development is expected to be completed by 2015. These 127 additional dwellings also serve to incentivise the development process while providing a development scenario that is consistent with the outcomes of the planning process for Warriewood Valley.

The Department has not accepted the outcomes of this Council review pending its own “Strategic Review” which it has indicated will “advise” the 3A Meriton Process.

Consistent with Pittwater Council’s submission, the Meriton Preferred Project Application is not supported for the many reasons given. However, for the purpose of determining a hypothetical equitable s94 developer contribution rate for the Meriton proposal (and only for that purpose) the development density proposed by Meriton, either for that site alone (Scenario 2) or for all remaining developable land in the Warriewood Valley (Scenario 3) have been modelled.

To determine an equitable developer contribution rate, the process will need to apportion the cost of Infrastructure and services remaining to be provided amongst the remaining residential and industrial/commercial development.

The Developer Contribution determined by this process as being applicable to the Meriton proposal departs from that specified in the Warriewood Valley Section 94 Contribution Plan for the reasons outlined in this document.

2 Applicability of the Warriewood Valley Section 94 Contributions Plan to the Meriton proposal

The Meriton proposal is for 559 medium to high density dwellings, ranging from bedsitters to 3 bedroom units on a site which the Warriewood Valley Section 94 Contributions Plan assumed a yield of 142, 3 bedroom (plus) dwellings.

The Warriewood Section 94 Contributions Plan (which is the current plan pursuant to the Ministers Direction of the 14th September 2010 (see Attachment 6) does not address development of the form that Meriton propose in three ways:

1. The significant increase in the number of proposed dwellings
2. The proposed development incorporates smaller residential development forms than the anticipated development form in Warriewood Valley, which was for 3 bedroom (or plus) family home. (Note: this has consistently been the predominant form of development in the Warriewood Valley to date). These smaller dwellings will cause less demand for services than the larger 3-4 bedroom (plus) dwellings upon which the demand modelling in the current Plan is based.
3. The precedent it would set for a similar density and form of development as the Meriton development if this also occurred on the remaining undeveloped land in the Warriewood Valley (currently geared to a lower density outcome)

In order to determine an equitable developer contributions rate, any calculation of developer contributions for the Meriton proposal will need to address these issues. These issues are discussed as follows:

2.1 INCREASED NUMBER OF DWELLINGS

A substantial increase in the number of dwellings will impact on developer contributions, as follows:

- For infrastructure which does not require expansion as a result of the additional development (e.g. creekline corridors) then there is more development available for collection of contributions and therefore associated element contribution rates will reduce per dwelling.

- Where there is an increase in the number of dwellings and that increase requires an increase in land acquisition and infrastructure, the cost of all of the required infrastructure and services including the additional requirements of additional infrastructure to be provided to meet the demands of the additional population should be shared amongst all future development.

2.2 DIFFERENT DEVELOPMENT FORMS

Because the expected (and realised to date) form of residential development in Warriewood Valley Urban Land Release was for a predominance of 3 bedroom (or plus) dwellings, the current Plan and the reviewed Plan being prepared in accordance with the Minister's direction, does not provide for smaller forms of residential development such as bedsitters, one bedroom and two bedroom units.

In order to calculate an equitable contribution rate for different forms of development, each form of development needs to be expressed in terms of an "equivalent dwelling" ratio which would create the same demand as a 3 bedroom or plus dwelling.

For instance, 214m² of land zoned for industrial commercial development creates the same number of vehicle movements as a 3 bedroom house and therefore, equates to 1 equivalent dwelling.

Likewise, a bedsitter on a proportional basis is deemed to have an occupancy one-third of that of a 3 bedroom dwelling i.e. one-third of an equivalent dwelling.

The following table sets out the impact of the proposed Meriton development in terms of equivalent dwellings (i.e. converted to 3 bedroom equivalents based on occupancy rates)

Form of development	Stage 1	%	Projected no. dwellings for all Stages	Residents per unit	Total residents	Equivalent dwellings (i.e. 3 bedrooms)
Studio	4	1.4	75	1.212	91	25
1 Bedroom	41	13.9				
2 Bedroom (medium)	65	22	425	2.424	1030	283
2 Bedroom (large)	168	56.9				
3 Bedroom	17	5.8	59	3.636	215	59
TOTAL	295		559		1,336	367

Note: Information obtained from Preferred Project Report Table 6 (Preferred Concept Plan Unit Mix)

2.3 PRECEDENT IMPACT

As discussed in the report to which this document is appended, the Meriton proposal is located on land identical with similar environmental or demographic constraints, to other areas of the Valley remaining to be developed, which have been identified through zoning or the investigation and planning process and subsequent planning framework documents to be suitable for residential development.

On the basis that there is no substantial difference between the Meriton development site and most other undeveloped sections of Warriewood Valley, the Meriton proposal potentially sets a clear precedent for similar development forms to be proposed on other land, otherwise it could be argued that Meriton is being given an inequitable advantage in terms of assigning a higher density development capability. This however is seen as creating an unacceptable precedent for this locality and for Pittwater in general.

The following table sets out the projected total dwellings (should the Meriton proposal become accepted as being a precedent) for development densities on other areas with identical or similar environmental and demographic constraints and deduces the number of equivalent 3 bedroom dwellings on those sites on the basis of the same relative mix of development form (i.e. studio, 1

bedroom, 2 bedroom, 3 bedroom) as for the Meriton development scenario. It then expresses that yield in terms of equivalent 3 bedroom dwellings.

Warriewood Valley residential/equivalent dwelling projections						
Undeveloped sites suitable for residential development	Dwelling projection as per Warriewood Valley Planning Framework 2010	Developable area (hectare)	Dwellings per developable hectare as per Meriton's Proposal	Total dwellings as per Meriton's Proposal	Equivalent dwellings per developable hectare as per Meriton's Proposal	Total equivalent dwellings as per Meriton's Proposal
Buffer Area 1	201	9.2716	75	695	49.3	457
Buffer Area 2 (P+)	20	.405	75	30	49.3	20
Buffer Area 3 – Meriton	186	7.4427	75	559	49.3	367
Buffer Area 3 (remainder)	7	.2996	75	23	49.3	15
Sector 3 (P+)	131	5.1962	75	390	49.3	256
Sector 8 (remainder)	19	1.1858	75	89	49.3	58
Sector 9 (east)	195	7.9045	75	592	49.3	390
SUB TOTAL	759			2,378		1,563
Other Areas with no capacity for intensification	168	-	-	168	-	168
TOTAL	927			2,546		1,731

3 Estimate of contribution rates for infrastructure elements to be provided by Developer Contributions

The following section determines an equitable estimated contribution rate for the Meriton proposal.

The contribution rates for each element have been calculated for each of the following three development scenarios. It is further noted that for each of the Development scenarios the Southern buffer component has been removed as both an expenditure item and developer contribution requirement.

- Scenario 1 – The developer contribution rate for the development densities and forms as proposed in the Warriewood Valley Framework 2010 (i.e. 927 equivalent dwellings of residential development plus the number of equivalent dwellings of industrial commercial development where relevant).
- Scenario 2 – The developer contribution rate for a development scenario that includes a stand-alone Meriton development, with all other developable areas in the Valley having a development potential as proposed in the Warriewood Valley Planning Framework 2010 (i.e. 1,107 equivalent dwellings of residential development plus the number of equivalent development of industrial/commercial development, where relevant).
- Scenario 3 – The Meriton development, is the precedent for similar densities in all remaining developable areas of Warriewood Valley, except the areas which have constraints which restrict density to that forecast in the Warriewood Valley Planning Framework 2010 (i.e. 1,721 equivalent dwellings of residential development plus the number of equivalent development of industrial/commercial development, where relevant).

Warriewood Valley equivalent dwelling (residential) yield		
Scenario	Meriton site – yield and equivalent dwellings (residential)	Warriewood Valley – total yield and equivalent dwellings (residential)
Scenario 1	187*	927
Scenario 2	367	1,107
Scenario 3	367	1,731

**Based on 2010 Planning Framework revised residential yields*

Note: In addition to the above are added industrial equivalent dwellings to those Plan elements that are applicable.

3.1 TRAFFIC AND TRANSPORT FACILITIES

Scenario 1

Table showing remaining traffic and transport facilities/infrastructure required to service development (as per Warriewood Valley Planning Framework 2010)		
Item no.	Infrastructure item	Cost in 2010 dollars
2.4	Traffic calming (intersections) Warriewood Road adjacent to STP Buffer Area	\$148,299
2.5	Traffic calming (intersections) Warriewood Road adjacent to STP Buffer Area	\$44,377
3.	Realignment and reconstruction of intersection – Warriewood Road/Macpherson Street	\$1,125,740
4.3	Road bridge over Narrabeen Creek in Macpherson Street between Boondah Road and Warriewood Road	\$5,762,404
5.3	Bus bay – Warriewood Road at Jubilee Avenue east	\$38,399
5.5	Bus bay – Warriewood Road between Manooka Place and Alameda Way	\$38,399
5.6	Bus bay – Warriewood Road at Alameda Way	\$38,399
5.7	Bus bay – Warriewood Road at Macedon Place	\$38,399
5.8	Bus bay – Macpherson Street/Boondah Road (2 bays)	\$76,798
5.10	Bus bay – Garden Street at Macpherson Street	\$38,399
5.11	Bus bay – Macpherson Street (north side) at Garden Street	\$38,399
6.	Medians – Jubilee Avenue at bend west of Daydream Street	\$38,421
13.2	Pedestrian refuge Warriewood Road/Alameda Way	\$28,228
13.8	Pedestrian refuge Garden Street /Mullet Creek	\$28,228
14.	Pedestrian refuge Macpherson Street (Brands Lane)	\$28,228
14.2	Pedestrian refuge Macpherson Street (Brands Lane and Boondah Road)	\$28,228
16.1	Pedestrian refuge Garden Street and Fern Creek	\$28,228
22.	Roundabout – Jubilee Avenue/Warriewood Road	\$177,438
23.	Roundabout – Macpherson Street/Brands Lane	\$59,465

24.	Roundabout – Macpherson Street /Boondah Road	\$1,276,354
26a	Upgrade – Boondah Road from Macpherson Street to southern boundary of STP Buffer Area 3	\$688,259
29.	Route signage at various locations across the Warriewood Valley road network	\$21,998
32.	Roundabout – Macpherson Street/Garden Street	\$962,406
41.	Road widening – Macpherson Street /Garden Street	\$251,344
46.	Road upgrade – Warriewood Road (Macpherson Street to Vuko Place)	\$340,775

A	Splay corner Warriewood Road/Jubilee Avenue	\$13,000
B	Splay corner Boondah Road/Macpherson Street	\$94,063
F	Splay corner Garden Street/Macpherson Street	\$25,000
G	Splay corner Macpherson Street/Brands Lane	\$6,825
H	Splay corner Macpherson Street/Warriewood Road	\$32,500
	TOTAL	\$11,517,000

Scenario 2

Table showing additional traffic and transport facilities/infrastructure required in addition to Scenario 1 as a consequence of expanded development on Meriton site	
Additional infrastructure item	Cost in 2010 dollars
Pittwater Road/Warriewood Road signalised intersection upgrade	\$400,000
Jubilee Avenue/Ponderosa Parade roundabout (Stage 2)	\$200,000
Boondah Road pavement strengthening (pro-rata)	\$125,000
TOTAL (to be added to Scenario 1)	\$725,000

Scenario 3

Table showing additional traffic and transport facilities/infrastructure and services required to service expanded development if Meriton density is extrapolated to ALL other areas of Warriewood Valley (i.e. Scenario 3)	
Additional infrastructure item	Cost in 2010 dollars
Signalised intersections of the following:	
Warriewood Road/Macpherson Street	\$300,000
Macpherson Street/Garden Street	\$300,000
Warriewood Road/Vuko Place	\$300,000
Jubilee Avenue/Ponderosa Parade	\$300,000
Garden Street and Jackson Road	\$300,000
Mona Vale Road/Ponderosa Parade	\$600,000
Pittwater Road/Warriewood road signalised intersection upgrade (from S2 above)	\$400,000
Entry threshold Narrabeen Creek	\$69,000
Daydream cul-de-sac	\$86,000
Pedestrian refuge – Fern Creek Road	\$22,000
Improve sight distance Garden Street South of Irrawong Road	\$115,000
Boondah Road/Jacksons Road channelisation	\$57,000
Pavement strengthening – Ponderosa Parade	\$487,000
Pavement strengthening – Foley Street	\$171,000
Central median – Orchard Street	\$109,000
Street trees	\$18,000
Splay corners Warriewood Road/Vuko Place	\$40,000
Road upgrade – Warriewood Road (Macpherson Street to Vuko Place)	\$170,000
Boondah Road reconstruction (pro-rata with Southern Buffer)	\$1,300,000
TOTAL (to be added to Scenario 1)	\$5,144,000

Current position for plan element

The traffic and transport element of the Warriewood Valley Section 94 Contributions Plan has a deficit of \$511,225 as at 30 June 2010.

As at 30 June 2009, this Plan element has collected contributions from 1968 equivalent dwellings and has provided \$8,647,343 worth of infrastructure and services (in 2010 dollars).

The quantum of undeveloped industrial commercial land that will contribute to this element is 4.8185ha or 248.065 equivalent dwellings.

Remaining leviable development for the traffic and transport element

Table showing the remaining leviable development for the three development scenarios			
Scenario	Remaining residential (equivalent dwellings)	Remaining industrial/commercial (equivalent dwellings)	Total (equivalent dwellings)
Scenario 1	927	248.065	1,175.065
Scenario 2	1107	248.065	1,355.065
Scenario 3	1731	248.065	1,979.065

Calculation of contribution rates in 2010 dollars

The following is a simplified formula for determining the contribution rate per equivalent dwelling for this element and can be used to determine an estimate of that rate.

Contributions rate per equivalent dwelling:

$$= \frac{\text{Cost of providing infrastructure +/- Balance on hand}}{\text{Equivalent dwellings to be levied}}$$

In practice, this formula is applied through a financial model which addresses impact on contribution rate calculations of a result of the phasing of expenditure and the timing of the receipt of contributions.

For this element, the calculated contribution rates as per the simplified formula are as follows:

Scenario 1

$$\begin{aligned}\text{Contributions rate} &= (\$11,517,000 + \$511,225) \div 1,175.065 \\ &= \$10,236\end{aligned}$$

Scenario 2

$$\begin{aligned}\text{Contributions rate} &= (\$11,517,000 + \$511,225 + \$725,000) \div 1,355.065 \\ &= \$9,412\end{aligned}$$

Scenario 3

$$\begin{aligned}\text{Contributions rate} &= (\$11,517,000 + \$511,225 + \$5,144,000) \div 1,979.065 \\ &= \$8,677\end{aligned}$$

Summary table showing contribution rates

Scenario	Contribution rate (per equivalent dwelling)	Meriton Proposal (equivalent dwellings)	Contribution for Meriton development
Scenario 1	\$10,236	187*	\$1,914,132
Scenario 2	\$9,412	367	\$3,454,204
Scenario 3	\$8,677	367	\$3,184,459

*Based on the revised residential yields in the 2010 Planning Framework.

The calculations above are simplified formulas that provide indicative contribution rates for each scenario in 2010 dollars. These contribution rates are subject to change as and when the Department of Planning respond to Council with critical details requested concerning works and contribution rate escalation within Council's new Financial Model and Developer Contributions Plan.

In order to keep pace with inflationary pressures such as rising infrastructure costs and time value of money for the purposes of this Submission, the Contribution Rate applicable to each element is to be indexed to reflect the average of the two quarterly variations of the Consumer Price Index, All Group Index Number for Sydney and the Building Price Index for NSW between the date the proposed Contribution Rate was determined by Council and the date the levy is paid.

The formula governing indexation of the contributions rate is as follows:

$$\text{ICR} = \text{OCR} \times ((\text{CP2}/\text{CP1}) + (\text{BPI2}/\text{BPI1})) \div 2$$

Where:

ICR = the Indexed Contribution Rate at time of Payment.

OCR = the Original Contribution Rate determined by the Council.

CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment.

CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition (Original Contribution Rate).

BP2 = the Building Price Index, NSW, in respect of the quarter ending immediately prior to the date of payment.

BP1 = the Building Price Index, NSW in respect of the quarter ending immediately prior to the date of imposition of the condition (Original Contribution Rate).

Nexus

The justification for determining the extent to which development is required to contribute to a fund to provide common infrastructure and services for Warriewood Valley, is as follows:

Causal nexus

The accompanying increase in residential and worker population in the release area will result in increased travel demand and increased traffic flow in and around the release area. The Traffic and Transportation Study, November 1997 (by Urban Research and Planning Pty Ltd) for the release area predicts that the Urban Land Release area will generate an increase of up to 31,000 vehicle trips per day based on an acceptable Level of Service B (average).

Estimations indicate that the network can accommodate up to 44,000 vehicle trips per day with a reduced Level of Service for the AM and PM peak demands. (Based on a projection of 1949 dwellings and 27ha commercial development.)

The increased travel demand derived from the new development within the Warriewood Valley will generate the need for:

- New and/or augmented traffic facilities to promote the permeability and connectivity of the road network to the surrounding arterial road system and within the release area;
- The upgrading of road intersections and sections of roads to provide the required road network which promotes the efficient, safe and orderly movement of people and goods;
- The provision of safe access to and from Mona Vale Road by the broader Release Area by keeping the road system open and the use of Ponderosa Parade connection to Mona Vale Road constructed under this Plan;
- Improved connectivity of the road network to facilitate access and promote low travel times/distance to and from the Release Area;
- Bus connections and emergency vehicles access;
- Improved and safer access to the schools within and adjacent to the Release Area;
- Upgrading of Macpherson Street in order to adequately service traffic needs while maintaining its residential amenity and reducing the adverse impacts of commercial traffic;
- A series of traffic calming measures along roads adjacent to and within the Release Area to mitigate the negative impact of increased traffic generated by the land release on the pedestrian safety and amenity of the area;
- The provision of facilities that promote reduced reliance on private motor vehicles within Warriewood Valley and the use of more environmentally sustainable transport modes including public transport, cycling and walking.
- Provision of emergency access routes during major flood events, including access along Macpherson Street to Warriewood Road.

The road and traffic network program of works generated from the Traffic and Transport Study reflects the minimum requirement for road and traffic facilities within the Warriewood Valley Land Release Area; providing sufficient capacity within the network to accommodate variations over time in the mix between residential and industrial/commercial land usage.

The recent report by consultants Traffix (30 April 2010) provides the following summary and conclusions in relation to the proposed Meriton development and potential precedent impacts:

Summary and conclusions

The recent report by consultants Traffix (30 April 2010) (Attachment 5) provides the following Summary and Conclusions in relation to the proposed Meriton development and potential precedent impacts:

The following matters are particularly noteworthy:

- *The development is grossly deficient in relation to resident parking and the expectation that the shortfall can be overcome by public transport for the range of trips types and times that these occur requires a leap of faith, with the result that on-street parking will occur;*
- *The visitor parking requirements are grossly deficient and will create significant on-street parking demands;*
- *The compounding effects of the above will be an extraordinary reliance on on-street parking within and external to the site, with attendant serious amenity and safety implications;*
- *Even based on the Stage 1 and 2 developments, the principles embodied in the Roads Masterplan are compromised, with excessive mid-block volumes. If the density of dwellings on this site is translated onto other candidate sites through precedent, which seems likely, this situation will be further exacerbated and in addition, intersections may fail.*
- *The consideration of any high density development of the nature proposed in this application in our view triggers a need for a comprehensive traffic/transport study that can identify infrastructure requirements, including road-based and public transport-based measures. This would enable the Section 94 Plan to be structured to meet this demand. This would also presumably enable an assessment of parking rates to be investigated in more detail, rather than reliance on the experience within the Warringah Council area.*

Having regard to the above, we consider that the Part 3A Application is fundamentally flawed on traffic and transport planning grounds and should not be approved in its current form, with a need to undertake further studies with the proposed densities which present significant potential problems for Council and the local community.

Of Particular concern is the lack of provision of resident and visitor parking for the Meriton development on that site. The deficiency is assessed as being equivalent to 1.5 k of parking (i.e. 257 spaces at 6m length per space). To put this into perspective, this is equivalent to a continual parking lane on one side of Macpherson Street and Boondah Road from Garden Street all the way to Jacksons Road – a major and untenable deficiency.

On the basis of the above:

- Scenario 2 (the Meriton stand alone proposal) results in the need for additional intersection control management and road works as listed in Table. This is on the basis that the Meriton Development meets its core traffic and parking requirements on that site. Given that here is a major deficiency in the current application the knock on traffic implications e.g. much higher demand for on-street car parking would need to be revisited. Because the added works list has been redistributed across the whole of the revised yield the contribution per dwelling reduces accordingly.
- Scenario 3 (the Meriton form of development and density extrapolated across the remainder of the residential areas of the WV ULR) results in the need for substantially more traffic management works as listed. As can be seen, a number of additional intersections would require signalisation under this scenario as well as a shared commitment with the Southern Buffer toward the reconstruction/realignment of Boondah Road. Again, as has been highlighted in the recent independent traffic critique this form of development would cause significant impacts on the road network that may require existing already redeveloped roads to be subject to further major upgrade to increase capacity because they were not designed for this much higher urban density and corresponding much higher traffic density.

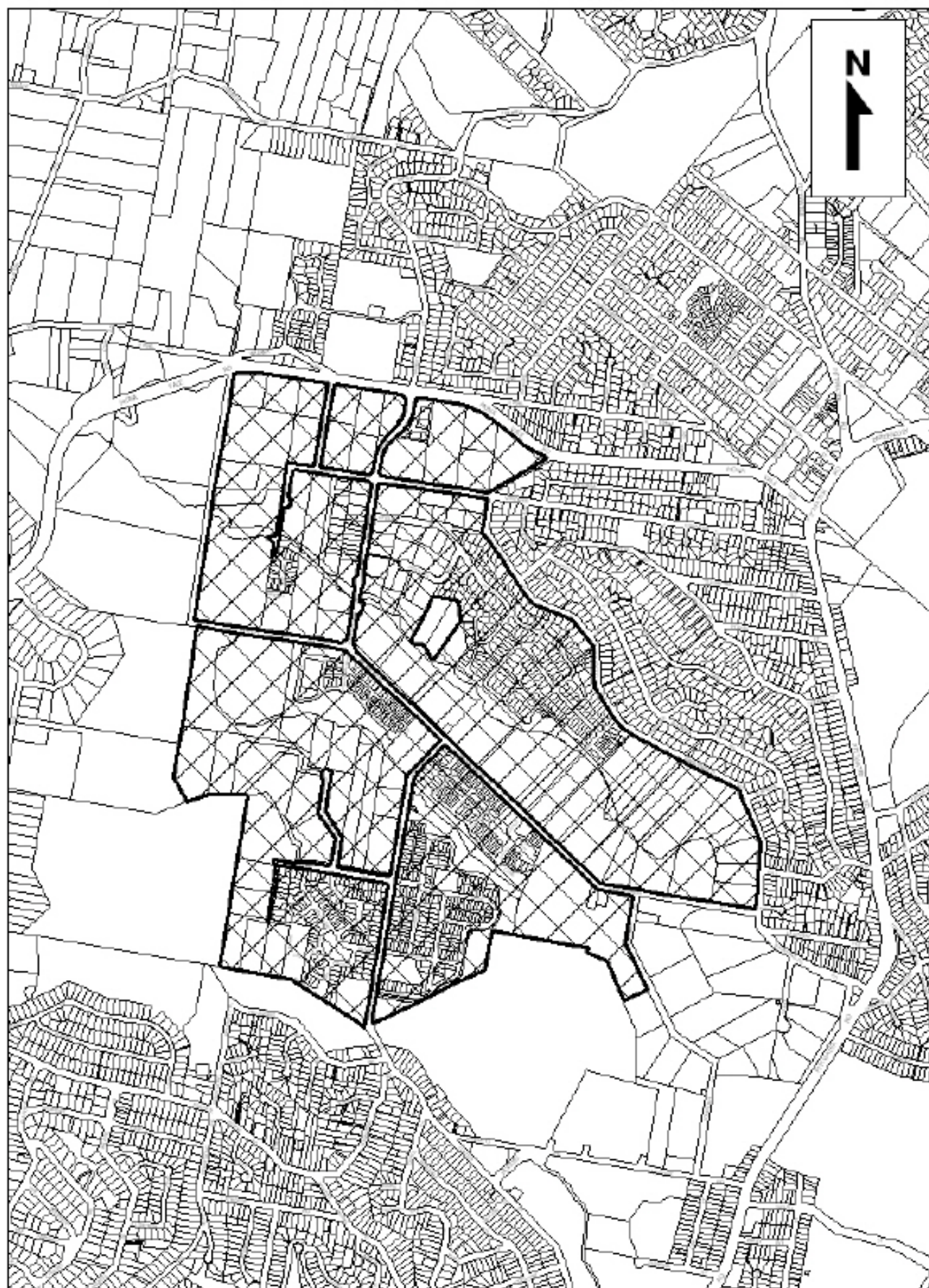
Spatial nexus

The Traffic and Transport facilities are located either within the Warriewood Valley Release area on the access roads leading directly to the Warriewood Valley Release area.

Temporal nexus

The Traffic and Transport infrastructure is to be provided in conjunction with Sector development where practical and in line with receipt of Development Contributions received from Sector development

Properties subject to Traffic and Transport Strategy Contributions



3.2 MULTI FUNCTIONAL CREEKLINE CORRIDORS DIRECT LAND DEDICATION

Scenario 1

Table showing remaining creekline corridor direct land dedications required to service development (as per Warriewood Valley Planning Framework 2010)	
Infrastructure item	Land areas (m ²)
Sector 3	9,306
STP Buffer 1	20,044
Sector 5	6,199
Sector 8 (2 parcels \$303,333.33 + \$270,486.67)	5,297
Sector 9	13,212
STP Buffer 3	6,681
STP Buffer 2	2,000
TOTAL	62,739

Scenario 2

There are no additional creekline corridor land dedications required in addition to Scenario 1 as a consequence of expanded development on the Meriton site. The direct land dedications are apportioned over the revised equivalent dwelling yields.

Additional infrastructure item	Land areas (m ²)	Values per m ²	Equivalent cost
Nil	-	-	-

Scenario 3

There are no additional creekline corridor land dedications required in addition to Scenario 1 and 2 as a consequence of expanded Meriton density occurring on all development sites. The direct land dedications are apportioned over the revised equivalent dwelling yields.

Additional infrastructure item	Land areas (m²)	Values per m²	Equivalent cost
Nil	-	-	-

Current position for Plan element

This element of the Warriewood Valley Section 94 Contributions Plan has a surplus of \$895,287 this equates to 8,264m², as at 30 June 2010.

As at 30 June 2009, this Plan element has collected contributions from 1341.63 equivalent dwellings and has provided 8.234 ha of creekline corridor land.

The quantum of undeveloped industrial commercial land that will contribute to this element is 4.8185 ha or 84 equivalent dwellings.

Remaining leviabale development

Table showing the remaining leviabale development for the three development scenarios			
Scenario	Remaining residential(equivalent dwellings)	Remaining industrial/commercial (equivalent dwellings)	Total (equivalent dwellings)
Scenario 1	927	84	1,011
Scenario 2	1,107	84	1,191
Scenario 3	1,731	84	1,815

Calculation of direct land dedication for equivalent dwellings

The following is a simplified formula for determining the contribution rate per equivalent dwelling for this element and can be used to determine an estimate of that rate.

Contributions rate per equivalent dwelling:

$$= \frac{\text{Area of creekline corridor to be provided +/- Balance on hand m}^2}{\text{Equivalent dwellings to be levied}}$$

In practice, this formula is applied through a financial model which addresses impact on contribution rate calculations of a result of the phasing of expenditure and the timing of the receipt of contributions.

For this element, the calculated contribution rates as per the simplified formula are as follows:

Scenario 1

$$\begin{aligned}\text{Contributions rate} &= 62,739 \text{ m}^2 - 8,264\text{m}^2 \div 1,011 \\ &= 53.88 \text{ m}^2 \text{ per equivalent dwelling}\end{aligned}$$

Scenario 2

$$\begin{aligned}\text{Contributions rate} &= 62,739 \text{ m}^2 - 8,264\text{m}^2 \div 1,191 \\ &= 45.73\text{m}^2 \text{ per equivalent dwelling}\end{aligned}$$

Scenario 3

$$\begin{aligned}\text{Contributions rate} &= 62,739 \text{ m}^2 - 8,264\text{m}^2 \div 1,815 \\ &= 30.01\text{m}^2 \text{ per equivalent dwelling}\end{aligned}$$

Summary table showing contribution rates

Scenario	Contribution rate (m ² per equivalent dwelling)	Meriton Proposal (equivalent dwellings)	Contribution for Meriton development (m ²)
Scenario 1	53.88m ²	187*	10,076 m ²
Scenario 2	45.73m ²	367	16,783m ²
Scenario 3	30.01m ²	367	11,014m ²

Where creekline corridor land cannot be provided by direct dedication a monetary contribution should be made based on the value of such land currently \$101.95per m²

There is 6,681m² of land designated suitable for dedication as creekline corridor on the Meriton site.

This should be dedicated free of charge and a monetary contribution supplied to facilitate purchase of the balance.

Scenario	Required Contribution m ²	Available Creekline Corridor Land Dedication (free of cost)	Shortfall	Monetary Contribution
Scenario 1	10,076m ²	6,681m ²	3,395m ²	\$346,120
Scenario 2	16,783m ²	6,681m ²	10,102m ²	\$1,029,899
Scenario 3	11,014m ²	6,681m ²	4,333m ²	\$441,759

Nexus

The justification for determining the extent to which development is required to contribute to a fund to provide common infrastructure and services for Warriewood Valley, is as follows:

Causal nexus

The increase in residential, industrial and commercial development in the Warriewood Valley Release Areas will generate the need to manage stormwater run-off within the Valley sub-catchments both up and down stream of development.

The increased demand for quantity and quality of stormwater run-off emanating from new development within the Warriewood Valley will generate the need for:

- Augmented drainage corridors to facilitate drainage which comes from development
- Floodway corridors that carry flows up to the 1% AEP flood event
- Protection of down-stream properties from local flooding as a result of development of the Valley
- Long-term environmental protection of the receiving waters including the Warriewood Wetlands and Narrabeen Lagoon

Stormwater runoff enters the creek system either directly where development is located adjacent to the creek system or indirectly via piped / open channel stormwater systems where development is not located adjacent to the creek system.

On this basis and similar to the Creekline Corridor works component given that the total quantum of Creekline Corridor land acquisition is the same for all Scenarios the land area contribution per equivalent dwelling reduces as a result of the greater number of contributors.

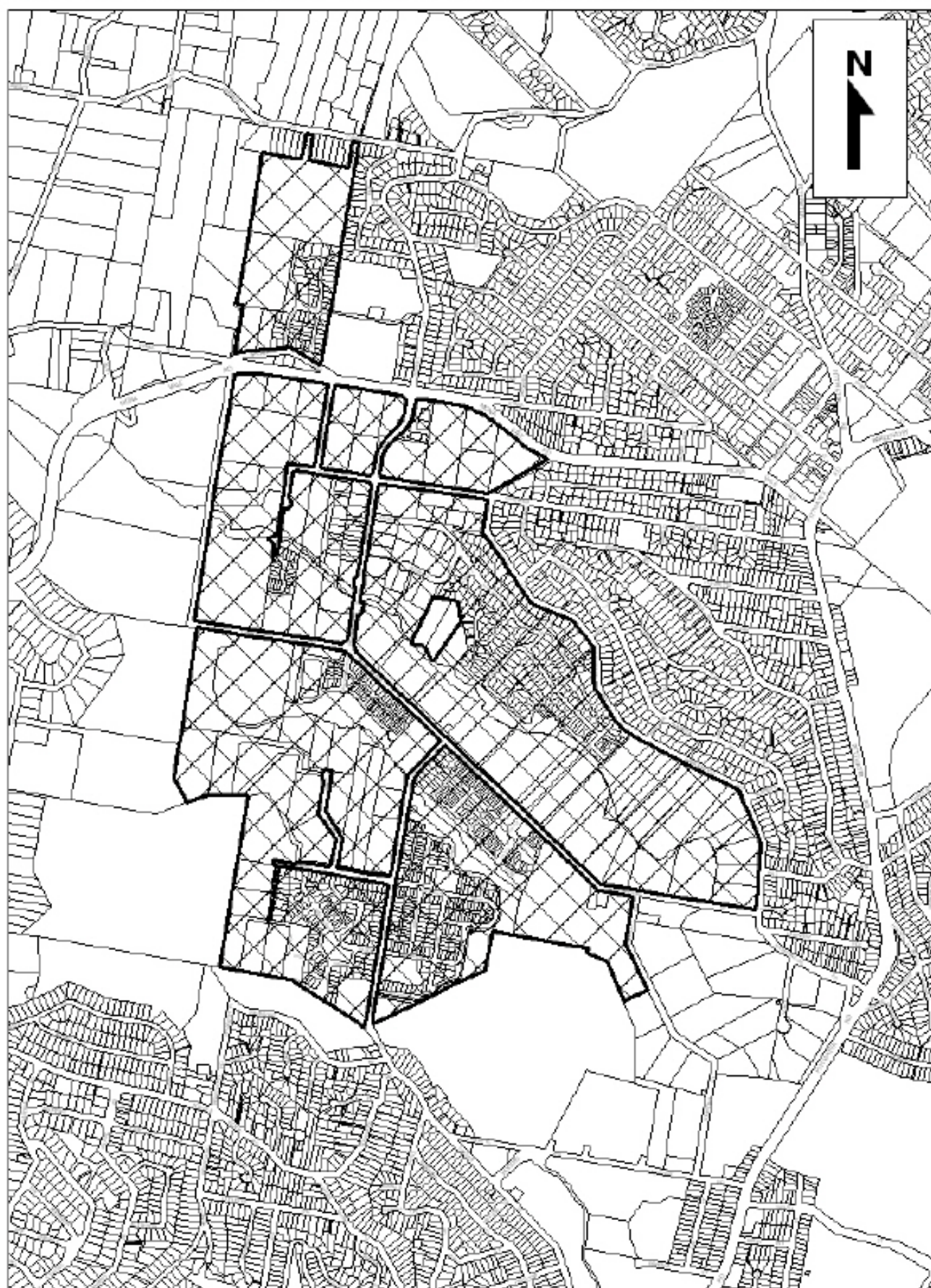
Spatial Nexus

The Multi-functional Creekline Corridors are located within the Warriewood Valley release area.

Temporal Nexus

The Multi-functional Creekline Corridor infrastructure is to be provided in conjunction with the Sector development where practical and in line with receipt of Development Contributions received from the Sector development.

Properties subject to Multi-Function Creekline Corridors Facilities Contributions



3.3 MULTI FUNCTIONAL CREEKLINE CORRIDORS (WORKS)

Table showing remaining Infrastructure & Services required to service development (as per Warriewood Valley Planning Framework 2010)		
Item no.	Infrastructure item	Cost in 2010 dollars
1.5	Water quality retention basin	\$303,066
2.1	Narrabeen Creek Corridor A	\$1,102,400
2.2	Narrabeen Creek Corridor B	\$684,023
2.53	Narrabeen Creek Corridor E (Sector 3)	\$351,563
2.62	Narrabeen Creek Corridor F (Sector 33)	\$606,855
2.71	Narrabeen Creek Corridor G (STP 1)	\$1,926,610
2.72	Narrabeen Creek Corridor G (STP 2)	\$192,825
2.8	Fern Creek Corridor J (STP 3)	\$694,981
2.9	Fern Creek Corridor H (Sector 9)	\$593,885
2.91	Fern Creek Corridor H (Sector 8)	\$269,100
5.3	Flood modelling – Addendum 2	\$57,975
5.4	Flood modelling – Addendum 3	\$57,975
	TOTAL	\$6,841,258

Scenario 2

There are no additional Creekline Corridor works items required in addition to Scenario 1 as a consequence of expanded development on Meriton

Additional infrastructure item	Cost in 2010 dollars
Nil	Nil
TOTAL	Nil

Scenario 3

There are no additional Creekline Corridor works items required in addition to Scenarios 1 & 2 as a consequence of expanded Meriton density development occurring on all development sites

Additional infrastructure item	Cost in 2010 dollars
Nil	Nil
TOTAL	Nil

Current position for Plan element

The element of the Warriewood Valley Section 94 Contributions Plan has a surplus of \$383,367 as at 30 June 2010.

As at 30 June 2010, this Plan element has collected contributions from 1340.3 equivalent dwellings and has provided \$7,479,357 worth of infrastructure and services (in 2010 dollars).

The quantum of undeveloped industrial commercial land that will contribute to this element is 4.8185ha or 84 equivalent dwellings.

Remaining leviabale development

Table showing the remaining Leviabale Development for the 3 development scenarios			
Scenario	Remaining residential (equivalent dwellings)	Remaining industrial/commercial (equivalent dwellings)	Total (equivalent dwellings)
Scenario 1	927	84	1,011
Scenario 2	1,107	84	1,191
Scenario 3	1,731	84	1,815

Calculation of contribution rates in 2010 dollars

The following is a simplified formula for determining the contribution rate per equivalent dwelling for this element and can be used to determine an estimate of that rate.

Contributions rate per equivalent dwelling:

$$= \frac{\text{Cost of providing infrastructure +/- Balance on hand}}{\text{Equivalent dwellings to be levied}}$$

In practice, this formula is applied through a financial model which addresses impact on contribution rate calculations of a result of the phasing of expenditure and the timing of the receipt of contributions.

For this element, the calculation contribution rates as per the simplified formula are as follows:

Scenario 1

$$\begin{aligned} \text{Contributions rate} &= (\$6,841,258 - \$383,367) \div 1,011 \\ &= \$6,388 \end{aligned}$$

Scenario 2

$$\begin{aligned} \text{Contributions rate} &= (\$6,841,258 - \$383,367) \div 1,191 \\ &= \$5,422 \end{aligned}$$

Scenario 3

$$\begin{aligned} \text{Contributions rate} &= (\$6,841,258 - \$383,367) \div 1,815 \\ &= \$3,558 \end{aligned}$$

Summary table showing contribution rates

Scenario	Contribution rate (per equivalent dwelling)	Meriton Proposal (equivalent dwellings)	Contribution for Meriton development
Scenario 1	\$6,388	187*	\$1,194,556
Scenario 2	\$5,422	367	\$1,989,874
Scenario 3	\$3,558	367	\$1,305,786

*Based on revised residential yields in the 2010 Planning Framework

The calculations above are simplified formulas that provide indicative contribution rates for each scenario in 2010 dollars. These contribution rates are subject to change as and when the Department of Planning respond to Council with critical details requested concerning works and contribution rate escalation within Council's new Financial Model and Developer Contributions Plan.

In order to keep pace with inflationary pressures such as rising infrastructure costs and time value of money for the purposes of this Submission, the Contribution Rate applicable to each element is to be indexed to reflect the average of the two quarterly variations of the Consumer Price Index, All Group Index Number for Sydney and the Building Price Index for NSW between the date the proposed Contribution Rate was determined by Council and the date the levy is paid.

The formula governing indexation of the Contribution Rates is as follows:

$$\text{ICR} = \text{OCR} \times ((\text{CP2}/\text{CP1}) + (\text{BPI2}/\text{BPI1})) \div 2$$

Where:

ICR = the Indexed Contribution Rate at time of Payment.

OCR = the Original Contribution Rate determined by the Council.

CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment.

CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition (Original Contribution Rate).

BP2 = the Building Price Index, NSW, in respect of the quarter ending immediately prior to the date of payment.

BP1 = the Building Price Index, NSW in respect of the quarter ending immediately prior to the date of imposition of the condition (Original Contribution Rate).

Nexus

The justification for determining the extent to which development is required to contribute to a fund to provide common infrastructure and services for Warriewood Valley, is as follows:

Causal nexus

The increase in residential, industrial and commercial development in the Warriewood Valley Release Areas will generate the need to manage stormwater run-off within the Valley sub-catchments both up and down stream of development.

The increased demand for quantity and quality of stormwater run-off emanating from new development within the Warriewood Valley will generate the need for:

- Augmented drainage corridors to facilitate drainage which comes from development
- Floodway corridors that carry flows up to the 1% AEP flood event
- Protection of down-stream properties from local flooding as a result of development of the Valley
- Long-term environmental protection of the receiving waters including the Warriewood Wetlands and Narrabeen Lagoon

Stormwater runoff enters the creek system either directly where development is located adjacent to the creek system or indirectly via piped / open channel stormwater systems where development is not located adjacent to the creek system.

On this basis and similar to the Creekline Corridor land component given that the quantum and associated cost of Creekline Corridor works is the same for all Scenarios the contribution rate per equivalent dwelling reduces as a result of the greater number of contributors.

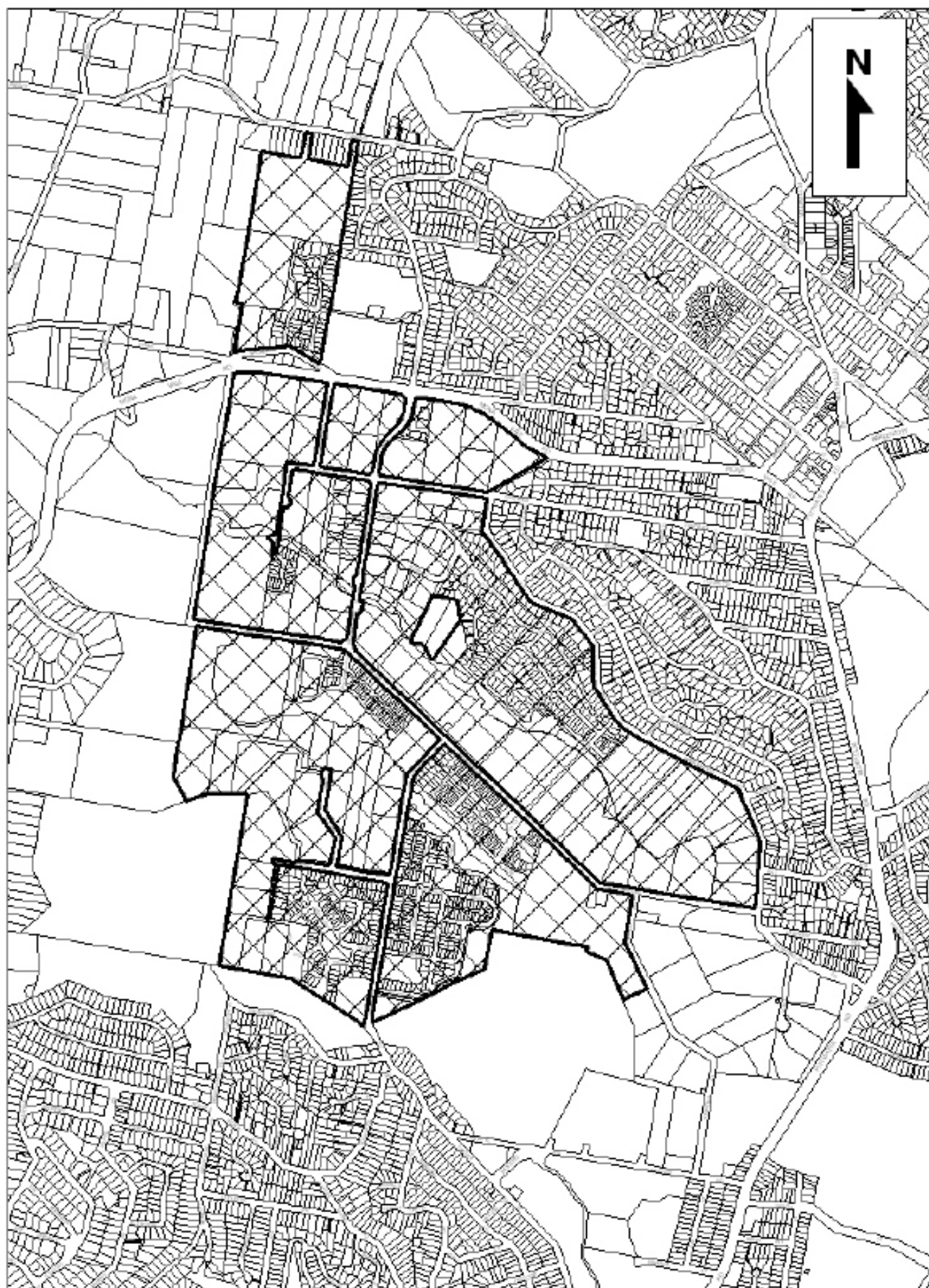
Spatial nexus

The Multi-functional Creekline Corridors are located within the Warriewood Valley release area.

Temporal nexus

The Multi-functional Creekline Corridor infrastructure is to be provided in conjunction with the Sector development where practical and in line with receipt of Development Contributions received from the Sector development.

Properties subject to Multi-Function Creekline Corridors Facilities Contributions



3.4 COMMUNITY SERVICE FACILITIES

Scenario 1

Table showing remaining Community Service Facilities land acquisition and Infrastructure required to service developer (as per Warriewood Valley Planning Framework 2010)		
Item no.	Infrastructure item	Cost in 2010 dollars
1 & 2	Community facilities general	\$2,000,000
3.	Equipment (general)	\$102,900
4.	Child care centre	\$4,322,640
5.	Equipment (child care)	\$242,657
Land 2	Childcare land	\$1,318,149
	TOTAL	\$7,986,346

Scenario 2

Table showing additional Community Service Facilities Infrastructure required to service expanded development on Meriton site	
Additional infrastructure item	Cost in 2010 dollars
Additional redevelopment and refurbishment cost associated with community facility space	\$200,000
TOTAL	\$200,000

Scenario 3

Table showing additional Community Service Facilities Infrastructure required to service expanded development if Meriton density is extrapolated to ALL other areas of Warriewood Valley ULR (includes Scenario 2)	
Additional infrastructure item	Cost in 2010 dollars
A new community facility will be required rather than a redevelopment/refurbishment of the existing community	\$4,400,000

facility space (\$1,400,000 for land plus \$3,000,000 for building)	
TOTAL	\$4,400,000

Current position for Plan element

This element of the Warriewood Valley Section 94 Contributions Plan has a surplus of \$2,780,320 as at 30th June 2010.

As at 30th June 2010, this Plan element has collected contributions from 1056.5 equivalent dwellings and has provided \$25,705 worth of infrastructure and services (in 2010 dollars).

Remaining industrial commercial development does not contribute to this element.

Remaining leviable development

Table showing the remaining Leviable Development for the 3 development scenarios			
Scenario	Remaining residential (equivalent dwellings)	Remaining industrial/commercial (equivalent dwellings)	Total (equivalent dwellings)
Scenario 1	927	0	927
Scenario 2	1,107	0	1,107
Scenario 3	1,731	0	1,731

Calculation of contribution rates in 2010 dollars

The following formula is a simplified formula for determining the contribution rate per equivalent dwelling for this element and can be used to determine an estimate of that rate.

Contributions rate per equivalent dwelling:

$$= \frac{\text{Cost of providing infrastructure +/- Balance on hand}}{\text{Equivalent dwellings to be levied}}$$

In practice, this formula is applied through a financial model which addresses impact on contribution rate calculations of a result of the phasing of expenditure and the timing of the receipt of contributions.

For this element, the calculated contribution rates as per the simplified formula are as follows:

Scenario 1

$$\begin{aligned}\text{Contributions rate} &= (\$7,986,346 - \$2,780,320) \div 927 \\ &= \$5,616\end{aligned}$$

Scenario 2

$$\begin{aligned}\text{Contributions rate} &= (\$8,186,346 - \$2,780,320) \div 1,107 \\ &= \$4,883\end{aligned}$$

Scenario 3

$$\begin{aligned}\text{Contributions rate} &= (\$12,386,346 - \$2,780,320) \div 1,731 \\ &= \$5,549\end{aligned}$$

Summary table showing contribution rates

Scenario	Contribution rate (per equivalent dwelling)	Meriton Proposal (equivalent dwellings)	Contribution for Meriton development
Scenario 1	\$5,616	187*	\$1,050,192
Scenario 2	\$4,883	367	\$1,792,061
Scenario 3	\$5,549	367	\$2,036,483

*Based on 2010 Planning Framework revised residential yields

The calculations above are simplified formulas that provide indicative contribution rates for each scenario in 2010 dollars. These contribution rates are subject to change as and when the Department of Planning respond to Council with critical details requested concerning works and contribution rate escalation within Council's new Financial Model and Developer Contributions Plan.

In order to keep pace with inflationary pressures such as rising infrastructure costs and time value of money for the purposes of this Submission, the Contribution Rate applicable to each element is to be indexed to reflect the average of the two quarterly variations of the Consumer Price Index, All Group Index Number for Sydney and the Building Price Index for NSW between the date the proposed Contribution Rate was determined by Council and the date the levy is paid.

The formula governing indexation of the contribution rates is as follows:

$$\text{ICR} = \text{OCR} \times ((\text{CP2}/\text{CP1}) + (\text{BPI2}/\text{BPI1})) \div 2$$

Where:

ICR = the Indexed Contribution Rate at time of Payment.

OCR = the Original Contribution Rate determined by the Council.

CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment.

CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition (Original Contribution Rate).

BP2 = the Building Price Index, NSW, in respect of the quarter ending immediately prior to the date of payment.

BP1 = the Building Price Index, NSW in respect of the quarter ending immediately prior to the date of imposition of the condition (Original Contribution Rate).

Nexus

The justification for determining the extent to which development is required to contribute to a fund to provide common infrastructure and services for Warriewood Valley, is as follows:

Causal nexus

The range of facilities and services to be provided under the Community Facilities Element of the Plan include:

- Childcare Facilities (Long Day Care places)
- Community Centre Facilities

It is anticipated that a significant increase in the need for childcare places will result from the release of land in the Warriewood Valley and this increase exceeds the threshold of 320 children aged 0 – 5 years identified in the NSW Planning document “Draft Local Development Contributions guidelines” (November 2009).

At the time of the 2006 Census collection there had been approximately 884 new homes built in the area and within the relevant Census Collection Districts there were a total of 330 children aged 0 to 4 years. It is anticipated that the further release of an additional 1002 dwellings (since the 2006 census) would conservatively result in a population of 650 children aged 0 – 4 years at the conclusion of the Land Release. The applicant’s proposed childcare centre does not impact on the proposed provision of public childcare. In determining the demand for childcare some level of private provision of childcare was assumed. The applicant’s proposed centre has been allowed for in Council’s demand and supply calculations.

The Demographic & Facility/Services Needs Studies, Ingleside-Warriewood Urban Release Area provides sound evidence of the nexus between the proposed development and the demand for community service facilities created by the development.

A range of assessment methods was used in this analysis to determine a reasonable level of service required by new residents.

These included:

- The provision of existing services and facilities in the local area and Pittwater as a whole;
- A comparative assessment with Menai and Cherrybrook which have similar population profiles to the release area;
- Normative, baseline and threshold standards; and
- Consultation with service providers and community representatives.

This demand for additional community space will be provided by the redevelopment and refurbishment of existing community centres up to the Scenario 2 dwelling yields. For the Scenario 3 dwelling yield a new community facility will be required.

Temporal nexus

There is an opportunity to deliver the new childcare facilities for incoming residents by contributing to the Council’s proposed Early Childhood Education and Family Resource Centre. It is expected that this development could be achieved by 2015.

The proposed refurbishment and expansion of community centre space to cater for a range of other community needs is not likely to be achieved until the end of the Plan in 2019/2020.

Spacial nexus

The current strategy in the Plan remains flexible as to how these facilities will be provided. The following are the major options currently under consideration and suitable sites are still being investigated.

- Provision of a large combined childcare facility and a small general community centre all located on one site.
- Provision of a separate childcare facility and refurbishment and expansion of existing community centre(s) on different sites.
- The provision of a childcare facility integrated with a proposal Council has for a new Early Childhood Education & Family Resource Centre and refurbishment and expansion of existing community centre(s).

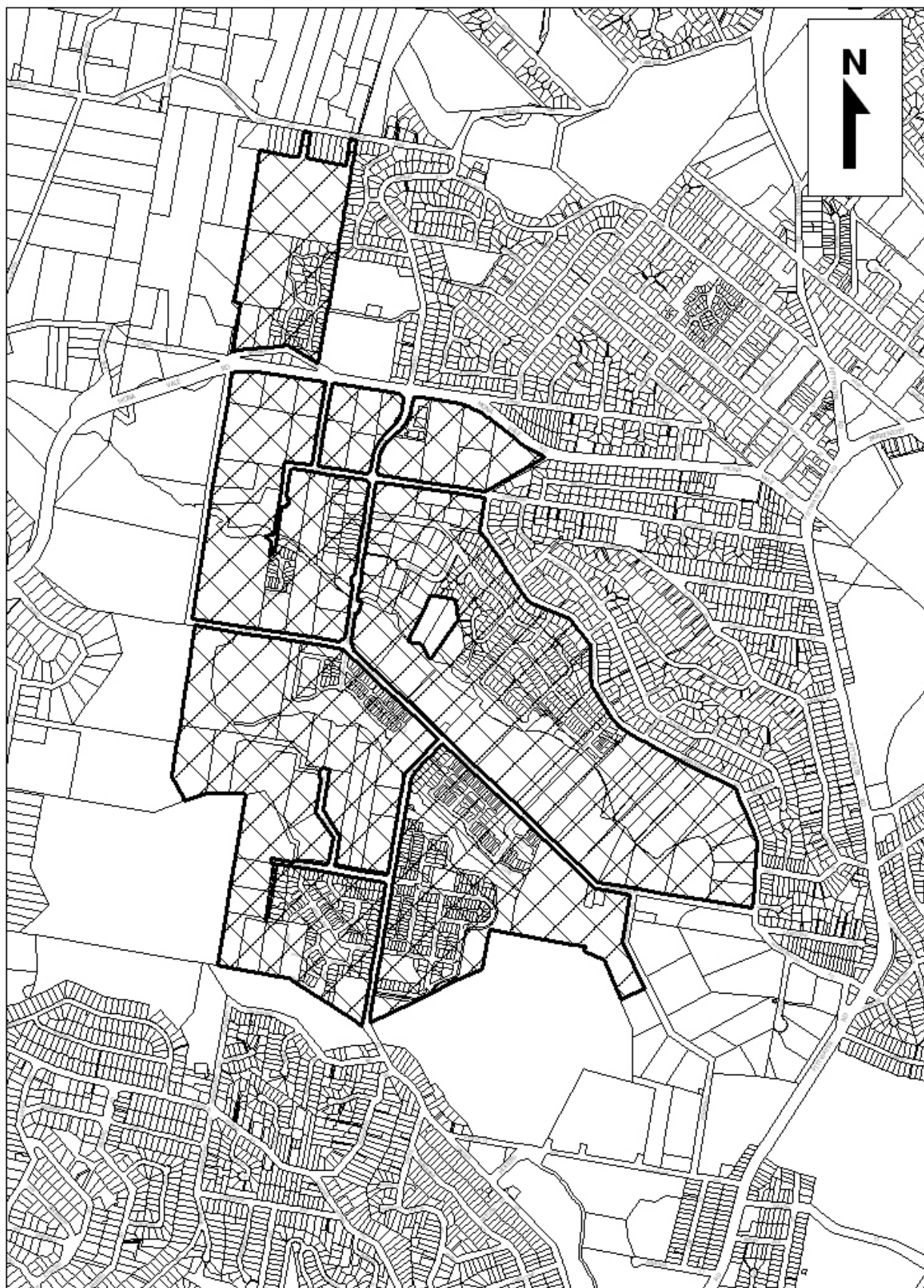
It should be noted that under Option C, the Contributions Plan would make a proportional contribution (based on 79 new Long Day Care places) towards Council's proposed new integrated facility which would have a total of 104 Long Day Care places. The concept plan would also include the following elements which would be funded by Council.

- The relocation of the existing Warriewood Children's Centre, a facility operated by Pittwater Council. This service currently includes 25 long day care places.
- The relocation of Pittwater Family Day Care administrative base to the site including playgroup space. This service is operated by Pittwater Council.
- The relocation of Mona Vale Early Childhood Health Centre including 3 clinic rooms. Early Childhood Health services are provided by NSW Health and generally operate from buildings owned by Local Government.
- The development of multi function seminar and meeting rooms for parent meetings and staff meetings including TAFE outreach training for childcare staff in the local area.
- The provision of professional rooms for use by paediatric speech pathologists, occupational therapists and other specialists who work with children and families.
- The potential relocation of the hospital audiology department.

Option C is currently the preferred option and Council has developed a concept plan for the proposed Early Childhood Education & Family Resource Centre. A number of sites are being examined for this facility with the preferred option currently a partnership with Northern Sydney Central Coast Health to have the facility located in the grounds of Mona Vale Hospital. This facility would provide an additional 79 Long Day Care places to cater for the needs of new families in Warriewood Valley.

Under this option the preferred site for the refurbishment and expansion of general community centre space would be the complex of existing facilities located along the eastern end of Jackson's Road, Warriewood.

Properties subject to Community Service Strategy Contributions



3.5 OPEN SPACE AND RECREATIONAL AREAS

Open Space provision is made up of two primary components:

- Active (sportsgrounds)
- Passive (parks, playgrounds and natural reserves)

The table below shows the required embellishments and land dedication for Scenario 1. Land for open space is to be provided by direct dedication, free of cost.

Scenario 1

Table showing remaining Open Space & Recreational Infrastructure & Services required to service development (as per Warriewood Valley Planning Framework 2010)		
Item no.	Infrastructure item	Cost in 2010 dollars
Embellishment		
1.	Sportsfield – Boondah Road	\$738,157
2.	Central Local Park – Sector 8	\$1,039,082
6.2	Sportsground (Jacksons Road)	\$857,905
7.	Narrabeen High School (East)	\$278,933
7.1	Narrabeen High School ground (West)	\$507,150
7.2	Narrabeen High East – Amenities Block	\$443,756
9.	Multi function detention basin	\$114,109
12.	Progress Park Sportsground	\$511,905
11.	Buffer Area (Sportsfield)	\$1,458,056
12.	Narrabeen High School (East)	\$400,000
TOTAL		\$6,349,053
Land Dedication		
11.	Buffer Area Sportsfield	10,000m ²
1	Sportsfield – Boondah Road	10,000m ²

Current position for Plan element

The element of the Warriewood Valley Section 94 Contributions Plan currently has a deficit of \$1,192,215.

To date, this Plan element has collected contributions from 992.5 equivalent dwellings and has provided \$13,960,010 worth of infrastructure and services (in 2010 dollars) including the provision of **6.0ha of land for open space (not including detention basin or creekline corridor land)**.

Calculation of open space land requirements

For Scenario 1, there is a need for a total of 13.97ha of open space comprising 5.75ha of active open space and 8.22ha of passive open space. The passive open space for Scenario 1 includes a 30% allowance for creekline corridor land.

The total linear open space (creekline corridors) identified in this Plan is some 16.0753 hectares (dependant on dual-use of this land), of which 30 percent is taken to be available for use as recreational open space (see Note 4). The provision and augmentation of the linear open space associated with Creekline Corridors has not been included in this facilities strategy but is referenced in the Multi-functional Creekline Corridors strategy.

For Scenario 2 and Scenario 3 dwelling densities in excess of Scenario 1, the 30% credit for passive use of creekline corridor land is not available for credit and hence additional passive open space is required at the full amount.

The areas required for public open space and recreation facilities are shown in the following table:

Open space land inventory as at 21 April 2010 (based on Scenario 1)				
Open space type		Total area needed (hectares)	Area currently provided (hectares)	Area to be provided (hectares)
Active (Sportsfields)	Main Oval (Jacksons Road) – Purchased	3	3	
	Sports field East – 1 hectare reduced for sharing field with school provided at no cost through provision of land by school (Dept of Education)	0.5 Shared use	0	0.5 Shared use
	Boondah Road - Extension to Boondah Road sports fields	1	0	1
	Buffer Area - Utilising flood prone land	1	0	1
	Progress Park – owned by Council Proposed training fields	0.25	0.25	0
Sub total (active)		5.25 + 0.5 shared	3.25	2 + 0.5 shared
Passive Open Space				
Central local Park	Sector 8 - Purchased	1	1	0
Central local Park	Sector 9 – Purchased	1	1	0
Neighbourhood Parks (3)	Sectors 1, 10 and 12 - Purchased	0.75	0.75	0
Detention Basin	Northern industrial - Purchased Total area 1.6 hectare reduced to allow for water quality function	0.65	0.65	0
Sub total (passive)		3.40	3.40	0
Linear Open Space	Creekline corridor (30% allowance)	4.82	2.94	1.88
TOTAL		13.97 (includes 0.5 shared use)	9.59	4.38 (includes 0.5 shared use)

Note: (i) Shared land use outcomes for active open space are only applicable to Scenario 1. For Scenario 2 and Scenario 3, direct provision of additional active open space will be required. (ii) The credit of 30% of creekline corridor land toward passive open space provision is only applicable up to Scenario 1 dwelling yield densities. For Scenario 2 and Scenario 3 the additional dwelling yield does not benefit from this credit and hence the full requirement applies above the Scenario 1 threshold.

Calculation of current rate of open space to be provided and embellished per equivalent dwelling

- 1,919 currently proposed residences (992 equivalent dwelling levied to date plus 927 remaining)
- 9.15 ha open space (Active 5.75 + Passive 3.40) – (Note: 30% Creekline corridor component of 4.82ha is included in separate element for Creekline corridor Land Dedication)

Active open space provision is:

- Up to Scenario 1 yield (takes into consideration shared use)
 $5.0\text{ha} \div 1919 = 26.06\text{m}^2$ per equivalent dwelling
- Additional active provision for dwelling yield above Scenario 1 provision (no shared use component):
 $5.75\text{ha} \div 1919 = 29.96\text{m}^2$ per equivalent dwelling

Passive open space provision is:

- Up to Scenario 1 yield (takes into consideration 30% creekline corridor component included in Creekline land dedication element)
 $3.40\text{ha} \div 1919 = 17.72\text{m}^2$ per equivalent dwelling
- Additional passive provision for dwelling yield above Scenario 1 provision (no credit for 30% creekline corridor passive open space available beyond Scenario 1):
 $8.22\text{ha} \div 1919 = 42.83\text{m}^2$ per equivalent dwelling

Calculation of additional open space – Scenario 2

- 367 equivalent dwellings proposed (Meriton 3A)
- 187 current allowance as per planning framework
- 180 equivalent dwellings over/above allowance

Scenario 2 – Land Component

Table showing Open space direct land dedication required (free of cost to service Meriton development at increased density & rest of Valley at lower density		
Direct land dedication item	Revised land requirement per equivalent dwelling (=Total Area / 1107 dwellings)	Land requirement by Meriton (x 367 equivalent dwelling)
Active 927 dwellings x 26.06m ² (Scenario 1) = 24,158m ² plus 180 dwellings x 29.96m ² (Scenario 2) = 5,393m ² Total Active = 29,551m ²	 26.69m ² Per equivalent dwelling	 9,795m ² Meriton component
Passive 927 dwellings x 17.72m ² (Scenario 1) = 16,426m ² plus 180 dwellings x 42.83m ² (Scenario 2) = 7,709m ² Total Passive = 24,135m ²	 21.80m ² Per equivalent dwelling	 8,000m ² Meriton component
Total direct land requirement = 53,686m ² (5.37 hectares)	48.48m ² Per equivalent dwelling	17,795m ² (1.78ha) Meriton component

Scenario 2 – Embellishment Costs

Table showing additional Open space Embellishment costs for Scenario 2 (in addition to Scenario 1 balance) to service higher equivalent dwelling yield associated with Meriton development	
	Additional Meriton Contribution for Open Space Embellishment
Active $= 9,795 \times \$100\text{m}^2 \times 180 \div 367$	\$480,409
Passive $= 8,000 \times \$50\text{m}^2 \times 180 \div 367$	\$196,185
Total additional cost	\$676,594

Calculation of additional open space – Scenario 3

- 1,731 equivalent dwellings under new density across remainder of Valley.
- 927 equivalent dwellings remainder as per planning framework (Scenario 1)
- 804 extra equivalent dwellings
- 187 equivalent dwellings current allowance for Meriton site

Scenario 3 – Land Component

Table showing Open space direct land requirement to service expanded development on all of the remaining areas of Warriewood Valley at the same extrapolated Meriton Density		
Land Dedication	Revised land requirement per equivalent dwelling (= Total Area / 1731)	Land requirement by Meriton (x 367 equivalent dwelling)
Active 927 dwellings x 26.06m ² (Scenario 1) = 24,158m ² plus 804 dwellings x 29.96m ² (Scenario 3) = 24,088m ² Total Active = 48,246m ²	 27.87m ² Per equivalent dwelling	10,228m ² Meriton component
Passive 927 dwellings x 17.72m ² (Scenario 1) = 16,426m ² plus 804 dwellings x 42.83m ² (Scenario 3) = 34,435m ² Total Passive = 50,861m ²	 29.38m ² Per equivalent dwelling	10,782m ² Meriton component
Total land requirement = 99,107 m ² (9.91 hectares)	57.25m ² Per equivalent dwelling	21,010m ² (2.1ha) Meriton component

Scenario 3 – Embellishment Costs

Table showing additional Open space Embellishment costs for Scenario 3 (in addition to Scenario 1 balance) to service higher equivalent dwelling yield associated with Meriton development		
	Additional Meriton Component for Open Space Embellishment (x 180 / 804)	Additional Balance of Scenario 3 Contribution for Open Space Embellishment from other developments (x 624 / 804)
Active = 24,008 x \$150m ² = \$3,601,200	\$806,239	\$2,794,961
Passive = 34,435 x \$100m ² = \$3,443,500	\$770,933	\$2,672,567
Combined Totals \$7,044,700	\$1,577,172	\$5,467,528

Note: It should be noted that the need for 2.84ha of open space land under Scenario 3 from within the Warriewood Valley Urban Land Release will directly compete with the developable land component as they are mutually inclusive.

Table showing the remaining Leivable Development for the 3 development scenarios			
Scenario	Remaining residential (equivalent dwellings)	Remaining industrial/commercial (equivalent dwellings) associated with this plan element	Total (equivalent dwellings)
Scenario 1	927	0	927
Scenario 2	1107	0	1107
Scenario 3	1731	0	1731

Calculation of contribution rates in 2010 dollars for each Development Scenario

The following is a simplified formula for determining the contribution rate per equivalent dwelling for this element and can be used to determine an estimate of that rate.

Contributions rate per equivalent dwelling:

$$= \frac{\text{Cost of providing infrastructure - Balance on hand}}{\text{Equivalent dwellings to be levied}}$$

In practice, this formula is applied through a financial model which addresses impact on contribution rate calculations of a result of the phasing of expenditure and the timing of the receipt of contributions.

For this element, the calculated contribution rates for open space embellishment as per the simplified formula are as follows:

Scenario 1

$$\begin{aligned} \text{Contributions rate} &= (\$6,349,053 + \$1,192,215) \div 927 \\ &= \mathbf{\$8,135 \text{ per equivalent dwelling (embellishment)}} \end{aligned}$$

Plus provision of 47.7m² per equivalent dwelling of land suitable for active and passive open space currently value at \$325per m² i.e. (Monetary Contribution \$15,502 per equivalent dwelling).

Scenario 2

$$\begin{aligned} \text{Contributions rate} &= (\$6,349,053 + \$676,594 + \$1,192,215) \div 1,107 \\ &= \mathbf{\$7,424 \text{ per equivalent dwelling (embellishment)}} \end{aligned}$$

Plus provision of 48.48m² per equivalent dwelling of land suitable for active and passive open space land under Scenario 2 currently valued at \$325per m² i.e. (Monetary Contribution \$15,756per equivalent dwelling).

Scenario 3

Contributions rate = $(\$6,349,053 + \$5,467,528 + \$1,192,215) \div 1,731$
 = **\$7,515 per equivalent dwelling (embellishment)**

Plus provision of 57.28m² per equivalent dwelling of land suitable for active and passive open space under Scenario 3 currently valued at \$325per m² i.e. (Monetary Contribution \$18,616 per equivalent dwelling).

Summary table showing land dedication and embellishment costs for each scenario

Scenario	Open space component	Embellishment & Land Contribution rates (per equivalent dwelling)	Meriton Proposal equivalent dwellings	Contribution & land dedication for Meriton development
Scenario 1	Meriton Embellishment Costs	\$8,135	187*	\$1,521,245
	Meriton Land requirement	\$15,502 (to provide 47.7m ²)	187*	\$2,898,875 (to provide 0.892ha)
Scenario 2	Meriton Embellishment	\$7,424	367	\$2,724,608
	Meriton Land requirement Active = 9,795 m ² Passive = 8,000 m ² @ \$325 per m ²	\$15,756 (To provide 48.48m ² combined active & passive)	367	\$5,782,452 To provide 1.78ha combined active & passive)
Scenario 3	Meriton Embellishment Costs	\$7,515	367	\$2,758,005
	Meriton Land requirement Active = 10,228 m ² Passive = 10,782 m ² @ \$325 per m ²	\$18,616 (To provide 57.28m ² combined active & passive)	367	\$6,832,072 To provide 2.1ha combined active & passive)

*Based on revised residential yields in the 2010 Planning Framework

The calculation of the cost of embellishment above is based upon simplified formulas that provide indicative contribution rates for each scenario in 2010 dollars. These contribution rates are subject to change as and when the Department of Planning respond to Council with critical details requested concerning works and contribution rate escalation within Council's new Financial Model and Developer Contributions Plan.

In order to keep pace with inflationary pressures such as rising infrastructure costs and time value of money for the purposes of this Submission, the Contribution Rate applicable to each element is to be indexed to reflect the average of the two quarterly variations of the Consumer Price Index, All Group Index Number for Sydney and the Building Price Index for NSW between the date the proposed Contribution Rate was determined by Council and the date the levy is paid.

The formula governing indexation of the Contribution Rates for embellishment is as follows:

$$\text{ICR} = \text{OCR} \times ((\text{CP2}/\text{CP1}) + (\text{BPI2}/\text{BPI1})) \div 2$$

Where:

ICR = the Indexed Contribution Rate at time of Payment.

OCR = the Original Contribution Rate determined by the Council.

CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment.

CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition (Original Contribution Rate).

BP2 = the Building Price Index, NSW, in respect of the quarter ending immediately prior to the date of payment.

BP1 = the Building Price Index, NSW in respect of the quarter ending immediately prior to the date of imposition of the condition (Original Contribution Rate).

Nexus

The justification for determining the extent to which development is required to contribute to a fund to provide common infrastructure and services for Warriewood Valley, is as follows:

Causal nexus

Given the varied provision of recreation provided across Warriewood Valley it is guaranteed incoming residents will utilise recreational facilities located across the Valley.

The densities proposed and unit type of development will mean an even greater reliance on open space facilities outside of the proposed development. Internal central parks provided will be compromised by extensive shading and over viewing and resident amenity issues.

Given ABS figures to date the highest percentages of incoming residents will be in the 5-17 age bracket 17.6% and 18-64 age bracket 60.7%. Both these age groups are prolific users of recreational facilities both passive and active.

The higher the density the more demand will be placed on existing facilities which are already over utilised and in short supply.

Council's Recreation Strategy clearly identifies a severe shortage of active playing fields across the existing Council area. The accommodation of the recreational pursuits of incoming residents needs to be accommodated for both active and passive provision of facilities without adding to existing pressures. Higher density development triggers the need for additional open space provision.

- The Warriewood Valley (WWV) S94 Plan outlines key strategies and requirements for the provision of open space and pedestrian pathways and cycleways. (Open Space/Pedestrian Cycleway elements of Plan)
- The open space strategy is simply identified in the accompanying landscape masterplan guideline which shows the spatial layout of open space, creeklines and cycleways throughout the valley based on the adopted planning framework.
- The strategy for open space is based on providing open space as both parklands and active sportsfields, all connected to creekline corridors to allow pedestrian access to all incoming residents of the valley to all open space areas of the valley.
- Open space provision is broadly based on 2.83ha per 1,000 head of population being the only legally recognised standard for open space provision found across all government sectors and within the legal/court system. Whilst used as a guide, the provision of open space was also based on the geographical layout of the release and specific needs of the incoming population (based on incoming population demographics study).

- Open space, as provided, is summarised in Table 8.1 of the adopted plan and includes small neighbourhood parks – 3 x .25ha; a larger central park – 2ha; a detention basin and 5.75ha of sportsfield land.
- Provision of active sportsfield land is based on utilising local fields/facilities within Narrabeen Sports High School (making these available to the public through long term leases) and provision of a further 2ha within Boondah Road and within the buffer sector (the subject application).
- The buffer area (previously zoned industrial) was rezoned for residential purposes following capping of the STP. Open space in this precinct was based on the provision of a further 1ha of land to be located within the buffer release area.
- Open space throughout the valley has been extensively investigated by Council staff with identification and provision of sportsfields especially, being extremely difficult, given the issue of such land also being available for residential development. Hence Council's use of Department of Education land and willingness to accept flood prone lands is an effective use of such land.
- Council's calculation of open space provision within the buffer has in many ways impacted upon the density calculations for dwellings now within the release planning framework. The ability to provide open space for incoming residents of the buffer must be equitable to provision rates already existing in the plan and now near 50% complete. With 13.97ha of open space to be provided and 927 proposed dwellings across the release, the rate of open space supply is 72.68m² per dwelling.
- The existing density cap of 187 dwellings for Buffer Area 3 of the land release required a net open space provision of 1.0ha. This area was to be provided from within the buffer.
- The principle of the equitable provision of open space as already firmly established through the 50% completion of dwellings to date under the adopted S94 Plan, must be retained.
- Whilst provision of areas of open space can be made up of a number of small parcels, larger lot sizes are needed to accommodate the provision of sportsfields. The Pittwater LGA has an extreme shortage of sportsfields and as such, provision of land for active sportsfields within the Warriewood release is an essential requirement.
- The open space strategy is based upon the provision of both passive and active open space along with its embellishment to a minimal standard, fit for purpose.
- Density increases put forward by this scheme or any scheme in the valley needs to ensure equity of open space provision between all release sectors or areas as a basic principle. All developers to date (key players in the land release/home building industry) have paid contributions based on the open space provision in the adopted S94 plan. Discount of open space provision to accommodate higher densities would be providing a single developer with a state sanctioned open space deficient development, clearly an unfair

advantage to other developers at the cost of local amenity and basic infrastructure provision.

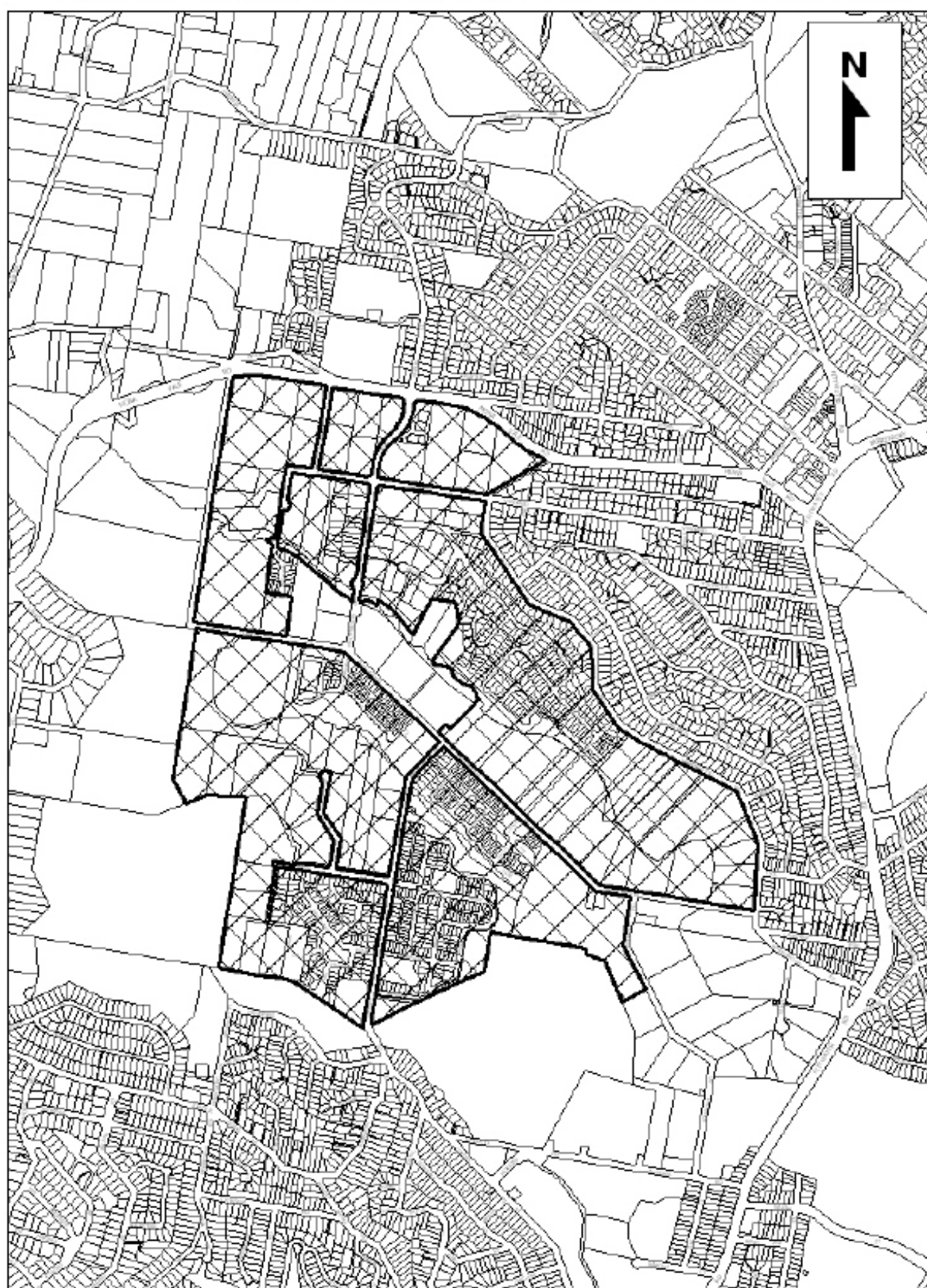
- For development Scenario 2 the increased dwelling yields as proposed on the Meriton site creates the need for additional open space land dedication and embellishment. This has been determined on a direction proportional (extrapolated) basis relative to the current plan.
- For development Scenario 3 the same proportional land dedication requirements have been applied as well as an increase in the embellishment rates for both active and passive to cater for the needs of a much higher population density across the whole of the remainder of the land release. There will be added pressure to utilise public open spaces as a defacto arrangement. As such and in accordance with the draft State Government developer contribution guidelines and indicative thresholds, additional facilities either in full or on a pro-rata basis have been included such as outdoor tennis court(s), basketball court(s), small skate facility, additional playground(s), additional seating and picnic facilities, amenities block, children's bike track, associated landscaping.

Spatial nexus

- Active sportsfields including competition size of field, provision of lighting, amenities, parking, seating, amenity, planting etc.
- Passive linear parkland that complements the existing open space system/provision and allows access from creekline corridors/accessways.
- Open space that adds/contributes towards the recreational/environmental equity of the release area and provides identifiable facilities for incoming residents.
- Within the buffer area or the intended area of increased density.
- In reasonable proximity of incoming residents.
- Open space representing quality open space for the recreational use of incoming residents.
- Given the stand alone nature of the buffer release (previously zoned industrial and only released for residential development due to capping of sewerage treatment plant), all provisions of open space facilities need to be provided within the buffer or directly adjacent for the plan to be equitable.
- The rezoning and existing density of the buffer area from industrial to residential was not only based on the ability to rezone because of the capping of the sewerage plant but also on the basis of the provision of acquirable open space.
- Many of the low lying areas of the buffer release are extremely flood affected and could present opportunities for purchase/use of land as open space. However the increase of

density across the remainder of the release would entail an equitable provision of open space land of approximately 10.2ha to be consistent with the standards established to date.

Properties subject to Recreation and Open Space Strategy Contributions



3.6 PEDESTRIAN & CYCLEWAY FACILITIES

Scenario 1

Table showing remaining Pedestrian & Cycleway Facilities Infrastructure required to service development (as per Warriewood Valley Planning Framework 2010)		
Item no.	Infrastructure item	Cost in 2010 dollars
1.	Narrabeen Creek Sector 5/6	\$166,707
2.	Macpherson Street / Warriewood Road / Pittwater Road	\$565,151
3.	Fern Creek – Sector 9	\$417,477
3.1	Bridge over Narrabeen Creek at Brands Lane	\$185,955
3.3	Bridge over Fern Creek (Sector 12/STP 3)	\$185,955
3.4	Bridge over Fern Creek at Fern Creek Road	\$185,955
3.5	Bridge over Fern Creek (Sector 8/9)	\$185,955
3.8	Bridge over Narrabeen Creek (STP 1/STP 2)	\$185,955
3.11	Bridge over Narrabeen Creek (Sector 15/B)	\$185,955
6.1	Network for Sector 10 (Stage 2)	\$510,004
8.	Network for STP Buffer Area 3	\$217,362
9.	Wetland to STP Buffer Area 3	\$42,193
10.	Narrabeen Creek – Sector 6 to Macpherson Street	\$194,416
14.	Narrabeen Creek – STP Buffer Area 1	\$300,479
15.	Network Sector 2/STP Buffer Area 1	\$110,288
18.	Vuko Place cul-de-sac to Boondah Road	\$127,901
19.	Jubilee/Ponderosa/Macpherson Street	\$94,347
20.	Sector 15	\$84,786
21.	Boardwalk – STP Buffer Area 1	\$1,007,982
23.	Network for Sector 3	\$169,545
24.	Augment public access way through Irrawong Reserve	\$466,379
25.	Narrabeen Creek – Sector B	\$267,350

2.	Sector 2/STP Buffer Area 1 – land	\$211,250
6.	Sector 15 – Land	\$228,250
	TOTAL	\$6,297,597

Scenario 2

Table showing additional Pedestrian & Cycleway Facilities Infrastructure required to service higher density Meriton development	
Additional infrastructure item	Cost in 2010 dollars
Nil	Nil
TOTAL	Nil

Scenario 3

Table showing additional Pedestrian & Cycleway Facilities Infrastructure required to service expanded development on ALL suitable areas of Warriewood Valley at the Meriton Density	
Additional infrastructure item	Cost in 2010 dollars
Bridge over Fern Creek Sector 12/STP3)	\$78,000
Bridge over Fern Creek (Sector 8/9)	\$78,000
Bridge over Narrabeen Creek (Sector 1/3)	\$154,000
Bridge over Narrabeen Creek u/s Macpherson	\$154,000
Bridge over Narrabeen Creek south west of Vuko	\$154,000
Network Sector 2 /STP Buffer 1	\$ 90,000
Network Sector 2 / STP Buffer 1 (land)	\$211,000
TOTAL	\$919,000

Current position for Plan element

The element of the Warriewood Valley Section 94 Contributions Plan has a surplus of \$2,003,535 as at 30 June 2010.

As at 30 June 2010, this Plan element has collected contributions from 1070.2 equivalent dwellings and has provided \$3,078,392 worth of infrastructure and services (in 2010 dollars).

Remaining leviabale development

Table showing the remaining Leviabale Development for the 3 development scenarios			
Scenario	Remaining residential (equivalent dwellings)	Remaining industrial/commercial (equivalent dwellings)	Total (equivalent dwellings)
Scenario 1	927	21	948
Scenario 2	1,107	21	1,128
Scenario 3	1,731	21	1,752

Calculation of contribution rates in 2010 dollars

The following formula is a simplified formula for determining the contribution rate per equivalent dwelling for this element and can be used to determine an estimate of that rate.

Contributions rate per equivalent dwelling:

$$= \frac{\text{Cost of providing infrastructure +/- Balance on hand}}{\text{Equivalent dwellings to be levied}}$$

In practice, this formula is applied through a financial model which addresses impact on contribution rate calculations of a result of the phasing of expenditure and the timing of the receipt of contributions.

For this element, the calculation contribution rate as per the simplified formula is as follows:

Scenario 1

$$\begin{aligned} \text{Contributions rate} &= (\$6,297,597 - \$2,003,535) \div 948 \\ &= \$4,530 \end{aligned}$$

Scenario 2

$$\begin{aligned}\text{Contributions rate} &= (\$6,297,597 - \$1,906,009) \div 1,128 \\ &= \$3,806\end{aligned}$$

Scenario 3

$$\begin{aligned}\text{Contributions rate} &= (\$6,297,597 - \$1,906,009 + \$919,000) \div 1,752 \\ &= \$2,975\end{aligned}$$

Summary table showing contribution rates

Scenario	Contribution rate (per equivalent dwelling)	Meriton Proposal (equivalent dwellings)	Contribution for Meriton development
Scenario 1	\$4,530	187*	\$847,110
Scenario 2	\$3,806	367	\$1,396,802
Scenario 3	\$2,975	367	\$1,091,825

*Based on revised residential yields in the 2010 Planning framework

The calculations above are simplified formulas that provide indicative contribution rates for each scenario in 2010 dollars. These contribution rates are subject to change as and when the Department of Planning respond to Council with critical details requested concerning works and contribution rate escalation within Council's new Financial Model and Developer Contributions Plan.

In order to keep pace with inflationary pressures such as rising infrastructure costs and time value of money for the purposes of this Submission, the Contribution Rate applicable to each element is to be indexed to reflect the average of the two quarterly variations of the Consumer Price Index, All Group Index Number for Sydney and the Building Price Index for NSW between the date the proposed Contribution Rate was determined by Council and the date the levy is paid.

The formula governing indexation of the Contribution Rates is as follows:

$$\text{ICR} = \text{OCR} \times ((\text{CP2}/\text{CP1}) + (\text{BPI2}/\text{BPI1})) \div 2$$

Where:

ICR = the Indexed Contribution Rate at time of Payment.

OCR = the Original Contribution Rate determined by the Council.

CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment.

CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition (Original Contribution Rate).

BP2 = the Building Price Index, NSW, in respect of the quarter ending immediately prior to the date of payment.

BP1 = the Building Price Index, NSW in respect of the quarter ending immediately prior to the date of imposition of the condition (Original Contribution Rate).

Nexus

The justification for determining the extent to which development is required to contribute to a fund to provide common infrastructure and services for Warriewood Valley, is as follows:

- Given the geographically isolated nature of the release area and design of roads to prevent through traffic, allowance for cars by normal standards is extremely restricted. As such, the projected use for cycleways for short term/distance trips (given the extremely flat nature of the topography) will be higher than average in nature.
- Restricted road widths and the provision of an extensive cycleway network joining all areas of open space and retail outlets in the precinct will promote high usage of cycleways by all incoming residents.
- The issue of an ageing, active population and resultant recreational trends leading to more active use of passive facilities by elderly baby boomers, further enforces the need for provision of such facilities.
- Universal appeal of walking, cycling, skateboarding, use of razor scooters, etc by young.
- Equal access to all, open space and all facilities (Disability Discrimination Act).
- Multi-use of pathways as maintenance access for long term success of the landscape and associated facilities.

- Provision of quality community meeting spaces, i.e. seating/areas for gathering.
- Quality provision of facilities to enable reasonable life expectancy of assets to prevent short term replacement by council.
- Need to provide local pedestrian friendly systems for access to industrial areas by local residents.
- Need for new development to be sustainable.
- Need for linear open space as well as actual areas of parkland.
- Community health and well being.
- Council's Recreation Strategy identified a severe shortage of cycleways relative to the population. The extreme topography in the north of the locality prevents the ability to provide convenient cycleways in the short term. The isolated nature of the valley presents a unique opportunity to plan and provide a community system with walking and cycling as a central attraction to the proposed locality.

Facilities to be provided for the provision of the Warriewood Valley Pedestrian Cycleway Network includes:

- Lengths of 2.4m pathway (concrete) located between development sectors continues along Narrabeen and Fern Creeks generally leading to Pittwater Road, Vuko Place, Boondah Road sportsfields and Warriewood Square Retail Centre (see Schedule in Section 94 Plan for further detail).
- Selected bridges/causeways for crossings between sectors.
- Provision of lighting (solar) at 50m intervals (lighting has low 'P' rating given cost to Plan) of more lights for higher intensity 'P' rating.
- Provision of seating areas at same interval.
- Provision of bins at same interval.
- Provision of signage at same interval.
- Facilities as provided are extremely reasonable in price for provision, been checked by a quantity surveyor and only represent an extremely base level of supply.

Based on the above:

- For Development Scenario 2 no additional allowance has been made for pedestrian & cycleway provision.
- For Development Scenario 3 there is a need to provide improved connectivity between the higher density developments across the Warriewood Valley and to provide safer crossing

points for higher volumes of users. The cost of these works have been distributed across the whole of the land release.

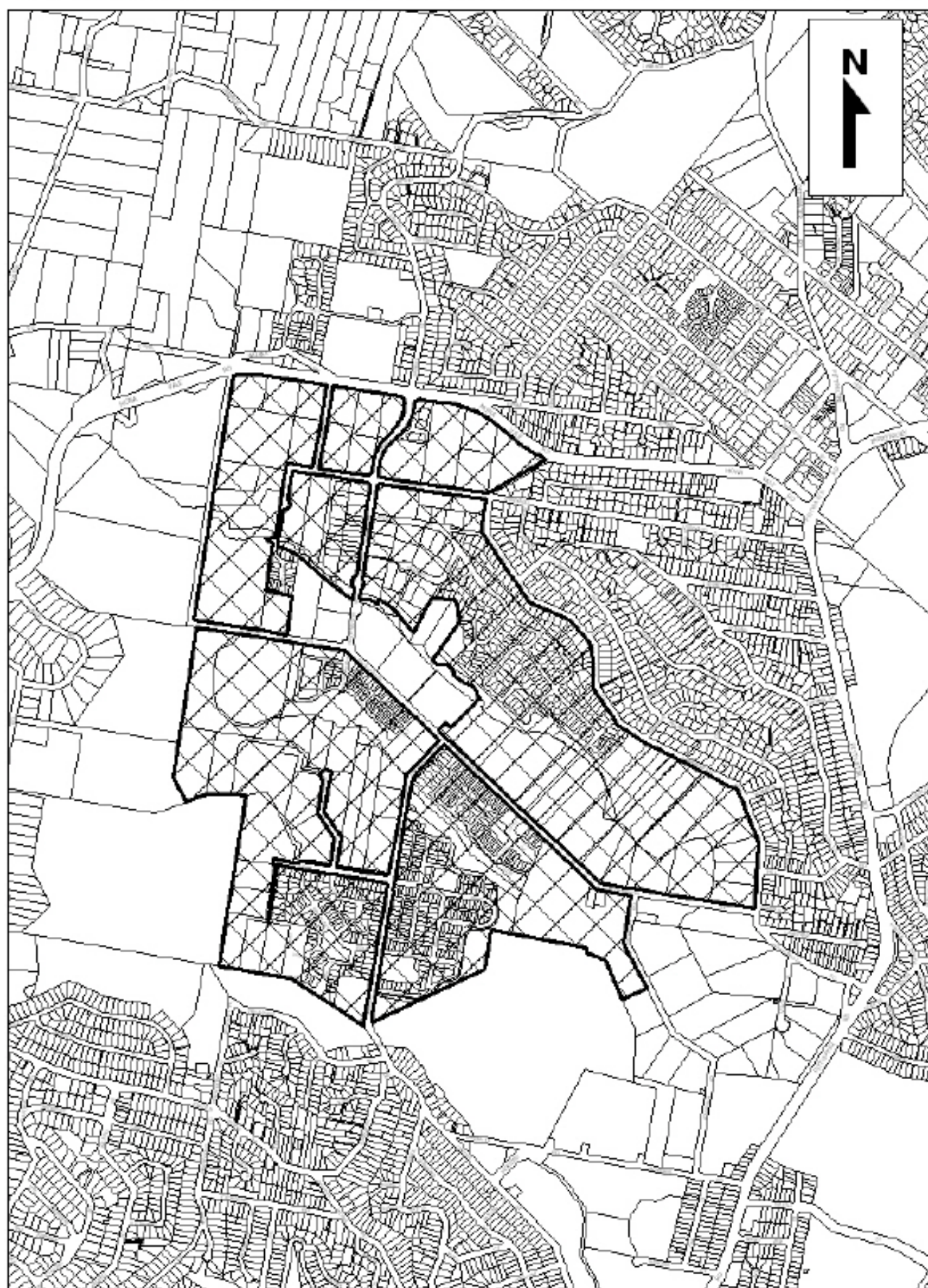
Spatial nexus

- Accessways have been provided along one side of the two creek systems that transect the release area (Narrabeen and Fern Creeks) from the escarpment and fire trail proposed on the western edge of the release through to the eastern end - Pittwater Road, Vuko Place and Boondah Road sporting fields and Warriewood Square.
- The pathways are located in the creekline corridors and sometimes alternate in location from side to side with access provided by strategically located bridges.
- The bridges have been located to allow movement between sectors and assist in access across the release.
- All open space and the footway system of the local roads are also connected to the cycleway system.

Temporal nexus

- Facilities as outlined are provided as funding from contributions from each sector become available. Provision of facilities as outlined will only occur as funding through contributions is paid to Council and confirmed funding is approved to proceed with project management works within a set budget.
- Provision of facilities can be hastened through earlier payment of s94 contributions for each element. Facilities as outlined are able to be provided at marketing stage of developments pending negotiation of scope of works and payment of funds to cover such works.

Properties subject to Pedestrian and Cycleway Network Facilities Contributions



3.7 BUSHFIRE PROTECTION FACILITIES

Scenario 1

Table showing remaining Bushfire Facility Protection Works required to service development (as per Warriewood Valley Planning Framework 2010)		
Item no.	Infrastructure item	Cost in 2010 dollars
1.	Connection (bridge over Narrabeen Creek)	\$136,316
2.	Connection (bridge over Fern Creek)	\$136,316
3.	Connection 3 (Sector 5/Sector 8)	\$34,800
4.	Connection 4 (Sector 9/Sector 10)	\$34,800
	TOTAL	\$342,232

Scenario 2

There are no additional Bushfire Facility Protection Works required in addition to Scenario 1 as a consequence of expanded development on Meriton site	
Additional infrastructure item	Cost in 2010 dollars
Nil	-

Scenario 3

There are no additional Bushfire Facility Protection Works items required in addition to Scenarios 1 & 2 as a consequence of expanded Meriton density development occurring on all remaining development sites	
Additional infrastructure item	Cost in 2010 dollars
Nil	-

Current position for Plan element

The element of the Warriewood Valley Section 94 Contributions Plan has a surplus of \$576,697 as at 30 June 2010.

As at 30 June 2010, this Plan element has collected contributions from 1282.4 equivalent dwellings and has provided \$0 worth of infrastructure and services (in 2010 dollars).

This Plan element has accumulated sufficient funds to provide all the required common infrastructure and as such, no further contributions are required.

3.8 LIBRARY SERVICES

Scenario 1

Table showing remaining Library infrastructure & Services required to service development (as per Warriewood Valley Planning Framework 2010)		
Item no.	Infrastructure item	Cost in 2010 dollars
6.	Library equipment	\$80,000
7.	Library Deficit ⁽¹⁾	\$1,553,857
	TOTAL	\$1,633,857

Note: Regarding Item 7, the Library deficit comprises approximately \$879,500 of Library resource items (books, etc) and the remaining expenditure on equipment and capital extensions to the Library.

Scenario 2

There are no additional Library Facility Works items required in addition to Scenario 1 as a consequence of additional density of development on Meriton site	
Additional infrastructure item	Cost in 2010 dollars
Nil	Nil
TOTAL	Nil

Scenario 3

There are no additional Library Facility works items required in addition to Scenario 1 & 2 as a consequence of expanded Meriton density development occurring on all remaining development

Additional infrastructure item	Cost in 2010 dollars
Nil	Nil
TOTAL	Nil

Current position for Plan element

The element of the Warriewood Valley Section 94 Contributions Plan has a deficit of \$1,553,857 as at 30 June 2010.

As at 30 June 2010, this Plan element has collected contributions from 1056.5 equivalent dwellings and has provided \$2,060,111 worth of infrastructure and services (in 2010 dollars).

Remaining residential commercial development does not contribute to this element.

Remaining leviable development

Table showing the remaining Leviable Development for the 3 development scenarios			
Scenario	Remaining residential (equivalent dwellings)	Remaining industrial/commercial (equivalent dwellings)	Total (equivalent dwellings)
Scenario 1	927	0	927
Scenario 2	1107	0	1107
Scenario 3	1,731	0	1,731

Calculation of contribution rates in 2010 dollars

The following is a simplified formula for determining the contribution rate per equivalent dwelling for this element and can be used to determine an estimate of that rate.

Contributions rate per equivalent dwelling:

$$= \frac{\text{Cost of providing infrastructure +/- Balance on hand}}{\text{Equivalent dwellings to be levied}}$$

In practice, this formula is applied through a financial model which addresses impact on contribution rate calculations of a result of the phasing of expenditure and the timing of the receipt of contributions.

For this element, the calculated contribution rates as per the simplified formula are as follows:

Scenario 1

$$\begin{aligned}\text{Contributions rate} &= (\$80,000 + \$1,553,857) \div 927 \\ &= \$1,763\end{aligned}$$

Scenario 2

$$\begin{aligned}\text{Contributions rate} &= (\$80,000 + \$1,553,857) \div 1,107 \\ &= \$1,467\end{aligned}$$

Scenario 3

$$\begin{aligned}\text{Contributions rate} &= (\$80,000 + \$1,553,857) \div 1,731 \\ &= \$944\end{aligned}$$

Summary table showing contribution rates

Scenario	Contribution rate (per equivalent dwelling)	Meriton Proposal (equivalent dwellings)	Contribution for Meriton development
Scenario 1	\$1,763	187*	\$329,681
Scenario 2	\$1,467	367	\$538,389
Scenario 3	\$944	367	\$346,448

*Based on revised residential yields in the 2010 Planning framework

The calculations above are simplified formulas that provide indicative contribution rates for each scenario in 2010 dollars. These contribution rates are subject to change as and when the Department of Planning respond to Council with critical details requested concerning works and contribution rate escalation within Council's new Financial Model and Developer Contributions Plan.

In order to keep pace with inflationary pressures such as rising infrastructure costs and time value of money for the purposes of this Submission, the Contribution Rate applicable to each element is to be indexed to reflect the average of the two quarterly variations of the Consumer

Price Index, All Group Index Number for Sydney and the Building Price Index for NSW between the date the proposed Contribution Rate was determined by Council and the date the levy is paid.

The formula governing indexation of the Contribution Rates is as follows:

$$\text{ICR} = \text{OCR} \times ((\text{CP2}/\text{CP1}) + (\text{BPI2}/\text{BPI1})) \div 2$$

Where:

ICR = the Indexed Contribution Rate at time of Payment.

OCR = the Original Contribution Rate determined by the Council.

CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment.

CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition (Original Contribution Rate).

BP2 = the Building Price Index, NSW, in respect of the quarter ending immediately prior to the date of payment.

BP1 = the Building Price Index, NSW in respect of the quarter ending immediately prior to the date of imposition of the condition (Original Contribution Rate).

Nexus

The justification for determining the extent to which development is required to contribute to a fund to provide common infrastructure and services for Warriewood Valley, is as follows:

Causal nexus

Residential development brings increased demand for information to satisfy educational requirements as well as recreation use of information material. Increased population in the 65+ age group, in particular, results in an increased demand for special needs information such as large print books, talking books and caption videos. Council's library service provides other services such as videos, audiocassettes, compact discs and electronic resources on CD-ROM and the Internet, in addition to reference and fiction books and magazines. The increase in the number of residents using library services will bring about a need for an increase in infrastructure, equipment and the collection size to meet the additional demand.

Temporal nexus

Relatively early in the life of the S.94 Plan, Council decided to construct a new Central Library at Mona Vale and it was therefore timely to use the floor space component of the Library Element to expand the proposed new facility to meet the needs of the Warriewood Valley community.

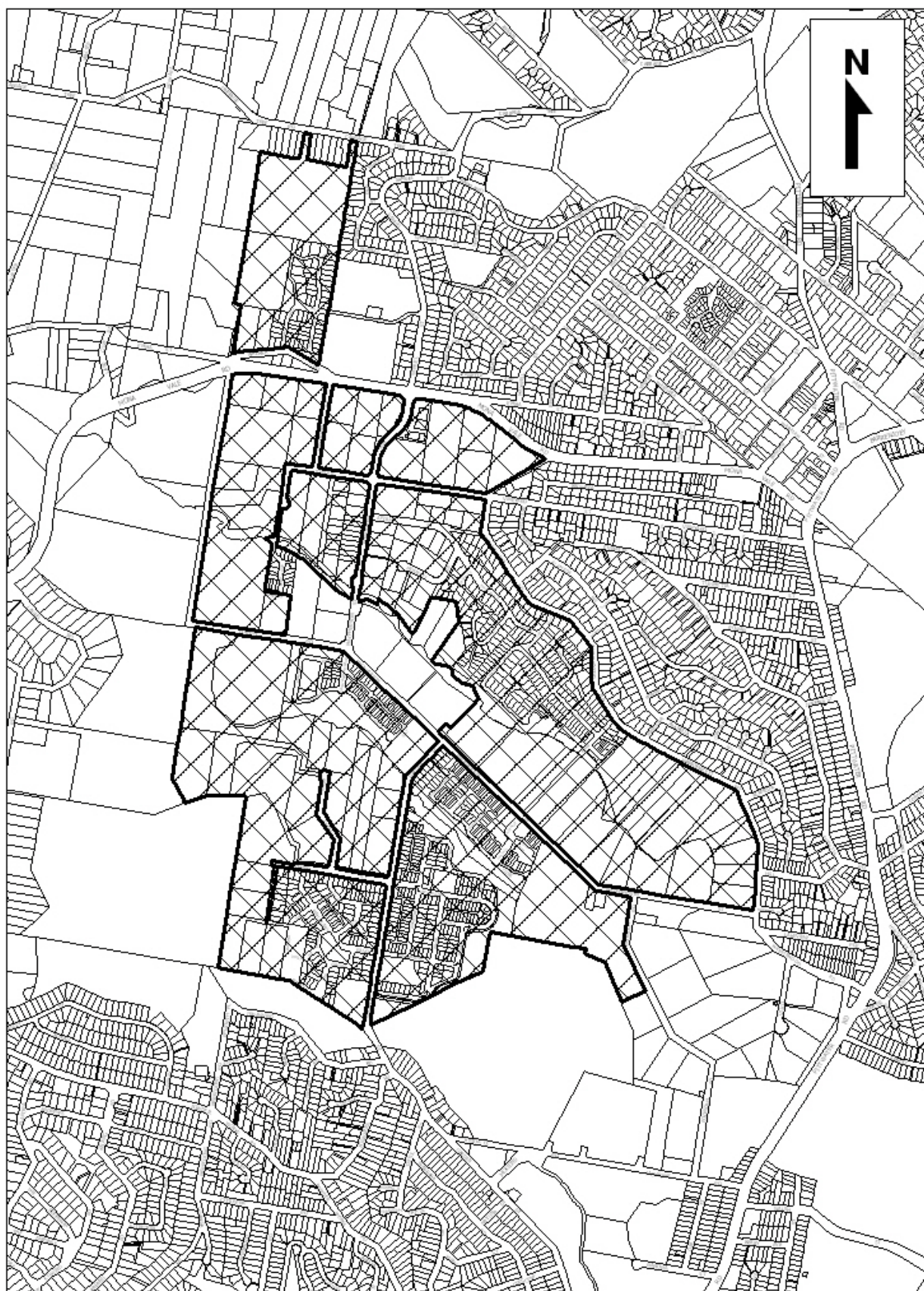
Once the new Library was built in 2004-2005, it was then appropriate to finalise over the next five years the remaining library resources (books) and equipment components of the Library Element of the WV S.94 Plan.

As a result, the Library Element has almost fully expended its Library Resources (books), equipment and capital components and is seeking to recoup this expenditure of \$1,553,857 by levying the remaining dwellings in Warriewood Valley.

Spacial nexus

Due to the relatively small size of the land release it wasn't considered appropriate to build a Branch Library in Warriewood Valley. Due to the reasonable proximity of Council's Central Library in Mona Vale, it was seen that augmenting this facility would be a more reasonable and cost effective method of meeting the demands of the new population of Warriewood Valley.

Properties subject to Library Services Strategy Contributions



3.9 PLAN ADMINISTRATION

Current position for Plan element

This element of the Warriewood Valley Section 94 Contributions Plan has a deficit of \$1,278,075 as at 30 June 2010.

As at 30 June 2010, this Plan element has collected contributions from 1367.4 equivalent dwellings and has provided \$3,552,850 worth of administration and project management associated with the delivery of infrastructure and services (in 2010 dollars).

The quantum of industrial commercial development that will contribute to this plan element is 4.8185 ha or 84 equivalent dwellings.

Remaining leviable development

Table showing the remaining Leviable Development for the 3 development scenarios			
Scenario	Remaining residential (equivalent dwellings)	Remaining industrial/commercial (equivalent dwellings)	Total dwellings
Scenario 1	927	84	1,011
Scenario 2	1,107	84	1,191
Scenario 3	1,731	84	1,815

The Minister's Direction in relation to Council's review of its Warriewood Valley Section 94 Contributions Plan, has specified an interim contribution rate for plan administration of \$1,000 per dwelling. Note this is based upon dwelling yields and not equivalent dwellings.

This amount of money being used to administer the collection management and expenditure of developed contributions.

Calculation of contribution rates in 2010 dollars

The following is a simplified formula for determining the contribution rate per dwelling for this element and can be used to determine an estimate of that rate.

Contributions rate per dwelling:

$$= \text{Number of proposed dwellings} \times \$1000$$

In practice, this formula is applied through a financial model which addresses impact on contribution rate calculations of a result of the phasing of expenditure and the timing of the receipt of contributions.

For this element, the calculation contributed rates as per the simplified formula are as follows:

Scenario 1

$$\begin{aligned} \text{Contributions rate} &= \$1,000 \times 187 \\ &= \$187,000 \end{aligned}$$

Scenario 2

$$\begin{aligned} \text{Contributions rate} &= \$1,000 \times 559 \\ &= \$559,000 \end{aligned}$$

Scenario 3

$$\begin{aligned} \text{Contributions rate} &= \$1,000 \times 559 \\ &= \$559,000 \end{aligned}$$

Summary table showing contribution rates

Scenario	Contribution rate per dwelling	Contribution Rate per equivalent dwelling	Meriton Proposal	Contribution for Meriton development
Scenario 1	\$1,000	\$1,000	187*	\$187,000
Scenario 2	\$1,000	\$1,523	559	\$559,000
Scenario 3	\$1,000	\$1,523	559	\$559,000

*Based on revised residential yields in the 2010 Planning Framework

The calculations above are simplified formulas that provide indicative contribution rates for each scenario in 2010 dollars. These contribution rates are subject to change as and when the Department of Planning respond to Council with critical details requested concerning works and contribution rate escalation within Council's new Financial Model and Developer Contributions Plan.

In order to keep pace with inflationary pressures such as rising infrastructure costs and time value of money for the purposes of this Submission, the Contribution Rate applicable to each element is to be indexed to reflect the average of the two quarterly variations of the Consumer Price Index, All Group Index Number for Sydney and the Building Price Index for NSW between the date the proposed Contribution Rate was determined by Council and the date the levy is paid.

The formula governing indexation of the Contribution Rates is as follows:

$$\text{ICR} = \text{OCR} \times ((\text{CP2}/\text{CP1}) + (\text{BPI2}/\text{BPI1})) \div 2$$

Where:

ICR = the Indexed Contribution Rate at time of Payment.

OCR = the Original Contribution Rate determined by the Council.

CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment.

CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition (Original Contribution Rate).

BP2 = the Building Price Index, NSW, in respect of the quarter ending immediately prior to the date of payment.

BP1 = the Building Price Index, NSW in respect of the quarter ending immediately prior to the date of imposition of the condition (Original Contribution Rate).

Nexus

The justification for determining the extent to which development is required to contribute to a fund to provide common infrastructure and services for Warriewood Valley, is as follows:

An annual charge to the Warriewood Valley Developers Contributions Plan relates specifically to the administration of the Plan. Such Plan Administration incorporates the functionality of Financial Administration, Strategic Planning, Infrastructure Provision Management, Open Space Management, Water Management, Bush Fire Management etc. and incorporates not only staff time but costs associated with third party advice that is required from time to time. Such advice may relate to Land Valuation Advice, Financial Advice, Engineering Advice etc. Plan Management only relates to the administration of the Plan and not to specific works programs within the provision of Warriewood Valley Infrastructure.

3.10 TOTAL DEVELOPER CONTRIBUTION FOR MERITON PROPOSAL

The following Section calculates the total Meriton proposal developer contribution on the basis of the rates for each element of infrastructure and services determined in Sections 3.1 – 3.9 for both Scenario 2 and Scenario 3.

Where payment is not made within the 2010 calendar year as a result of payment deferral to Occupation Certificate Stage or Staging of payments to align with staging of the development, payments of the monetary component of the contribution will need to be increased by the CPI rate.

Developer Scenario 2

Stand-alone Meriton Proposal, all other development in Warriewood Valley as per Warriewood Valley Planning Framework 2010) Developer Contribution

Element	Contribution rate per equivalent dwelling	Meriton Proposal per equivalent dwelling	Contribution
Traffic and transport	\$9,412	367	\$3,454,204
Multi-function creekline corridors (land)	\$4,662 (to provide 45.73 m ²)	367	6,681m ² on site dedication free of cost plus \$1,029,899
Multi-function creekline corridors (works)	\$5,422	367	\$1,989,874
Community services	\$4,883	367	\$1,792,061
Public recreation and open space (embellishment)	\$7,424	367	\$2,724,608
Public recreation and open space (land)	\$15,756 (to provide 48.48m ²)	367	\$5,782,452 (to provide 1.7792ha)
Pedestrian/cycleway network	\$3,806	367	\$1,396,802
Bushfire protection	-	367	-
Library services	\$1,467	367	\$538,389
Planning management	\$1,523	367	\$559,000
TOTAL CONTRIBUTION	\$54,355 per equivalent dwelling (includes funding for provision of 45.73m ² of creekline corridor land and 48.48m ² of open space land)		\$19,267,289 plus direct dedication of 6681m ² of creekline corridor land on site free of cost (includes funding for provision of 4.5182ha of off site creekline corridor land and 1.7792ha of open space)

Total contribution Scenario 2

The Meriton proposal site has 6,681 m² of land designated for creekline corridor. This land is required to be is dedicated.

Meriton's total contribution including a financial contribution and direct dedication of land free of charge is as follows:

Direct dedication of land free of charge	Dedication of creekline corridor land free of cost	6681m ²
Payment component	Total payment	\$19,267,289

The calculations of the monetary component of this contribution is based on simplified formulas that provide indicative contribution rates for each scenario in 2010 dollars. These contribution rates are subject to change as and when the Department of Planning respond to Council with critical details requested concerning works and contribution rate escalation within Council's new Financial Model and Developer Contributions Plan.

In order to keep pace with inflationary pressures such as rising infrastructure costs and time value of money for the purposes of this Submission, the Contribution is to be indexed to reflect the average of the two quarterly variations of the Consumer Price Index, All Group Index Number for Sydney and the Building Price Index for NSW between the date the proposed Contribution Rate was determined by Council and the date the levy is paid.

The formula governing indexation of the Contribution Rates is as follows:

$$\text{ICR} = \text{OCR} \times ((\text{CP2}/\text{CP1}) + (\text{BPI2}/\text{BPI1})) \div 2$$

Where:

ICR = the Indexed Contribution Rate at time of Payment.

OCR = the Original Contribution Rate determined by the Council.

CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment.

CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition (Original Contribution Rate).

BP2 = the Building Price Index, NSW, in respect of the quarter ending immediately prior to the date of payment.

BP1 = the Building Price Index, NSW in respect of the quarter ending immediately prior to the date of imposition of the condition (Original Contribution Rate).

Developer Scenario 3

(Stand-alone Meriton Proposal, all other development in Warriewood Valley as per Warriewood Valley Planning Framework 2010) Developer Contribution

Element	Contribution rate per equivalent dwelling	Meriton proposal equivalent dwellings	Meriton contribution as part of Scenario 3
Traffic and transport	\$8,677	367	\$3,184,459
Multi-function creekline corridors (land)	\$3,060 to provide 30.01m ²	367	6,681m ² on site dedication free of cost plus \$441,759
Multi-function creekline corridors (works)	\$3,558	367	\$1,305,786
Community services	\$5,549	367	\$2,036,483
Public recreation and open space (embellishment)	\$7,515	367	\$2,758,005
Public recreation and open space (land)	\$18,616 (to provide 57.28m ²)	367	\$6,832,072 (to provide 2.1ha)
Pedestrian/cycleway network	\$2,975	367	\$1,091,825
Bushfire protection	-	367	-
Library services	\$944	367	\$346,448
Planning management	\$1,523	367	\$558,941
TOTAL CONTRIBUTION	\$52,417per equivalent dwelling (includes funding for provision for 30.01m ² of creekline corridor land and 57.28m ² of open space land)		\$18,555,778 plus direct dedication free of charge of 6,681m ² of creekline corridor land on site free of cost (includes funding for provision of 4362m ² of off site creekline corridor and 2.1ha of open space)

Total contribution Scenario 3

Meriton's total contribution including a financial contribution and dedication of land free of charge is as follows:

Direct dedication of land	Dedication of creekline corridor land on site free of cost	6,681m ²
Payment component	Total payment	\$18,555,778

The calculations of the monetary component this contribution is based on simplified formulas that provide indicative contribution rates for each scenario in 2010 dollars. These contribution rates are subject to change as and when the Department of Planning respond to Council with critical details requested concerning works and contribution rate escalation within Council's new Financial Model and Developer Contributions Plan.

In order to keep pace with inflationary pressures such as rising infrastructure costs and time value of money for the purposes of this Submission, the Contribution is to be indexed to reflect the average of the two quarterly variations of the Consumer Price Index, All Group Index Number for Sydney and the Building Price Index for NSW between the date the proposed Contribution Rate was determined by Council and the date the levy is paid.

The formula governing indexation of the Contribution Rates is as follows:

$$\text{ICR} = \text{OCR} \times ((\text{CP2}/\text{CP1}) + (\text{BPI2}/\text{BPI1})) \div 2$$

Where:

ICR = the Indexed Contribution Rate at time of Payment.

OCR = the Original Contribution Rate determined by the Council.

CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment.

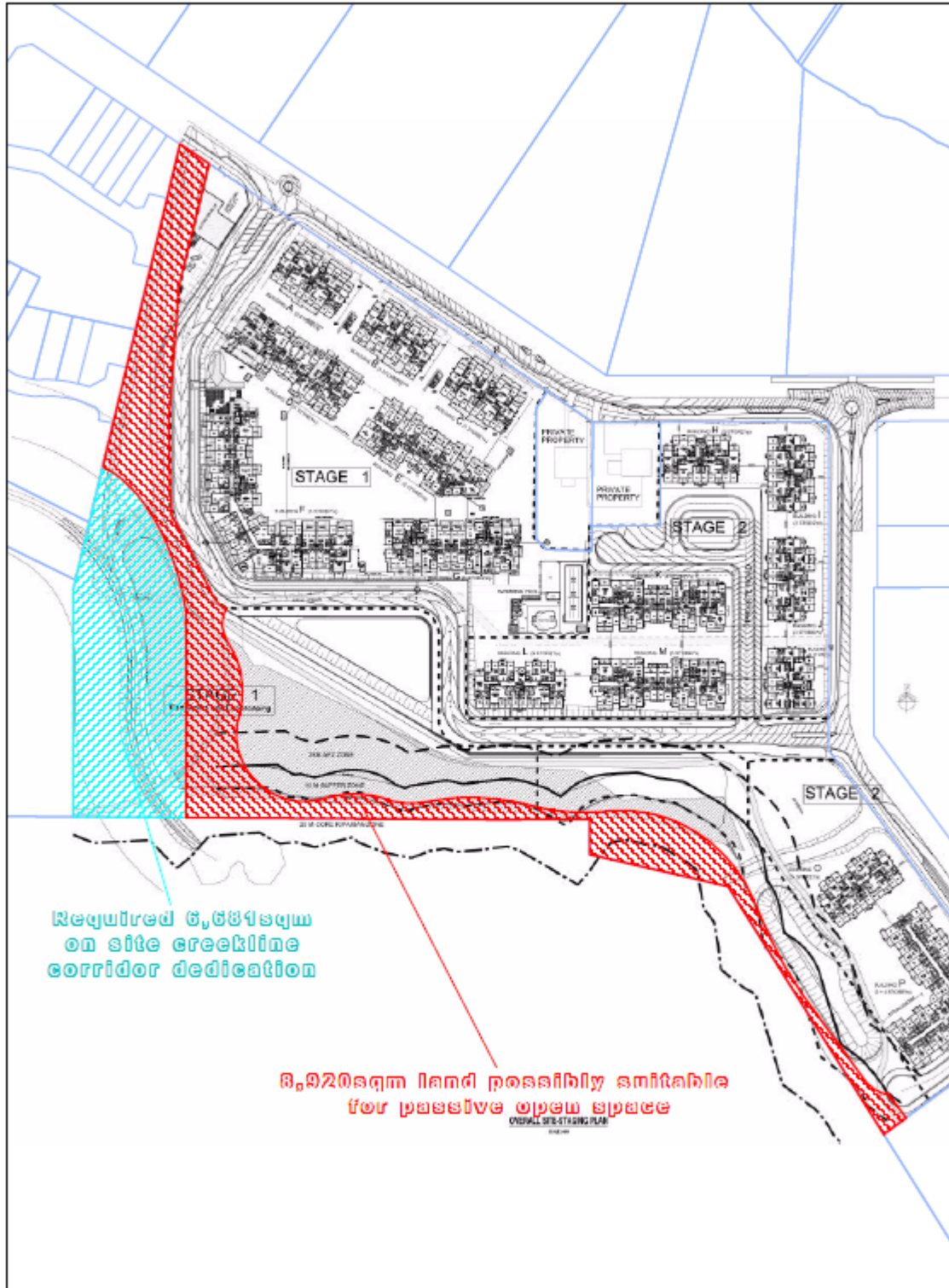
CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition (Original Contribution Rate).

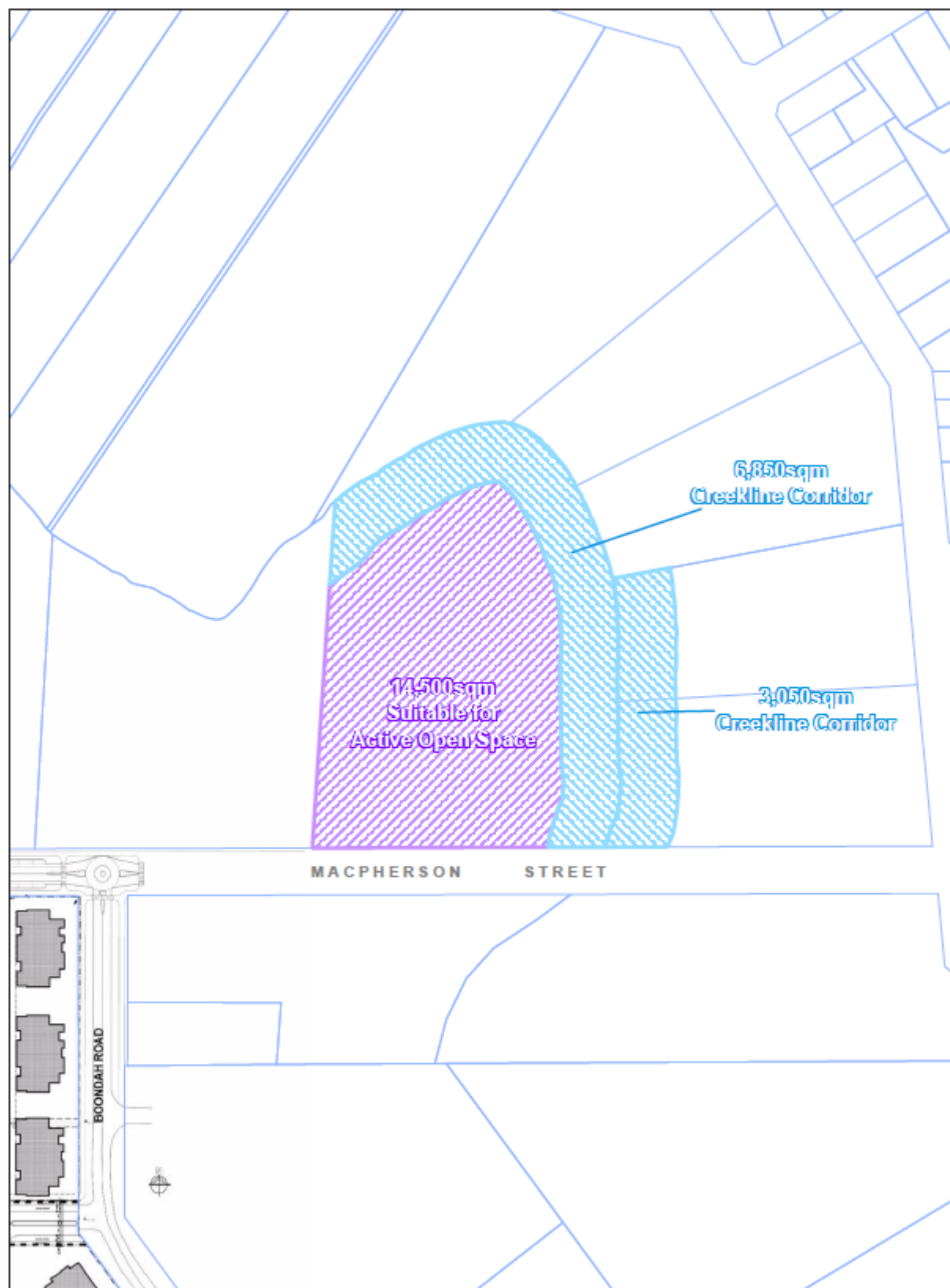
BP2 = the Building Price Index, NSW, in respect of the quarter ending immediately prior to the date of payment.

BP1 = the Building Price Index, NSW in respect of the quarter ending immediately prior to the date of imposition of the condition (Original Contribution Rate).

Land Owned by Meriton Suitable for Dedication

The following maps show the open space and creekline land (on-site and off-site) owned by Meriton that is suitable for dedication free of charge.





4 Inability to provide additional infrastructure

While it may be theoretically possible to deduce an equitable contribution rate which takes into account the Meriton proposal as a stand-alone development or in a scenario that is based on the precedent it sets, there remains the problem that the original infrastructure planned for Warriewood Valley may not be able to be expanded, sufficient to provide for the increased development.

For example, the Infrastructure Provision Strategy for Warriewood Valley and the associated planning restricted road width for major roads within the Valley to prevent through traffic and provide a safer pedestrian traffic environment.

Development is now over half completed and roads, if the additional population as a result of this development (and the precedent it sets) was to require additional road width and footpath infrastructure the expansion of infrastructure. It simply cannot be provided without massive impact and/or significant additional costs on completed works and development.

Likewise, there is a shortage of land suitable for “active and passive open space” in Warriewood Valley under current provision arrangements for the anticipated dwelling yields. Council has had to adopt a range of innovative measures including alliance with local schools, to provide for increased active recreation opportunities in an attempt to meet contemporary standards of provision.

Additional demand created as a result of significantly expanded development in Warriewood Valley would require large areas of active open space.

This active open space needs to be located reasonably near to and be available for the use of future residents. There is a shortage of available land suitable for active open space in the vicinity without moving into areas of existing residential development (where the cost of acquisition would be excessive) or forfeiting the development opportunity for land otherwise suitable (and assigned for) residential development.

If this land cannot be provided, which is almost certainly the case, then the availability of suitable land places a threshold on increases in development yield. In addition, if developable land within the Warriewood Valley is acquired for open space it reduces the development yields, which in turn affects developer contributions.

Without a complete review of the Strategic Land Use and Infrastructure & Services planning, carried out as an orderly planning process as was originally done, it is not possible to determine the impact of additional unplanned development and the ability to provide expanded infrastructure and services.

5 Direct provision of infrastructure – Who Pays?

Meriton includes a proposal for reimbursement of the cost associated with the provision of the following infrastructure and service items.

The proposal states that unequivocally that they will seek compensation for the cost of these works, regardless as to whether they are included in any contributions.

The Infrastructure & Services for which Meriton state that they will seek compensation, through reduction in payable developer contributions fall into two categories:

- Items of Infrastructure & Services which are to be provided through Developer Contributions.
- Items of Infrastructure & Services for which there is no Developer Contributions funding.

A response to the Meriton proposal in regard to reduction of payable developer contributions is addressed in the following sections.

5.1 PROPOSAL FOR REIMBURSEMENT OF THE COST FOR DIRECT PROVISION OF INFRASTRUCTURE & SERVICES FUNDED BY DEVELOPER CONTRIBUTIONS

Meriton propose to seek compensation for the direct provision of the following Infrastructure & Services which are consistent with items identified by Council listed to be funded by Developer Contributions (Ref. Table Page 33 Preferred Project Report).

- Construction of roundabout at the intersection of Boondah Road & Macpherson Street
- Creekline corridor constructions and embellishment of Fern Creek as it traverses the site
- Provision of pedestrian / cycleway through the site.

These opportunities are outlined in section 5.3.

Dedication of creekline corridor

The current Warriewood Valley Section 94 Contributions Plan (and the developer contribution required from Meriton as outlined in this document) requires the dedication of land for creekline corridor. The direct dedication 6681 m² of creekline corridor on the development site is required free of charge. There is opportunity for a reduction in contribution, as a result of direct dedication of other creekline corridor land owned by Meriton remote from the site as shown on the plan of “off site creekline corridor and open space land”.

5.2 PROPOSAL FOR REIMBURSEMENT FOR THE COST OF DIRECT PROVISION OF INFRASTRUCTURE & SERVICES NOT FUNDED BY DEVELOPER CONTRIBUTIONS

The following works prepared by Meriton to be refunded (Ref. Table Page 33 Preferred Project Report) are not included in any Developer Contribution Plan and in all other instances in the Valley, these facilities have been directly provided by the developer.

Item Specified by Meriton	Meriton Estimate of Value
Item1. Roundabout on Macpherson Street	\$72,563
Item 2. Road widening on Macpherson Street	\$1,516,634
Item 3. Undergrounding of existing services along Macpherson Street – High voltage, Low voltage and cable television	\$982,450
Item 5&6. Road widening Boondah Road	\$900,663
Item 7. New Public Road through the site (Road No. 1)	\$3,657,328
Overland Flow path from Boondah Road	\$735,304

Funds are not planned to be (and have not been) collected for these works and hence, could not be returned out of the Warriewood Valley Section 94 Contributions Plan or funded through a reduction in Developer Contributions payable by Meriton.

The only other alternative would be that the cost of reimbursement for these facilities is paid out of general ratepayer funds.

Put simply, the proposal is that the ratepayers of Pittwater should pay for these items that are directly related to the Meriton development and are infrastructure that is fundamental to a contemporary residential development. These forms of infrastructure has been provided directly by all of the sector developments undertaken to date.

The Meriton proposal is untenable and as Council has not budgeted for these works, the only thing that could be done is that if the development were to proceed is that Meriton do not carry out these works.

The Meriton proposal is totally unacceptable in terms of public safety and amenity and would inevitably lead to Council, i.e. the Pittwater community that it represents, being forced to fund construction using general ratepayer funds. Pittwater Council is already under financial pressure and has a large backlog of infrastructure upgrades to contend with without adding to this burden.

As for virtually all other residential development projects carried out in New South Wales, the benefit of these infrastructure items for which Meriton seeks reimbursements is most attributable to the adjoining properties.

It is an unacceptable proposition by Meriton that they should be reimbursed for the cost of provision of this infrastructure, or that the development should proceed without it being provided, requiring Council to provide it at the expense of ratepayers.

5.3 OPPORTUNITY FOR REDUCTION OF DEVELOPER CONTRIBUTIONS THROUGH DIRECT PROVISION

In the event that Meriton Developments proceeds, Council would consider accepting direct provision of the following land acquisitions, infrastructure & services and a corresponding reduction in developer cash contributions otherwise payable for such provision:

The following table “estimates” the potential reduction that might be achieved for Scenario 3.

Element	Opportunity for direct provision	Potential reduction in contributions in 2010 dollars
Traffic and transport	Construction of a roundabout at intersection McPherson Street & Boondah Road, Warriewood valued at \$1,276,354. Dedication of the 5.5m splay corner at the intersection of Macpherson St & Boondah Road valued at \$94,063	\$1,370,417
Multi-function creekline corridors (works)	Construction & embellishment of 6,681 m ² of proposed creekline corridor land within the Meriton site at \$80 per m ²	\$534,480
Multi-function creekline corridors (land)	Dedication of off site land for creekline corridor to a maximum of 4,362m ² valued at \$101.95per m ²)	\$444,706
Community services	Nil	Nil
Public recreation and open space land	Dedication of land suitable for active and passive open space on site and off site (to a maximum of 2.1ha valued at \$325 per m ²).	\$6,832,072
Pedestrian network	Direct provision including bridge over creekline corridor, pedestrian/ cycleway network where it passes through the Meriton site valued at \$403,317.	\$403,317
Bushfire protection	N/A	N/A
Library services	Nil	Nil

Plan management	Nil	Nil
Total potential reduction		\$9,584,992

On the basis of the above clearly identifiable opportunities the cash component of the Meriton Development Contribution for Scenario 3 has the potential to be reduced by as much as \$9,584,992 subject to an appropriate agreement on the terms for direct provision.

There are further opportunities to directly provide infrastructure and services not on or directly adjacent to the Meriton site including various traffic and transport facilities, embellishment of open space and creekline corridor land, pedestrian walkways/cycleways, and community facilities subject to agreement on the terms for direct provision.

These opportunities would be the subject of a Material Public Benefit Agreement between Council and Meriton.

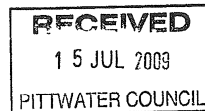
Warriewood Valley Section 94 Plan No. 15 Amendment No. 16

(not attached – to be separately provided)

Note: This document is Attachment 1 to Appendix B
“Meriton 3A Proposal - Development Contributions” to Pittwater Council’s
“Submission to the Department of Planning on Major Project Application
MP09_0162 at 14-18 Boondah Road, Warriewood”

Minister for Planning's Direction

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



Y09/1910

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

Attention Lindsay Dyce

Dear Mr Ferguson



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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- 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

**Warriewood Valley Section 94 Contributions Plan –
Independent Review by Hill PDA**
(not attached – to be separately provided)

Note: This document is Attachment 1 to Appendix B
“Meriton 3A Proposal - Development Contributions” to Pittwater Council’s
“Submission to the Department of Planning on Major Project Application
MP09_0162 at 14-18 Boondah Road, Warriewood”

Pittwater Council letter to the Department of Planning

Mark Ferguson – General Manager
8am to 5:30pm Monday-Thursday
8am to 5pm Friday
Ph: (02) 9970 1101

8 February 2010

Hon. Tony Kelly
Minister for Planning
Governor Macquarie Tower
Level 34, Farrer Place
SYDNEY NSW 2000

Dear Minister Kelly

**RE: WARRIEWOOD VALLEY URBAN LAND RELEASE
- PITTWATER LOCAL GOVERNMENT AREA**

I write to you in relation to the Warriewood Valley Urban Land Release Project and in particular, the Section 94E Minister's Direction of 10 July 2009 as it applies to the Warriewood Valley Section 94 Contributions Plan (Amendment No 16) ("the Plan"). The Direction, primarily prescribed a contribution rate of \$62,100 per dwelling in Warriewood Valley as well as required Council to procure an independent review of the Plan and subsequently, to complete any necessary amendment to the Plan.

On 1 February 2010, Council considered a report that encapsulated the outcomes of the independent review of the Plan, together with the proposed actions by Council officers to progressing the review of the Plan. At its meeting of 1 February 2010, Council resolved an array of actions, including formal request to yourself regarding the following matters:

1. inclusion of additional community infrastructure such as child care facility and the recoupment of library books, in the Warriewood Valley Section 94 Plan;
2. the plan and administration rate (applicable to new dwellings in Warriewood Valley) be set to a specific percentage in accordance with the Draft Guidelines, rather than be limited to \$1000 per dwelling as currently set out in the Direction.

Your approval to the above matters is required before Council can progress to review its Plan.

In regards to your Direction of 10 July 2009, I seek your assurance that this Direction continues to be in place until such time as a reviewed Section 94 Contributions Plan is adopted by Council.

Should you wish to discuss the details of these issues, please do not hesitate to contact myself on 9970 1101.

Yours faithfully

Mark Ferguson
GENERAL MANAGER

*Attachments: Council's Resolution of 1 February 2010 – "Comprehensive review of Warriewood Valley Section 94 Contributions Plan to Comply with Directions of The Minister for Planning, and Council's Response to the Draft Development Contributions Guidelines 2009.
Report on the Independent review of the Warriewood Valley Section 94 Contributions Plan, prepared by Hill PDA Consulting
Business Plan for the inclusion of Library Book recoupment within the Warriewood Valley Section 94 Contributions Plan (February 2010)
Business Plan for the Inclusion of Childcare facilities within the Warriewood Valley Section 94 Contributions Plan (February 2010)*

C7.3: Comprehensive Review of Warriewood Valley Section 94 Contributions Plan to Comply With Directions of The Minister for Planning, and Council's Response to the Draft Development Contributions Guidelines 2009

RESOLUTION

1. That the contents of this report be noted.
2. That the recommendations of the "Independent Review" of the Warriewood Valley Section 94 Contributions Plan (Amendment No.16) carried out by Hill PDA be noted.
3. That the Department of Planning be advised of Council's actions and intended review of the Warriewood Valley Section 94 Contribution Plan as outlined in this report in relation to the Ministerial Direction. That the Department of Planning be provided with a copy of the "Independent Review" proposed by Hill PDA and a copy of this report.
4. That Council endorse the "Business Plan" submissions to the Minister for Planning for inclusion of the Library element and childcare facility proposal in the Community Services element as "non-essential infrastructure" in a reviewed Warriewood Valley Section 94 Contributions Plan, as contained in Attachments 4 and 5 to this report.
5. That Council request the Minister for Planning to vary the Ministerial Direction of 10th July 2009 to allow Council to set a contribution rate in a reviewed Warriewood Valley Section 94 Contributions Plan which includes a component towards administration and management costs commensurate with that recommended in the "Independent Review" carried out by Hill PDA and the Draft Local Development Contributions Guidelines.
6. That Council request the Minister for Planning to confirm that the current Warriewood Valley Section 94 Contributions Plan Amendment No.16 continues to apply to any Development Application to be determined prior to a reviewed Plan referred to in Recommendation 7 (below) coming into force, subject to any contributions not exceeding \$62,100 per equivalent dwelling.
7. That Warriewood Valley Section 94 Contributions Plan be reviewed and reported to Council following formal response from the Department of Planning in relation to Council's submission of the "Independent Review" carried out by Hill PDA, the "Business Plans" for the Library element and childcare facility proposal within the Community Services element supporting their inclusion in a reviewed Plan as non-essential infrastructure and a copy of this report.
8. That Council's submission to the Department of Planning on the Draft Local Development Contributions Guidelines as contained in Attachment 3 to this report, be forwarded to the Director General of the Department of Planning.

(Cr Giles / Cr Townsend)

Review by Traffix (for Pittwater Council) dated 30 April 2010



traffix
traffic & transport planners

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w: www.traffix.com.au
abn: 66065132961

Reference: 10089

30 April 2010

Pittwater Council
PO Box 882
Mona Vale 1660

Attention: Paul Davies - Principal Engineer Roads & Transport

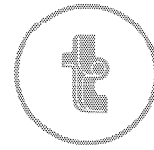
Re: Proposed Residential Development under Part 3A of the EP&A Act
Meriton Apartments: 14-18 Boondah Road, Warriewood Valley

Dear Sir,

We refer to our recent discussions concerning the subject development proposal which we note is made under Part 3A of the EP&A Act and therefore subject to approval by the Minister. In this regard, we have reviewed all relevant information as provided to us (notably the Halcrow Traffic report dated 12 February 2010 and the TTPA Report Stage 1 Project Application dated February 2010) and we have also inspected the site to appraise the current site context. Accordingly, we now advise as follows in relation to the main policy implications that this application presents to Pittwater Council:

Resident Parking

- Council's Pittwater 21 DCP has been structured having regard for experience over many years and has served the LGA well, having regard for its relatively high car ownership rates and car dependency, which in turn are a reflection of the relatively poor level of public transport availability within the LGA. The DCP rates are 'average' *minimum* rates that apply across the entire LGA. The DCP anticipates that it may be possible to vary the minimum level of provision in areas well served by public transport, notably the established centres of Avalon, Newport and Mona Vale; all of which are reasonably well served by trunk bus services along Pittwater Road to the City, North Sydney and Chatswood. Nevertheless, even in these areas, justification must be provided for any variation to be considered. In addition, the Land and Environment Court is increasingly placing significant weight on Council DCP's, which take full account of local factors and while DCP's may be development guidelines, there is an onus on any applicant to justify any deviation.
- The subject site lies within Warriewood Valley and does not enjoy the level of public transport accessibility that is provided within these established centres. Specifically, the centroid of the subject site lies 950 metres from Pittwater Road, which is well beyond the 400 metre walking distance to buses which is the accepted distance to permit walking for even commuter travel. Where walking distances are greater than 400 metres (and in the absence of a railway station which would increase this to 800 metres) it is unacceptable to permit any concession to parking rates. No proposal is presented in the traffic reports to demonstrate how existing buses might be diverted and/or augmented to overcome the problems posed by these distances, even for the journey to work.

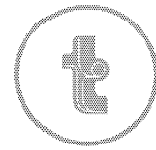


- While the promotion of reduced parking rates is a worthy planning objective to suppress car travel and promote alternate transport modes and is supported in principle as sound Government policy, this brings with it a responsibility to ensure that public transport is available to serve the many types of trips that residents would undertake. This includes not just commuter trips, but recreational trips, shopping trips, social trips and educational trips which are many and varied and span all times of the week, including during the evenings and on weekends, when public transport services are significantly reduced. This broad matrix of trip behaviour is also increasing over time as is evident from Household Travel Surveys, which establishes progressively more complex trip patterns that include cross regional and local trips, many of which are either not served or are inadequately served by public transport. This includes trips with families which are generally not suited to public transport. Indeed, many of these trips require a car to be used, even though it may not necessarily be used for the critical journey to work.
- The applicant has offered no satisfactory response to this challenge, notwithstanding that a TMAP study is required under the DGR's. The Halcrow report (Section 2.6 refers) and the TTPA report (Section 4.4 refers) place reliance on the ability of Sydney Buses to review existing service levels, presumably in response to a future demonstrated demand. No consideration is given to measures required to achieve a target level of service provision, notwithstanding that the reduced parking that is sought by the applicant will be a permanent outcome. In our view this is an insufficient and high-risk response and public transport needs to be incorporated as an integral part of the planning process to alter travel behaviour. In the absence of committed and funded improvements that can achieve the level of modal change that will be required, the DCP should not be set aside. Notwithstanding this, in our view this is unlikely to be achievable in the context of Warriewood Valley. The report does however identify the need to improve infrastructure in Garden Street and Macpherson Street to accommodate buses, due to inadequate bus stops, although there is no commitment to any improvements, which are in any event of a minor nature and will not contribute in any significant way to modal change, even if they were to be funded by the applicant.
- Under Council's DCP, the development (with 313 units) would require 546 resident spaces, as follows:

13 studio units	@1.0	13 spaces
67 one bedroom units	@1.0	67 spaces
216 two bedroom units	@2.0	432 spaces
17 three bedroom units	@2.0	34 spaces

In response, the development proposes 320 resident spaces, with the reduction due to the fact that only 50% of the parking for the two bedroom units is provided at the rate of 1.0 space/unit. This is a 41% reduction in parking overall for the development compared with the DCP requirement. This is a demand shortfall that will need to be accommodated instead by public transport services for all trip types which is a substantial and onerous imposition, to which no firm planning solution is offered by the applicant.

- It is more likely in our view that the parking demand that is not provided will be displaced to on-street locations, both internally and external to the site. Indeed, this could occur even if the requisite public transport is provided, due to the need to own and use a car for many trip purposes where there is no viable public transport alternative. To give this some context, the deficiency of 226 parking spaces equates to some 1.36km of kerb space

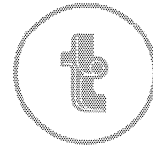


assuming 6 metres per space. This will increase further under Stage 2, which would presumably build upon any Stage 1 precedent. In this regard, Stage 2, with 287 units, would potentially impose an additional demand for 1.18km of kerbspace. In our view, in the absence of substantially improved public transport that serves all trip types and which is commensurate with a 41% modal shift, this presents an unacceptable risk to the community. It is a risk that should be more appropriately borne by the applicant by requiring this parking to be provided on-site in the absence of very significant public transport improvements. The risk is further heightened by the fact that the internal road system incorporates minimal carriageway widths, which precludes reliance on parking other than for visitors on an occasional basis, as discussed further below.

- The problems associated with the adoption of reduced parking rates is highlighted by more recent high rise developments within the Ku-Ring-Gai LGA, particularly in St. Ives, which is arguably better served by public transport than the subject site (and many other candidate sites) in Warriewood Valley. It is becoming evident that on-street parking demands have increased significantly in local streets as a consequence of these developments. This is because reduced parking of itself does nothing to suppress private car travel, in the absence of significant public transport improvements which in the case of Ku-Ring-Gai Council have not succeeded, due to the complexity of trip making.
- The application has relied heavily on 2006 census data for Warringah Council in relation to parking for the two bedroom units, as there are no high density residential developments in the Pittwater LGA. In our view this is a flawed approach. Warringah Council includes centres such as Dee Why, Brookvale and Forestville (where the majority of high rise apartments are focussed) which are all located on trunk bus routes, involving walking distances of less than 400 metres and the census data is likely to be skewed in favour of these centres. They also benefit from being within established centres, with a range of services and facilities in close proximity, so that there is a higher proportion of walking trips. This is not the situation in Warriewood Valley, which is likely to remain relatively isolated and therefore car dependent in the foreseeable future. Furthermore, there is a trend throughout NSW for increased car ownership and Council is entitled to retain applicable DCP parking rates in anticipation of this continuing trend.
- The application has also relied on the RTA's Guideline parking rates for high density residential development in sub-regional centres. In the case of the two bedroom units, this attracts a rate of 0.9 spaces per unit. This is also considered flawed as the rate is derived from larger and well established centres (such as Chatswood, Burwood, Bankstown, Strathfield and Cronulla), which all enjoy far superior levels of public transport accessibility compared to Warriewood Valley, with most in close proximity to bus and rail services. They are also generally within walking distance of a wide range of services and facilities, which reduces travel demand by car as well as the associated parking demand. This point is essentially conceded in the Halcrow report (Section 3.2 refers) where trip rates have not been based on RTA sub-regional centres for the same reasons, with reliance instead made on the higher trip rates for medium density developments.

Visitor Parking

- The Pittwater DCP 21 parking requirement for visitors is 1 space/3 units. While this is a high level of provision by any standard, it has been applied consistently over many years and should not be discounted without justification. In this regard, we note that the RTA's Guideline adopts a visitor parking rate of 1 space/5 units for medium density residential development. This is likely to remain unchanged irrespective of the location of a



development, as peak visitor parking demands typically occur during the evenings and on weekends and are therefore usually undertaken by private car. On this basis, we are content to recommend adoption of the RTA visitor parking rate of 1 space/5 units for medium density developments, which is the more accurate representation of the nature of visitations to Warriewood Valley. The RTA visitor parking rate for high density developments is not considered appropriate for the reasons discussed above relating to the nature of established centres with excellent access to public transport and other services and facilities.

- With 313 units, the requirement for visitor parking would therefore be for 63 spaces. The development proposes only 32 visitor spaces, based on the application of a rate of 1 space/10 units. This therefore represents a deficiency of 31 spaces (ignoring the DCP requirement) which equates to almost 200 metres of kerbspace.
- It is considered that some reliance on on-street parking is acceptable in principle, subject to the on-street demands being able to be satisfactorily accommodated, with no adverse amenity or safety implications. Indeed, this approach can often 'activate' the street frontage. However, with the subject application there is already a parking shortfall of 226 resident spaces, which will increase to 257 spaces with the visitor parking spaces added (at the concessional rate to the DCP). This is an exceptional extent of reliance on the internal and external road system.
- The internal road system is based on a 7.5 metre road carriageway in accordance with the Warriewood Valley Masterplan. This would be satisfactory in the circumstances envisaged under the Masterplan, with only moderate reliance on on-street parking, so that there will be convenient passing opportunities along the street (i.e. intermittent parking). In fact, the Masterplan recommends adoption of the DCP parking rates to achieve this objective. However, with the expected parking deficiency outlined above (257 spaces or over 1.5km of kerb space) this design objective is clearly not achieved. The result will be a road system with extensive (continuous) parking along one side and with an inadequate 5.0 metre wide through carriageway which will not safely accommodate either cars (which require 5.5 metres) or service vehicles (which require 6.0 metres).

Dwelling Yields and Resultant Traffic Generation and Impacts

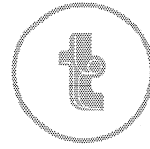
- Pittwater Council has provided information concerning the expected dwelling yields under various scenarios (refer **attachment 1**). Under the updated (2010) Planning Framework, the developable area available for residential dwellings within Warriewood Valley provides a yield of 927 dwellings. The subject development site (Stages 1 and 2) will result in an increase of 414 dwellings to 1,341 dwellings (which equates to 75 dwellings per hectare). If this increased density is achieved on all developable residential land within the Valley, then the dwelling yield could potentially increase to 2,783 dwellings.
- In terms of traffic generation, it is noted that the increased densities under the 2010 Planning Framework (the base case) attracts an average (composite) trip rate of 0.49 trips/unit and this is adopted in the Halcrow report (Table 3.1 refers) and was also adopted for the Stage 2 development. It is considered that this traffic generation rate is acceptable as it is based on the RTA Guideline rate for medium density developments, with 0.4 trips/unit/hr for the small units; 0.5 trips/unit/hr for the two bedroom units; and 0.65 trips/unit/hr for the three bedroom units, as outlined in the table. Hence, under the 2010 Planning Framework 'base case', the 927 dwellings would generate 454 veh/hr across the entire road network.



- Under the Stage 1 and Stage 2 development of the subject site, the total resultant 1,341 dwellings will result in a generation of 657 veh/hr, which is an increase of 203 veh/hr. This increase has implicitly been assessed in the Halcrow report, with both stages considered cumulatively. Specifically, the Halcrow report has assessed the approved/anticipated development in Warriewood Valley; and has then superimposed the additional traffic generation associated with Stages 1 and 2 which is some 230 veh/hr above trip levels under the recent (2008) approval for 140 dwellings on the subject site. Importantly, the Halcrow report concludes that the additional traffic would increase future volumes above the nominal limits established in the Roads Master Plan on several roads including Garden Street, Macpherson Street, Ponderosa Parade, Warriewood Road and Jubilee Avenue. Future intersection performances were deemed to be acceptable and we accept these conclusions.
- Notwithstanding, the precedent set by the current application is a matter that also requires consideration, particularly as much of the land is in common ownership. In this regard, the Halcrow report has not assessed the traffic impacts associated with the maximum development yield of 2,783 dwellings, as would occur if the subject site creates a precedent for other residential sites that have not yet been developed. These 2,783 dwellings would generate about 1,364 veh/hr during peak periods, which is an additional 707 veh/hr. This would have a significant impact and is likely to create unacceptable impacts that far exceed the nominal limits established in the Roads Master Plan, which are already exceeded under the Stage 2 development from the subject site alone. It is also likely that intersection performances would deteriorate to unacceptable levels in some cases, which requires further consideration by the applicant.
- It is noted that for the purpose of the current Section 94 review that is underway, any high-density development would nominally attract an average of about 5 veh/day. This is a weighted average that is based on the unit mix under the subject Stage 1 application, which comprises 19% studio and one bedroom units, 73% two bedroom units; and 6% three bedroom units. This could increase to 6 trips/day with a higher proportion of large units.

Traffic Management within the Warriewood Valley

- The implications of an additional 707 veh/hr within the Warriewood Valley as will arise if other sites are developed to the same intensity are very significant and have not been assessed by the applicant's consultants. By way of example, Council's Roads Masterplan identifies that Ponderosa Parade, Macpherson Street, Warriewood Road east of Macpherson Street, Garden Street and Boondah Road are all sub-arterial roads which have been planned to accommodate about 1,000 veh/hr during peak periods (or about 10,000 veh/day). Even under the Stage 1 and 2 development of the subject site, this threshold will be exceeded based on the Table 4.1 of the Halcrow report, as follows:
 - Ponderosa Parade will carry about 1,200-1,300 veh/hr at Mona Vale Road and at Jubilee Avenue during both the AM and PM peak periods;
 - Macpherson Street will carry about 1,200-1,300 veh/hr west of Garden Street during both the AM and PM peak periods;
 - Warriewood Road will carry about 1,200-1,300 veh/hr west of Pittwater Road during both the AM and PM peak periods; and



- Garden Street south of Macpherson Street will carry 1,058-1,189veh/hr in the AM and PM peaks respectively;

These all exceed the adopted thresholds which underpin all traffic infrastructure proposed under the Roads Master Plan and which form the basis of Council's Section 94 Plan. More importantly, these volumes will increase substantially with the additional 707 veh/hr that result from the development of other sites as discussed above.

- * Council's current Section 94 Plan is presently under review and as a consequence of ceilings on contributions imposed by Government, this will result in the deletion of several improvements which are presently relied upon by the subject development. These include a range of localised improvements as well as arterial road improvements, the more significant of which include:

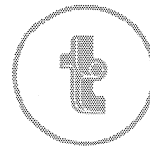
- Upgrade at the intersection of Warriewood Road and Pittwater Road;
- Installation of traffic signals at the intersection of Ponderosa Parade with Mona Vale Road;
- Upgrade at the intersection of Jacksons Road with Pittwater Road;
- Installation of a roundabout at the intersection of Jubilee Avenue with Ponderosa Parade; and
- Upgrade of the intersection of Garden Street with Jacksons Road.

The deletion of these improvements from the Section 94 Plan renders the infrastructure that is relied upon by the subject development uncertain and unfunded. In these circumstances, if high density development is to be contemplated more generally within the Valley in the manner proposed by this application, which seems unavoidable, then there is an urgent need to undertake a comprehensive traffic/transport study to identify the level of infrastructure improvements that are required (road based as well as public transport related) to maintain acceptable levels of efficiency of the road network, as well as to address safety and amenity issues that will no doubt arise.

Summary and Conclusions

The following matters are particularly noteworthy:

- * The development is grossly deficient in relation to resident parking and the expectation that the shortfall can be overcome by public transport for the range of trips types and times that these occur requires a leap of faith, with the result that on-street parking will occur;
- * The visitor parking requirements are grossly deficient and will create significant on-street parking demands;
- * The compounding effects of the above will be an extraordinary reliance on on-street parking within and external to the site, with attendant serious amenity and safety implications;



- Even based on the Stage 1 and 2 developments, the principles embodied in the Roads Masterplan are compromised, with excessive mid-block volumes. If the density of dwellings on this site is translated onto other candidate sites through precedent, which seems likely, this situation will be further exacerbated and in addition, intersections may fail. The consideration of any high density development of the nature proposed in this application in our view triggers a need for a comprehensive traffic/transport study that can identify infrastructure requirements, including road-based and public transport-based measures. This would enable the Section 94 Plan to be structured to meet this demand. This would also presumably enable an assessment of parking rates to be investigated in more detail, rather than reliance on the experience within the Warringah Council area.

Having regard to the above, we consider that the Part 3A Application is fundamentally flawed on traffic and transport planning grounds and should not be approved in its current form, with a need to undertake further studies with the proposed densities which present significant potential problems for Council and the local community.

Please contact us should you have any queries.

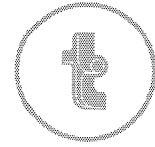
Yours faithfully,

traffix



Graham Pindar
Director

Encl: Attachment 1



attachment 1

Property ID	Land area		Constraint applicable to land	Relevant constraint	Developable area ha	Dwellings as per Planning Framework 2010	Dwellings as per Planning Framework 2010 plus Proposed Development	75 dwellings per ha
101	1,566	0.1566	Yes	Zoned 2(f). Approved masterplan at 15dw/ha	0.1566	1	1	1
301	16,657	1.6657	No	N/A	1.6657	42	42	125
302	26,226	2.6226	No	N/A	2.6226	66	66	197
303	9,079	0.9079	No	N/A	0.9079	23	23	68
501	31,050	3.105	Yes	Environmental constraints apply to land		75	75	75
801	11,858	1.1858	No	N/A	1.1858	19	19	89
901 East	88,347	8.8347	Yes	Council owned land (0.9302 ha)	7.9045	195	195	593
901 West	78,764	7.8764	Yes	Environmental constraints apply to land	7.8764	50	50	50
10A1	5,566	0.5566	Yes	Environmental constraints apply to land	0.5566	8	8	8
10A2	3,768	0.3768	Yes	Environmental constraints apply to land	0.3768	6	6	6
10B	22,334	2.2334	Yes	Zoned 2(f). Approved masterplan at 15dw/ha	2.2334	28	28	28
Buffer 1A	7,700	0.77	No	N/A	0.77	17	17	58
Buffer 1B	7,504	0.7504	No	N/A	0.7504	17	17	56
Buffer 1C	5,616	0.5616	No	N/A	0.5616	13	13	42
Buffer 1D	447	0.0447	No	N/A	0.0447	1	1	3
Buffer 1E	4,815	0.4815	No	N/A	0.4815	11	11	36
Buffer 1F	6,512	0.6512	No	N/A	0.6512	14	14	49
Buffer 1G	7,282	0.7282	No	N/A	0.7282	17	17	55
Buffer 1H	292	0.0292	No	N/A	0.0292	1	1	2
Buffer 1I	12,337	1.2337	No	N/A	1.2337	27	27	93
Buffer 1J	12,359	1.2359	No	N/A	1.2359	26	26	93
Buffer 1K	6,658	0.6658	No	N/A	0.6658	14	14	50
Buffer 1L	21,194	2.1194	No	N/A	2.1194	43	43	159
Buffer 1M	15,453	1.5453	Yes	Flood affected	0	0	0	116
Buffer 2A	14,570	1.457	Yes	Flood affected	0.405	20	20	109
Buffer 3A	74,427	7.4427	No	N/A	7.4427	186	186	600
Buffer 3B	2,996	0.2996	No	N/A	0.2996	7	7	22
					Total	927	1341	2783



PLANNING circular

PLANNING SYSTEM

Development Contributions

Circular	PS 10-014
Issued	4 June 2010
Related	supersedes PS09-001 supersedes *only that part of PS08-017 which is inconsistent with PS10 -014

Local Development Contributions

The purpose of this circular is to advise councils and the public of changes relating to local development contributions as a result of a revised mechanism for setting these contributions and council rates.

Introduction

On 4 June 2010, the Premier, the Hon. Kristina Kenneally MP, announced a revised approach for setting local development contributions and local council rates. It includes:

- a \$20,000 per residential lot or dwelling limit on local development contributions
- allowing councils to apply for special rate variations for legitimate council costs arising from development.

These changes aim to increase housing supply by lowering development charges for infrastructure to stimulate housing construction.

This forms part of a comprehensive strategy to improve housing supply across NSW.

\$20,000 limit to local development contributions

Section 94E Direction

Attached to this circular is a Direction issued by the Minister for Planning under section 94E of the *Environmental Planning and Assessment Act 1979* (the EP&A Act).

The Direction applies to monetary contributions required by conditions of development consent imposed by councils under section 94 of the EP&A Act.

Effect of the Direction

The Direction provides that a council must not impose a condition requiring a development contribution under section 94 of the EP&A Act that requires the payment of a monetary contribution of more than \$20,000 for each residential dwelling or for the purposes of residential subdivision, no more than \$20,000 for each lot.

This Direction also revokes:

- the previous Direction under section 94E, dated 13 January 2009
- the previous Directions (dated 31 May 2009 and 10 July 2009) to individual councils

Development to which the Direction applies

The Direction applies to consents granted, and applications for complying development determined on or after 7 June 2010.

The Direction does not apply to:

- section 94 contribution conditions imposed before 7 June 2010
- voluntary planning agreements
- monetary contributions required under section 94A (fixed percentage levies) of the EP&A Act
- section 94F (affordable housing contributions) of the EP&A Act
- conditions requiring the dedication of land free of cost (section 94(1)(a)).

This Direction does not affect the ability of councils to accept the dedication of land or provision of material public benefits in lieu of monetary contributions (section 94(5)).

Complying Development

As a result of changes to the EP&A Act that took effect on 17 July 2009 accredited certifiers will now need to take into account directions issued by the Minister for Planning.

Implementation of Part 5B of the EP&A Act

The Department of Planning is finalising the introduction of the new Part 5B of the EP&A Act. It is expected that this will commence on 1 July 2010.

The changes outlined in this circular will be continued under the Part 5B provisions.

Guidelines

In the coming months, the Government will release guidelines to assist councils in preparing development contributions plans under the new provisions.

Reporting requirements

Commencing in the 2010/11 financial year, councils will be asked to report on development contribution activity to the Department of Planning. A template will be prepared and distributed to councils by 30 June 2010.

More formal reporting arrangements will be investigated for implementation from July 2011.

Further information

If you have queries about the Direction and this Planning Circular please contact the Department's Information Centre 02 9228 6333 or email information@planning.nsw.gov.au

If you have queries about changes to council rates contact NSW Treasury.

Note: This and other Department of Planning circulars are published on the web at www.planning.nsw.gov.au/circulars

Authorised by:

Sam Haddad
Director-General
NSW Department of Planning

Important note: This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.

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Direction Section 94E

under the
Environmental Planning and Assessment Act 1979

I, the Minister for Planning, in pursuance of section 94E of the *Environmental Planning and Assessment Act 1979* (the Act) direct councils as consent authorities to comply with the requirements set out in this Direction.

This Direction revokes the previous Directions issued under section 94E of the Act as set out in the Schedule to this Direction.

 - 4 JUN 2010

TONY KELLY, M.L.C.,
Minister for Planning

Requirements of this Direction

- (1) A council as a consent authority must not impose a condition of development consent under section 94(1) or 94(3) of the Act requiring the payment of a monetary contribution exceeding \$20,000 for each dwelling authorised by the consent or in the case of a development consent that authorises the subdivision of land into residential lots, exceeding \$20,000 for each lot authorised by the consent.

Date this Direction takes effect

- (2) This Direction takes effect on and from 7 June 2010.

Definitions

- (3) Words and expressions in this Direction have the same meaning as they have in the Act unless otherwise defined.
- (4) 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,
 - (b) **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, which in the opinion of the council, is to be further subdivided for the purpose of creating lots to be used for dwellings.
- (5) Notes do not form part of this Direction.

Notes

Section 94EC(1A) of the Act 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.

Schedule

(1) The following directions are revoked by this Direction:

- (a) The Direction, dated 13 January 2009, to councils exercising functions as a consent authority,
- (b) The Directions, dated 31 May 2009, to Blacktown City Council, Camden Council, City of Sydney Council, Ku-ring-gai Council, Lake Macquarie City Council, Liverpool City Council, Maitland City Council, Penrith City Council and Wyong Shire Council,
- (c) The Directions, dated 10 July 2009, to Campbelltown City Council, Holroyd City Council, Leichhardt Municipal Council, Palerang Council, Pittwater Council, Shoalhaven City Council, The Hills Shire Council, Tweed Shire Council, Wollondilly Shire Council and Yass Valley Council.

APPENDIX C

Assessment of compliance against relevant provisions under Pittwater Local Environmental Plan 1993

Clause	Pittwater LEP 1993 requirement	Proposed	Does it comply?	Implications (if any)
Clause 9	Zoning table to zone 2(f) (Urban Purposes – Mixed Residential). Residential buildings; associated community and urban infrastructure, identified development permissible with development consent.	Residential development including a childcare centre, a swimming pool and gymnasium, water management facilities, landscaping and internal roads.	x	Childcare centre not expressly permitted in 2(f) zone under Pittwater LEP (see Section 4.2.5).
Clause 10	Development consent required for earthworks including landfill.	Earthworks proposed.	✓	Impacts to be assessed.
Division 7A – Warriewood Valley Urban Land Release				
Clause 30A	Development to consider the Objectives of zone 2(f): a. permit development for urban purposes on land within the Warriewood Valley Urban Land Release in accordance with a planning strategy for the release area, b. permit staged development for urban purposes in the various sectors of the Warriewood Valley Urban Land Release that has regard to a development control plan applying to the release area, and c. permit greater housing diversity and wider housing choice in areas provided with adequate physical and social infrastructure in accordance with a planning strategy for the release area.	Residential development including a childcare centre, a swimming pool and gymnasium, water management facilities, landscaping and internal roads.	x	Inconsistency with the <i>Warriewood Valley Planning Framework 2010</i> , as the adopted strategy for the area (see Section 4.3).
Clause 30B	Matters for consideration in granting consent.	-	x	Insufficient information provided (see Chapters 6 and 7).
Clause 30C	Prescribes that not more than 142 dwellings or less than 135 dwellings are to be accommodated in Buffer Area 3.	Preferred Concept Plan = 559 dwellings.	x	Inconsistency with the <i>Warriewood Valley Planning Framework 2010</i> , as the adopted

				strategy for the area, and is a gross overdevelopment of the site (see Section 4.2.6).
Clause 30D	Director-General to certify in writing that the impact of odours from the Warriewood Sewage Treatment Plant on the users or occupiers of the buildings is mitigated.	Agreement reached with Sydney Water.	✓	-
Clause 46	Adequate provision has been made for the supply of water and the disposal of sewage.	Section 73 Certificate required prior to construction.	✓	Section 73 Certificate is subject to condition.

APPENDIX D

Assessment of compliance against relevant provisions under Pittwater 21 Development Control Plan (Amendment No. 5)

DCP provision	Requirement under Pittwater 21 DCP	Proposed	Does it comply?	Impact and relevant section in submission
B3.5	Acid Sulphate Soils (ASS) Determine whether ASS are present on the subject site and whether the proposed works are likely to disturb these soils.	Inadequate consideration of the potential presence of ASS given the changed nature of the proposed development including excavation works for underground carparking and significant cut and fill activities for floodplain/creek management.	✗	Risk of disturbing ASS.
B3.6	Contaminated Land and Potentially Contaminated Land Determine whether the subject site is contaminated and, if so, whether the land is suitable in its contaminated state or requires remediation.	The Environmental Site Assessment letter and the Site Condition Report submitted with the Preferred Project Report states that there is no need for further investigation.	✓	-
B3.23	Climate Change (Sea Level Rise and Increased Rainfall Volume) Consideration of impacts of sea level rise and sea level rise combined with increased rainfall.	Floor level of 4.5m AHD is considered adequate to cater for the 1% AEP flood event with a 2100 Climate Change Scenario (even though only a 20% increase in local catchment rainfall intensity has been considered rather than a 30% increase).	✓	Section 6.5.8.
B4.14	Development in the Vicinity of Wetlands Development shall dispose of stormwater, wastewater and other drainage in a manner that will not adversely impact on wetlands and shall provide adequate buffering to wetlands. Additionally, development shall ensure 60% of the area that is not covered by approved buildings or associated structures, is native vegetation either through retention of existing bushland or planting with locally native plant species.	Direct uncontrolled and untreated discharges into the Warriewood Wetlands are proposed, and no assessment on the potential environmental impact has been undertaken. The proposed buffer between the development and the wetlands is inadequate, and includes planting non-locally native species.	✗	Serious ecological ramifications, including impacts on the threatened species that utilise the wetlands, could potentially result from untreated and uncontrolled discharges directly into the wetlands, an inadequate buffer between the proposed development and the wetlands, and the planting of non-locally native species. Section 6.5.1, 6.5.5, 6.5.6, 6.5.7, 6.5.8, and 6.5.9.
B4.15	Saltmarsh Endangered Ecological Community Development shall retain and enhance saltmarsh vegetation. Stormwater, wastewater and other drainage shall not be disposed of into saltmarsh. Development shall have an adequate buffer to saltmarsh.	Direct uncontrolled and untreated discharges into the Warriewood Wetlands are proposed, and no assessment on the potential environmental impact has been undertaken. The proposed buffer between the development and the wetlands is inadequate, and includes planting non-locally native species.	✗	Serious ecological ramifications, including impacts on the threatened species that utilise the wetlands, could potentially result from untreated and uncontrolled discharges directly into the wetlands, an inadequate buffer between the proposed development and the wetlands, and the planting of non-locally native species. Section 6.5.1, 6.5.5, 6.5.8, and 6.5.9
B5.2	Wastewater Disposal All premises must be connected to the Sydney Water centralised sewerage waste disposal system where available.	The EA states a '...Section 73 Notice of Requirements will set out Sydney Water requirements regarding authority connection requirements once approval has been submitted'.	✗	If the proposed development cannot be connected to the centralised sewerage waste disposal system, there will be impacts associated with waste disposal.
B5.3	Greywater Reuse	Not proposed.	N/A	N/A
B5.4	Stormwater Harvesting	Not proposed.	N/A	N/A
B5.13	Development on Waterfront Land Development adjoining waterfront land is to be landscaped with local native plants.	There is minimal and inadequate landscaping between the Warriewood Wetlands and the proposed development, including planting non-locally native species.	✗	Serious ecological ramifications, including impacts on the threatened species that utilise the wetlands, could potentially result from an inadequately landscaped buffer between the proposed development and the wetlands. Section 6.5.1, 6.5.5, 6.5.6, 6.5.7, 6.5.8, and 6.5.9.

B6.2 and B6.4	Access Driveways and Works on the Public Road Reserve Design in accordance with AS/NZS 2890.1 and AS/NZS 2890.2.	Applicant proposes that Council fund these works from developer contributions or directly, which is inconsistent with Council's requirements for the full provision of infrastructure by the developer.	✘	Without these works being provided by the developer the road system will be insufficient and unsafe. Chapter 5 and Appendix A.
B6.9	On-street Parking Facilities Stage 1 residential only: 148 on-street parking spaces required.	Stage 1 residential only: 25 on-street parking spaces along the main internal road are proposed.	✘	Council questions the capacity of the internal road for parking as the proposed width is 7.5m, which is insufficient to accommodate the proposed traffic volumes generated by the development. This will result in parking restrictions on both sides of the road. Further, lack of designated spaces for removalist trucks/delivery vehicles in proposed basement parking will result in such spaces needing to be accommodated in the on-street parking system, which will exacerbate the issue regarding on-street parking. Significant shortfalls in on-street parking will have likely knock-on effects on local road network and leads to adverse amenity impacts. Section 6.5.2 and 6.5.3.
B8.1, B8.2, B8.3, B8.4, B8.5, and B8.6	Construction and Demolition <ul style="list-style-type: none"> Excavation and Landfill Erosion and Sediment Management Waste Minimisation Site Fencing and Security Works in the Public Domain Traffic Management Plan 	No details provided. The EA and Preferred Project Report state that a detailed demolition and construction environmental management plan is to be prepared for approval prior to the commencement of any demolition or construction works.	✘	Insufficient information provided to adequately determine potential impact.
C1.2	Safety and Security Designed in accordance with Crime Prevention through Environmental Design (CPTED) principles.	No crime assessment provided.	✘	Failure to submit a crime assessment makes it difficult to assess whether the proposed development will ensure ongoing safety and security to improve community safety and reduce the fear of crime.
C1.5	Visual Privacy Upper level dwellings should not overlook more than 50% of the private open space of a lower level dwelling.	Insufficient information provided.	✘	Potential for impact on amenity of future residents. Section 6.2.
C1.6	Acoustic Privacy Noise sensitive rooms should be located away from noise sources and should have a noise transmission rating in accordance with Part F(5) of the BCA. Noise should not exceed 5dBA above the background noise.	Insufficient information provided.	✘	Potential for impact on amenity of future residents. Section 6.2.
C1.7	Private Open Space (POS) Ground floor units = min. 30m ² with min. 4m dimensions Upper floor units = min. 10m ² with min. 2.4m width	Stage 1 residential only: Studio = No typical unit plan with dimensions provided. 1 bedroom = 9.3m ² (2m wide). 2 bedroom = range from 7.5m ² to 23.4m ² (1.6-3m wide) however only one unit ('BLOCK 'E' 2 BED') has a POS area	✘	Insufficient details for studio and ground floor dwellings to reasonably demonstrate POS areas comply or do not comply. Most units (shown on Typical Unit Plans DA70 B) have insufficient POS areas resulting in adverse amenity impact for future residents. Section 4.2.7, 6.2.4 and 6.3.3.

		<p>of 23.4m². The next largest POS area is 14.5m².</p> <p>3 bedroom = 9-10m² to 4m² (1.7-2.2m wide).</p> <p>No typical unit plan with dimensions was provided for ground floor units (i.e. units with courtyards) however minimum dimensions proposed for ground floor units (as shown on Podium Plan) are generally inconsistent with control i.e. dimensions are less than 4m.</p>		
C1.9	<p>Adaptable Housing and Accessibility</p> <p>50% of dwellings are required to be designed for adaptability.</p>	No detail provided in Preferred Project Report.	✗	-
C1.12	<p>Waste and Recycling Facilities</p> <p>Communal waste and recycling enclosure should be provided for waste and recyclables. Enclosure should be of an adequate size, integrated with the building design and site landscaping, suitably screened and located for convenient access for collection.</p>	Size, type and location of communal waste and recycling enclosure proposed in the EA is considered sufficient in accordance with this control. However, the Waste Management Plan submitted with the EA did not demonstrate how the established targets under the Waste Avoidance and Resource Recovery Strategy 2007 can be achieved and this has not been addressed through the Preferred Project Report either.	✗	<p>A development of this scale should strive for industry best practice in terms of sustainability including be designed to reduce its ecological footprint such as minimising waste. Unsustainable waste practices in new developments will not contribute to a sustainable Sydney in line with the Metropolitan Strategy.</p> <p>Section 6.5.4.</p>
C1.13	<p>Pollution Control</p> <p>Residential premises must be designed, constructed, maintained, and used in a proper and efficient manner to prevent air, water, noise, and/or land pollution. Developments must comply in all respects with the POEO Act and other relevant legislation.</p>	No details provided. The EA and Preferred Project Report state that a detailed demolition and construction environmental management plan is to be prepared for approval prior to the commencement of any demolition or construction works.	✗	Insufficient information provided to adequately determine potential impact.
C1.15	<p>Storage Facilities</p> <p>Provide lockable storage area of minimum 8m³ per dwelling.</p>	Inadequate storage facilities proposed.	✗	Difficult to access, small and stacked storage areas e.g. areas 103, 108, 153, 208, 327, and 454.
C1.23	<p>Eaves</p> <p>Dwellings shall incorporate eaves on all elevations.</p>	Proposed development does not incorporate eaves.	✗	Provided appropriate shading devices and screening is incorporated into each dwelling, this requirement may be varied.
C1.25	<p>Plant, Equipment Boxes and Lift Over-Run</p> <p>Plant equipment boxes, air-conditioning units and lift over-runs are to be integrated internally into the built form.</p>	Lift over-run is visible. Building substantially exceeds height requirement.	✗	<p>Visual impacts as a result of the substantially exceeded height.</p> <p>Section 4.2.7, 6.2.1, 6.2.2, 6.2.3, 6.2.4, 6.2.5, 6.3.2, and 6.4.</p>
C2.14	<p>Commercial Swimming Pools</p> <p>Health and safety requirements.</p>	No detail provided.	✗	Although swimming pool is for residents and their visitors, health and safety requirements should still comply.
C5.12	<p>Childcare Centres</p> <p>Food preparation and service requirements under the Food Act 2003 and Food Safety Standards. Sanitary facilities to be provided in accordance with the BCA.</p>	Details on the proposed childcare centre are subject to a later DA. Insufficient information provided.	✗	-
C1.10 and C5.16	<p>Building Facades</p> <p>Stormwater, sewer, gas, electrical, or communication service pipe or conduit should not be visible from a public place.</p>	Insufficient information provided.	✗	-

Controls specifically relevant to Warriewood Valley				
DCP provision	Requirement under Pittwater 21 DCP	Proposed	Does it comply	Impact and relevant section in submission
C6.2 and B1.4	Aboriginal Heritage Significance Demonstrate how the proposed development will conserve the Aboriginal heritage significance of the item or area.	EA included an Aboriginal Archaeological and Cultural Heritage Impact Assessment (Banksia Heritage + Archaeology 2010). No change as a result of the Preferred Project Report.	✓	No likely impact however the Aboriginal Heritage Office requests certain conditions be applied.
C6.3 and B1.3	European Heritage Demonstrate how the development will conserve the heritage significance of the item or area.	EA included a Heritage Impact Statement (Graham Brooks and Associates 2010) and the relevant heritage items are some distance from the subject site. No change as a result of the Preferred Project Report.	✓	The proposed development is likely to have no impact.
B3.22, B5.1, C6.4, and C6.7	Flood A Water Management Report that complies with Council's Water Management Specifications for Warriewood Valley (2001) is required. Particular works are also required relevant to the creekline corridor.	The information provided does not comply with Council's Water Management Specifications for Warriewood Valley (2001).	✗	Risk of flooding, and drainage and surface water impacts are likely. This will affect amenity for residents and is considered unacceptable. Section 6.5.7 and 6.5.8.
C6.6 and B3.2	Bushfire Hazard Compliance with Planning for Bushfire Protection 2006 and AS 3959.	Proposed development does not comply with the requirements of Planning for Bushfire Protection 2006.	✗	Proposed development is at risk of the effect of bushfire making it unsafe for future residents. Ecologically endangered communities in the wetland, and the threatened species that utilise the area, are also at risk. Section 6.5.1 and 6.5.5.
B6.10 and C6.8	Transport and Traffic Management Where the proposed development generates pedestrian, cyclist, traffic, and transport requirements in excess of the capacity of the existing road and transport network, the capacity of the surrounding public transport infrastructure and transport network is required to be upgraded to at least match the additional demands generated by the development. Compliance with the Warriewood Valley Roads Masterplan 2006.	No commitment to improve/upgrade public transport infrastructure or the transport network.	✗	Inadequate surrounding road network and limited public transport system will result in significant traffic implications including severe traffic and parking implications within and surrounding the proposed development. Section 6.5.2 and 6.5.3.
C6.9	Pedestrian and Cyclist Network Pedestrian and cyclist path required via direct provision along Macpherson Street and Boondah Road. Pedestrian and cyclist path required within outer 25m buffer of the creekline corridor. Must provide adequate sightlines for cyclists, must be sited above the 20% AEP flood level, and must be appropriately defined and landscaped.	Applicant proposes that Council fund the pedestrian and cyclist path required along Macpherson Street and Boondah Road from developer contributions or directly. Proposed pedestrian and cyclist path is missing a key link from Sector 12, through the subject site and onto Boondah Road. Provision of cycleway needs to be established from Sector 12 across the flood storage area along the wetland boundary and through to Boondah Road.	✗	Inadequate pedestrian and cyclist path proposed. This is inconsistent with the Planning Strategy for Warriewood Valley and will inhibit the completion of the pedestrian/cyclist network, potentially influencing the residents' desirability to utilise the network.
C6.10	Ecologically Sustainable Development Multi-unit housing must achieve a minimum 3.5 star NatHERS rating for typical units and must comply with the provisions for	BASIX Certificates provided.	✓	Although proposed development complies with BASIX, dwellings do not adhere to solar access requirements. A development of this scale should strive for industry best practice in terms of sustainable development.

	BASIX.			Section 6.5.4.
C6.11	<p>Natural Environment</p> <p>Development must be designed to maximise the restoration, retention and preservation of indigenous trees, shrubs and groundcovers, as well as natural features.</p>	Landscape plan and vegetation management plan submitted with the Preferred Project Report.	✘	<p>Insufficient information has been provided on the actual quantity of trees and native vegetation proposed to be removed. The likely impact on flora has therefore not been sufficiently assessed.</p> <p>Further, there is no information relevant to retaining the Bangalay Sand Forest community that currently exists around the edge of the site, which has been highlighted in the submission from DECCW.</p> <p>Section 6.5.</p>
C6.12	<p>Public Recreation and Open Space</p> <p>Public recreation and open space requirements in accordance with the Warriewood Valley Landscape Masterplan and Design Guidelines.</p>	Sufficient open space proposed within the creekline corridor. Insufficient open space within the remainder of the proposed development.	✘	<p>Insufficient open space areas will not provide an aesthetically pleasing recreation/open space area for future residents to enjoy.</p> <p>Section 6.3.</p>
C6.13	<p>Landscaped Amenity Buffer Strips</p> <p>10m buffer between the proposed development and the Warriewood Wetlands.</p>	Inadequate buffer proposed.	✘	<p>Potential implications for the Warriewood Wetlands.</p> <p>Section 6.5.1, 6.5.5, 6.5.6, 6.5.7, 6.5.8, and 6.5.9.</p>
C6.17	<p>Social Environment</p> <p>Provide common open space areas to encourage opportunities for social interaction among residents.</p>	Central open space area proposed will be affected by overshadowing, noise and wind.	✘	<p>Unlikely to be conducive as common open space area, particularly in colder months, and unlikely to be used by residents, which will impact the amenity/wellbeing of future residents.</p> <p>Section 6.3.4.</p>
C6.18	<p>Utilities and services</p> <p>All lots to be fully serviced by electricity, water, gas, communications, sewer.</p> <p>All services are to be provided underground.</p>	<p>No correspondence from a telecommunications provider.</p> <p>The EA states a '...Section 73 Notice of Requirements will set out Sydney Water requirements regarding authority connection requirements once approval has been submitted'.</p> <p>All services will be undergrounded.</p>	✘	<p>If the proposed development cannot be connected to the centralised sewerage waste disposal system, there will be impacts associated with waste disposal.</p>
C6.21	<p>Provision of Infrastructure</p> <p>Infrastructure associated with the public domain including stormwater management, road/kerb/gutter construction, open space areas, and footpath/cycleways to be undertaken directly as part of the development process.</p>	Insufficient infrastructure relative to the number of dwellings proposed.	✘	Chapter 5 and Appendix B.
C1.1, C1.24 and C6.22	<p>Landscaping</p> <p>Communal area for children's play.</p> <p>Above ground gardens are required for each dwelling.</p> <p>Provision of 2.1m footpath, kerb and gutter to Council's specification, make good of the road pavement from the kerb to the road centreline, and street lighting.</p> <p>Landscaping – street trees on the road reserve frontage at 6m intervals, species to be native, 35L size with 1m x 1m hole. Grassed area to be turfed.</p>	<p>Communal open space area and children's play area proposed.</p> <p>Private open space area for each dwelling proposed.</p> <p>Landscaping proposed along Macpherson Street, Boondah Road and internal roads.</p>	✘	<p>Communal open space area is inadequate and will not result in a visually pleasing open space/recreation area for residents.</p> <p>Children's play area proposed is located over a driveway into the basement carparking, which is undesirable. This children's play area is located on the southern side of Building G and will subsequently be overshadowed for 4-6 months of the year.</p> <p>Proposed private open space areas for dwellings do not incorporate above ground gardens and are generally below the minimum area and dimensions required.</p> <p>Landscaping proposed along Macpherson Street, Boondah Road and internal roads is insufficient and trees will not have sufficient</p>

				<p>space for root growth.</p> <p>Reduced amenity for future residents.</p> <p>Section 6.3.</p>
C6.23	<p>Site Coverage, Sector Development</p> <p>50% sector area (i.e. no more than 42,068m² of Buffer Area 3).</p>	<p>Total built upon area, including the potential future building on 5 and 7 Macpherson Street, equates to 47.4% (39,847.3m²) of the sector.</p>	✗	<p>The extent of impervious area affects the site storage requirements under Council's Water Management Specifications.</p> <p>Section 6.2.1, 6.5.7 and 6.5.8.</p>
D16.1	<p>Character as Viewed from a Public Place</p> <p>Landscaping is integrated with building design to screen visual impact of built form.</p>	<p>Minimal landscaping proposed.</p>	✗	<p>Scale and height of the buildings will be the dominant feature of the development, particularly along Macpherson Street, causing adverse visual impacts.</p> <p>Section 6.2.</p>
D16.2	<p>Building Colours and Materials</p> <p>Should be natural tones, wall colours to harmonise with the natural environment, and roofs should be dark, recessive colours of mid to dark greys, browns and greens. White, red, orange, and light colours are not permitted on walls and roofs.</p>	<p>Red, yellow/orange, light and dark grey, and white are proposed.</p>	✗	<p>Inconsistent building colours proposed.</p> <p>Section 6.2.5.</p>
D16.3	<p>Front Building Lines</p> <p>To Macpherson Street and Boondah Road = 6.5m.</p> <p>To abutting sector streets, accessways, shareways = 4m.</p>	<p>Stage 1 Preferred Project only:</p> <p>6.5m front setback to Macpherson Street. Basement parking structure encroaches into this front setback area.</p> <p>Childcare centre proposed to be built up to the front property boundary on Macpherson Street.</p> <p>Buildings F and G to be setback 3.3m and 3.5m from the main internal road respectively.</p> <p>Minimal landscaping incorporated.</p>	✗	<p>Little opportunity for landscaping (e.g. canopy trees to be planted in the setback area between the three storey buildings immediately fronting Macpherson Street) that would have otherwise assisted in reducing the visual bulk and scale of the proposed development.</p> <p>Likely adverse visual impacts.</p> <p>Section 6.2.2.</p>
D16.4	<p>Side and Rear Building Lines</p> <p>Consideration must be given to solar access, amenity and the incorporation of canopy trees and landscaping.</p>	<p>Appropriate side and rear building lines have been incorporated.</p> <p>Proposed development will not affect solar access for neighbouring properties.</p> <p>Limited landscaping proposed across the site.</p>	✗	<p>Impact on amenity.</p> <p>Section 6.2.</p>
D16.5	<p>Building Envelope</p> <p>Building must be sited within a building envelope with planes projected at 45 from a height of 3.5m above natural ground level at the side boundaries, and at 3m from the rear boundary to a maximum height of 8.5m.</p>	<p>Proposed buildings generally sit within building envelope.</p>	✓	-
D16.6	<p>Site Coverage</p> <p>Max 55% of site area (i.e. no more than 44,638m² of the site area). Site Area is 8.116 hectares.</p>	<p>Preferred Concept Plan</p> <p>Total built upon area equates to 47.8% (38,787.3m²) of the site area.</p>	✗	<p>The extent of built upon area can affect the bulk and scale of the built form, as well as solar access and privacy, which can influence the overall amenity for residents.</p> <p>Section 6.2.1.</p>
D16.8	<p>Construction, Retaining Walls, Terracing, and Undercroft Areas</p>	<p>Insufficient information provided.</p>	✗	-

D16.10	<p>Pets and Companion Animals</p> <p>Pets should be contained within dwellings and in accordance with the Companion Animals Act and Council registration.</p>	<p>No assessment has been made relevant to the issue of companion animals, and in particular how they might impact on the threatened species that utilise Warriewood Wetlands.</p>	✗	Section 6.5.6.
B6.6, C1.18 and D16.11	<p>Off-Street Vehicle Parking Requirements</p> <p>Stage 1 residential only:</p> <p>604 parking spaces and 98 bicycle spaces are required.</p> <p>3% of the visitor parking is to be designated parking for disabled people i.e. two of the 59 visitor parking spaces required should be designated parking for disabled people.</p> <p>Designated areas are also required to enable residents to wash cars.</p> <p>10 spaces for the 40 place child care centre.</p>	<p>Stage 1 Preferred Project only:</p> <p>471 car parking spaces and 30 bicycle spaces are proposed.</p> <p>42 visitor spaces including designated parking for persons with a disability.</p> <p>No allocated area for car washing.</p> <p>No spaces for removalist trucks/emergency services in basement parking area.</p> <p>8 spaces for the 40 place child care centre are proposed.</p>	✗	<p>Discrepancy with actual number of spaces proposed.</p> <p>Parking spaces may not comply with Australian Standards in terms of dimensions (to enable a car door to be opened) in particular spaces for persons with a disability.</p> <p>Illegibility of the layout of the basement parking may result in decreased amenity and use of the spaces by visitors and persons with a disability.</p> <p>Parking provision is essential at this location given limitations on public transport system. Insufficient off-street parking will increase demand for kerbside parking, which is also inadequate. This will have knock-on effects and cause traffic congestion on the existing road network.</p> <p>Section 6.5.2 and 6.5.3.</p>
C1.4 and D16.13	<p>Solar Access</p> <p>Main private open space area of each dwelling and any adjoining dwellings to receive three hours of sunlight, and windows to principal living area of dwellings to receive min. 4 hours sunlight between 9am and 3pm on June 21st.</p>	<p>South and southwest facing dwellings, and ground floor dwellings will not receive minimum solar access.</p>	✗	<p>Impact on amenity of future residents to these dwellings in terms of thermal comfort of the south and southwest facing dwellings.</p> <p>Section 4.2.7, 6.2.1 and 6.2.4.</p>
D16.14	<p>Height</p> <p>Max 8.5, measured from highest point of building (including top of ridgeline) in a vertical line to natural ground level</p>	<p>Stage 1 Preferred Project only:</p> <p>Building A = 12.45m (3 storeys)</p> <p>Building B = 12.35m (3 storeys)</p> <p>Building C = 13.95m (3 storeys)</p> <p>Building D = 18.55m (5 storeys)</p> <p>Building E = 19.35m (part 4 and part 5 storeys)</p> <p>Building F = 18.75m (part 4 and part 5 storeys)</p> <p>Building G = 18.55m (5 storeys)</p> <p>Childcare centre = 1 storey</p> <p>Swimming pool/gym = 4.95m (1 storey)</p>	✗	<p>Adverse visual impacts due to the scale and height of the buildings, which will affect the amenity of residents in the wider community.</p> <p>Section 4.2.7, 6.2, 6.3, 6.4, and 6.5.4.</p>

APPENDIX E

Assessment of the Design Quality Principles under SEPP 65 (Design Quality of Residential Flat Development)

Assessment of Design Quality Principles (SEPP 65)

SEPP 65 applies to residential flat buildings of three or more storeys. The Preferred Concept Plan indicates three, part four/part five storey, and five storey residential flat buildings as defined by SEPP 65.

Pursuant to Clause 30(2) of SEPP 65, in determining a development application for consent to carry out residential flat development, a consent authority is to take into consideration the design quality of residential flat development when evaluated in accordance with the design quality principles and the publication *Residential Flat Design Code* (a publication of the Department of Planning, September 2002).

An evaluation of the development against the design quality principles in SEPP 65 is provided below:

PRINCIPLE 1: CONTEXT

Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area. Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.

- The Preferred Concept Plan is inconsistent with the desired future character statement for Warriewood Valley under *Pittwater 21 Development Control Plan*.
- The Preferred Concept Plan, with three, part four/part five storey, and five storey residential flat buildings, will dominate the treed skyline.
- The Preferred Concept Plan for 559 dwellings greatly exceeds the adopted dwelling density for the site under the Clause 30C of the *Pittwater Local Environmental Plan 1993* and the recently adopted *Warriewood Valley Planning Framework 2010* (the adopted planning strategy for the area).
- The built form will dominate over landscaping on the site.
- With regard to Stage 1, the built form is within the front building setback to Macpherson Street, resulting in the development becoming the dominant feature in the streetscape.

PRINCIPLE 2: SCALE

Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings. Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.

- With regard to Stage 1, the three residential buildings fronting Macpherson street significantly exceeds the maximum 8.5m building height (above existing natural ground at the boundary) and will dominate the streetscape along Macpherson Street.

PRINCIPLE 3: BUILT FORM

Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

- The spatial separation between buildings identifies the public domain however the landscaping proposed in these areas is minimal, which causes the buildings to be the dominant feature in the streetscape.
- With regard to Stage 1, the proposed orientation and layout of the buildings will result in poor solar access, inadequate private open space areas, and, for those units that have a single aspect, these will not achieve cross ventilation.

PRINCIPLE 4: DENSITY

Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents). Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.

- The Preferred Concept Plan for 559 dwellings greatly exceeds the maximum dwelling yield for this sector as prescribed by Clause 30C of the *Pittwater LEP 1993*.

- The Preferred Concept Plan for 559 dwellings is based on a density of 75 dwellings per hectare, which is well above the adopted density of 25 dwellings per hectare for this sector in accordance with the *Warriewood Valley Planning Framework 2010*.
- The proposed density, together with deficiencies and non-compliances with Pittwater Council's statutory provisions, results in gross overdevelopment of the site.

PRINCIPLE 5: RESOURCE, ENERGY AND WATER EFFICIENCY

Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction. Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.

- With regard to Stage 1, the development will be built predominantly of masonry, concrete and color bond roofing all of which are low maintenance, long life materials.
- The dwellings in Stage 1 are compliant with BASIX however, the orientation and layout of several of the proposed units do not achieve solar access and cross ventilation. Concerns are also raised regarding acoustic and visual privacy, and inadequate provision of private open space areas.

PRINCIPLE 6: LANDSCAPE

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain. Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character. Landscape design should optimise usability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.

- The landscape corridor along Fern Creek will be maintained and enhanced.

- The site will be rehabilitated however, minimal landscaping is proposed, which will not visually enhance the development but rather, places greater emphasis on the massing and height of the proposed buildings.
- Insufficient landscaping between the built form and Macpherson Street and the internal roads, and inadequate landscaping between buildings results in the buildings becoming the dominating feature in both the streetscape and skyline.
- The triangular-shaped common open space area will be overshadowed, affected by wind and the limited tree planting in this area will not attenuate noise, resulting in a poor common open space area.

PRINCIPLE 7: AMENITY

Good design provides amenity through the physical, spatial and environmental quality of a development. Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.

- With regard to Stage 1, there are inadequacies with solar access and natural cross ventilation as well as insufficient provision of private open space areas. Concern is also raised regarding acoustic and visual privacy.
- The design of the proposed dwellings in Stage 1 does not demonstrate how 50% of the dwellings are capable of adaptation for disabled or elderly residents (the adaptation to be designed as Class B under AS4299-1995 (Adaptable Housing)).

PRINCIPLE 8: SAFETY AND SECURITY

Good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.

- No crime assessment has been carried out for the Preferred Concept Plan or Stage 1.

- With regard to Stage 1, units surrounding the triangular-shaped common open space area will directly overlook into this area however, the limited tree planting in this area will not attenuate noise and will impact on residents' amenity.

PRINCIPLE 9: SOCIAL DIMENSIONS

Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities. New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.

- The Preferred Concept Plan for 559 dwellings will provide housing diversity.
- The Preferred Concept Plan, with its increased dwelling density, grossly exceeds the dwellings density adopted for this site and Warriewood Valley (and is not part of the adopted planning strategy envisaged by Pittwater Council), and exceeds the community's expectations.
- The Preferred Concept Plan will generate additional infrastructure and social services/facilities as a result of the additional population that has not been accounted for by Pittwater Council in its planning of Warriewood Valley.

PRINCIPLE 10: AESTHETICS

Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.

- The Preferred Concept Plan, and particularly Stage 1, does not respond to the context of the location of the site nor respond to the scale of buildings particularly along Macpherson Street.
- The Preferred Concept Plan is not in keeping with the desired future character of Warriewood Valley.

RESIDENTIAL FLAT DESIGN CODE

SEPP 65 Design Principle	Residential Flat Design Code	Controls	Proposed	Does it Comply?	Impact
Principle 2: Scale Principle 3: Built form	Building depth	10 to 18m.	Between 21.2m and 23.2m.	✗	Bulk and scale, which affects visual amenity.
Principle 2: Scale Principle 3: Built form Principle 7: Amenity Principle 10: Aesthetics	Building separation (up to four storeys)	Habitable rooms/balconies = 12m Habitable/balconies and non-habitable rooms = 9m Non-habitable = 6m	Between Buildings A and B = 12m (balcony to balcony) Between Buildings A and D (5 storeys) = 13.9m (balcony to bedroom) Between Buildings B and C = 12m (balcony to balcony) Between Buildings B and D (5 storeys) = 13.9m (balcony to bedroom) Between Buildings C and E (part 4 and part 5 storeys) = 13.2m (balcony to balcony)	✓	-
Principle 2: Scale Principle 3: Built form Principle 7: Amenity Principle 10: Aesthetics	Building separation (five to eight storeys)	Habitable rooms/balconies = 18m Habitable/balconies and non-habitable rooms = 13m Non-habitable = 9m	Between Buildings E (4 storeys) and G (5 storeys) = 12m (habitable to balcony) Between Buildings F (4 storeys) and D (5 storeys) = 13.51m (bedroom to bedroom) Between Buildings D and	✗ ✓	Impact on visual privacy of future residents. -

			E (5 storeys) = 12m (bedroom to bedroom) Between Buildings F and G = 12m (laundry to bedroom)		
Principle 2: Scale Principle 3: Built form Principle 6: Landscape Principle 10: Aesthetics	Deep soil zone	Minimum 25% open space area.	Numerically this complies, however the utility of the areas where deep soil is indicated involves other uses such as water management and flood storage areas, or is not an area sufficient to achieve medium to large tree growth.	x	Insufficient areas for effective landscaping, particularly for medium to large tree growth that would have otherwise assisted in screening the built form, including in the area where the proposed development fronts Macpherson Street.
Principle 3: Built form Principle 6: Landscape Principle 8: Safety and security Principle 10: Aesthetics	Communal open space area	Minimum 30% of site area.	The triangular-shaped open space area proposed as part of Stage 1 is insufficient in area. The design of this space and landscape treatment raises concern regarding its future utility as a passive open space area given it's surrounded by buildings, which will create a canyon-like effect and potentially affect use of the area. The utility of the exercise area in the north east portion of the site is also questionable given its location and the surrounding buildings.	x	Impact on amenity for future residents.

			The proposed open space areas being surrounded by buildings will contribute to safety and security.		
Principle 6: Landscape Principle 7: Amenity Principle 10: Aesthetics	Private open space (POS) for ground floor dwellings	Minimum 25m ² POS area with minimum 4m (single direction).	No typical unit plan with dimensions was provided for ground floor units (i.e. units with courtyards) however minimum dimensions proposed for ground floor units (as shown on Podium Plan) are generally inconsistent with control i.e. dimensions are less than 4m.	x	Impact on amenity of future residents.
	POS (balconies) for upper level dwellings	Minimum depth 2m.	1 bed = 2m depth (Block D) 2 bed = 2m depth (Blocks A, D Type 1, E Type 1) 2 bed = 3.3m depth (Block C)	✓	-
			2 bed = 1.8m depth (Blocks B, D Type 2, F Type 1) 2 bed = minimum 1.3m depth (Block D Type 3) 2 bed = minimum 1.7m depth (Block E (Type 2)) 2 bed = 0.6m to 1.6m depth (Block F Type 2)	x	Impact on amenity of future residents.

			3 bed = 1.2m to 1.7m depth (Block D) 3 bed = 1.7m depth (Block E)	x	Impact on amenity of future residents.
Principle 2: Scale Principle 6: Landscape Principle 7: Amenity Principle 10: Aesthetics	Planting on structures (including basement car parks)	Minimum soil depth for medium trees (8m canopy diameter @ maturity) = 1m with minimum soil volume of 35m ³ .	Soil depth where landscaping is proposed over the basement carpark appears to be less than 500mm.	x	Insufficient area for effective landscaping including the ability to achieve medium to large tree growth.
Principle 7: Amenity Principle 8: Safety and security Principle 9: Social dimensions and housing affordability	Accessibility	Ground floor units accessible from street to associated POS.	Access to ground floor units from street to associated POS.	✓	-
		Provide barrier free access to 20% dwellings.	Insufficient information provided.	-	Insufficient information to assess.
Principle 5: Resource, energy and water efficiency Principle 7: Amenity Principle 9: Social dimensions and housing affordability	Adaptability of dwellings	Demonstrate adaptable units can be converted.	No adaptable units proposed.	x	Limits the ability to accommodate for a range of needs and for the changing needs of occupiers.
Principle 3: Built form Principle 7: Amenity	Minimum size of dwelling	1 bed = 50m ²	Upper floor units (average size) are: 1 bed = 61.1m ² (Block 'D')	✓	-
		2 bed = 70m ²	2 bed = from 77.2m ² (Block 'B') to 91m ² (Block 'D')	✓	-

		3 bed = 95m ²	3 bed = 99.3m ² (Block 'G') or 103.9m ² (Block 'D')	✓	-
			No details provided for ground floor units.	-	Insufficient information to assess.
Principle 5: Resource, energy and water efficiency Principle 7: Amenity	Single aspect dwelling	Maximum 10% units with southerly aspect (SW/SE). Maximum depth = 8m from a window	More than 10% of units have southerly (SW/SE) aspect. Some of the units that have a single aspect have a maximum depth of 9m from a window.	✗	Impact on amenity of future residents.
Principle 7: Amenity	Storage areas	Studio apartments= 6m ³ 1 bed apartments = 6m ³ 2 bed apartments = 8m ³ 3 plus bed apartments = 10m ³	Storage areas proposed indicate size in square metres rather than cubic metres. Inadequate access to some storage areas.	✗	Insufficient information to assess size. Impact on amenity of future residents and inability to use storage areas provided.
Principle 5: Resource, energy and water efficiency Principle 7: Amenity	Solar access	70% dwellings to receive minimum three hours sunlight between 9am and 3pm in mid-winter.	Daylighting Assessment (Heggies 2010) submitted with Preferred Project Report states 70.1% of residential development is provided '...with 3 hrs or more sunlight on the Winter Solstice, between the hours of 9.00 am to 3.00 pm at a 'sampling rate' of 15 minute intervals.' Council considers that the south and southwest facing dwellings will not receive minimum solar	✗	Heggies calculations not reviewed by Council. Impact on amenity of future residents to these dwellings in terms of thermal comfort of the south and southwest facing dwellings.

			access.		
Principle 5: Resource, energy and water efficiency Principle 7: Amenity	Natural cross ventilation of dwellings	60% dwellings.	Cross ventilation plans indicate several dwellings achieve natural cross ventilation however most appear to show cross ventilation through solid internal walls therefore 60% of dwellings do not achieve natural cross ventilation.	x	Impact on amenity of future residents.