

SUBJECT: Planning Proposal affecting 17 and 25-27 Foamcrest Avenue, Newport

Meeting: Planning an Integrated Built Environment Committee

Date: 18 October 2010

STRATEGY: Land Use & Development

ACTION: Coordinate land use and open space planning

OVERVIEW AND PURPOSE OF REPORT

SJB Planning NSW Pty Ltd has been engaged by Council to undertake an independent assessment of an application to rezone Council owned land at 17 and 25-27 Foamcrest Avenue Newport and review a Planning Proposal submitted on behalf of Woolworths Ltd. The proposal is to prepare a draft local environmental plan (LEP) for the land to enable it to be rezoned from 5(a) (Special Uses "A") to 3(a) (General Business "A").

At the Council meeting held in November 2008 Council resolved to grant owner's consent to Woolworths Ltd to lodge a rezoning application to rezone 17 and 25-27 Foamcrest Avenue, Newport from 5(a) (Special Uses "A") to 3(a) (General Business "A").

At the same meeting Council also resolved to grant owner's consent to Woolworths Ltd to lodge a Development Application for retail development, including a supermarket, at 17 and 25-27 Foamcrest Avenue, Newport.

A Planning Proposal (refer to Attachment 1) was prepared and submitted to Council by URBIS Pty Ltd on behalf of Fabcot Pty Ltd which is a subsidiary of Woolworths Ltd. It is noted that Woolworths currently owns land adjoining the subject parcels of land.

As of the date of the preparation of this report, a Development Application for the subject site had not yet been lodged with Council by Woolworths Ltd. This report does not consider or make an assessment of any Development Application concerning development at the site, including development for the purpose of a supermarket.

It is also noted that this report does not in any way consider the merits, the conditions or any of the circumstances relating to any agreement which Council may have to sell the subject land to Woolworths Ltd.

This report assesses two key matters as follows:

- The planning merit of the proposition to rezone the land at 17 and 25-27 Foamcrest Avenue Newport from 5(a) (Special Uses "A") to 3(a) (General Business "A"); and
- The planning merit of the actual Planning Proposal prepared and submitted to Council on behalf of Woolworths to undertake the rezoning.

This report concludes that the proposal to rezone the Council owned land at 17 and 25-27 Foamcrest Avenue Newport from 5(a) (Special Uses "A") to 3(a) (General Business "A") is a rational planning outcome, is consistent with NSW Department of Planning policies, is consistent with the Draft North East Sub-regional Strategy, is consistent with the Newport Village Commercial Centre Masterplan and therefore has merit.

This report concludes that the rezoning of the subject land to 3(a) (General Business "A") will be consistent with the Newport Village Commercial Centre Masterplan as it applies to the site; where

as the current zoning effectively prohibits the realisation of the Newport Village Commercial Centre Village Masterplan as it applies to the site.

This report however also concludes that aspects of the Planning Proposal submitted on behalf of Woolworths Ltd are inconsistent with the Newport Village Commercial Centre Masterplan.

Specifically the stated objectives and intended outcomes of the submitted Planning Proposal and aspects of the indicative concept drawings are inconsistent with the built form outcomes envisaged in the Newport Village Commercial Centre Village Masterplan.

In accordance with the NSW Government's 'gateway' process which deals with rezoning applications and LEP amendments, a planning proposal can be prepared by the relevant planning authority (RPA) or by a proponent for the proposed LEP. In either event, the RPA is ultimately responsible for any planning proposal to be forwarded to the Minister for the next step in the process, being the gateway determination.

Therefore in accordance with the findings of this report, it is considered that the Planning Proposal submitted by Woolworths should not proceed to the NSW Department of Planning.

While recommending rejection of the Planning Proposal as submitted, the authors of this report also recognise that the rezoning of the site to 3(a) (General Business "A") has the potential to deliver the Newport Village Commercial Centre Masterplan as it applies to the site. If the Council concurs that the potential realisation of the Masterplan is worth pursuing, given that this is the stated Council policy position for the site, then it is recommended that the alternative Planning Proposal, attached to this report, proceed to the Department of Planning for a gateway determination.

Therefore in accordance with the provisions of Section 55(1) of the EP&A Act and the Department of Planning's guideline for Plan making, the applicant's Planning Proposal is recommended to be rejected and an alternative Planning Proposal has been prepared for the rezoning and for referral to the gateway process.

The alternative Planning Proposal outlines a broader objective and intended outcome for the rezoning which is considered to accord with the Newport Village Commercial Centre Masterplan and does not focus on any one particular future development outcome.

The alternative Planning Proposal details that the purpose of the rezoning is to enable the future redevelopment of the site consistent with the Newport Village Commercial Centre Masterplan, and the surrounding commercial centre, while maintaining a public car park.

The alternative Planning Proposal does not list the development of a supermarket as a stated objective or outcome and it does not include concept plans or indicative drawings of potential future built form outcomes. It also follows however, that the Planning Proposal does not exclude a supermarket as being one of the forms of potential future development at the site under a 3(a) "General Business A" zone, albeit that retail development fronting Foamcrest Avenue in this location is not consistent with the Newport Village Commercial Centre Masterplan.

It is noted that the alternative Planning Proposal has been prepared in accordance with the amendments recommended in this report, and as noted above, in accordance with the provisions of Section 55(1) of the EP&A Act and the Department of Planning's guideline for Plan making, the applicant's Planning Proposal.

1.0 THE SITE AND SURROUNDING LAND

- 1.1 The land affected by the proposal is known as 17 and 25-27 Foamcrest Avenue, Newport. The land includes four allotments which are owned by Pittwater Council. The subject lots are detailed in Table 1.

Table 1 Subject Land

Address	Property Description	Zone	Owner
17 Foamcrest Avenue, Newport	Lot 10 Section 5 Deposited Plan 6248	5(a) (Special Uses "A")	Pittwater Council
17 Foamcrest Avenue, Newport	Lot 11 Section 5 Deposited Plan 6248	5(a) (Special Uses "A")	Pittwater Council
25 Foamcrest Avenue, Newport	Lot 14 Section 5 Deposited Plan 6248	5(a) (Special Uses "A")	Pittwater Council
27 Foamcrest Avenue, Newport	Lot 15 Section 5 Deposited Plan 6248	5(a) (Special Uses "A")	Pittwater Council

The four allotments, which are identified in Figure 1 below, currently accommodate 56 'at grade' public car parking spaces.

The four allotments have a total area of 2364.8m², Lots 10 and 11 Section 5 Deposited Plan 6248 (i.e. 17 Foamcrest Avenue) having an area of 1112.8m² and Lots 14 and 15 Section 5 Deposited Plan 6248 (i.e. 25-27 Foamcrest Avenue) having an area of 1252m².

Within, and surrounding, the allotments there are several gardens beds which accommodate various forms of vegetation.

Figure 1: Lot 10, Lot 11, Lot 14 and Lot 15, Section 5 in Deposited Plan 6248 (17, 25 and 27 Foamcrest Avenue) – site nominated in blue.



The site is oriented in a north west to south east direction, however for the sake of this report the Foamcrest Avenue frontage is referred to as the northern side and the Barrenjoey Road frontage is referred to as the southern side.

The four Council owned allotments straddle a fifth allotment (Lot 1 in Deposited Plan 584141) which runs through the street block from Foamcrest Avenue to Barrenjoey Road (refer to Figure 2).

The allotment separating the Council owned land has two frontages (i.e. Foamcrest Avenue and Barrenjoey Road) and has two street addresses being 23 Foamcrest Avenue (on its northern side) and 343-345 Barrenjoey Road on its southern side.

Lot 1 in Deposited Plan 584141 is owned by Woolworths Ltd and accommodates an open car park on the northern side and a commercial/retail building on the southern (Barrenjoey Road) side.

The car park on the Woolworths owned land has approximately 24 car spaces. The car park has operated in conjunction with the Council owned car parks such that it is effectively a contiguous car park open to the public which also provides a vehicular access link between Councils two car parks at 17 Foamcrest Avenue and 25-27 Foamcrest Avenue.

Figure 2: Lot 1 Deposited Plan 584141 – nominated in orange



The commercial/retail building has a central arcade which allows pedestrian access from the car park.

Lot 1 in DP 584141 has also operated as a pedestrian link from the Council car parks through to shops in Barrenjoey Road.

The subject allotments slope down from Foamcrest Avenue towards Barrenjoey Road so that the ground level of the footpath in front of 17 Foamcrest Avenue is approximately 5m higher than the ground level of the footpath in front of 343 Barrenjoey Road.

To the west of 17 Foamcrest Avenue is the property at 335 Barrenjoey Road which extends from Barrenjoey Road through to Foamcrest Avenue. 335 Barrenjoey Road is legally described as SP 44281 and accommodates various commercial/retail buildings within a shopping arcade/mall over the southern portion of the site and a residential flat building above a car park on the northern side of the site which addresses Foamcrest Avenue.

Immediately to the north of the subject land is Foamcrest Avenue and beyond that is residential development in the form of one, two and three storey free standing dwellings and medium density residential buildings.

To the east of the site, there is a row of single storey commercial/retail shops which address Robertson Road (at 29 Foamcrest Avenue and 349 Barrenjoey Road). There is a covered walkway running along the rear of the shops which is adjacent to the eastern boundary of 27 Foamcrest Avenue.

The properties of 337-341 Barrenjoey Road are located to the south of 17 Foamcrest Avenue. A development application for a mixed use development including retail premises and residential units was approved by Pittwater Council and construction has commenced and is nearing completion.

Located to the south of 25 Foamcrest Avenue are commercial/retail buildings at 343 Barrenjoey Road.

To the south of 27 Foamcrest Avenue is the property known as 347 Barrenjoey Road which accommodates a single storey commercial/retail building which houses a pharmacy. At the rear of the pharmacy, adjacent to the southern boundary of 27 Foamcrest Avenue, is an 'at grade' car park which relies on informal vehicular access over 27 Foamcrest Avenue.

2.0 BACKGROUND

2.1 At its meeting held on 17 November 2008 Council resolved the following:

- 1. That Council note the proposed development scheme as generally set out in the concept sketches included as Attachment 2 to this report for the amalgamated Council/Woolworths properties at Foamcrest Avenue & Barrenjoey Road, Newport.*
- 2. That Council grant owners consent to Woolworths Ltd to lodge a rezoning application to rezone the Council car park sites at 17-19 & 25-27 Foamcrest Avenue, Newport to a General Business 3 (a) zoning, it being noted that the rezoning application will be independently assessed and determined by the Minister for Planning.*
- 3. That Council grant owners consent to Woolworths Ltd to lodge a development application for a retail development including a supermarket and associated car parking at 17-19 & 25-27 Foamcrest Avenue, Newport, it being noted that the development application will be independently assessed and referred to the Joint Regional Panel for determination.*
- 4. That it be noted that the granting of owners consent in 2 and 3 above in no way fetters the statutory and regulatory responsibilities of the Council under the Environmental Planning & Assessment Act.*
- 5. That the General Manager be authorised to negotiate with Woolworths Ltd the sale of Council's car park sites at 17-19 & 25-27 Foamcrest Avenue, Newport in accordance with Council's valuation advice and the construction of an additional stratum layer/s of public car parking, to be owned by the Council in perpetuity, as part of the proposed development scheme referred to in 1 above.*
- 6. That a further report be brought to Council on the financial, legal and contractual matters associated with this project prior to any agreement being reached with Woolworths Ltd.*
- 7. That community consultation in relation to this project be commenced in accordance with the Council's adopted community engagement policy (Level 3 - High Impact/Local), including but not limited to the Newport Residents Association, the Newport Chamber of Commerce and residents of Foamcrest Avenue, Newport.*

2.2 A Planning Proposal was lodged on behalf of Woolworths Ltd on 10 July 2009. Table 2 outlines a history of the key dates and assessment relating to the Planning Proposal.

Table 2 History of Key Dates

Action	Date
Planning Proposal submitted to Council by URBIS Pty Ltd on behalf of Fabcot Pty Ltd which is a subsidiary of Woolworths Ltd.	28/07/2009
Application was advertised/notified.	7/09/2009 to 9/10/2009
Submission of Tree Assessment and Impact Report prepared by Rain Tree Consulting	24/09/2009
Submission of Traffic Report prepared by Colston Budd Hunt & Kafes	15/10/2009
First round of 'Key Stakeholder' meetings held.	30/11/2009
Public Information Session held.	3/12/2009
Request to applicant for Economic Impact Assessment	23/12/2009

Submission of Response to Issues raised at Public Information Session from Woolworths Ltd	8/02/2010
Submission of Newport Commercial Centre Economic Assessment prepared by Hill PDA	11/02/2010
Receipt of Peer Review of the Traffic Report prepared by ML Traffic Engineers	15/02/2010
Submission of amended concept plans	12/04/2010
Submission of amended Supplementary Traffic Report prepared by Colston Budd Hunt & Kafes	12/04/2010
Submission of Statement on the Design Changes to the Concept Plans	15/04/2010
Submission of amended concept plans (i.e. sections)	20/04/2010
Receipt of Peer Review of the Supplementary Traffic Report prepared by ML Traffic Engineers	22/04/2010
Receipt of Peer Review of Economic Assessment prepared by Leyshon Consulting	16/04/2010
Application was readvertised/renotified.	28/04/2010 to 28/05/2010
Submission of amended concept plans (i.e. Mezzanine Level)	05/05/2010
Submissions of response to issues raised by ML Traffic, prepared by Colston Budd Hunt & Kafes	24/05/2010
Second round of 'Key Stakeholder' meetings held.	08/06/2010
Submission by Woolworths Ltd of Posters of a street view of Barrenjoey Road - 17 Foamcrest Avenue, Newport	24/06/2010
Submission of amended concept plans (i.e. Mezzanine Level showing link to Robertson Road)	26/08/2010

3.0 REVIEW OF THE PLANNING PROPOSAL SUBMITTED ON BEHALF OF WOOLWORTHS LTD

3.1 Overview of the planning proposal

A planning proposal has been prepared and submitted to Council by URBIS Pty Ltd on behalf of Fabcot Pty Ltd which is a subsidiary of Woolworths Ltd.

The proposal relates to four Council owned allotments. The location of the subject land is shown in Figure 1.

The current zoning of the four allotments is 5(a) (Special Uses "A") with the word "Parking" notated on the respective sites on the Pittwater Local Environmental Plan 1991 Zone Map (refer to Figure 3).

Development on the land is restricted in accordance with the development control table at clause 9 of the Pittwater Local Environmental Plan 1993 which outlines that development for the following purposes is the only form of development permitted (with consent) at the site:

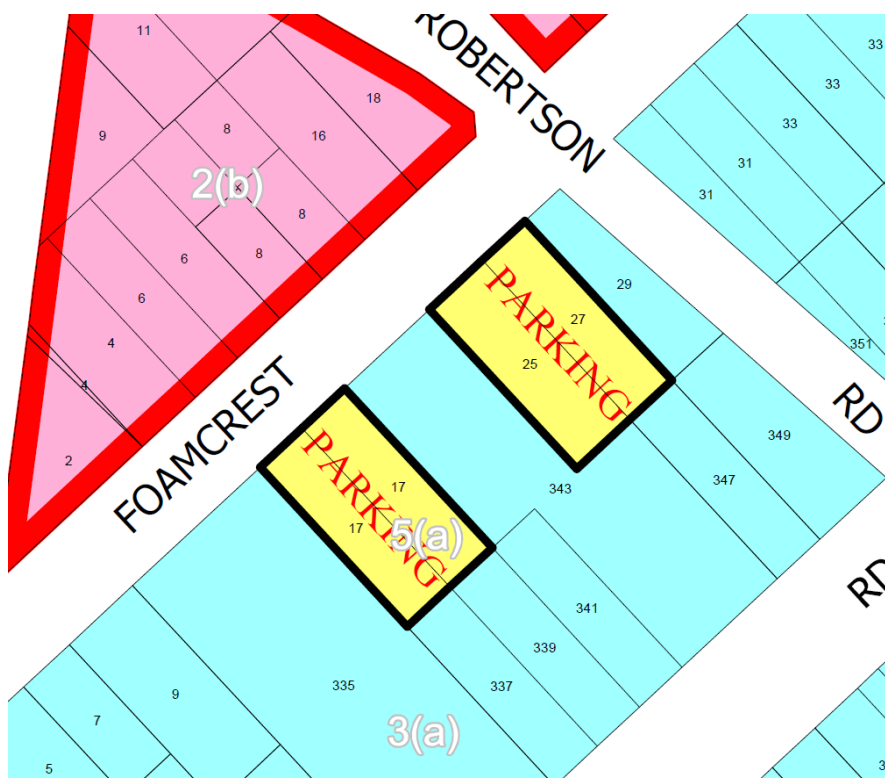
"Advertisements; drainage; helipads; roads; the purpose indicated by scarlet lettering on the Zoning Map and any purpose ordinarily incidental or subsidiary thereto; utility installations (other than gas holders or generating works)."

Therefore currently, development for the purpose of commercial premises, recreation areas, public buildings and shop-top housing (amongst other purposes) is prohibited at the site.

The land immediately to the east, west and south of the subject land is zoned 3(a) (General Business "A") – refer to extract from the Pittwater Local Environmental Plan 1991 Zone Map below in Figure 3.

All four allotments are proposed to be rezoned to 3(a) (General Business "A").

Figure 3: Extract from current Pittwater Local Environmental Plan 1991 Zone Map



3.2 Explanation of provisions to be used in the local environmental plan

The proposed rezoning requires the amendment of the Pittwater Local Environmental Plan 1993 Zoning Map in accordance with the proposed changes as outlined in Table 3 below.

Table 3 Proposed Zoning Changes

Address	Property Description	Existing Zone	Proposed Zone
17 Foamcrest Avenue, Newport	Lot 10 Section 5 Deposited Plan 6248	5(a) (Special Uses "A")	3(a) (General Business "A")
17 Foamcrest Avenue, Newport	Lot 11 Section 5 Deposited Plan 6248	5(a) (Special Uses "A")	3(a) (General Business "A")
25 Foamcrest Avenue, Newport	Lot 14 Section 5 Deposited Plan 6248	5(a) (Special Uses "A")	3(a) (General Business "A")
27 Foamcrest Avenue, Newport	Lot 15 Section 5 Deposited Plan 6248	5(a) (Special Uses "A")	3(a) (General Business "A")

It is also considered that in order to allow shop-top housing at the site, commensurate with the surrounding 3(a) zoned land and the desired future character for the Newport Village Commercial Centre, the parcels of land comprising the site should all be identified by the symbol "STH" on the Multi-Unit Housing Map.

The submitted Planning Proposal does not address this issue. It is considered that any planning proposal forwarded to the Department of Planning for a gateway determination should include a proposed amendment to the Multi-Unit Housing Map.

The proposal requires no other provisions of the LEP to be amended.

3.3 Rezoning objective and intended outcomes – as proposed

The stated objectives and intended outcomes of the proposed rezoning as detailed in the submitted Planning Proposal are as follows:

"5.1 Objectives and Intended Outcomes

The planning proposal and site concept have been developed with consideration of the strategic directions for Pittwater, specifically relevant to Newport, the surrounding land uses as well as discussions with Council.

The objective of the rezoning is:

To enable the redevelopment of the car park site for retail development, consistent with the remainder of the town centre and including the retention of the public car parking component and provision of additional car parking.

An indicative concept of the intended outcome for the site has been prepared, with the following key principles:

- Retail uses include a supermarket and speciality retail shops*
- Basement supermarket at the rear of the site beneath the levels of the existing car park*
- Speciality shops fronting an arcade, accessible from Barrenjoey Road*
- Two storey decked car park over the retail space, with level access from Foamcrest Avenue*

- *Retention of the public car parking component currently on site and enhancement in the car parking numbers*
- *Provision of loading facilities in the north of the site, distanced from residential land uses.*
- *Retention of the existing through site link from Barrenjoey Road to Foamcrest Avenue with the use of travelators and a central pedestrian walkway through the car park at ground level.*
- *Provision of future pedestrian links to Robertson Street and to the south west of the site, if the adjoining sites were to be redeveloped.*
- *The bulk of the development is generally in accordance with the setback requirements of Pittwater DCP and the Newport Masterplan.*

Indicative concept drawings prepared by Rice Daubney are provided as appendix A to this report and propose an enhanced retail offer with associated car parking, as well as retaining the public car parking component on the site.

The detailed design of the proposal is currently being progressed as part of a development application for the site and will be lodged following the submission of this rezoning proposal. “

It is noted that the indicative concept plans have been amended so that the reference to concept plans prepared by Rice Daubney is no longer relevant. The amended concept plans have been prepared by BN Architecture and include an underground car park with a supermarket and specialty retail above.

In summary, the primary objective and intended outcome of the Woolworths submitted Planning Proposal is for the future development of a new supermarket at the site in addition to maintaining the quantum of public car parking spaces.

3.4 Newport Village Commercial Centre Masterplan

The key strategic planning document for the site is the Newport Village Commercial Centre Masterplan.

The purpose of the Masterplan is to establish a holistic and integrated vision document for the Newport Village Commercial Centre, encompassing both the private and public domain. The document was developed with extensive community involvement.

The Masterplan provides an urban design framework that aims to enhance the amenity and design quality of the centre, and to support social, economic and cultural activities. Its stated focus is on a high amenity and high quality environment to support social, economic and cultural activities and to contribute positively to Newport's future.

It follows then that the logical strategic planning objective for the site should be the delivery of the desired future character as generally outlined in the Newport Village Commercial Centre Masterplan.

The Masterplan outlines strategies for 8 specific elements and these strategies are reinforced and implemented by development controls in the Masterplan and within DCP21. When combined, the strategies and the recommended development controls together form the desired future character.

Within the strategies of the Masterplan there are specific references to the subject site and the area which the subject site lies in, known as the 'car park precinct'. The most pertinent references when considering the desired future character for the site are in Part 4.6 (Land Uses) and Part 4.9 (Built Form). The stated Land Use strategy in Part 4.6 identifies that the desired future land uses for the site include mixed uses (retail, commercial, community and residential).

The strategy in Part 4.9 (Built Form) and the Figure 4.9.1 confirm that a form and scale of development commensurate with adjacent commercial development is envisaged across the site. The relevant extracts are detailed below:

“4.6 Land Uses

Mixed uses including retail, commercial, community and residential uses are appropriate for the village centre. The strategy includes retaining the focus on Barrenjoey Road and Robertson Road as the main retail streets. Foamcrest Avenue is not suitable for retail uses for two reasons: it interfaces with a residential area and it should not compete with the intensity of use on the main shopping street and side streets. Ground floor uses on Foamcrest could include commercial uses in the form of professional suites, and a higher proportion of residential use in mixed use buildings would not be out of place east of Robertson Road beyond the church.

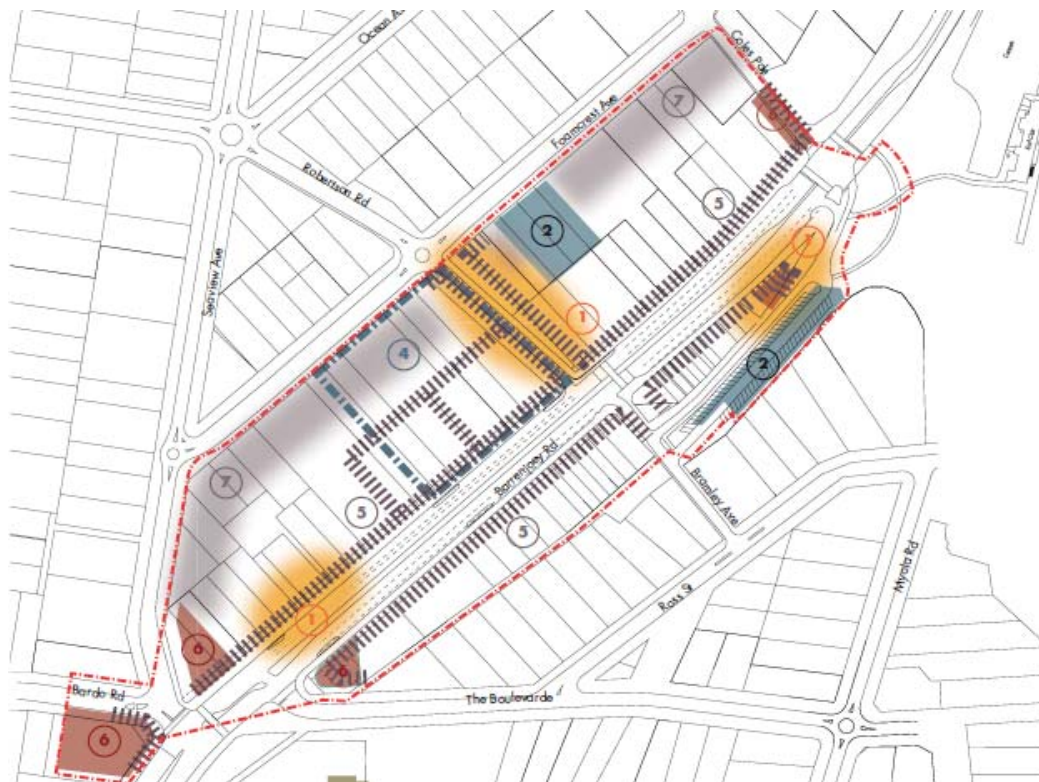
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...

4. Consider the ‘car park precinct’ including the Council-owned sites on Foamcrest Avenue as an aggregated site (or possibly 2 or 3 integrated sites), to rationalise land uses, optimise efficiencies and deliver high amenity, high quality built form. Integrate the sites fronting Robertson Road with the planning of this ‘precinct’ to ensure that no lots remain isolated and unable to be developed.”

(Note: Figure 4.6 does not have a key. The numbers on the Figure 4.6 relate to the above points).

“Figure 4.6 Land Uses”



“Figure 4.9.1 Built Form”



Section 4.6 outlines that development addressing Foamcrest Avenue is not suitable for retail uses for reasons relating to the interface with residential properties and competition with the main shopping street and side streets. The indicative concept plans do not propose active retail uses to address the Foamcrest Avenue frontage.

The strategies for ‘Land Use’ and ‘Built Form’ for the site are supported by detailed development controls within Part D10 of DCP 21. The detailed development controls in DCP21 originate and have been adapted from the draft development controls outlined in Part 5.8 (Proposed Amendments to DCP 21) of the Masterplan.

Numerous built form controls in Part D10 of DCP21 are exclusive to the car park precinct and reinforce the desired future development outcomes for the site. The built form controls seek to achieve a scale and form commensurate with commercial and mixed use development. One of the key built controls relevant to the site is reproduced below:

“D10.6 Height (Newport Commercial Centre)

The maximum height for the commercial centre varies from one to three storeys.

- *For one-storey buildings, limit the overall height in metres to 7 metres*
- *For two storey buildings, limit the overall height in metres to 8.5 metres.*
- *For three storey buildings, limit the overall height in metres to 11.5 metres.*

The following height restrictions also apply:

- *On Barrenjoey Road and 17-29 Foamcrest Avenue (including land fronting Foamcrest Avenue at 343 Barrenjoey Road), limit the street frontage height to 2 storeys, with a*

maximum height above the flood planning level of 7 metres to the top of the structure (equivalent to the floor level of the floor above). Above this, a balustrade is permitted to the top level so long as the balustrade is at least 50% transparent.

- *On Barrenjoey Road and 17-29 Foamcrest Avenue (including land fronting Foamcrest Avenue at 343 Barrenjoey Road), limit the height at the 4 metre setback (to the topmost storey) to 10.5 metres above the flood planning level, with the roof form being contained within a height plane of 15 degrees, to a maximum overall height of 11.5 metres."*

As demonstrated above the desired future character for the site is congruent with the desired future character of the wider Newport Village Commercial Centre.

The site is not identified for development for a specific land use or development type, rather it is identified for development in a manner commensurate with the land uses and activities over the remainder of the Newport Commercial Centre which is exclusively zoned 3(a) (General Business "A") apart from Council owned Open Space near Bramley Avenue.

In accordance with the development control table at clause 9 of the Pittwater Local Environmental Plan 1993, the permitted land uses in the 3(a) (General Business "A") zone are relatively broad and include, amongst others, development for the purpose of commercial premises, recreation areas, public buildings and group buildings or residential flat buildings which are attached to shops or commercial premises.

3.5 Environmental Assessment

The Planning Proposal raises issues with regards to the following environmental matters:

- Traffic and parking
- Economic impacts
- Built form
- Flooding
- Tree removal
- Social impacts

Consideration of each of these issues is outlined below. Consideration against the Newport Masterplan is also included.

Traffic and parking

3.5.1 The submitted Planning Proposal was referred to Council's Engineer who outlined that a supermarket is likely to have a heavy dependency on large vehicles servicing the site and therefore raised concerns as to whether the configuration of Foamcrest Ave can cater with the service demand created by such a development.

3.5.2 Council's Engineer indicated that a traffic management assessment should be submitted with the rezoning application demonstrating that the roads surrounding the development will be able to cater for the likely demand for service deliveries from a supermarket.

3.5.3 The applicant subsequently submitted a Traffic Report prepared by Colston Budd Hunt & Kafes

3.5.4 The Traffic Report was undertaken based on the proposal "to rezone the parts of the site used for car parking, to provide for a new Woolworths supermarket of some 3,540m² and specialty shops of some 610m². Vehicular access would be provided from Foamcrest Avenue, to a parking area for 287 parking spaces" The Traffic Report in summary found the following:

- The signal controlled intersection of Barrenjoey Road with Seaview Avenue is operating with average delays of less than 20 seconds per vehicle during the Thursday afternoon and Saturday lunchtime peak periods. This represents level of service B, a good level of service.
- The roundabout controlled intersections of Foamcrest Avenue with Robertson Road and Seaview Avenue are operating with average delays of less than 15 seconds per vehicle during peak periods. This represents level of service A/B, a good level of service.
- The proposed provision of 287 spaces satisfies Council requirements, and is considered to be appropriate.
- Traffic increases on Foamcrest Avenue, from where access to the development is proposed, would be some 180 to 190 vehicles per hour two-way during Thursday afternoon and Saturday peak hours. Increases on Seaview Avenue, Robertson Road and Barrenjoey Road would be some 20 to 190 vehicles per hour two-way.
- Based on the calculated traffic generation rates, the intersection of Barrenjoey Road with Seaview Avenue would operate with average delays of less than 25 seconds per vehicle during peak periods. This represents level of service B, a good level of service.
- The intersections of Foamcrest Avenue with Robertson Road and Seaview Avenue would continue to operate with average delays of less than 15 seconds per vehicle during peak periods. This represents level of service A/B, a good level of service.
- The proposed car park access driveway on Foamcrest Avenue would operate with average delays for all movements of less than 15 seconds per vehicle during peak periods. This represents level of service A/B, a good level of service.
- The road network will be able to cater for the additional traffic from the proposal.
- The proposal would strengthen demand for existing public transport services in the area.
- The access and the internal circulation and layout are considered appropriate.

3.5.5 Council engaged ML Traffic to undertake a peer review of the Colston Budd Hunt & Kafes Traffic Report. The Peer Review essentially listed various items that needed further attention or clarification.

3.5.6 A Supplementary Traffic Report prepared by Colston Budd Hunt & Kafes was subsequently submitted which examined the traffic implications of the amended drawings lodged for the Planning Proposal and also sought to address the matters raised by in the ML Traffic Peer Review.

3.5.7 The Supplementary report concluded that the main points relating to the traffic implications of the amended Planning Proposal are as follows:

- *The revised planning proposal would provide for a 2,950m² supermarket and 1,365m² specialty shops;*
- *The proposal would strengthen demand for existing public transport services in the area;*
- *The proposed parking provision complies with the requirements of Pittwater 21 DCP and RTA Guidelines;*
- *Access, internal circulation and layout are considered appropriate;*
- *The road network will be able to cater for the additional traffic from the proposed development;*
- *While there would be an increase in traffic in Foamcrest Avenue as a result of the proposed development, there would be not a significant affect on road safety; and*
- *The matters raised by the ML traffic review have been addressed.*

3.5.8 Council engaged ML Traffic to undertake a peer review of the Supplementary Traffic Report in which ML Traffic concluded the following:

"A review of the traffic assessment has been undertaken for the planning proposal at 17 and 25-27 Foamcrest Avenue, and 343 Barrenjoey Road including the development of the two adjacent Council properties.

A review showed that further information is required to assess the traffic report in the following areas

- *Clarification of the peak hours is required*
- *The net trip generation of the site has not been done correctly.*

We believe that the above issues are of a minor nature and certainly do not preclude the proposed development from obtaining approval from Pittwater Council. Upon receipt of the minor clarification and correction, there are no traffic issues that would preclude the approval of the proposed development."

3.5.9 A letter of response was prepared by Colston Budd Hunt & Kafes. The letter addressed the two outstanding matters to which ML Traffic subsequently acknowledged by way of email dated 24/05/2010.

3.5.10 In light of the above details and summarised analysis, it is considered that the Planning Proposal is considered satisfactory with regard to traffic and parking implications.

Economic

3.5.11 The applicant was requested to provide an Economic Impact Assessment to inform the Planning Proposal and responded by submitted the "Newport Commercial Centre Economic Assessment" prepared by Hill PDA.

3.5.12 The report nominated a trade area and analysed the trade area demographics. The report provided analysis of the retail floor space within the area, identified the demand for retail floor space within Newport, analysed the economic implications for the Newport Commercial Centre and outlined the economic merits of the proposal. The report concluded the following:

"This Economic Analysis of the proposal rezoning has found that there is a sufficient demand within the Newport Commercial Centre trade area at the present time to accommodate 3,800 sqm of retail floor space including a 3,200 sqm supermarket and 600sqm specialty retail.

As the subject site is located within the Newport Commercial Centre, the attraction of a full line supermarket and the additional parking could provide economic benefits to the surrounding specialty retailers. We also consider that a centre on the Subject Site as planned could promote sustainable travel given its close proximity and ease of access to a range of family households and businesses. The central location of the Subject Site within the suburb of Newport and Pittwater LGA would also allow for residents to have greater access to parking and conduct their core shopping.

There are a number of likely positive impacts of the proposed rezoning including

- *Improved retail offer,*
- *Reduced escape expenditure*
- *Reduction in travel costs"*

3.5.13 Council engaged Leyshon Consulting to under take a peer review of the Economic Assessment prepared by Hill PDA.

3.5.14 The Peer Review came to the following conclusions (note these are paraphrased and not direct quotes):

- The report does not assess the potential impact of the proposed development but merely examines certain floorspace demand and supply issues.
- Concern is raised that the Hill PDA report does not examine what affect a much larger Woolworths supermarket of 3,200m². (plus 600m². of supporting specialty retail) will have on the smaller recently opened 1,600m². Coles supermarket at the northern end of the Newport retail strip.
- The Hill PDA report does not consider what might be the impact on the existing centre at Avalon of the transfers of spending from the Avalon Woolworths to the new store proposed at Newport.
- Hill PDA have argued that it is an established legal precedent in the Land and Environment Court of New South Wales that the relevant impact of a proposed development is that which falls on centres not individual stores or direct competitors.
- Given the importance of this issue and Council's involvement in this development as both a property owner and a decision-maker, we believe Council should seek an independent legal opinion as to whether the normal requirements of Section 79C(1)(b) of the Act can be set aside in this instance in the manner advocated by Hill PDA.
- Overall, therefore, a reasonable balance between the demand for, and supply of, supermarket floorspace within the Newport trade area in 2011-12 appears likely if development of the proposed Woolworths proceeds.
- This does not mean, however, that a Woolworths supermarket can be introduced into the Newport retail system "impact free". We have concerns about the potential impact of the proposed supermarket on the newly opened, and much smaller Coles in Newport, and what the inevitable reduction in sales activity at Woolworths Avalon may mean for that centre.
- It is fair to note that the proposed Woolworths supermarket will bring some benefits to the Newport centre. The development of a full-line supermarket within the centre where none exists at present should have a positive influence on local shopping patterns to the benefit of Newport as a whole.
- It should encourage a higher proportion of trade area resident shopping trips to be directed to Newport than occurs at present. This should have potential spin-off benefits in terms of the existing retail premises which line Barrenjoey Road.
- The proposed retail development at Newport will also create jobs in the centre.
- Subject to final plans, the centre will also benefit from an increase in overall off-street car parking by some 57 spaces.
- Arguments that the proposed development will increase local competition in the supermarket sector appear overstated.
- Another economic benefit is that the proposal will generate an increased "choice" for shoppers as far as supermarket goods are concerned in Newport rather than within the surrounding region as Woolworths is already represented at Avalon, Mona Vale and Warriewood.
- There is prima facie evidence that the proposed development would not generate, in a general sense, unacceptable impacts on the retail system in the trade area and would, if viewed in isolation from community concerns, produce some economic benefits for the Newport centre.

With respect to the first five dot points above it is noted that legal advice to Council indicates the Court has generally held that, in respect of the economic impact of a proposed development, the proper planning consideration which a decision-maker

must have regard to is the overall economic impact on the commercial centre or community, that is the wider locality.

The legal advice to Council indicates that the Court has stated that section 79C(1)(b) of the EPA Act "*does not require the consideration of economic impact on individual competitors, except to the extent that any impact upon individual competitors, or competition generally, demonstrates economic impact in the locality as an environmental or planning matter* (see *Cartier Holdings Pty Ltd v Newcastle City Council* (2001) per Justice Pearlman, upheld in *The Village McEvoy Pty Ltd v Council of the City of Sydney* (No 2) [2010] NSWLEC 17).

Also, the draft State Environmental Planning Policy (Competition) 2010, which has been publicly exhibited but has not yet come into force, appears to be an attempt by the NSW government to codify the above principle, notwithstanding that it is unlikely to apply to the rezoning of land because the SEPP will only apply to Part 4 development applications that are made after the SEPP comes into force.

- 3.5.15 Notwithstanding that the Peer Review alludes to the economic benefits of the proposal being overstated in the applicant's economic report and also raises issue with various technical arguments in the report, the Peer Review concludes that on balance there is prima facie evidence that the proposed development would not generate, in a general sense, unacceptable impacts on the retail system in the trade area.
- 3.5.16 Further the Peer review finds that, if viewed in isolation from community concerns, the proposal would produce some economic benefits for the Newport centre.
- 3.5.17 On the basis of the expert economic analysis, it is considered that the Planning Proposal is satisfactory with regard to the potential economic impacts, notwithstanding that retail development addressing the Foamcrest Avenue side of the site is inconsistent with the Newport Village Commercial Centre Masterplan.

Built Form

- 3.5.18 The submitted Planning Proposal was supported by 'indicative concept' drawings which outlined a potential building footprint and envelope for a supermarket, speciality retail shops and car park development across the subject site and the Woolworths Ltd owned land at 343 Barrenjoey Road (also known as 23 Foamcrest Avenue).

The applicant has since amended the concept drawings, providing significantly more detail and indicating basement car parking where previously above ground car parking was proposed.

The amended drawings have considerably less detail than that which would be expected for a set of Development Application drawings, as would be expected with a Planning Proposal.

A review of the drawings indicates that various built form aspects of the supermarket, specialty retail and car park concept are inconsistent with the built form envisaged for the site as detailed in the Newport Village Commercial Centre Masterplan.

Specifically the building footprints do not align with those outlined in Figure 4.9.1 Built Form of the Masterplan. In this regard it is recognised that some of the proposed heights of the indicative buildings are less than what is shown in the Masterplan, which envisages 1, 2 and 3 storey development over the site.

It is acknowledged that the building footprints in the Masterplan are not a prescribed requirement and as such there is flexibility to arrange buildings at the site in a manner that is not exactly the same as building footprint presented in Figure 4.9.1.

It is also acknowledged that future development at the site is unlikely to correlate exactly as the Masterplan outlines in terms of building envelopes, building footprints and building alignments.

Nonetheless, the proposed indicative arrangement of buildings will inhibit the successful realisation of another important aspect of the Masterplan - the pedestrian links across the site.

Importantly, the site is identified in the Newport Village Commercial Centre Masterplan (refer to sections 4.5 and 4.2 and Figure 4.2 and 4.5 of the Masterplan) as accommodating significant north – south and east – west pedestrian pathways / links across the site. It is envisaged that these two links will form part of a wider, integrated pedestrian network throughout the Commercial Centre.

The amended indicative concept drawings show a relatively convoluted and disjointed set of pedestrian links, such that the north-south link is entered adjacent to the two loading bays in the north east corner, leads down a set of stairs to the basement (mezzanine level) car park, leads across the car park in front of a row of car spaces (i.e. within the vehicular circulation space of the car park) and then delivers the pedestrian to a set of travelators which in turn delivers the pedestrian to shops at the front of the proposed development near Barrenjoey Road.

The proposed east-west pedestrian link is less clear. The amended concept drawings indicate a proposed link between Robertson Road, through the property at 29 Foamcrest Avenue, into the subject site. The link however does not appear to extend through the site to link up with the existing stepped pedestrian path which is located at the south west corner of the site. Instead it appears that a pedestrian would have to enter the 'mezzanine' car park level and manoeuvre through the circulation space of the car park to a doorway in the south west corner of the car park.

It is noted that the majority, if not all of the pedestrian linkages proposed, appear to be covered and the majority are not "edged and overlooked by active uses" as envisaged Part 4.6 of the Masterplan.

Other aspects of concern with the indicative built form relate to the proposed setbacks and boundary interfaces.

Specifically the proposed interface between the site and Foamcrest Avenue does not appear to result in an active street front as envisaged by the Masterplan. In addition the proposed loading dock appears to sit forward of the set back required in the Masterplan and in the relevant DCP 21 controls.

The proposed nil setback to the western boundary is potentially an issue in terms of visual massing, view loss and solar access for the medium density residential development located immediately to the west of the site.

The nil setback to the eastern boundary is also of concern given it is likely to result in the deletion of the current servicing arrangements for most of the commercial properties located at 29 Foamcrest Avenue and 349 Barrenjoey Road (which address Robertson Road) and which informally rely on 27 Foamcrest Avenue for access for servicing (i.e. for service deliveries, garbage storage and collection, etc).

The applicant has indicated the provision of two loading/service bays in the north east corner of the development for use by the commercial properties to the east. It is not clear however how these would operate, and it does not appear that they would resolve garbage storage and collection issues for the commercial properties located at 29 Foamcrest Avenue and 349 Barrenjoey Road.

Other potential built form issues concern the front alignment which appears to be set further forward than at least one adjacent building, notwithstanding that the proposed building alignment may accord with the relevant development control.

While it is recognised that the drawings are indicative only, and it is considered some, if not all of the built form issues may be able to be addressed through the Development Application process, it is nonetheless considered inappropriate to put forward the indicative concept drawings in their current form as part of the Planning Proposal given there are clear and apparent non-compliances with the desired future character built form controls in the Newport Village Commercial Centre Masterplan and the DCP21 development controls.

Flooding

- 3.5.19 Council's Flood Risk Map states the properties the subject of the Planning Proposal have been identified as being within a High Hazard Area, affected by a Flood Planning Level (FPL) and Probable Maximum Flood (PMF).

Council has a Flood Risk Management Policy which has been prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005. Future development will be subject to the provisions of the Policy and a flooding assessment of the site may be required.

The proposal was referred to Council's Engineer who has confirmed that it is apparent that future development will be able to comply with flood related development controls.

Tree Removal

- 3.5.20 Council's Natural Resource officer has reviewed the proposed rezoning application and inspected the site. An arborist report (RainTree Consulting Arboricultural Management July 2009) was submitted with the application. The report assesses 36 trees in relation to the site and proposal. Any potential impact to these trees relates to a future Development Application which at this stage has not been lodged. The report specifies that the majority of the trees onsite would require removal in accordance with the works anticipated in the indicative concept plans submitted with the planning proposal as they all fall within the indicative building footprint.

As the current application is only for rezoning, no trees require removal at this stage, the arborist report should be resubmitted with the future DA to which it will be more applicable.

Social Impacts

- 3.5.21 The rezoning of the land is likely to have limited direct or indirect social impacts. The future development of the land in accordance with the planning provisions of the new zone may result in social impacts.

It is noted that the initial (non-statutory) community consultation and notification of the Planning Proposal raised significant interest within the community and a total of 2574

submissions were received (including various petitions) with respect to the two notification periods.

The overwhelming majority of these submissions raised objection to the proposal and the issues raised are summarised in section 3.7 below.

It is reasonable to say that the majority of the objections relate directly or indirectly to the proposed future development of the site for the purpose of a Woolworths supermarket.

3.6 Consistency with Relevant Strategic Planning Framework

3.6.1 The Planning Proposal is considered to be generally consistent with the objectives and actions contained within the draft North-East Sub-regional Strategy and the Sydney Metropolitan Strategy.

3.6.2 The Planning Proposal is considered to have aspects that are inconsistent with the Newport Village Commercial Centre Masterplan as elaborated upon elsewhere in the report.

3.6.3 The Planning Proposal is considered to be generally consistent with the community's vision as expressed in the Council's *Strategic Plan 2020 and Beyond*.

In particular the proposal is consistent with the "Town and Village Strategy" which outlines that strategic infrastructure is to provide integrated car parking options in Newport and Mona Vale and investigate other options via ongoing masterplans.

3.6.4 The planning proposal is consistent with applicable state environmental planning policies.

In particular it is noted that the proposal is considered to be consistent with the Draft SEPP (Competition) 2010, (refer to discussion below).

3.6.5 Draft SEPP (Competition) 2010 has been prepared and was placed on exhibition for public comment from 27 July 2010 to 26 August 2010.

The aims of this draft SEPP are to promote economic growth and competition and to remove anti-competitive barriers in environmental planning and assessment. The new draft State Environmental Planning Policy (SEPP) proposes:

- The commercial viability of a proposed development may not be taken into consideration by a consent authority, usually the local council, when determining development applications;
- The likely impact of a proposed development on the commercial viability of other individual businesses may also not be considered unless the proposed development is likely to have an overall adverse impact on the extent and adequacy of local community services and facilities, taking into account those to be provided by the proposed development itself; and
- Any restrictions in local planning instruments on the number of a particular type of retail store in an area, or the distance between stores of the same type, will have no effect.

The provisions of the draft SEPP relate to specific Development Applications more so than the proposed rezoning of land and in this regard any future Development Application relating to the subject site will be considered against the provisions of the draft SEPP.

Notwithstanding, the proposal to rezone the subject site from 5(a) (Special Uses "A") to 3(a) (General Business "A") has also been considered against the provisions of the draft SEPP and has found to be consistent with those provisions.

The rezoning will result in an increase in the quantum of 'business zoned' land within the wider Newport Commercial Centre and the economic analysis undertaken to date (refer to section 3.5 above) indicates that the actual rezoning of the land is unlikely to have an overall adverse impact on the extent and adequacy of local community services and facilities.

- 3.6.6 It is also noted that the proposal to rezone the land is consistent with the Planning System Circular (PN 08-002) issued by the NSW Department of Planning with respect to the zoning of infrastructure land in LEPs.

The circular outlines six principles that should be followed when zoning infrastructure land in new LEPs. It is considered that the circular applies given that the site contains (and is proposed to contain) an infrastructure type covered in the Infrastructure SEPP (i.e. *a car park for the purpose of 50 or more cars with access to classified road or to road that connects to classified road, if access within 90m of connection, measured along alignment of connecting road*).

Principle 1.2 (Rezoning existing 'special use' zones) of the circular states the following:

"Land currently zoned 'special use' for these types of infrastructure or services (e.g. roads, railway lines, pipelines etc), should be zoned the same as the adjacent land. Applying the adjacent zone type to public infrastructure land follows a basic planning principle of aligning land uses. It is established practice to refer to the zoning of adjoining land when seeking to establish an appropriate zoning for land. In many cases the infrastructure land would have been zoned the same as the adjoining land if it had not been used instead for an infrastructure purpose. This approach avoids the need for spot rezonings when the infrastructure use ceases or is downsized in the future. It is preferable that the land use zone be the same as the adjacent zoning, so that future uses are compatible with existing surrounding uses."

In summary, it can therefore be reasonably expected that as part of the Council's new comprehensive LEP that will be introduced in accordance with the Standard Instrument format, Council will be required to rezone the subject land to 3(a) (General Business "A") in accordance with the provisions of Planning Circular PN 08-002.

- 3.6.7 The Planning Proposal is generally consistent with the applicable Ministerial Directions (S117 Directions).

3.7 Non-statutory Preliminary Notification and Community Consultation

Formal consultation with State and Commonwealth Authorities will be carried out as advised by the Department of Planning upon any gateway determination.

Although not required by legislation, preliminary non-statutory notification and community consultation was undertaken with respect to the submitted Planning Proposal in accordance with Council's Community Engagement Policy.

The application was advertised between 7 September 2009 and 9 October 2009 with 1343 submissions received (1340 in objection and 3 in support). It is noted that 1019 of the 1340 objections received were in a 'pro-forma' style format

It is also noted that one of the 1340 objections had a petition attached with 2018 signatures.

Upon the amendment of the application and provision of additional information, the application was re-advertised between 28 April 2010 and 28 May 2010 with 1231 submissions received (1225 in objection and 6 in support). It is noted that 998 of the 1325 objections received were in a 'pro-forma' style format.

It is also noted that one of the 6 submissions of support has a petition attached titled "*Letters From Newport Business Owners*" with signatures from the owners and / or operators of 60 businesses within Newport and 1 in Bilgola Plateau.

In total 2574 submissions were received (not including signatories to petitions). It has not been determined how many people have lodged submissions in addition to signing petitions.

It is also noted that the Newport vs Woolies Community Group has a website devoted to objection to the Planning Proposal submitted by Woolworths Ltd.

Several 'alternative concepts' have also been proposed (including supporting drawings) and submitted during the notification periods.

One of the alternative concepts was prepared on behalf of the Newport vs Woolies Community Group and a number of submissions received refer to this alternative concept.

In addition to the notification periods outlined above a 'Public Information Session' was held (and independently facilitated) and a series of meetings were undertaken with identified 'Key Stakeholders' including the Newport Residents Association, the Newport vs Woolies Community Group, Pittwater Council Property Officer, and Woolworths Ltd representatives. It is noted that the Newport Chamber of Commerce were also invited to the Stakeholder meetings but did not attend.

The matters raised are generally consistent and have been summarised below:

Objections raised.

- The proposal is inconsistent with the Newport Village Commercial Centre Masterplan.
- The proposal is inconsistent with controls within the Pittwater DCP 21 and the Pittwater LEP 1993.
- The proposal is inconsistent with Draft North East Draft Regional Strategy.
- The proposal is inconsistent with Section 117 Directions of the EP&A Act 1979.
- The proposal does not satisfy (or provide sufficient information to satisfy) the statutory requirements of a Planning Proposal.
- The Planning Proposal should not be considered without consideration of a DA because they are closely linked.
- Approval of the proposal effectively means approval of a future DA for a supermarket.
- There is no need for a second supermarket in Newport.
- Additional retail floor space will create over supply in Newport.
- A supermarket will negatively impact upon the viability of existing businesses within Newport.
- The economic report is inaccurate and or flawed.
- The proposal will lead to the loss of the sense of 'Village' that currently exists at Newport.
- The proposal will result in significant additional car and truck movements and will result in significant adverse impacts upon the local road network.
- Car parking should be provided below ground level (Note: The amended 'indicative concept' plans include below ground car parking).
- Additional parking is not required in Newport.
- The traffic reports submitted are inaccurate and or flawed.

- The proposal will not result in the highest and best land use of the site – for example an underground car park with public open space at ground level would be a better use of the site.
- The site should not be sold by Council.
- The site should be developed for the purpose of open space.
- The site should be developed for the purpose of 'green community space - as a focus for an off main road village centre'.
- The proposal will result in poor pedestrian outcomes in terms of safety and lack of pedestrian linkages through the site.
- The proposal will result in adverse built form/architectural outcomes.
- The proposal will result in a diminished streetscape for both Foamcrest Avenue and also to Barrenjoey Road.
- The proposal does not respond to the residential interface in Foamcrest Avenue and will result in adverse impacts to the residential amenity of nearby residential dwellings.
- Alternative proposals have not been fully or properly explored.
- The proposal will have adverse impacts upon wildlife.
- The proposal will have adverse upon existing infrastructure (roads, electricity, water sewerage and drainage).
- The proposal to rezone (and develop) the land is primarily for Council's economic and or financial purposes.
- There is concern about transparency with regard to the dealings of Council and Woolworths.
- There has been a lack of consultation with the community.
- The amended 'indicative concept drawings' do not address the issues raised in the first round of notification and submissions.

In support

- Woolworths project will upgrade 'tired' buildings and improve the streetscape.
- Woolworths project will revitalise the Newport shopping strip.
- Woolworths project will attract larger pedestrian flow to Newport shops.
- Woolworths project will draw more customers to the area that currently shop elsewhere and increase economic activity for existing small businesses.
- Woolworths project will attract new small businesses that would otherwise not come to Newport.
- There are insufficient car spaces and no loading zones at the southern end of Newport to support small businesses and the Woolworths project would help address this problem.
- The "protesters" don't speak for all small business owners in Newport.
- The amended design is considerably improved and is likely to be a good addition to Barrenjoey Road.
- Amended 'indicative concept' has addressed the majority of issues.
- The development of a Woolworths supermarket would provide choice and a balance to Coles.
- The long term benefits of a Woolworths store will outweigh the short term negative inconveniences.
- If Woolworths is unable to develop the site it will sell the land and the site will be developed for different purposes leaving the Council car park split and difficult to develop in the future.

Summary

As demonstrated above the non-statutory preliminary notification and community consultation attracted significant public interest. The majority of the submissions received raise objection to the Planning Proposal, with less than 1% of submissions in support of the proposal.

The overwhelming majority of the objections submitted relate to the proposed future development of the site for the purpose of a Woolworths supermarket.

The objections raise a number of issues, but the majority of matters raised are concerned with the outcomes related to the future development of the site for the purpose of a supermarket.

It is also notable that the majority of the submissions received indicate that the proposal does not accord with the Newport Village Commercial Centre Masterplan and that any Planning Proposal and future development should accord with the Masterplan.

This point was also one of the key matters raised by representatives of the Newport Residents Association and the Newport vs Woolies Community Group at the Stakeholder meetings and within their respective written submissions.

Other key issues raised by the above mentioned Key Stakeholders relate to the economic impacts, traffic related impacts, built form impacts and social impacts that the development of the site for the purpose of a supermarket will have upon the Newport Village Commercial Centre and the wider Newport community.

Discussion about the potential environmental, economic and social impacts is outlined above in section 3.5.

4.0 ALTERNATIVE PLANNING PROPOSAL

The Planning Proposal submitted by Woolworths focuses on one main intended outcome and one main objective for the site, that being the future development of the site for the purpose of a supermarket, retail speciality shops and a car park.

Though it may be that development for the purpose of a supermarket will be development that is permitted with consent upon the site being rezoned, it is considered that the Planning Proposal objective is not consistent with the desired future character of the site, such that that the desired future character is much broader than 'development for one purpose only'.

The stated objective in the submitted Planning Proposal does not seek to deliver the broader desired future character for the site as set out in the Newport Village Commercial Centre Masterplan and for this reason the objective is not supported.

In addition, various aspects of the 'indicative concept' outlined in the submitted Planning Proposal are inconsistent with the Newport Village Commercial Centre Masterplan as detailed in the above sections of this report and therefore the indicative concept cannot be supported.

Notwithstanding that the submitted Planning Proposal is not supported, this report nonetheless concludes that the actual rezoning of the site from 5(a) (Special Uses "A") to 3(a) (General Business "A") is a rational planning outcome, is consistent with NSW Department of Planning policies, is consistent with the Draft North East Sub-regional Strategy, will provide the potential for the delivery of future development generally consistent with the Newport Village Commercial Centre Masterplan and therefore has merit.

In light of that conclusion and in accordance with the provisions of Section 55(1) of the EP&A Act and the Department of Planning's guideline for Plan making, an alternative Planning Proposal has been provided.

The objective of the alternative Planning Proposal is considered to be consistent with the Newport Village Commercial Centre Masterplan. The alternative Planning Proposal is attached to this report (refer to Attachment 2) and the objective is outlined below:

"The objective of this Planning Proposal is for the rezoning of 17 and 25-27 Foamcrest Avenue Newport from its current 5(a) (Special Uses "A") to 3(a) (General Business "A") to enable the redevelopment of the site consistent with the surrounding commercial centre and land uses and generally consistent with the provisions of the Newport Village Commercial Centre Masterplan as it applies to the site, while maintaining public car parking."

5.0 NEXT STEPS

- 5.1 Should Council adopt the recommendation, a request will be made to the Department of Planning for a “gateway” determination. Additionally, the identified Key Stakeholders and those who had previously made written submissions will be advised of Council’s resolution.
- 5.2 If the gateway determination is to proceed with the rezoning, then community consultation will be undertaken as required by the Department of Planning.
- 5.3 A report would then be provided to Council following the community consultation process with a recommendation to either proceed or not proceed with the Planning Proposal and draft LEP.
- 5.4 In summary the steps of the “gateway” process are:
 - A Planning Proposal (PP) is prepared by the proponent or Relevant Planning Authority (in this case, Council)
 - Preliminary non-statutory notification of rezoning
 - Council formally considers PP (this report)
 - Council resolves to forward PP or the alternative PP to Department of Planning (DoP)
 - PP assessed by DoP
 - A Planning Panel considers PP & recommendations of DoP
 - Gateway determination (potential referral to the Joint Regional Planning Panel)
 - Consultation with State/Commonwealth Public Authorities
 - Council conducts formal Community Consultation
 - Council conducts a public hearing if required
 - Council considers community and agency submissions and determines whether to proceed
 - Final PP assessed by DoP
 - DoP prepares legal instrument in consultation with Parliamentary Counsel
 - Plan is made by the Minister

6.0 SUSTAINABILITY ASSESSMENT

6.1 Supporting & Connecting our Community (Social)

- 6.1.1 Progressing the plan-making process to permit land uses and activities at the site in accordance with the 3(a) (General Business “A”) zone will facilitate the potential redevelopment of the site in a manner generally consistent with the Newport Village Commercial Centre Masterplan. The Masterplan aims to enhance the amenity and design quality of the centre, and to support social, economic and cultural activities. Its stated focus is on a high amenity and high quality environment to support social, economic and cultural activities and to contribute positively to Newport’s future.

6.2 Valuing & Caring for our Natural Environment (Environmental)

- 6.2.1 The site is within an existing business precinct (commercial centre) in a built up area of Newport. The site has not been identified as containing critical habitat or threatened species, populations or ecological communities, or their habitats.

Assessment of future development applications will include evaluating the likely impacts of future development with respect to natural environment and economic and social impacts in the locality.

6.3 Enhancing our Working & Learning (Economic)

- 6.3.1 Progressing the plan-making process to permit land uses and activities at the site in accordance with the 3(a) (General Business “A”) zone will facilitate the potential redevelopment of the site in a manner generally consistent with the Newport Village Commercial Centre Masterplan

The increase in the supply of commercial / retail floor space that the rezoning may facilitate (if the site is developed for the purpose of commercial premises to its maximum potential) is likely to result in employment generation within an already well established commercial centre.

Initial analysis indicates that such development is unlikely to unacceptably impact on the viability of the existing Commercial Centre and assessment of future development applications will include evaluation of the likely economic impacts in the locality.

6.4 Leading an Effective & Collaborative Council (Governance)

- 6.4.1 Progressing the plan-making process to permit land uses and activities at the site in accordance with the 3(a) (General Business “A”) zone will facilitate the potential redevelopment of the site in a manner generally consistent with the Newport Village Commercial Centre Masterplan

The Masterplan was developed with extensive community involvement.

Consultation with landowners and community participation has been undertaken during the assessment to ensure that decision-making regarding the proposal is accountable and transparent. Further consultation will likely be required by the Minister for Planning.

6.5 Integrating our Built Environment (Infrastructure)

- 6.5.1 Progressing the plan-making process to permit land uses and activities at the site in accordance with the 3(a) (General Business “A”) zone will facilitate the potential redevelopment of the site in a manner generally consistent with the Newport Village Commercial Centre Masterplan

The rezoning would not inhibit Council's ability to maintain the quantum of public car spaces which currently exist at the site and it would not inhibit Council's ability to maintain and improve the pedestrian access through the site currently enjoyed by the public.

The site is within an established Commercial Centre which is well serviced by existing infrastructure including public transport.

7.0 EXECUTIVE SUMMARY

- 7.1 Council resolved to grant owners consent to Woolworths Ltd to lodge a rezoning application to rezone the Council owned 17 and 25-27 Foamcrest Avenue, Newport from 5(a) (Special Uses "A") to 3(a) (General Business). Woolworths currently own land located between the Council owned parcels of land (known as 23 Foamcrest Avenue and 343 Barrenjoey Road).
- 7.2 A Planning Proposal has been submitted to Council by URBIS Pty Ltd on behalf of Fabcot Pty Ltd which is a subsidiary of Woolworths Ltd.
- 7.3 SJB Planning NSW Pty Ltd was engaged by Council to undertake an independent assessment of the application to rezone the land (this report).
- 7.4 The report concludes that the proposal to rezone the Council owned land from 5(a) (Special Uses "A") to 3(a) (General Business "A") is a rational planning outcome, is consistent with NSW Department of Planning policies, is consistent with the Draft North East Sub-regional Strategy, would potentially facilitate development generally consistent with the Newport Village Commercial Centre Masterplan and therefore has merit.
- 7.5 The rezoning of the subject land to 3(a) (General Business "A") will assist in the possible realisation of the Newport Village Commercial Centre Village Masterplan as it applies to the site, where as the current zoning effectively prohibits the full realisation of the Newport Village Commercial Centre Village Masterplan as it applies to the site.
- 7.6 The Planning Proposal submitted on behalf of Woolworths Ltd is considered to be inconsistent with Newport Village Commercial Centre Masterplan.
- 7.7 The stated key principles in the submitted Planning Proposal do not seek to deliver the broader desired future character for the site as set out in the Newport Village Commercial Centre Masterplan and for this reason is not supported.
- 7.8 It is recommended that the Planning Proposal should not proceed to the NSW Department of Planning's 'gateway' process in its current form.
- 7.9 This report provides an alternative Planning Proposal which outlines a broader objective and intended outcome for the rezoning, when compared to the submitted Planning Proposal.
- 7.10 The objective of the alternative Planning Proposal is for the rezoning of 17 and 25-27 Foamcrest Avenue Newport from its current 5(a) (Special Uses "A") to 3(a) (General Business "A") to enable the redevelopment of the site consistent with the surrounding commercial centre and land uses and generally consistent with the provisions of the Newport Village Commercial Centre Masterplan as it applies to the site, while maintaining public car parking.
- 7.11 The alternative Planning Proposal does not list the development of a supermarket as a stated objective and it does not include concept plans or indicative drawings of potential future built form outcomes. The alternative Planning Proposal does not however, seek to specifically exclude a supermarket as being one of the forms of potential future development at the site. Notwithstanding this, retail development fronting Foamcrest Avenue is not consistent with the Newport Village Commercial Centre Masterplan.
- 7.12 The alternative Planning Proposal has been prepared in accordance with the amendments recommended in this report and at the request of Council's strategic planning department.
- 7.13 This report recommends referral of the alternative Planning Proposal for a gateway determination.

RECOMMENDATION

1. That Council not proceed with the Planning Proposal lodged on behalf of Woolworths as the Proposal is inconsistent with the provisions of the Newport Village Commercial Centre Masterplan.
2. That Council reinforce that the Newport Village Commercial Centre Masterplan is the guiding document for future zoning and redevelopment of the subject land and 23 Foamcrest Avenue.
3. The Council refer the alternative Planning Proposal, as set out in Attachment 2, to facilitate the rezoning of Council owned land at 17 and 25-27 Foamcrest Avenue, Newport from 5(a) (Special Uses "A") to 3(a) (General Business "A"), to the Director General of Planning for a gateway determination.
4. That further community consultation be carried out in accordance with any gateway determination and that the outcome of the community consultation be reported to Council.
5. That Council note that endorsement of proceeding with the alternative Planning Proposal in no way fetters the statutory and regulatory responsibilities of the Council under the *Environmental Planning & Assessment Act 1979* or Council's obligation to objectively consider the suitability of any future development application on this site, including but not limited to that for the purpose of a supermarket.
6. That all persons who have made a submission be formally advised of Council's decision.

Report prepared by

Stuart Gordon, Senior Planner / Stuart McDonald, Director, SJB Planning NSW Pty Ltd

Planning Proposal:

Rezoning Submission for

17-19 Foamcrest Ave
& 25-27 Foamcrest Ave,
Newport

17-19
Foamcrest Ave

25-27
Foamcrest Ave

25-27
Foamcrest Ave

17-19
Foamcrest Ave





Planning Proposal:
Rezoning Submission for
17-19 Foamcrest Ave
& 25-27 Foamcrest
Ave, Newport

Prepared for Fabcoot Pty Ltd

July 2009



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Report Number	SA4097_ rezoning submission 10-7-09

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Executive Summary

This planning proposal has been prepared by Urbis for Fabcot Pty Ltd for the rezoning of 17-19 and 25-27 Foamcrest Avenue, Newport. The two parcels of land are currently owned by Pittwater Council and used as a public car park, and propose a rezoning from Special Uses 5(a) to **3(a) General Business A**.

The rezoning proposal and indicative site concept have been developed with consideration of the strategic directions for Pittwater, the surrounding land uses and discussions with Council.

The proposed **3(a) General Business A** zoning for the land parcels is appropriate for the following reasons:

- This submission identifies the specific characteristics of the site, strategically located in a commercial town centre and surrounded by business zoned land. This position makes it realistically possible to achieve a rezoning of the land to business.
- The current special uses zoning, limited to the provision of car parking, does not realise the full potential of the land given its commercial context.
- Retaining the two land parcels for car parking represents an under-utilisation of the land that is suitable for renewal. If the middle portion of the broader car park site (343 Barrenjoey Road) was developed, the resulting car parking arrangement would be somewhat dysfunctional given the split in land area and ownership and could potentially sterilise any future expansion of the land parcels.
- The opportunity exists to provide a broader community benefit through the retention of the public car parking as well as additional retail services.
- The land is of a suitable size to accommodate a worthwhile commercial outcome on the site as appropriate FSR, height and setbacks can be achieved.
- The site is suitable for the rezoning and there are no impediments for the development of the site for commercial development.

For all of the above reasons, we request that this proposal be progressed as a 'spot' rezoning to Pittwater LEP 1993.

This planning proposal has been prepared in accordance with Clause 55(1) and (2) of the Environmental Planning and Assessment Act with consideration of the relevant guidelines, namely "A guide to preparing local environmental plans" and "A guide to preparing planning proposals" issued by the Department of Planning on 1 July 2009.

Executive Summary

The purpose of this report is to provide a summary of the findings of the study conducted by the Urban Design Commission (UDC) regarding the proposed development of the site located at the intersection of Main Street and 1st Avenue in the City of Portland, Oregon.

The UDC was established by the City of Portland in 2005 to provide a review and recommendation on the design of urban development projects. The UDC's role is to ensure that the design of the project is consistent with the City's urban design goals and standards.

The UDC's review of the proposed development is based on the information provided in the project's design documents, including the site plan, landscape architecture plan, and architectural drawings. The UDC's findings are summarized in this report.

The UDC's findings are as follows:

- The proposed development is consistent with the City's urban design goals and standards.
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The UDC's findings are based on the information provided in the project's design documents. The UDC's findings are summarized in this report. The UDC's findings are as follows:

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1 Introduction

This planning proposal has been prepared by Urbis for Fabcot Pty Ltd for the rezoning of 17-19 and 25-27 Foamcrest Avenue, Newport.

This proposal seeks the rezoning of two parcels of land, which are currently owned by Pittwater Council and used as a public car park, from Special Uses 5(a) to **3(a) General Business A**. The land parcels form part of a broader site that is proposed to be redeveloped for retail purposes including the provision of a supermarket, speciality retail and associated retail and public car parking. A land ownership diagram is provided below.



The final design of the proposal will be included in a development application currently under preparation. This DA will address all relevant detailed design and environmental considerations such as traffic and access, architectural design, landscaping, acoustics, residential amenity and the like.

Overall, the proposed rezoning is appropriate for the site and Newport commercial centre. The provision of retail opportunities and increased car parking is consistent with Council's desired character for the site as contained within the Newport Masterplan. In summary, the proposed **3(a) General Business A** zoning for the land parcels is appropriate for the following reasons:

- This submission identifies the specific characteristics of the site, strategically located in a commercial town centre and surrounded by business zoned land. This position makes it realistically possible to achieve a rezoning of the land to business.
- The current special uses zoning, limited to the provision of car parking, does not realise the full potential of the land given its commercial context.
- Retaining the two land parcels for car parking represents an under-utilisation of the land that is suitable for renewal. If the middle portion of the broader car park site (343 Barrenjoey Road) was developed, the resulting car parking arrangement would be somewhat dysfunctional given the split in land area and ownership and could potentially sterilise any future expansion of the land parcels.
- The opportunity exists to provide a broader community benefit through the retention of the public car parking as well as additional retail services.

- The land is of a suitable size to accommodate a worthwhile commercial outcome on the site as appropriate FSR, height and setbacks can be achieved.
- The site is suitable for the rezoning and there are no impediments for the development of the site for commercial development.

This planning proposal has been prepared in accordance with Clause 55(1) and (2) of the Environmental Planning and Assessment Act with consideration of the relevant guidelines, namely "A guide to preparing local environmental plans" and "A guide to preparing planning proposals" issued by the Department of Planning on 1 July 2009.

2 Background

The land subject to the rezoning has been operating as a public car park for many years offering public car parking for the Newport commercial centre. The site is centrally located in the town centre and plays a key role in the future vision for Newport as realised in the Newport Masterplan. The existing car park area is composed of three separate sites:

- 343 - 345 Barrenjoey Road (central portion of the car park): currently owned by Fabcot Pty Ltd/Woolworths and will form part of a broader redevelopment proposal
- 17-19 Foamcrest Avenue (south west portion of the car park): Council owned and subject to this rezoning
- 25-27 Foamcrest Avenue (north west portion of the car park): Council owned and subject to this rezoning

Accordingly the land parcels proposed to be rezoned are separated by land owned by Fabcot. All three sites listed above will form part of a whole site redevelopment for retail purposes, of which a development application is currently being prepared.

As part of the review of the planning objectives for the area as detailed in the Newport Masterplan process, Council has viewed the site as being central to boosting local employment and services in Newport. Further, as the site has fragmented ownership, the opportunity for a worthwhile commercial development opportunity is restricted. The car park sites are divided by a private property which has the potential, if separately developed, to undermine the effectiveness of Council's carparks (or other type of development in the future) by isolating the two Council properties.

The site has also been subject to Land and Environment Court proceedings. The previous owner of 343-345 Barrenjoey Road, Auspacific Equity Investments P/L, has previously lodged two development applications for shop top housing developments consisting of mixed use residential and retail development which have been refused by the Council and the Land and Environment Court. In refusing the previous development applications for this property, the Council requested staff to actively encourage integrated solutions to parking and development of the site with adjoining properties.

As such, Council resolved at its meeting held on 18 June 2007 to invite Expressions of Interest (EOI) for the development of the car park sites enabling the commercial growth of the centre.

The EOI assessment and selection criteria specifically focussed on achieving maintenance/increase in public car parking, positive financial return to Council and increased community benefits in the form of employment generation and economic development in Newport and integration of Council's properties with adjoining land/s.

The EOI sought:

- Experience from commercial/residential land developers capable of delivering a high standard proposal
- Retention of at least the existing number of public car parking spaces.
- Increase the number of public car spaces where possible.
- Proposals must demonstrate an economic and employment boost to the Newport commercial centre and provide a net community benefit.
- Opportunities for retail and commercial space on the land
- Vehicular access from Foamcrest Avenue.

In addition to the above considerations, a number of key issues were required to be addressed on matters such as environmental outcomes, impact on neighbouring businesses and landowners, sequencing of development, details of anchor tenants, approach to urban design and the like.

Council noted in the documentation that a rezoning of the land would be considered, however due process must be followed recognising its statutory and regulatory obligations.

None of the submitted EOI proposals received by Council provided a solution to the integration of the two carpark sites as the redevelopment proposals would not offer sufficient benefits to the local community, and accordingly, at its meeting held on 3 September 2007, the Council resolved as follows:

1. *That in relation to EOI No. 08/07 the Council decline to invite tenders in relation to the proposals received and the proponents be notified accordingly.*
2. *That the General Manager report back to the Council on future options and a way forward in relation to the future development of its two carpark sites at 17-19 and 25-27 Foamcrest Avenue, Newport."*

In July 2007 Fabcot purchased the middle portion of the site from the previous owner. Following the Council's resolution on 3 September 2007, Council officers made contact with the individual adjoining land owners to the Council's carparks seeking their position on any redevelopment of their properties and/or the Council carparks. The Council also facilitated a meeting with all adjoining land owners to discuss the potential redevelopment of the various properties. The Council has met with Fabcot on a number of occasions to discuss the future redevelopment of their property and Councils carparks including the purchase the Council-owned sites and amalgamation of the three into a retail development.

On 17 November 2008, Pittwater Council resolved the following (underlining our emphasis):

1. *That Council note the proposed development scheme as generally set out in the concept sketches included as Attachment 2 to this report for the amalgamated Council/Woolworths properties at Foamcrest Avenue & Barrenjoey Road, Newport.*
2. *That Council grant owners consent to Woolworths Ltd to lodge a rezoning application to rezone the Council car park sites at 17-19 & 25-27 Foamcrest Avenue, Newport to a General Business 3 (a) zoning, it being noted that the rezoning application will be independently assessed and determined by the Minister for Planning.*
3. *That Council grant owners consent to Woolworths Ltd to lodge a development application for a retail development including a supermarket and associated car parking at 17-19 & 25-27 Foamcrest Avenue, Newport, it being noted that the development application will be independently assessed and referred to the Joint Regional Panel for determination.*
4. *That it be noted that the granting of owners consent in 2 and 3 above in no way fetters the statutory and regulatory responsibilities of the Council under the Environmental Planning & Assessment Act.*
5. *That the General Manager be authorised to negotiate with Woolworths Ltd the sale of Council's car park sites at 17-19 & 25-27 Foamcrest Avenue, Newport in accordance with Council's valuation advice and the construction of an additional stratum layer/s of public car parking, to be owned by the Council in perpetuity, as part of the proposed development scheme referred to in 1 above.*
6. *That a further report be brought to Council on the financial, legal and contractual matters associated with this project prior to any agreement being reached with Woolworths Ltd.*
7. *That community consultation in relation to this project be commenced in accordance with the Council's adopted community engagement policy (Level 3 - High Impact/Local), including but not limited to the Newport Residents Association, the Newport Chamber of Commerce and residents of Foamcrest Avenue, Newport.*

3 Site Context

3.1 Description of the Site and Surrounding Development

3.1.1 The Development Site

The key characteristics of the site are:

- The site address and legal description of the land are summarised as:
 - 17-19 Foamcrest Ave; lot 10 and 11 in DP 6248 (these lots are proposed to be rezoned)
 - 25-27 Foamcrest Ave; lot 14 and 15 in DP 6248 (these lots are proposed to be rezoned)
 - 343-345 Barrenjoey Road lot 1 in DP 584141 (adjoining land parcels which forms part of the broader car park site)
- The land parcels are regular in shape. The respective land areas of each block is 1,112.8m² (Nos. 17-19) and 1,252m² (Nos. 25-27).
- The sites have frontage to Foamcrest Avenue. Barrenjoey Road is a main road leading to Mona Vale to the south and Avalon/Palm Beach to the north. Foamcrest Avenue runs parallel to Barrenjoey Road connecting to Seaview Avenue in the south and Neptune Ave, Newport in the north.
- The current use of the broader site currently comprises an at grade bitumen sealed public carpark on the Foamcrest frontage for approximately 80 car spaces (namely 32 carparking spaces (at Nos. 17-19) and 30 carparking spaces (at Nos. 25-27)). The two Council owned sites are located on the periphery of the car park at 17-19 Foamcrest Avenue and 25-27 Foamcrest Avenue.
- The topography of the site slopes from Foamcrest towards Barrenjoey by around 5m.
- The general appearance of the site is somewhat dated, with the built form being quite aged and the car park surface somewhat uneven and damaged from the trees roots.
- Pedestrian connection exists from Foamcrest Avenue to Barrenjoey Road through the car park then by way of an arcade.
- Large, mature trees are located on site, predominately through the middle of the rear portion of the site and along the south west boundary.
- A substantial grass cover is provided along the western boundary which connects to the grassed verge along Foamcrest Avenue.

A locality map of the sites proposed to be rezoned is provided below. Photos of the site are provided overleaf. As discussed earlier, the broader site encompassing 343-345 Barrenjoey Road will form part of the indicative concept for the site and as detailed in the future DA.



Figure 1 – Site Photos



Picture 1 – Foamcrest Ave



Picture 2 – Southwest corner of the site



Picture 3 – South east corner of the site



Picture 4 – Existing east-west pedestrian connection



Picture 5 – Northeast corner of site



Picture 6 – Northwest corner of site

3.1.2 Surrounding Development

The surrounding development has the following key characteristics:

- The site is located within the commercial centre of Newport.
- The Newport town centre is centred on Barrenjoey Road with strip retail straddling the road. Newport beach is located to the east, with the main beach car park located north east of the centre. Newport Park and Bowling Club are located to the south of the centre. Pittwater is located further to the west.
- The immediate context of the site is predominately commercial in nature. The western side of Foamcrest is predominately medium density housing with varying types of residential flat buildings and dwellings. A church is located north west of the site on the corner of Foamcrest and Robertson.
- Robertson Street, to the north of the site, is a one way road, which has various cafes and shops fronting the street and an enhanced pedestrian amenity along this frontage. Conversely the rear of these retail properties have their "back of house" areas abutting the car parking area and some use the adjoining land to service the properties.
- The development immediately to the south of the site comprises a contemporary residential flat building.
- 337-341 Barrenjoey Road adjoins the site and is currently under development. The site has been approved as retail and residential apartments.
- The Newport town centre is located at the base of the hill that leads to Mona Vale; residential is higher to the west and north.

Photos of the surrounding development are provided below.

Figure 2 – Surrounding Development



Picture 7 – Robertson Street



Picture 8 – South west corner of Foamcrest and Robertson St



Picture 9 – Boundary of site, residential apartment building to the south



Picture 10 – Rear car park of Robertson Street properties

Figure: Newport Town centre and surrounding development





4 Planning Context

4.1 Environmental Planning and Assessment Act 1979

4.1.1 Objects of the Act

A rezoning application must have consideration of the objects of this Act, 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.*

This submission is consistent with and has considered the Objects of the Act and have been addressed in the various sections of this report.

4.1.2 Section 117(2) Directions

The Section Ministerial Directions (under Section 117(2) of the Environmental Planning and Assessment Act 1979) provide local planning direction and are to be considered in a rezoning of land.

The relevant considerations are:

- Direction 1.1 – Business and Industrial zones
- Direction 3.4 – Integrating Land use and Transport
- Direction 4.3 – Flood Prone land
- Direction 6.2 – Reserving Land for public purposes

The proposal's consistency with the ministerial directions are commented on in Section 6.3(7).

4.2 State and Local Strategic Planning

The Draft North East Sub Regional Strategy will guide land-use planning in Manly, Warringah and Pittwater local government areas until 2031. The strategy does not have targets specifically for Newport, however the centre is defined as a village. The proposal's consistency with the Draft Strategy is discussed in Section 6.3(4).

4.3 Current Planning Controls

4.3.1 Pittwater LEP 1993

Zoning and permissibility

The Council owned sites, the subject of the rezoning submission, are zoned 5(a) Special Uses A and allow car parking. The remainder of the broader site is zoned 3(a) General Business A under Pittwater LEP 1993. An extract of the LEP zoning map is contained below.



Pittwater LEP 1993 does not contain zone objectives for the land use zones, however the land use table provides permissible development.

Within the 5(a) Special Uses A zone, the following land uses are permissible with consent:

Advertisements; drainage; helipads; roads; the purpose indicated by scarlet lettering on the Zoning Map and any purpose ordinarily incidental or subsidiary thereto; utility installations (other than gas holders or generating works).

The purpose indicated on the zoning map for the 5(a) portion is 'car parking'. All other development is prohibited where not provided as permissible above.

The adjoining land and the remainder of the broader car park site is zoned 3(a) General Business A, commercial premises where the use of the building is less than 2000sqm and shops where the use of the building is less than 1500sqm are permissible without development consent. Other development is permitted, with consent, by virtue of their exclusion from the list of prohibited uses in the zoning table. The zoning prohibits the following land uses:

Bed and breakfast establishments; boarding-houses; dwelling-houses; group buildings or residential flat buildings (other than those attached to shops or commercial premises); caravan parks; gas holders; generating works; industries specified in Schedule 1; institutions; junk yards; liquid fuel depots; mines; recreation establishments; road transport terminals; stock and sale yards.

Relevant LEP provisions

The proposal has considered the relevant provisions within the LEP and are discussed further in the assessment of the application in Section 6.3 (5).

The car park sites are classified as operational in accordance with the Local Government Act 1993 and as described in Clause 54 of the LEP.

4.3.2 Pittwater 21 DCP and Newport Masterplan

Pittwater 21 DCP provides the direction of Newport and additional details for the development of the land. This policy incorporates the Newport Masterplan

The purpose of the Newport Masterplan was to establish a holistic and integrated vision document for Newport Village Commercial Centre with the community, encompassing both the private and public domain. Council commissioned urban design consultants HBO+EMTB to prepare the Masterplan for the village centre.

As a result of the preparation of the Masterplan, amendments were made to Pittwater 21 DCP, effective on 3 December 2007. The Masterplan has been considered as part of the assessment of the rezoning submission within Section 6.3(5).

4.3.3 SEPP 55 – Remediation of Land

Rezoning of land must consider the likelihood of contamination in accordance with SEPP 55. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed.

A preliminary contamination investigation was undertaken by Geologix in May 2009. The results indicated that contaminants of potential concern were not detected in fill or native soils at concentrations in excess of the assessment criteria for a commercial/industrial exposure setting. Accordingly, the preliminary investigations on site have not revealed any likely contamination that may prohibit the rezoning to business.

4.4 Draft Comprehensive Pittwater LEP

As required by the State Government planning reforms, Pittwater Council is preparing their comprehensive Local Environmental Plan. Some associated background studies have commenced however no information is publicly available. The expected completion date of the LEP is 2011.

As there is no draft instrument that has been publicly exhibited, this is not a relevant consideration. The subject proposal is therefore to be treated as a "spot" rezoning or LEP amendment to Pittwater LEP 1993.

5 Rezoning Proposal

5.1 Objectives or Intended Outcomes

The planning proposal and site concept have been developed with consideration of the strategic directions for Pittwater, specifically relevant to Newport, the surrounding land uses as well as discussions with Council.

The objective of the rezoning is:

To enable the redevelopment of the car park site for retail development, consistent with the remainder of the town centre and including the retention of the public car parking component and provision of additional car parking.

An indicative concept of the intended outcome for the site has been prepared with the following key principles:

- Retail uses including a supermarket and speciality retail shops
- Basement supermarket at the rear of the site beneath the level of the existing car park
- Speciality shops fronting an arcade, accessible from Barrenjoey Road
- Two storey decked car park over the retail space, with level access from Foamcrest Avenue
- Retention of the public car parking component currently on site and enhancement in the car parking numbers
- Provision of loading facilities in the north of the site, distanced from residential land uses
- Retention of the existing through site link from Barrenjoey Road to Foamcrest Avenue with the use of travelators and a central pedestrian walkway through the car park at ground level.
- Provision of future pedestrian links to Robertson Street and to the south west of the site, if the adjoining sites were to be redeveloped.
- The bulk of the development is generally in accordance with the setback requirements of Pittwater DCP and the Newport Masterplan.

Indicative concept drawings prepared by Rice Daubney are provided as appendix A to this report and propose an enhanced retail offer with associated car parking as well as retaining the public car parking component on the site.

The detailed design of the proposal is currently being progressed as part of a development application for the site and will be lodged following the submission of this rezoning proposal.

5.2 Explanation of Provisions

The objectives and intended outcomes are to be achieved as follows:

- Amendment of the Pittwater Local Environmental Plan 1993 zoning map to **3(a) General Business A** from 5(a) Special uses for lots 10 and 11 in DP 6248 and lots 14 and 15 in DP 6248 in accordance with the proposed zoning map shown below.
- The permitted land uses will be consistent with the current instrument, Pittwater LEP 1993.
- The development controls that apply to the site will be consistent with those applicable to 343 Barrenjoey Road and the remainder of the Newport Commercial Centre. No site specific development standards are sought as part of this proposal.



6 Rezoning Justification

6.1 Overview

It is proposed to rezone the Council owned portion of the subject site to **3(a) General Business A** in accordance with Pittwater LEP 1993. The rezoning of the site to commercial land is appropriate given the site's location and context adjoining, and within, commercial zoned land.

The 3(a) zoning is appropriate as:

- The land is surrounded by business zoned land and strategically located in a commercial town centre.
- The special uses zoning, limited to the provision of car parking, does not realise the full potential of the land given its commercial context.
- Retaining the two land parcels for car parking represents an under-utilisation of the land that is suitable for renewal. If the middle portion of the broader car park site (343 Barrenjoey Road) was developed, the resulting car parking arrangement would be dysfunctional given the split in land area and ownership and could potentially sterilise any future expansion of the land parcels.
- The opportunity exists to provide a broader community benefit through the retention of the public car parking as well as additional retail services.
- The land is serviced by public transport given its proximate location to Barrenjoey Road.
- The land is within walking distance of the remainder of the commercial centre, the beach and adjoining residential land.
- The land is of a suitable size to accommodate a worthwhile commercial outcome on the site as appropriate FSR, height and setbacks can be achieved.

Given the land parcels are surrounded by General Business zoned land, there is no other suitable or obvious zone other than adopting the adjacent land's zoning. Accordingly, the application of a commercial zoning will provide consistency in the zoning across the subject site but also the commercial centre, unifying the precinct.

Further, given the specific characteristics of the site, the proposed rezoning is unlikely to have a cumulative impact within the LGA as a result of the application being followed by other applications.

The following section provides a justification for the rezoning in accordance with Clause 55(2)(c) of the EP&A Act 1979 and as detailed in the guidelines.

6.2 Section A: Need for the Planning Proposal

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

The planning proposal is consistent with the strategic study for Newport, being the Newport Masterplan which now forms part of the Pittwater 21 DCP. The proposal also emerged as a result of the EOI process applicable to the site.

An urban design analysis and strategic review of Newport town centre was commissioned by Pittwater Council to prepare a masterplan for the village centre. As part of the review of the planning objectives for the area as detailed in the Newport Masterplan process, Pittwater Council viewed the site as being central to boosting local employment and services in Newport. Further, as the site has fragmented ownership, the opportunity for a worthwhile commercial development opportunity is restricted. The car park sites are divided by a private property which has the potential, if separately developed, to undermine the effectiveness of Council's carparks (or other type of development in the future) by isolating the two Council properties.

Following the refusal of a previous development application for 343 Barrenjoey Road (the central portion of the broader site), Pittwater Council requested staff to actively encourage integrated solutions to parking and development of the site with adjoining properties. As such, Council resolved at its meeting held on 18 June 2007 to invite Expressions of Interest (EOI) for the development of the car park sites enabling the commercial growth of the centre.

The EOI assessment and selection criteria specifically focussed on achieving maintenance/increase in public car parking, positive financial return to Council and increased community benefits in the form of employment generation and economic development in Newport and integration of Council's properties with adjoining land/s. The EOI sought:

- Experience from commercial/residential land developers capable of delivering a high standard proposal
- Retention of at least the existing number of public car parking spaces
- Increase the number of public car spaces where possible
- Proposals must demonstrate an economic and employment boost to the Newport commercial centre and provide a net community benefit
- Opportunities for retail and commercial space on the land
- Vehicular access from Foamcrest Avenue.

In addition to the above considerations, a number of key issues were required to be addressed on matters such as environmental outcomes, impact on neighbouring businesses and landowners, sequencing of development, details of anchor tenants, approach to urban design and the like.

Accordingly, this rezoning submission is a result of an objective by Council to create additional opportunities for retail floor space, generate employment and local services whilst retaining the public car parking on site.

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

Given the restrictive nature of the existing 5(a) Special Uses zoning, with limited permissible land uses, there are no other available methods by which to enable the intended outcome for the site of achieving the proposal's objectives.

3. Is there a net community benefit?

The following table addresses the evaluation criteria for conducting a net community benefit test within the Draft Centres Policy as required by the guidelines for preparing a planning proposal.

Evaluation Criteria	Y/N	Comment
Will the LEP be compatible with agreed State and regional strategic direction for development in the area (e.g. land release, strategic corridors, development within 800m of a transit node)?	Y	The proposed rezoning is compatible with the applicable state and regional strategic directions for the area including the Metropolitan Strategy, North East Sub Regional Strategy and SEPP (Infrastructure) 2007. The rezoning allows additional retail space within an established centre.
Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?	Y	The subject site is not identified within a key strategic centre or corridor. The site is identified as part of the Newport village within the North East Draft Subregional Strategy. The proposed rezoning will increase employment and access to additional services for the local community.
Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landholders?	N	The proposed rezoning will not create a precedent within the locality because it represents the only remaining Special Uses land within the immediate vicinity of the site. The site is suitable for retail use and assists in realising the full potential of the land given its commercial context.
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	Y	No other similar sites, with an existing Special Uses zoning, suitable for retailing, exist within the Pittwater LGA.
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	Y	The proposed rezoning will generate additional full and part time jobs as a result of the enhanced retail offer on site. This will contribute to meeting the employment targets set for the Pittwater LGA within the Draft Subregional Strategy.
Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?	N	The proposed rezoning is not decreasing the amount of available residential land as the current zoning does not permit residential development.
Is the existing public infrastructure (roads, rail, utilities) capable of servicing the proposed site? Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity to support future transport?	Y	The existing public infrastructure is adequate to meet the needs of the proposal. The site is fully serviced and is contained within an established urban area. The site maintains the existing pedestrian through site links. There is available public transport on Barrenjoey Road that has the ability to support the proposal.

Evaluation Criteria	Y/N	Comment
Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so, what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?	N	As the proposal is located within a town centre, the proposal will encourage multi purpose trips. Given the proposed amount of car parking and services proposed, people are more likely to decrease their car travel distances and consolidate shopping trips.
Are there significant Government investments in infrastructure or services in the area where patronage will be affected by the proposal? If so, what is the expected impact?	N	The proposal is located within a town centre and affords good access to public transport. The proposal is unlikely to have a negative impact on the surrounding infrastructure or services.
Will the proposal impact on land that the Government has identified a need to protect (e.g. land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?	N	The site is currently a hardstand at grade car park and accordingly, the land does not contain any known critical habitat, threatened species or contain significant biodiversity values. The site is partially flood affected and the detailed design of the proposal will ensure that the development is above the flood planning level.
Will the LEP be compatible/ complementary with surrounding adjoining land uses? What is the impact on the amenity in the location and wider community? Will the public domain improve?	Y	The proposal is compatible with adjoining land uses given the site is centrally located within and surrounded by business zoned land. The proposal represents an appropriate form of development for the town centre and will be designed as such to mitigate any adverse amenity impacts. The public domain will be improved and publicly accessible pedestrian connections retained.
Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?	Y	The proposal will provide an additional supermarket within Newport, hence will increase choice and competition locally. Additional speciality shops will be provided on site further enhancing the retail offer in Newport to the benefit of the community.
If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?	N/A	N/A
What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?	-	The proposal will provide additional employment and enhanced retail services within the local area. The site will also maintain its role as providing public car parking for Newport. If the plan did not proceed, the land would continue to represent an under-utilisation of the land that is suitable for renewal. If the adjoining land parcel at 343 Barrenjoey Road was developed in the future, this could potentially sterilise the subject lots and create a dysfunctional split in car parking.

Overall, the proposal will provide a net community benefit as follows:

- The proposal presents an opportunity to provide a broader community benefit through the retention of the public car parking as well as additional retail and support services.

- The Newport Masterplan (and the community) supports the need for a supermarket within the Newport town centre in addition to the existing smaller Coles. The Masterplan states that a constraint of the centre is the *"lack of full service commercial and retail uses in the village, in particular the lack of supermarket which could anchor the commercial centre"*.
- The rezoning of the land will meet the objectives by revitalising the village commercial centre through allowing land uses beyond car parking.
- The site is currently under-utilised and used for car parking to accommodate the requirements of the surrounding land uses. An opportunity for the renewal of the land exists that provides an enhanced economic and community benefit.
- The proposal will encourage and enable employment growth in a suitable location given the land's context within a town centre.
- Protect and enhance the employment land through the creation of an integrated site allowing a workable commercial outcome.
- Support the viability of the centre by renewing and revitalising part of the centre.

6.3 Section B: Relationship to Strategic planning framework

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

The proposed rezoning is compatible with the applicable state and regional strategic directions for the area including the Metropolitan Strategy and North East Sub Regional Strategy. Within the strategic documents, the subject site is not identified within a key strategic centre or corridor. The site is identified as part of the Newport village within the North East Draft Subregional Strategy.

In summary, the proposal is consistent with the following actions contained in the Draft North East Sub Regional Strategy:

- *A1.2 – Provide suitable commercial sites and employment lands in strategic areas.* The suitability of the land for business zoning enables adequate provision of employment land. The rezoning allows additional retail space within an established centre.
- *B1.1 – Establish a topology of centres.* Newport is defined as a "village" with characteristics of strip shops and surrounding residential area within a 5-10min walk. The rezoning of the land to business will complete a "hole" in the commercial centre and will not elevate the topology of centre.
- *B4.1 – Concentrate retail activity in centres.* Provision of sufficient land and zoning to allow adequate and worthwhile retail development. Retail activity, specifically supermarkets, are suitably located within centres.

Overall, the proposed rezoning will generate additional full and part time jobs as a result of the enhanced retail offer on site. This will contribute to meeting the employment targets set for the Pittwater LGA within the Draft Subregional Strategy.

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

The planning proposal is consistent with the local strategic planning for the area.

The strategic position of the site and the surrounding area means that the site does not suitably fit as remaining Special Uses and could more appropriately be considered as a business zoned site to assist in achieving Pittwater's objectives in the Pittwater LEP 1993 and Newport Masterplan (and Pittwater 21

DCP). The current zoning map denotes the predominant business zoning of the town centre and the two isolated Special uses zoned parcels.



Above: Pittwater LEP 1993 zoning map

The proposal is consistent with the local planning directions for the area. Our reasoning is as follows:

- Whilst historically the site provides a public car parking function, a broader community benefit can be obtained through the provision of additional employment land generated by retail/commercial development.
- The subject site is located within the 3(a) General Business zone and wholly contained within the Newport town centre. Foamcrest provides the logical boundary to the zones, with residential to the west.
- The proposal is compatible with adjoining land uses given the site is centrally located within and surrounded by business zoned land.
- The site is currently under-utilised and used for car parking to accommodate the requirements of the surrounding land uses. An opportunity for the renewal of the land exists that provides an enhanced economic and community benefit.
- The current provision of car parking is also restricted in its ability to expand or provide additional car parking given the fragmented land ownership and restricted availability of land to provide an enlarged car park development. The land is significantly constrained.
- The proposed rezoning will not create a precedent within the locality because it represents the only remaining Special Uses land within the immediate vicinity of the site. The site is suitable for retail use and assists in realising the full potential of the land given its commercial context.
- The proposal is consistent with the principles of the Newport Masterplan, as discussed further below.

- The rezoning proposal is consistent with Pittwater's planning controls and strategic direction for the area as commented below.

Assessment of Pittwater LEP 1993

Pittwater LEP does not contain any zone objectives for the development of the land. We submit that objectives for the general business zone would be similar to the Standard LEP template objectives for the B2 Local Centre as follows:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*

The rezoning will allow a proposed retail offering within the Newport centre that is consistent with the objectives for a town centre. The rezoning will generate employment and provide for the needs of the surrounding community.

Assessment of Pittwater 21 DCP provisions

The rezoning proposal has considered Pittwater 21 DCP and is consistent with the stated Characteristics of Pittwater and the Desired Future Character within Newport Commercial Centre and the key objectives of Pittwater 21 DCP have been considered as follows:

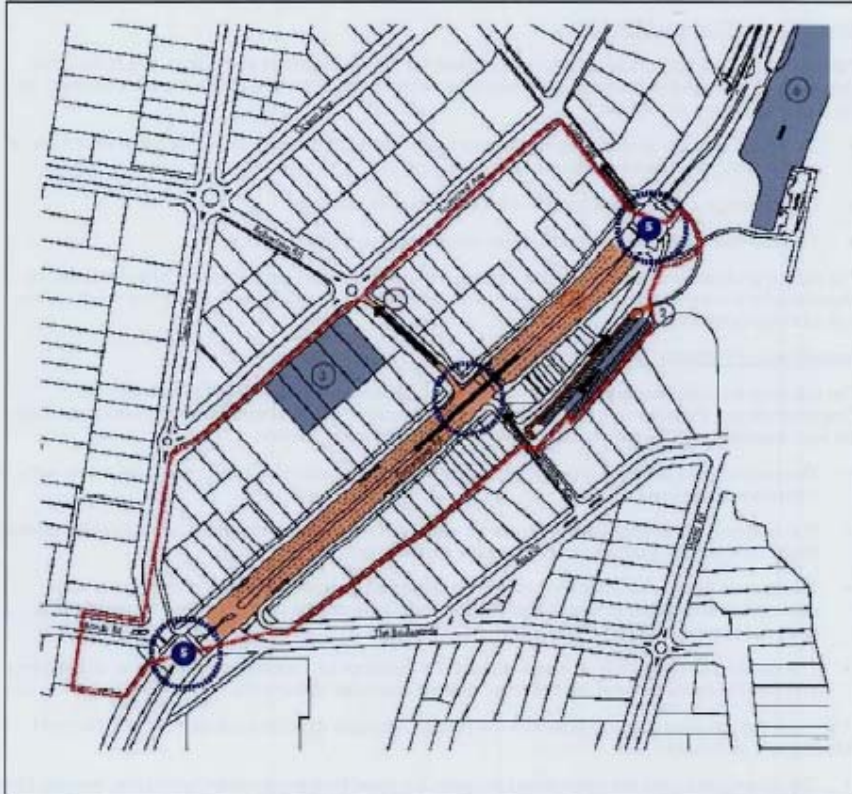
- The rezoning will unify the urban village of Newport and ensure that land is available for an array of interrelated land uses.
- The rezoning will strengthen the economic viability of the village through the provision of a useable amount of land for a business or residential development.
- The desired future character for the centre includes an increased diversity and range of retail, commercial and community activities for Newport. Currently the land, as zoned for car parking, does not allow the fruition of this vision.
- The detailed design of the proposal, as part of a development application for the site, will address and has the ability to meet the built form desired character statements.

The rezoning proposal is compatible with the broader strategic directions contained in the Newport Masterplan, as follows:

- The Masterplan (and the community) supports the need for a supermarket within the Newport town centre in addition to the existing smaller Coles. The Masterplan states that a constraint of the centre is the *"lack of full service commercial and retail uses in the village, in particular the lack of supermarket which could anchor the commercial centre"*.
- The Masterplan recognises the site as the "car park precinct" however the ability to expand the two current land parcels for car parking purposes is constrained. The rezoning allows for a commercial development whilst also increasing the provision of car parking for the centre.
- The rezoning of the land will meet the objectives by revitalising the village commercial centre through allowing land uses beyond car parking.
- The Masterplan acknowledges that the Foamcrest Avenue will continue to provide an off road public car parking function, however existing and additional parking is to be accommodated in a "consolidated and integrated parking solution".

The rezoning of the land and the indicative concept has the ability to meet with the key principles of the Masterplan relevant to the land as follows:

Section 4.3: Vehicle and Public Parking



The Masterplan acknowledges that the Foamcrest Avenue car park will continue to provide an off road public car parking function, however existing and additional parking is to be accommodated in a "consolidated and integrated parking solution". The site recognises Foamcrest Avenue car park to be one of only two car parks that will service the town centre in terms of car parking facilities. Whilst this proposal seeks a rezoning of two land parcels from Special Uses ('car parking') to Business, the car parking function will be retained and enhanced as demonstrated through the indicative concept. The retention of the two isolated car parking lots would have limited ability to increase beyond the current capacity.

The Masterplan also denotes the sites to be amalgamated as demonstrated in the subject proposal.

Section 4.5: Pedestrian and Cycle Network



As illustrated above, the proposal will assist in realising a strategy to retain and enhance the pedestrian through site connections. The proposal will preserve the Barrenjoey Road and Foamcrest Avenue car park connection and also makes provision for a future pedestrian connection to Roberston Road and to the potential future connection to the south west of the site.

The proposal will provide an arcade or trafficable spaces with retail shops fronting the space and adding interest to the pedestrian experience and Newport character generally.

Section 4.9: Built Form



As indicated above, the Masterplan denotes a built form strategy to establish scale and height to the Newport village. Whilst the Masterplan provides blocks of possible bulk, the principles of a stepping up in height are adhered to in the proposal by presenting a two storey form and then a setback third storey. As the broader site is proposed to be amalgamated, frontages to both Foamcrest and Barrenjoey are available and able to be presented as a consolidated built form that is connected along the middle portion of the site. The proposed development will ensure that the scale, massing and building proportions are sensitive to the desired village character for Newport.

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

The planning proposal is consistent with the applicable state environmental planning policies as follows.

SEPP 55 – Remediation of land

Rezoning of land must consider the likelihood of contamination in accordance with SEPP 55. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed.

A preliminary contamination investigation was undertaken by Geologix in May 2009. The results indicated that contaminants of potential concern were not detected in fill or native soils at concentrations in excess of the assessment criteria for a commercial/industrial exposure setting. Accordingly, the preliminary investigations on site have not revealed any likely contamination that may prohibit the rezoning to business.

SEPP (Infrastructure) 2007

The proposal has considered the relevant parts of SEPP (Infrastructure) 2007, namely traffic generating developments. The site is located within a town centre and is suitable as it:

- Enhances the commercial or retail offer within an established commercial centre and therefore consolidates the number of trips generated by development;
- Is accessible to public transport along Barrenjoey Road; and
- Sustains the public car parking component on site and therefore maintaining an accessible centre.

All other State Environmental Planning Policies will be thoroughly considered as part of the development application for the site.

7. Is the planning proposal consistent with applicable Ministerial Directions (S 117 Directions)?

The rezoning proposal is consistent with the Ministerial Directions, pursuant to Section 117(2) of the EP&A Act as demonstrated by the following:

The site is consistent with the '1.1 Business and Industrial zones' direction as it:

- Will encourage employment growth in a suitable location given the land's context within a town centre;
- Protect and enhance the employment land through the creation of an integrated site allowing a workable commercial outcome; and
- Support the viability of the centre by renewing and revitalising part of the centre.

The site is consistent with the '3.4 – Integrating Land use and Transport' direction as it:

- Enhances the commercial or retail offer within an established commercial centre and therefore consolidates the number of trips generated by development;
- Is accessible to public transport along Barrenjoey Road; and
- Sustains the public car parking component on site and therefore maintaining an accessible centre.

The site is consistent with the '4.3 – Flood Prone land' direction as:

- The proposal has considered the NSW Government Flood Prone Policy and the principles of the Floodplain Development Manual 2005; and
- Appropriate mitigation measures and hazards controls can be implemented as part of the detailed development proposal to ensure flood hazard has been adequately considered and designed for.

The site is consistent with the '6.2 – Reserving Land for public purposes' direction as it:

- Consolidates the dysfunctional public car parking land parcels with a broader development site to ensure the long term public purpose of car parking is maintained on the site.

6.4 Section C: Environmental, Social and Economic Impact

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

The land is unlikely to contain critical habitat or threatened species. An arborist, RainTree Consulting, has undertaken a tree assessment and impact report of the site's significant vegetation and has not identified any critical habitat, populations of communities requiring protection.

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

The site is partly flood affected. The detailed design that will form part of the development application will ensure that the development is above the flood planning level.

The site is not known to be subject to other natural hazards.

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

The proposal has adequately addressed the social and economic effects as follows:

- The proposal will have a positive social and economic benefit through the provision of additional employment opportunities and enhanced retail and services for the community. The provision of public car parking as well as retail car parking will ensure that the current convenient car parking use on the site is continued.
- The Newport Masterplan (and the community) supports the need for a supermarket within the Newport town centre in addition to the existing smaller Coles. The Masterplan states that a constraint of the centre is the *"lack of full service commercial and retail uses in the village, in particular the lack of supermarket which could anchor the commercial centre"*.
- The site does not contain any items of environmental or cultural heritage or form part of a heritage conservation area.

6.5 Section D: State and Commonwealth Interests

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

The existing public infrastructure is adequate to meet the needs of the proposal. The site is fully serviced and is contained within an established urban area and will not place unnecessary demands on the public infrastructure. Currently, the car park is owned by Council and as such is public infrastructure. This proposal will retain the public car parking facility, enhance the amount of car parking and improve the overall condition of the car park and access as well as raising the standard of the car park up to the relevant applicable standards.

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

This section of the proposal is completed following consultation with State and Commonwealth public authorities identified in the gateway determination.

Due process will be undertaken by Council and the applicant will cooperate where required.

7 Community Consultation

The specific details for the community consultation on the proposal will be determined as part of the gateway determination. We submit that the proposal is considered to be a 'low impact planning proposal' meaning a proposal that

- Is consistent with the pattern of surrounding land use zones and/or land uses;
- Is consistent with the strategic planning framework;
- Presents no issues with regard to infrastructure servicing;
- Is not a principal LEP; and
- Does not reclassify land.

As part of the Council Resolution of 17 November 2008, Council undertook community consultation in relation to this project. Accordingly, initial consultation on the project has occurred with the local community, including the Newport Resident Action Group. An initial retail concept was tabled as part of this process. In addition, the applicant has addressed the Newport Resident Action group in May in respect to the proposed rezoning and future DA. The development of the current indicative concept, involved a review of the previous scheme recognising the detailed design that forms part of the development application currently being prepared.

Additional community consultation will be undertaken when the draft instrument is on public exhibition in accordance with the requirements in the Act and any DoP guidelines including *"A guide to preparing local environmental plans"*.

Community Consultation

The purpose of this consultation is to gather feedback from the community on the proposed changes to the planning system. The consultation will be held over a period of 10 weeks, from 1st October 2019 to 1st November 2019.

The consultation will be held in the following ways:

1. A public consultation meeting will be held on 1st October 2019 at 10.00am.
2. A public consultation meeting will be held on 1st November 2019 at 10.00am.
3. A public consultation meeting will be held on 1st December 2019 at 10.00am.
4. A public consultation meeting will be held on 1st January 2020 at 10.00am.

The consultation will be held in the following ways:

- A public consultation meeting will be held on 1st October 2019 at 10.00am.
- A public consultation meeting will be held on 1st November 2019 at 10.00am.
- A public consultation meeting will be held on 1st December 2019 at 10.00am.
- A public consultation meeting will be held on 1st January 2020 at 10.00am.

The consultation will be held in the following ways:

- A public consultation meeting will be held on 1st October 2019 at 10.00am.
- A public consultation meeting will be held on 1st November 2019 at 10.00am.
- A public consultation meeting will be held on 1st December 2019 at 10.00am.
- A public consultation meeting will be held on 1st January 2020 at 10.00am.

8 Design Issues Raised by Council

On 2 March 2009, Pittwater Council resolved to sell the subject site to Fabcot and progress commercial terms. As part of progressing a rezoning and development application for the site, Pittwater Council articulated the key issues that are to be considered and form part of any application submitted by Fabcot. The majority of the raised matters relate to the detailed design of the proposal and will be addressed as part of the development application for the site.

Council's matters for consideration are discussed in the following table.

Matter for Consideration	Comment
Pedestrian connectivity between Robertson Road, Barrenjoey Road and the property to the southwest	As discussed in 6.3(5), the proposal has made provision for the retention and future provision of pedestrian links through the site. These include: - a link from Barrenjoey Road via the use of travelators and then through the car park at ground level to Foamcrest Avenue - provision for a link to Robertson (if the adjoining site is redeveloped); and - provision of a future link to the southwest. The detailed design of the proposal, submitted with the DA submission, will ensure the permeability of the site is retained.
Sustainability	The proposal will include energy efficiency and water saving measures and will be detailed as part of the development application.
Hours of operation of the loading dock and its operation/management relative to the residential area of Foamcrest Avenue	The hours of operation will ensure the amenity of the surrounding residential area is preserved. An acoustic report and management principles will form part of the DA submission.
Potential noise issues associated with the flooring surface in the car parking area	The design of the proposal has considered the potential noise impacts from the development. The material selection of the flooring and the overall acoustic performance of the development will be assessed as part of the DA submission.
Barrenjoey Road and Foamcrest Avenue façade design to reflect sensitivity to the relaxed character of the Centre and the juxtaposition to the Foamcrest Avenue residential area	The appearance of the facades and frontages to Foamcrest Avenue and Barrenjoey Road will be compatible with the remainder of the centre. The car park façade will be designed to present a more attractive streetscape.
Details of signage that does not dominate the facades of the building and contribute positively to the streetscape	The design of the site signage will be compatible with the location of the site within business zoned land, whilst respecting the adjoining residential areas. The location, form and type of signage will form part of a future development application.

Assessment of the development relative to the Newport Masterplan and relevant DCP provisions	The planning proposal has considered the relevant parts of the Newport Masterplan and DCP in Section 4.3.2 and Section 6. The development application will be further assessed against all relevant planning policies.
Safety by design and effective trolley management	The future development application will adhere to the CPTED principles of natural surveillance, access control and territorial management. The development application will contain a trolley management plan.

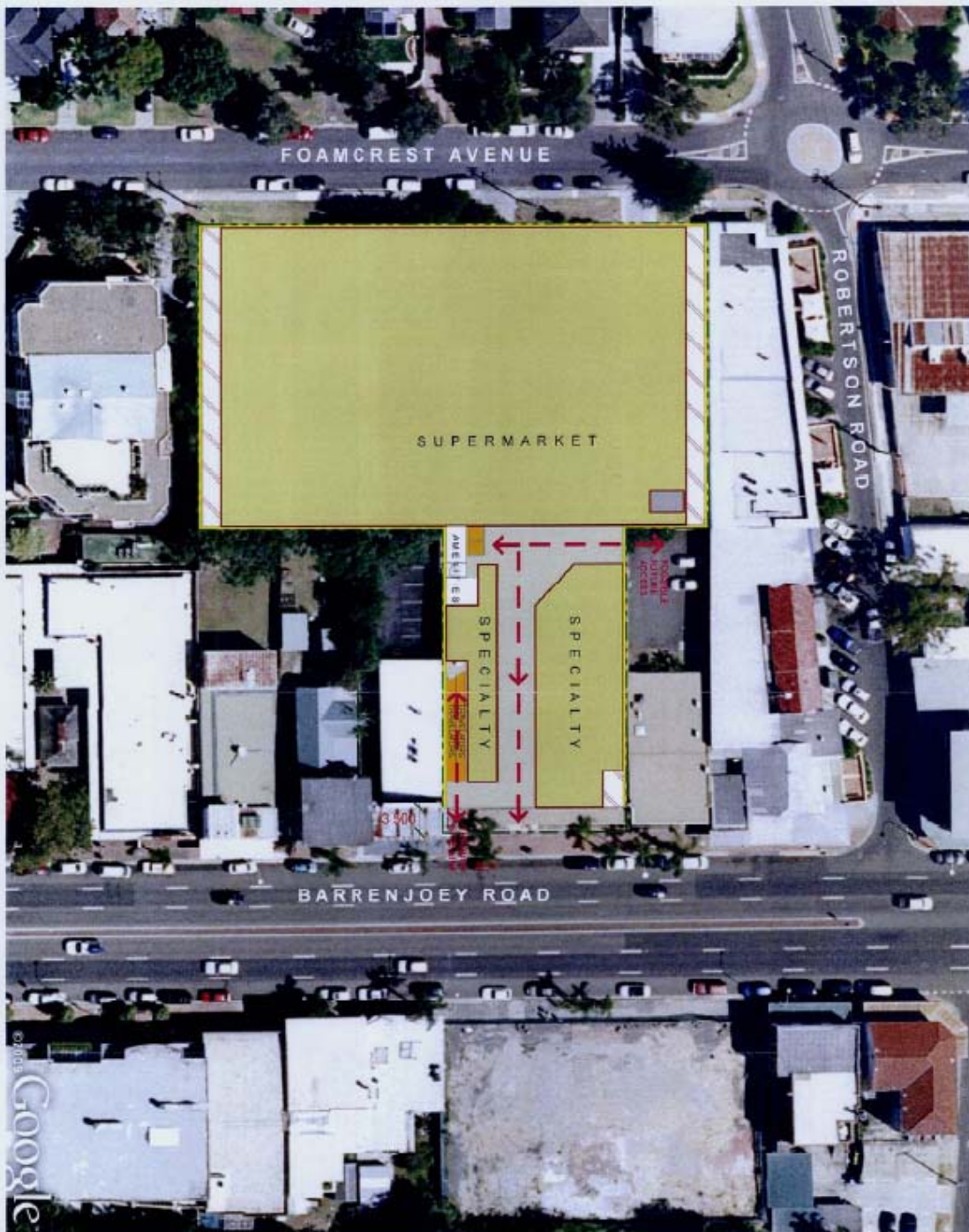
9 Conclusion

The rezoning proposal and indicative site concept have been developed with consideration of the strategic directions for Pittwater, the surrounding land uses and discussions with Council. The proposed **3(a) General Business A** zoning for land parcels is appropriate for the following reasons:

- This submission identifies the specific characteristics of the site, strategically located in a commercial town centre and surrounded by business zoned land. This position makes it realistically possible to achieve a rezoning of the land to business.
- The current special uses zoning, limited to the provision of car parking, does not realise the full potential of the land given its commercial context.
- Retaining the two land parcels for car parking represents an under-utilisation of the land that is suitable for renewal. If the middle portion of the broader car park site (343 Barrenjoey Road) was developed, the resulting car parking arrangement would be dysfunctional given the split in land area and ownership and could potentially sterilise any future expansion of the land parcels.
- The opportunity exists to provide a broader community benefit through the retention of the public car parking as well as additional retail services.
- The land is of a suitable size to accommodate a worthwhile commercial outcome on the site as appropriate FSR, height and setbacks can be achieved.
- The site is suitable for the rezoning and there are no impediments for the development of the site for commercial development.

For all of the above reasons, we request that this proposal be progressed as a 'spot' rezoning to Pittwater LEP 1993.

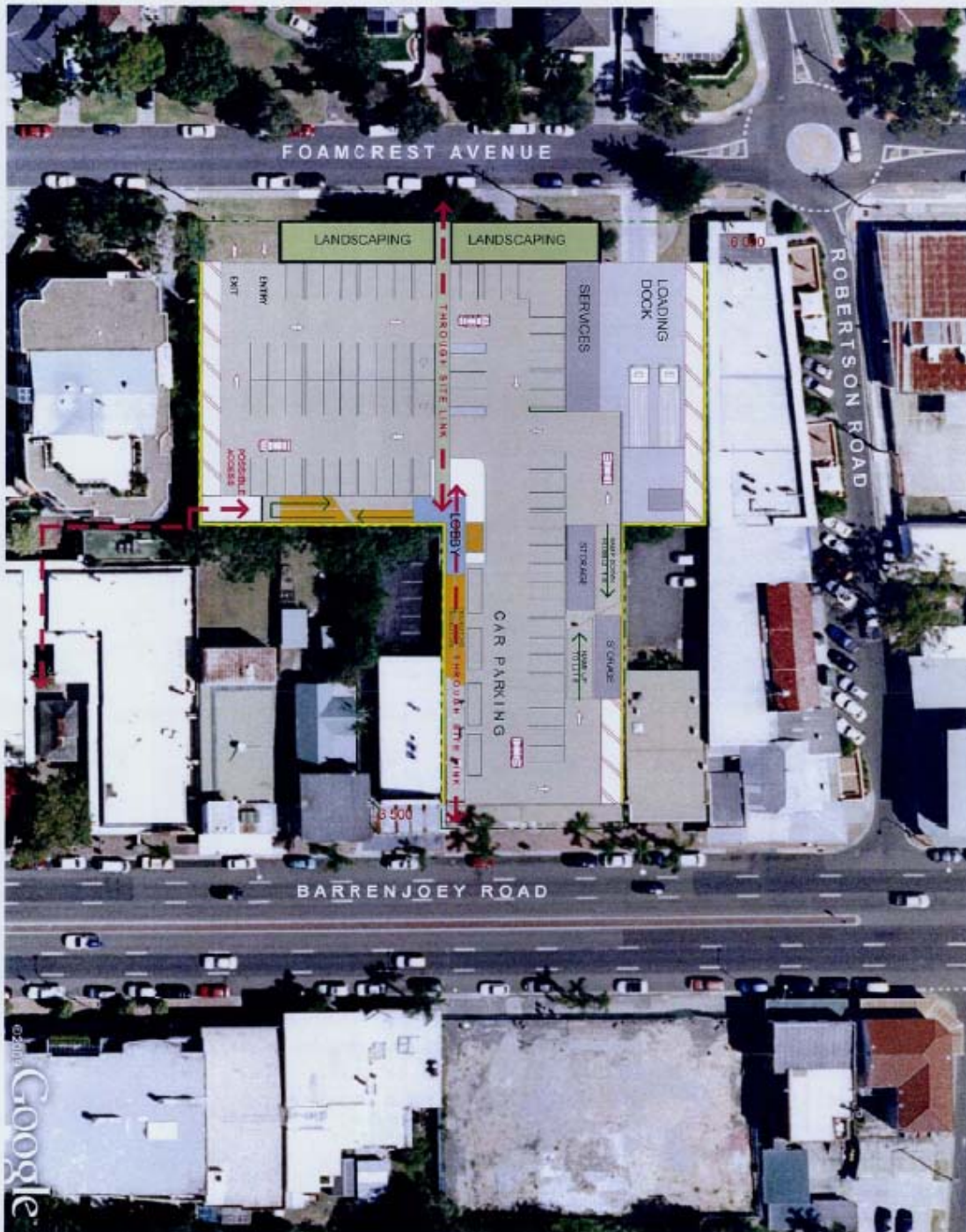
Appendix A Indicative Concept Drawings



GROUND
LEVEL

07026
29 JUNE 2009
1:500 @ A3

343 - 345
BARRENJOEY RD NEWPORT



LEVEL 1

07026
29 JUNE 2009
1:500 @ A3

343 - 345
BARRENJOEY RD NEWPORT



LEVEL 2

07026
29 JUNE 2009
1:500 @ A3

343 - 345
BARRENJOEY RD NEWPORT



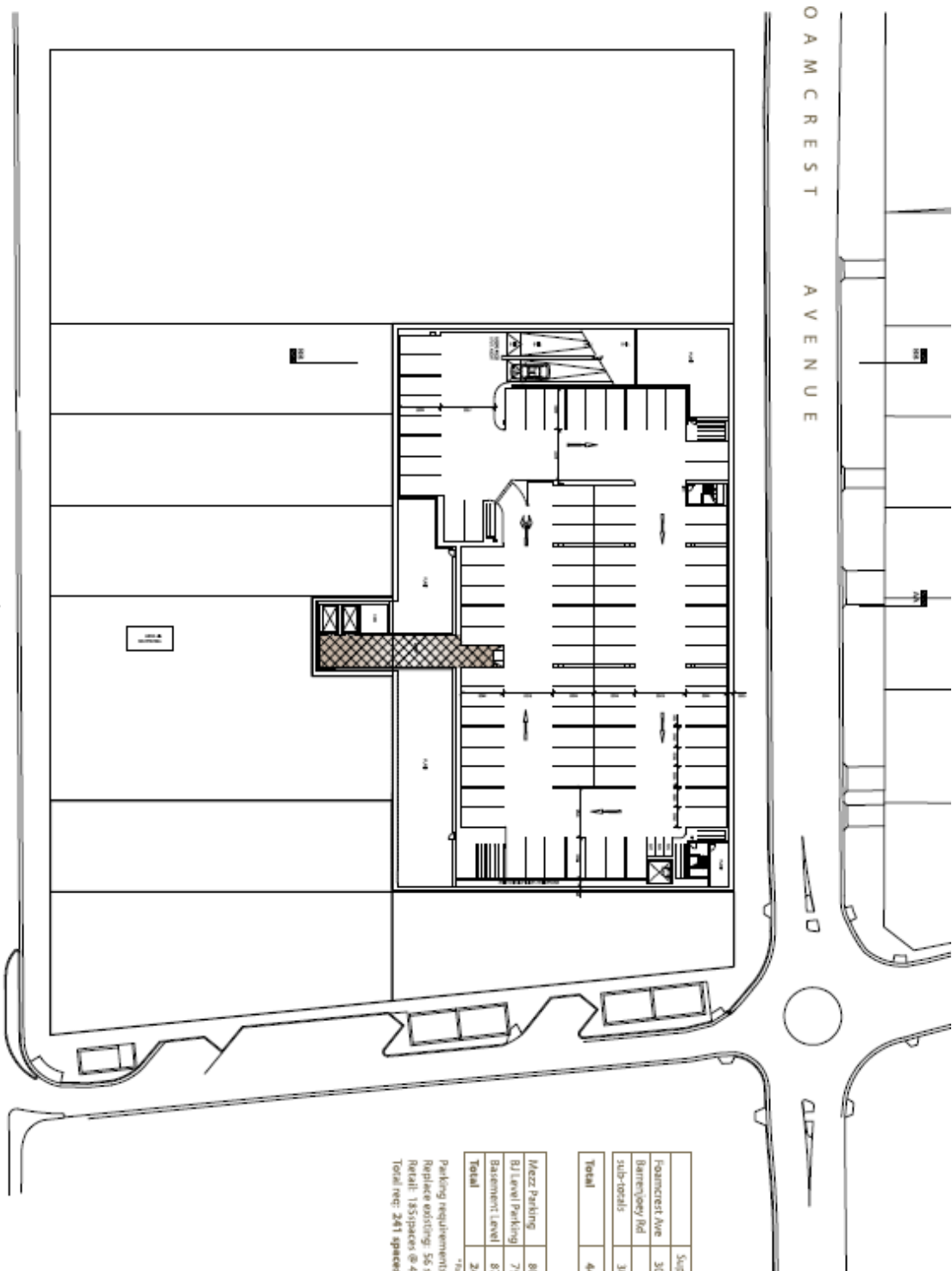
LEVEL 3

07026
29 JUNE 2009
1:500 @ A3

343 - 345
BARRENJOEY RD NEWPORT

AMENDED CONCEPT DRAWINGS

FOAMCREST AVENUE



BARRENJOEY ROAD

	Supermarket	Specialty Retail
Foamcrest Ave	3000sq.m	*485sq.m
Barrenjoey Rd		1920sq.m
sub-totals	3000sq.m	1605sq.m
Total	4405sq.m	

* Base external loading area

Mezz Parking	80 spaces
B1 Level Parking	79 spaces
Basement Level	87 spaces
Total	246 spaces

* 1 space to be underground

Parking requirements:
Retail: 185 spaces @ 4.2/100sq.m*
Total req: 241 spaces

DRAFT

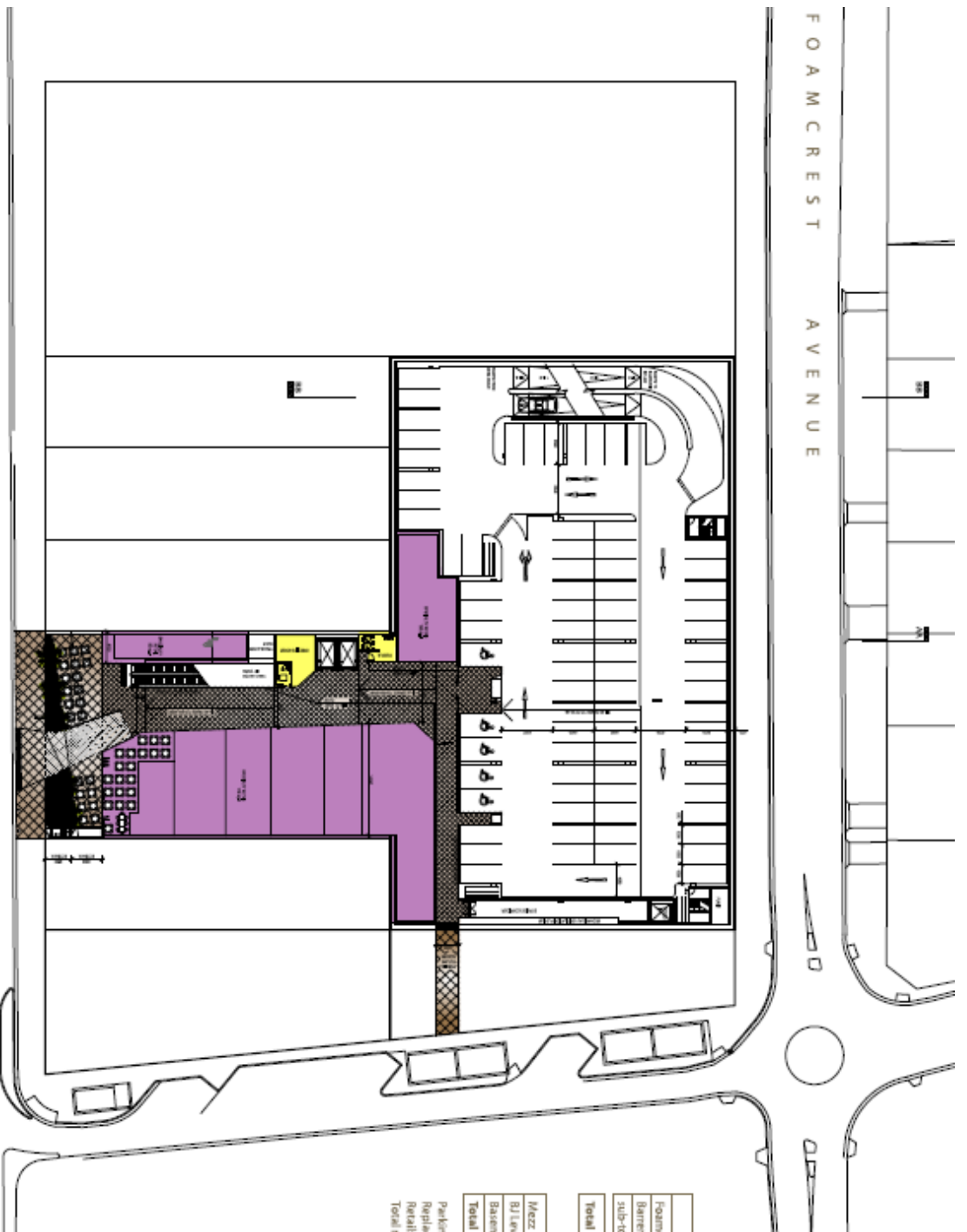
0 5 10 25



BN Architectural
Engineering
Surveying
Design
1000000

343-345 Barrenjoey Rd, Newport
Concept Plan / Option N
Basement CP Level
13008943
2502.10

FOAMCREST AVENUE



	Supermarket	Specialty Retail
Foamcrest Ave	3000sq.m	*485sq.m
Barrenjoey Rd		1920sq.m
sub-totals	3000sq.m	1405sq.m
Total	4405sq.m	

* Based on retail trading area

Mezz Parking	80 spaces
B1 Level Parking	79 spaces
Basement Level	87 spaces
Total	246 spaces

* 1 space to be underground

Parking requirements:
 Replace existing: 56 spaces
 Retail: 185 spaces @ 4.2/100sq.m*
 Total req: 241 spaces

DRAFT

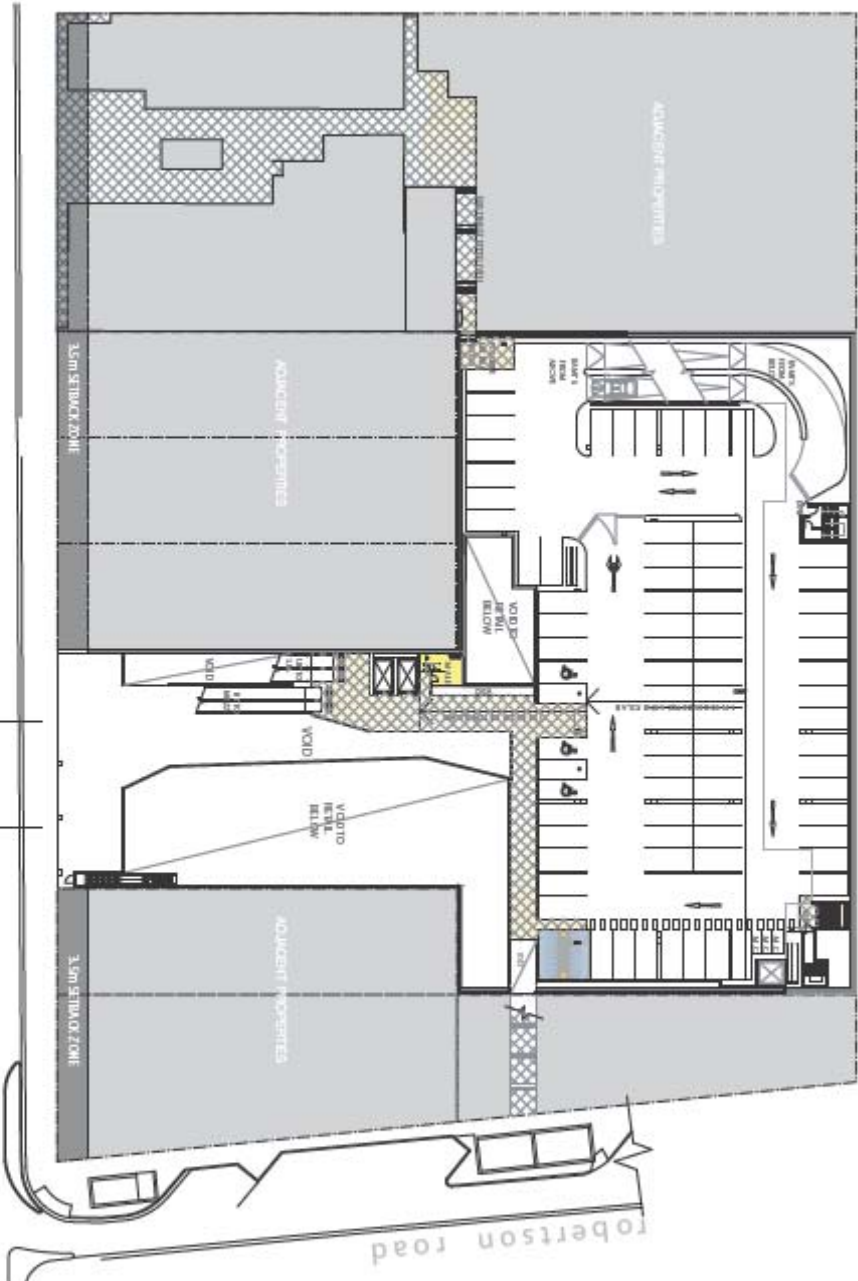


343-345 Barrenjoey Rd, Newport
 Concept Plan / Option N
 Barrenjoey Road
 15008963
 2502.10
BN Architects
 15008963
 15008963
 15008963

mezzanine level



foamcrest avenue

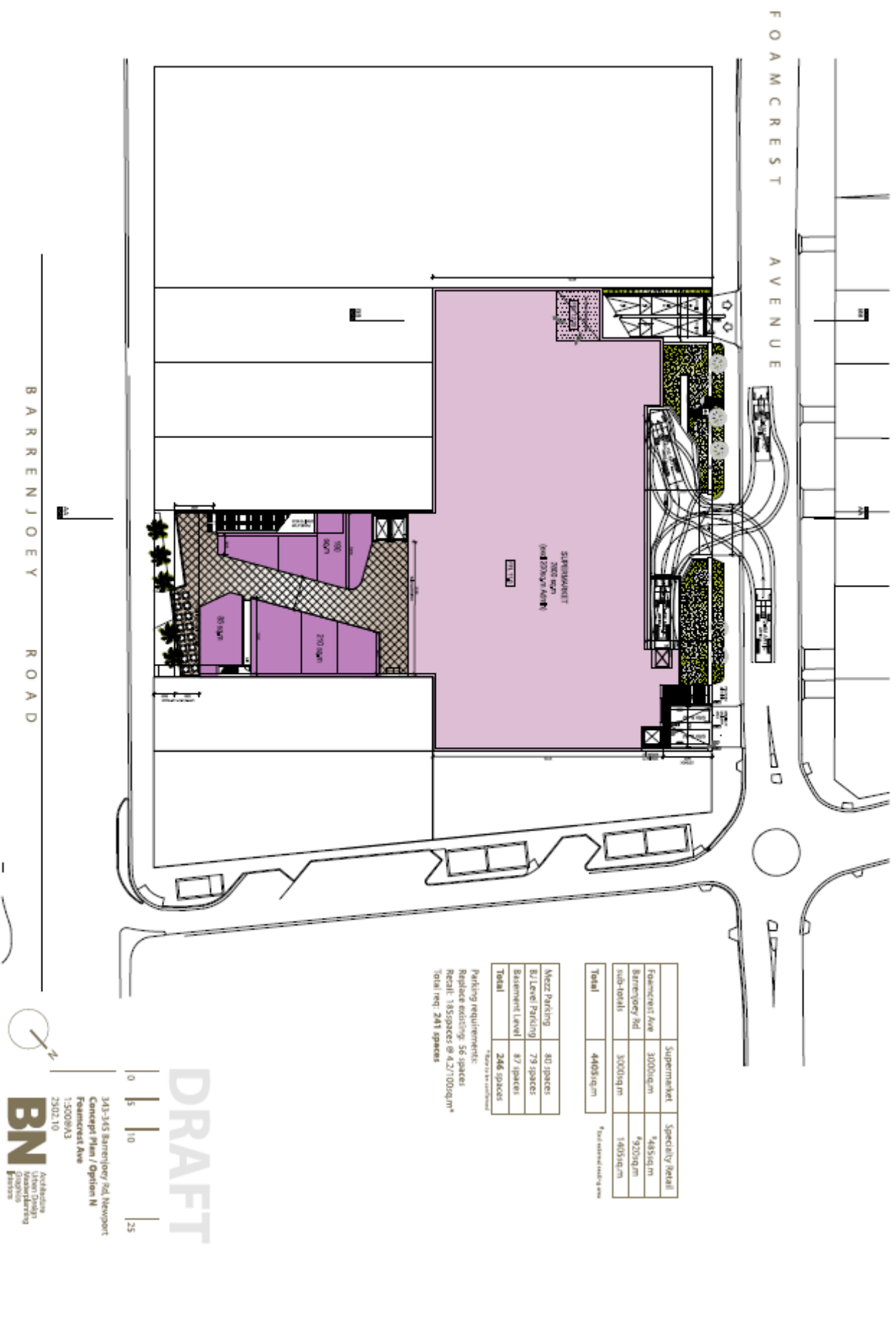


barrenjoey road

robertson road

CONTINUING NUMBERS	
MEZZANINE	79/80 STOREY/81
BARRENJOEY	77/78 STOREY/79
BARRENJOEY	82

NOTE: All dimensions are in metres.
Square and 30 Day 24 Hours



	Supermarket	Specialty Retail
Foamcrest Ave	3000sqm	*445sqm
Barrenjoey Rd	4920sqm	4920sqm
sub-totals	3000sqm	1405sqm
Total	4405sqm	

*For external seating area

Mezz Parking	80 spaces
81 Level Parking	79 spaces
Basement Level	87 spaces
Total	246 spaces

*Based on 300sqm

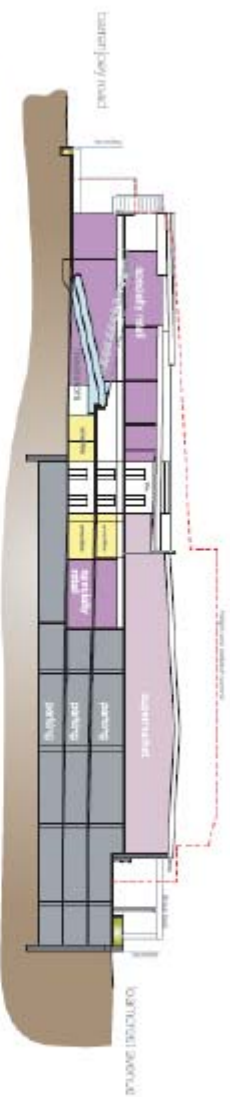
Parking requirements:
 Replace existing: 56 spaces
 Recall: 185spaces @ 4.2/100sqm*
 Total req: 241 spaces

DRAFT

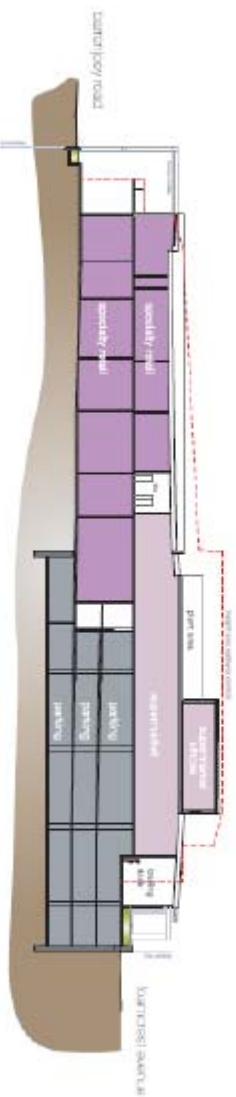
0 5 10 25

343-345 Barrenjoey Rd, Newport
 Concept Plan / Option N
 Foamcrest Ave
 13508A3
 2502.10
BN Architecture
 10000 Clarendon
 Newport
 094910
 10/05/2020

sections



section a-a



section b-b

Height and setback control/envelope control.
Newport village commercial center masterplan, p.65.

Sections

April 2010
1:200 @ A1

BN
Architecture
Urban Design
Interior Design
Landscape Architecture
Engineering

PLANNING PROPOSAL

**The rezoning of 17 and 25-27 Foamcrest
Avenue, Newport**

Prepared by SJB Planning NSW Pty Ltd, for Pittwater Council

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PART 1 OBJECTIVES OR INTENDED OUTCOMES

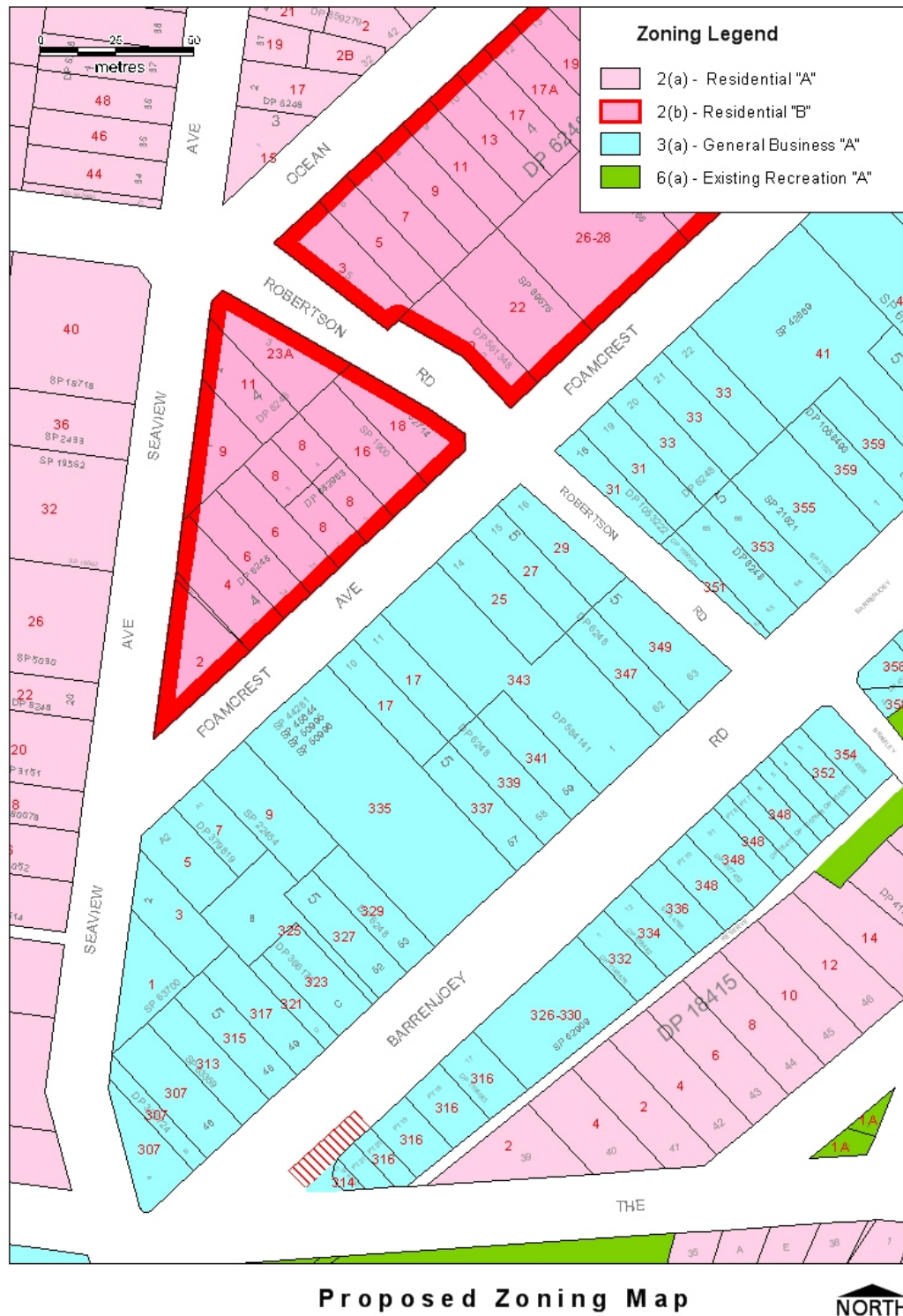
The objective of this Planning Proposal is for the rezoning of 17 and 25-27 Foamcrest Avenue Newport from its current 5(a) (Special Uses "A") to 3(a) (General Business "A") to enable the redevelopment of the site consistent with the surrounding commercial centre and land uses and generally consistent with the provisions of the Newport Village Commercial Centre Masterplan as it applies to the site, while maintaining public car parking.

MAP 1: Existing Zoning



Subject Site: Lots 10, 11, 14 & 15 Section 5 Deposited Plan 6248 (17, 25-27 Foamcrest Avenue Newport)

MAP 2: Proposed Zoning



Subject Site: Lots 10, 11, 14 & 15 Section 5 Deposited Plan 6248 (17, 25-27 Foamcrest Avenue Newport)

PART 2 EXPLANATION OF PROVISIONS

The proposed rezoning requires the amendment of the Pittwater Local Environmental Plan 1993 Zoning Map in accordance with the proposed zoning map shown in Map 2 and summarised in Table 1.

Table 1 Proposed Zoning Changes

Address	Property Description	Existing Zone	Proposed Zone
17 Foamcrest Avenue, Newport	Lot 10 Section 5 Deposited Plan 6248	5(a) (Special Uses "A")	3(a) (General Business "A")
17 Foamcrest Avenue, Newport	Lot 11 Section 5 Deposited Plan 6248	5(a) (Special Uses "A")	3(a) (General Business "A")
25 Foamcrest Avenue, Newport	Lot 14 Section 5 Deposited Plan 6248	5(a) (Special Uses "A")	3(a) (General Business "A")
27 Foamcrest Avenue, Newport	Lot 15 Section 5 Deposited Plan 6248	5(a) (Special Uses "A")	3(a) (General Business "A")

In order to allow shop-top housing at the site in accordance with clauses 21L, 21M, 21O of the Pittwater Local Environmental Plan 1993, commensurate with adjacent and surrounding 3(a) (General Business "A") zoned land, the parcels of land comprising the site are all proposed to be identified by the symbol "STH" on the Multi-Unit Housing Map.

The existing Multi-Unit Housing Map is shown in Map 3 and the proposed Multi-Unit Housing Map is shown in Map 4.

There are no other provisions that are required to be amended.

MAP 3: Existing Multi-Unit Housing Map



Existing Multi-Unit Housing Map



[illegible]

NORTH

PART 3 JUSTIFICATION

A Need for the Planning Proposal

(A1) Is the planning proposal a result of any strategic study or report?

The proposed rezoning is consistent with the strategic planning study of the Newport Village which culminated in the Newport Village Commercial Centre Masterplan (“the Newport Masterplan”).

The Newport Masterplan was commissioned by Pittwater Council in late 2006 and followed a five stage process which included Analysis; Setting the Vision; Development of Concept Options; Study Report; and Exhibition, Pittwater Council resolved to adopt the Newport Masterplan in November 2007.

The proposed rezoning is also consistent the Pittwater 21 Development Control Plan (DCP21), which strategically sets the planning outcomes sought for individual localities within Pittwater through desired character statements and development controls for specific areas or localities. Each locality is distinct in terms of its land use, geography, and social character.

Following the adoption of the Newport Masterplan, the Council also adopted amendments to the DCP21 which had been recommended in the Masterplan and which deal exclusively with the Newport Village Commercial Centre. The relevant amendments to DCP21 became effective on 3 December 2007.

A key amendment was to append the Newport Commercial Centre Masterplan to DCP21 and prescribe that all *“Development in the Newport Commercial Centre shall be in accordance with the approved Masterplan for the Newport Commercial Centre”* (refer to Part D10.2 Character – Newport Commercial Centre and Appendix 12 of the DCP).

The ‘Newport Locality’ is addressed in Part D10 of DCP21 and the Newport Commercial Centre is recognised separately from the remainder of the Newport locality within this Part of the DCP. The desired character, the outcomes and the specific controls for the Newport Commercial Centre in Part D10 are informed directly by the Newport Masterplan.

The purpose of the Newport Masterplan is to establish a holistic and integrated vision document for Newport Village Commercial Centre, encompassing both the private and public domain. The document was developed with extensive community involvement.

The Newport Masterplan provides an urban design framework that aims to enhance the amenity and design quality of the centre, and to support social, economic and cultural activities. Its stated focus is on a high amenity and high quality environment to support social, economic and cultural activities and to contribute positively to Newport’s future.

The masterplan relates to the commercial core of Newport, along Barrenjoey Road and including the side streets, and also considers the existing and likely future character of Foamcrest Avenue.

Apart from road reserves, the land within the study area covered by the Newport Masterplan and referred to as the Newport Commercial Centre in DCP21 is comprised of 71 allotments zoned 3(a) (General Business “A”), 3 allotments zoned Open Space 6(a) (Existing Recreation “A”) and 4 allotments which are zoned 5(a) (Special Uses “A”).

Essentially the Newport Commercial Centre is zoned 3(a) (General Business “A”) apart from Council owned Open Space near Bramley Avenue and the Council owned Special Use land which is the subject of this Planning Proposal.

A set of over-arching masterplan principles, developed during the study of the Newport Village Commercial Centre, underpin the desired future character statements and controls.

The core principles encompass economic, social and cultural, environmental and design issues, to ensure that the masterplan will contribute to a sustainable outcome for Newport. The principles are outlined below:

Economic principles

- Revitalise Newport Village Centre
- Build on the existing strengths of the village
- Increase the mix and diversity of uses
- Increase visibility of the commercial centre from the beachfront to support visitor / tourism activities
- Provide sufficient parking to accommodate village users

Social and cultural principles

- Activate and enliven streets and public spaces to improve safety and security, and the perception of safety and security
- Create a village 'hub' for Newport where people can gather and interact
- Improve the experience of arriving and being in Newport
- Link public open spaces to create a legible and accessible pedestrian network
- Create clear and inviting connections to community facilities and to public transport
- Encourage walking and cycling
- Foster understanding of Newport's history, geography and community

Environmental principles

- Improve connections between the village and the beach
- "Green" Barrenjoey Road with street trees
- Provide sheltered, pleasant public spaces
- Optimise commercial and residential amenity
- Represent Newport as a leader in environmental sustainability

Character principles

- Design the public domain (footpaths, arcades and plazas) at a 'human' scale that supports the village character
- Reinforce the relaxed character created by varied building setbacks, heights, facades and roof forms
- Design buildings to respond to the climate, topography and setting
- Protect and share views to ocean and hills

The proposed rezoning of the subject site is consistent with the above set of principles.

In addition to the overarching principles the Newport Masterplan outlines strategies for 8 specific elements and these strategies are reinforced and implemented by development controls in the Masterplan and within DCP21. The strategies relate to the following 8 elements:

- Open Space
- Vehicle Movement and Public Parking
- Vehicular Access and Underground Parking
- Pedestrian and Cycle Network
- Land Uses
- Public Domain Character
- Landscape Character
- Built Form

Within the strategies of the Masterplan there are specific references to the subject site and the area which the subject site lies in, known as the 'car park precinct'. The most pertinent references are in Part 4.6 (Land Uses) and Part 4.9 (Built Form). The stated Land Use strategy in Part 4.6 identifies that the desired future land uses for the area that the site is in include mixed uses (retail, commercial, community and residential).

The strategy in Part 4.9 (Built Form) and the Figure 4.9.1 confirm that a form and scale of development commensurate with adjacent commercial development is envisaged across the site. The relevant extracts are detailed below:

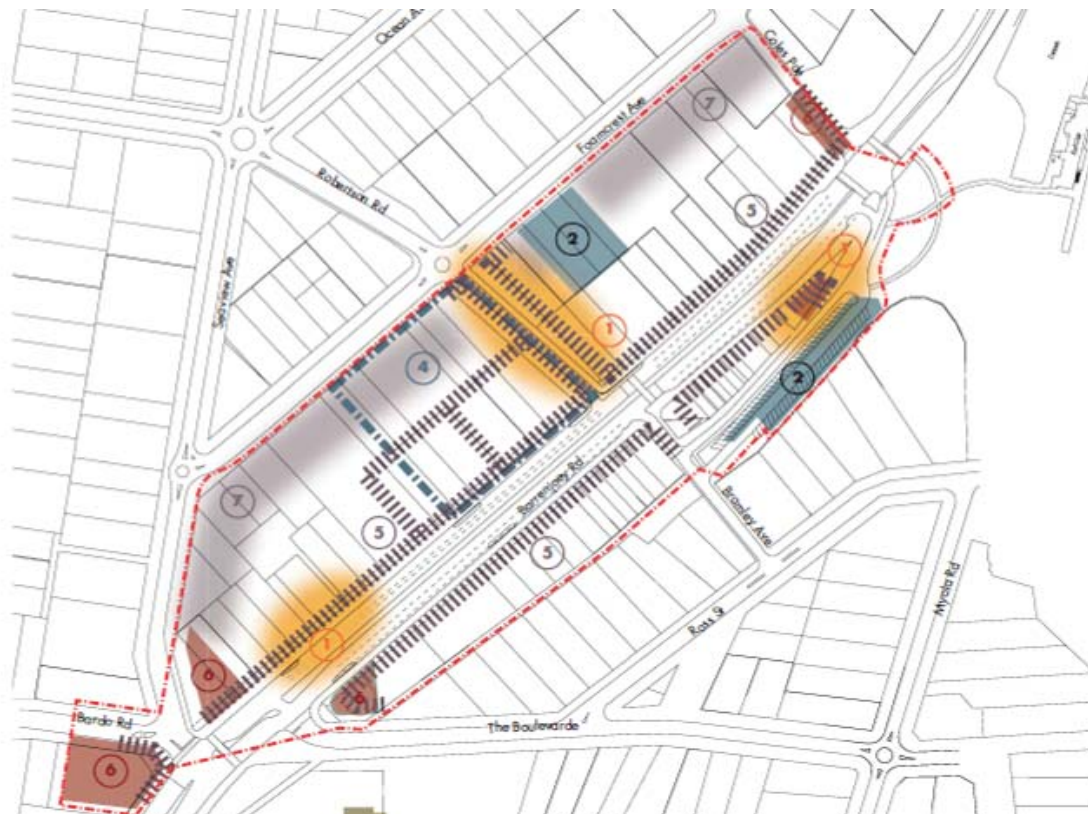
1.....

"4.6 Land Uses

Mixed uses including retail, commercial, community and residential uses are appropriate for the village centre. The strategy includes retaining the focus on Barrenjoey Road and Robertson Road as the main retail streets. Foamcrest Avenue is not suitable for retail uses for two reasons: it interfaces with a residential area and it should not compete with the intensity of use on the main shopping street and side streets. Ground floor uses on Foamcrest could include commercial uses in the form of professional suites, and a higher proportion of residential use in mixed use buildings would not be out of place east of Robertson Road beyond the church.

4. Consider the 'car park precinct' including the Council-owned sites on Foamcrest Avenue as an aggregated site (or possibly 2 or 3 integrated sites), to rationalise land uses, optimise efficiencies and deliver high amenity, high quality built form. Integrate the sites fronting Robertson Road with the planning of this 'precinct' to ensure that no lots remain isolated and unable to be developed."

"Figure 4.6 Land Uses".



“Figure 4.9.1 Built Form”



The strategies for Land Use and Built Form for the site are supported by detailed development controls within Part D10 of DCP 21 (as amended). The detailed development controls in DCP21 originate, and have been adapted from, the draft development controls outlined in Part 5.8 (Proposed Amendments to DCP 21) of the Masterplan.

Numerous built form controls in Part D10 of DCP21 are exclusive to the car park precinct and reinforce the desired future development outcomes for the site are of a scale and form commensurate with commercial and mixed use development. One of the key built controls relevant to the site is reproduced below:

“D10.6 Height (Newport Commercial Centre)

The maximum height for the commercial centre varies from one to three storeys.

- *For one-storey buildings, limit the overall height in metres to 7 metres*
- *For two storey buildings, limit the overall height in metres to 8.5 metres.*
- *For three storey buildings, limit the overall height in metres to 11.5 metres.*

The following height restrictions also apply:

- *On Barrenjoey Road and 17-29 Foamcrest Avenue (including land fronting Foamcrest Avenue at 343 Barrenjoey Road), limit the street frontage height to 2 storeys, with a maximum height above the flood planning level of 7 metres to the top of the structure (equivalent to the floor level of the floor above). Above this, a balustrade is permitted to the top level so long as the balustrade is at least 50% transparent.*

- *On Barrenjoey Road and 17-29 Foamcrest Avenue (including land fronting Foamcrest Avenue at 343 Barrenjoey Road), limit the height at the 4 metre setback (to the topmost storey) to 10.5 metres above the flood planning level, with the roof form being contained within a height plane of 15 degrees, to a maximum overall height of 11.5 metres."*

Importantly the Newport Masterplan and DCP21, as demonstrated in the above examples, identify that the desired future land uses and building forms for the subject site accord with the site being rezoned from 5(a) (Special Uses "A") to 3(a) (General Business "A").

The identified desired future land uses and building forms are the result of a comprehensive strategic study of the area. Under the current zoning the desired future character for the site is unattainable as development for the purpose of mixed use development including commercial premises, retail and residential development are prohibited in the 5(a) (Special Uses "A").

(A2) Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Options include:

- 1 Maintaining current zoning.
- 2 Rezoning the land to a zone other than 3(a) (General Business "A") or 5(a) (Special Uses "A").
- 3 The proposal.

The first is the 'do nothing' option. This is not favoured as this option would not allow the site to be developed in any form other than the limited forms permissible in accordance with the current zoning tables for 5(a) Special uses zoning. As stated above, development for the purpose of commercial premises (including retail) and all forms residential development are prohibited in the 5(a) (Special Uses "A").

Option 1 would not enable the redevelopment of the site consistent with the surrounding commercial centre and land uses and would not achieve the desired future character as outlined in the Newport Commercial Centre Masterplan and the relevant DCP 21 Newport Locality controls.

The second option would be available, although it is not considered viable as it is likely to unreasonably constrain future redevelopment of the land. As with Option 1, other zonings such as Non-Urban, Open Space and Residential zones, have limited permissible land uses and would prevent the redevelopment of the site for the mixed use land uses desired for the site.

The proposal, or third option, is clearly the best outcome as it will allow the redevelopment of the site in a manner that is commensurate with the surrounding commercial centre and land uses and would achieve the desired future character as outlined in the Newport Commercial Centre Masterplan and the relevant DCP 21 Newport Locality controls.

The 3(a) (General Business "A") is the most appropriate business zone compared to the other available business zones as it is the same zone as the zoning of the immediately adjacent sites and the remainder of the Newport Village Commercial Centre.

The 3(a) (General Business "A") zone permits all the land uses identified in the desired future character for the site and will allow for the continued use of the site for public car parking and its future use for the purpose of community facilities if desired.

In summary, the proposal best achieves Council's objectives for the site.

(A3) Is there a net community benefit?

The Planning Proposal will facilitate improvements to the urban environment and public domain by allowing for the redevelopment of an existing public car park for mixed use land uses (including commercial, retail, residential and community) while maintaining the quantum of public car spaces.

Rezoning the site to 3(a) (General Business “A”) would enable redevelopment of the site in a manner which accords with the strategic vision, the desired future character and the finer grain development controls for the site as elucidated in the Newport Village Commercial Centre Masterplan and the Pittwater DCP 21. The realisation of the strategic vision and desired future character will result in a net community benefit.

The rezoning would not inhibit Council's ability to maintain the quantum of public car spaces which currently exist at the site and it would not inhibit Council's ability to maintain the pedestrian access through the site currently enjoyed by the public and therefore the existing community benefits realised from the site will also be maintained.

If the site were to be rezoned to 3(a) (General Business “A”) it would be consistent with the zoning of land immediately adjacent to the site and the remainder of land within the Newport Village Commercial Centre.

The rezoning of the land would also be consistent with Council's economic, centres and corridors and housing requirements imposed by the Sydney Metropolitan Strategy and Draft North East Subregional Strategy (refer below in section B1).

It is noted that an initial application was made to Council for the rezoning of the site on behalf of Woolworths Ltd with the Planning Proposal objectives and intended outcomes focusing on the future development of the site for the purpose of a supermarket and a car park.

An analysis was carried out with respect to the potential economic and traffic related impacts based on the objective that the site is redeveloped for the purpose of a supermarket, speciality retail shops and a public car park.

While this is only one potential development outcome for the site, and it is not the objective of this Planning Proposal, the future development of the site for a supermarket is considered a relatively intense use and therefore the analysis undertaken for that scenario is relevant.

It is noted that the Planning Proposal which focused on the development of the site for a supermarket attracted significant objection within the community during non-statutory notification by Pittwater Council.

Many issues were raised with the key objections relating to the potential future development of the site for the purpose of a supermarket. Concerns were raised with regard to the economic impact upon existing individual retail outlets and the economic viability of the wider Newport Commercial Centre, traffic and parking implications for the centre, opportunity loss (such that the land could better be used for open space, 'a town square' and or community facilities) and the actual need for a new supermarket in the Newport locality.

While the analysis provided within the reports submitted with the Woolworths Ltd application is not exhaustive, the analysis and the subsequent independent peer reviews, provide an indication that redevelopment of the site for the purpose of a supermarket and a car park may be able to be carried in a manner that would not result in significant adverse impacts with regards to the economic viability of the Newport Village Commercial Centre and the local traffic network.

Therefore in terms of net community benefit, initial analysis indicates that in the event that the site is developed for relatively intense commercial uses in the future in accordance with the proposed 3(a) (General Business “A”) zoning, the proposal is likely to result in a positive benefit to the community.

To assist in determining the net community benefit the proposal was assessed against the evaluation criteria for 'conducting a net community benefit test' as outlined in the draft Centres Policy and is detailed below:

Evaluation Criteria	Y/N	Comment
Will the LEP be compatible with the agreed State and regional strategic direction for development in the area (e.g. land release, strategic corridors, development within 800m of a transit node)?	Y	The proposed rezoning is compatible with the applicable State and the regional strategic directions for the area including the Metropolitan Strategy, North East Sub Regional Strategy and SEPP (Infrastructure), 2007. The rezoning will result in additional business zoned land within an established commercial centre.
Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?	Y	The subject site is not identified within a key strategic centre or corridor. The site is identified as part of the Newport village within the North East Draft Subregional Strategy. While allowing the retention of the existing quantum of public parking at the site, the proposed rezoning is likely to facilitate the redevelopment of the site for the purpose of commercial premises and or mixed use purposes and thereby increase employment and access to additional services and facilities for the local community.
Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landholders?	N	The proposed rezoning will not create a precedent within the locality because it represents the only remaining Special Uses land within the immediate vicinity of the site and within the wider locality of Newport. The site is located adjacent to, and straddles, existing 3(a) (General Business "A") zoned land and its rezoning from Special Use to General Business is rational given its commercial context.
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	Y	The site is owned by Council and used for the purpose of a public car park. There are no other 5(a) (Special Use "A") zoned sites within the vicinity or wider locality and there have been no other recent 'spot rezonings' in the locality to refer to in terms of assessing any cumulative impact.
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	Y	The proposal will result in the addition (albeit a relatively small addition) of employment lands within an established commercial centre. The conversion of the land from a Special Use zone (for the purpose of car parking) to a General Business zone is likely to generate additional full and part time jobs upon its future rezoning and development. This will assist Council in meeting its employment targets set out within the Draft Subregional Strategy.

Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?	Y	Residential development is prohibited at the site in accordance with the current zoning. The proposed rezoning will allow for some forms of residential development in the future (i.e. 'shop-top' development). The rezoning therefore provides the potential that the proposed amendment to the LEP will increase housing supply.
Is the existing public infrastructure (roads, rail, and utilities) capable of servicing the proposed site? Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity to support future transport?	Y	The existing public infrastructure is adequate to meet the needs of the proposal. The site is fully serviced and is contained within an established urban area. The proposal will not inhibit Council's ability to maintain existing public parking at the site and exiting pedestrian links through the site. There is available public transport on Barrenjoey Road that has the ability to support the proposal.
Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so what are the likely impacts on the terms of greenhouse gas emissions, operating costs and road safety?	N	The proposal is unlikely to result in changes to car distances travelled by customers, employees and suppliers as the site is located within the established commercial centre of the Newport village and therefore is already a local 'destination'. The redevelopment of the site for the purpose of commercial and mixed use development is likely to benefit from multi purpose trips to the commercial centre.
Are the significant Government investments in infrastructure or services in the area where patronage will be affected by the proposal? If so what is the expected impact?	N	The site is located within the commercial centre of Newport and has good access to public transport. The proposal is unlikely to have a negative impact on the surrounding infrastructure or services.
Will the proposal impact on land that the Government has identified as a need to protect (e.g. land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?	N	The site is currently a hardstand at grade car park and accordingly, the land does not contain any known critical habitat, threatened species or contain significant biodiversity values. Part of the site is flood affected. Council has provisions within its suite of development controls which deal with flood affected areas/sites including the Newport Commercial Centre. Detailed design solutions will be required at Development Application stage which demonstrate compliance with Council's

		requirements and which will ensure that future development at the site is designed to accord with the flood planning level.
Will the LEP be compatible/complementary with surrounding adjoining land uses? What is the impact on the amenity in the location and wider community? Will the public domain improve?	Y	The site is located in a street block within the Newport Commercial Centre. All other land parcels within the street block are zoned 3(a) (General Business "A") The proposal is compatible with the immediately adjacent land uses. Residential zoned land is located on the opposite of Foamcrest Avenue from the site; however the redevelopment of the site (post rezoning) for commercial and mixed use purposes is consistent with the remainder of the street block and the wider commercial centre. Any future development will be required to accord with general and specific development controls as set out in Council's consolidated DCP and within the locality specific Newport Village Commercial Centre Masterplan. These controls are aimed at mitigating adverse amenity impacts. Further, initial analysis of traffic and economic issues relating to the potential future development of the site for car parking and retail purposes indicate that it is likely that development of the site can be carried out without significant adverse impacts upon the location and wider community. The site currently operates as an 'at grade' asphalt public car park and its 'Special Use' zoning prohibits most other forms of development including for commercial premises and residential development. The public car park straddles a private land holding which is zoned 3(a) (General Business "A"). The subject site currently relies upon the private land for vehicle access and manoeuvring within the car park. The rezoning of the land will provide the possibility for the land to be redeveloped in an integrated manner and consistent with the remainder of the commercial centre. The rezoning of the land will not inhibit

		Council's ability in any way to retain the quantum of public car parking spaces at the site and or the ability to maintain pedestrian access across the site. The rezoning of the land will provide the potential for the site to be redeveloped in a manner that is consistent with the desired future character for the site and wider locality as detailed in the Newport Village Commercial Centres Masterplan. As a result it is considered that the proposal is likely to result in improvements to the public domain through the potential for the realisation of built form and land use strategies and goals within the Masterplan.
Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area	Y	The proposal will enable development of the site for the purpose of commercial premises where currently such development is prohibited. Hence the proposal is likely to result in increased commercial and retail floor space and increased choice and competition. Initial analysis was carried out with respect to the potential economic impacts based on the sites future redevelopment for the purpose of retail use (primarily for a supermarket) and a public car park. While this is only one potential development outcome for the site, the initial analysis (which was independently peer reviewed), indicates that redevelopment of the site for the purpose relatively intense commercial uses may be able to be carried in a manner that would not result in significant adverse impacts with regards to the economic viability of the Newport Village Commercial Centre.

B Relationship to Strategic Planning Framework

(B1) Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

City of Cities (The Metropolitan Strategy)

Released in 2005, the strategy sets the direction for Sydney's planning until 2031. The strategy addresses a number of themes ranging from employment, centres and housing, and the environment. Its actions mainly revolve around implementation via other plans, such as LEPs prepared by Councils.

There is nothing in the strategy directly pertinent to the assessment of this Planning Proposal, although the Metropolitan Strategy states that its delivery is dependent upon more detailed plans as established in sub-regional strategies.

North East Sub-regional Strategy

The Metropolitan Strategy establishes 10 sub-regions; and Pittwater is in the North East sub-region along with Manly and Warringah.

Key targets outlined in the Sub-regional Strategy for Pittwater are targets of 4,600 new dwellings and 6,000 new jobs planned for the sub-region by 2031. To this end, the planning proposal, in adding to the amount of land that would be developable for mixed used purposes (including commercial, retail, residential and community uses), contributes not only locally and also regionally to the reaching these targets. The sub-regional strategy is divided into sections addressing various planning issues. Economy and Employment, Centres and Corridors, and Housing are featured and the Proposal is considered against these sections below:

- *Employment.*

The Sub-regional Strategy outlines a target of 19,500 additional jobs for the North East subregion to 2031, with 6,000 of those jobs expected from the Pittwater LGA.

Overall the Sub-regional Strategy outlines that there is a relatively limited supply of employment lands in the North East subregion and identifies the areas of Mona Vale, North Narrabeen and Warriewood in Pittwater as locations of existing employment lands and areas for potential future expansion of employment lands.

The proposal would result in a relatively small increase in business zoned land within a recognised and well established commercial centre.

The proposal accords with Action A1 of the Sub-regional Strategy which states “*Provide suitable commercial sites and employment lands in strategic areas*”.

- *Centres and Corridors*

Newport is identified as a ‘Village’ within the Sub-regional Strategy using the Metropolitan Strategies typology.

The North East subregion has one Strategic Centre (i.e. the Major Centre of Brookvale-Dee Why). All other centres in the subregion are local centres and the subregional strategy indicates that local centres are to be managed by local councils.

As stated above, the proposal would result in a relatively small increase in business zoned land within a recognised and well established commercial centre. The proposal is strategically rational and will reinforce the commercial nature of the Newport Village Commercial Centre with an emphasis on future commercial development while still allowing for the potential of residential use in conjunction with commercial development.

The proposal accords with the Action B1 (provide places and locations for all types of economic activity across the Sydney region) Action B2 (Increase densities in centres whilst improving liveability) and Action B4 (concentrate activities near public transport) of the Sub-regional Strategy.

- *Housing*

The Sub-regional Strategy outlines a target of 17,300 additional dwellings for the North East subregion to 2031, with 4,600 of those dwellings expected from the Pittwater LGA.

The proposal would result in a relatively small increase in business zoned land within a recognised and well established commercial centre. The identification of the site by the symbol "STH" on the Multi-Unit Housing Map as proposed would allow shop-top housing at the site in accordance with

clauses 21L, 21M, 21O of the Pittwater Local Environmental Plan 1993.

The planning proposal accords with Action C1 (ensure adequate supply of land and sites for residential development), Action C2 (plan for a housing mix near jobs, transport and services) and Action C3 (renew local centres) by providing additional land within an existing Centre capable of being developed in the future for residential uses.

(B2) Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

This planning proposal is consistent with the Newport Village Commercial Centre Masterplan, which is the underlying strategic plan for the land in the Newport Commercial Centre as discussed above (A1).

In addition, the proposal is consistent with the community's vision as expressed in the Council's *Strategic Plan 2020 and Beyond*. This plan establishes five directions:

- Supporting and connecting our community
- Valuing and caring for our natural environmental
- Enhancing our working and learning
- Leading an effective and collaborative Council
- Integrating our built environment

Rezoning the Council owned land to allow for its redevelopment in a manner that maintains the existing quantum of public car parking at the site, while allowing for new mixed use development at the site commensurate with the remainder of the Newport Commercial Centre is consistent with the above five directions.

(B3) Is the planning proposal consistent with applicable state environmental planning policies?

This planning proposal is consistent with the applicable state environmental planning policies. See Appendix 2 and the discussion below.

SEPP 19 – Bushland in Urban Areas

SEPP 19 aims to protect and preserve bushland within certain urban areas for natural heritage or for recreational, educational and scientific purposes. The policy aims to protect bushland in public open space zones and reservations, and to ensure that bush preservation is given a high priority when local environmental plans for urban development are prepared (DoP, 2010).

Pittwater Council is not listed in the SEPP as an area to which the policy applies. However the SEPP was gazetted on 24 October 1986 at a time when the Pittwater local government area was part of the Warringah Shire. Therefore, the SEPP could be considered to apply to Pittwater, even though no amendments have been made to SEPP 19 to incorporate Pittwater Council into the policy since the formation of Pittwater Council on 2 May 1992. For the purpose of this assessment, we have proceeded on the basis that the policy applies to Pittwater.

There is no remnant bushland at the site and the planning proposal is considered to meet the aims and objectives of SEPP 19.

SEPP No. 32 – Urban Consolidation

The focus of this SEPP is aimed at enabling urban land which is no longer required for the purpose for which it is currently zoned or used, to be redeveloped for multi-unit housing and related development and therefore is indirectly related to the Planning Proposal.

Specifically, the objective of the Planning Proposal is to rezone the subject site from 5(a) (Special Uses "A") to 3(a) (General Business "A") to enable the redevelopment of the site consistent with the surrounding commercial centre and land uses while maintaining a public car park. It is therefore considered that there is a greater potential for the land to be developed for commercial and retail uses rather than residential uses.

Notwithstanding, the current zoning of the site prohibits use for residential purposes, while the proposed rezoning and identification of the site by the symbol "STH" on the Multi-Unit Housing Map would allow shop-top housing at the site in accordance with clauses 21L, 21M, 21O of the Pittwater Local Environmental Plan 1993.

The Planning Proposal is therefore consistent with SEPP 32 in providing the opportunity for the development of additional mixed land uses including for the purpose of residential development in a location where there is existing public infrastructure, transport and community facilities.

SEPP No. 55 - Remediation of Land

When carrying out planning functions under the Act (including undertaking LEP amendments), SEPP 55 requires that a planning authority must consider the possibility that a previous land use has caused contamination of the site as well as the potential risk to health or the environment from that contamination.

Council has considered the potential for contamination of the site as part of the preparation of the Planning Proposal.

Given the outcome of initial environmental testing and also that the land use history of the site involves its current car park use and previous residential use, Council is confident that the site is suitable, or can be remediated and made suitable, for the intended future land uses that would be permissible at the site in accordance with the proposed 3(a) (General Business "A") zoning.

SEPP (Infrastructure) 2007

The Infrastructure SEPP is not directly relevant to the Planning Proposal, although it is likely that the SEPP would be relevant to future redevelopment of the site made possible through the proposed rezoning.

In particular it is likely that future Development Applications for the redevelopment of the would involve 'traffic generating development' as defined in Clause 104 and Schedule 3 of the SEPP such as a car park for 50 or more car spaces, and or shops and commercial premises of a size and capacity of 1,000m² in area.

Such development types would require Council to refer such Development Applications to the RTA for comment.

Initial assessment of the traffic implications of future retail development at the site have been undertaken which were based upon a scenario for redevelopment of the site for the purpose of a car park and a retail development, primarily a supermarket. The conclusions of the initial traffic assessment (including a peer review) found that the local road network would be able to cater for additional traffic generated from a supermarket / retail development at the site.

It is noted that the traffic and parking scenario analysed is only one potential development outcome for the site in the event that it was to be rezoned and developed, however the analysis can give Council confidence that should the site be rezoned, then it is likely that it can be developed for mixed use purposes in the future in a manner that would not result in significant adverse impact upon the local traffic/road network.

It is proposed that further traffic and parking assessment would be undertaken following LEP Gateway determination, as part of any future Development Application as required.

The proposal is consistent with the Infrastructure SEPP.

Draft SEPP (Competition) 2010

A draft State Environmental Planning Policy has been prepared and was placed on exhibition for public comment from 27 July 2010 to 26 August 2010.

The aims of this draft SEPP are to promote economic growth and competition and to remove anti-competitive barriers in environmental planning and assessment. The new draft State Environmental Planning Policy (SEPP) proposes:

- The commercial viability of a proposed development may not be taken into consideration by a consent authority, usually the local council, when determining development applications;
- The likely impact of a proposed development on the commercial viability of other individual businesses may also not be considered unless the proposed development is likely to have an overall adverse impact on the extent and adequacy of local community services and facilities, taking into account those to be provided by the proposed development itself; and
- Any restrictions in local planning instruments on the number of a particular type of retail store in an area, or the distance between stores of the same type, will have no effect.

The provisions of the draft SEPP relate to specific Development Applications more so than the proposed rezoning of land and in this regard any future Development Application relating to the subject site will be considered against the provisions of the draft SEPP.

Notwithstanding, the proposal to rezone the subject site from 5(a) (Special Uses "A") to 3(a) (General Business "A") has also been considered against the provisions of the draft SEPP and has found to be consistent with those provisions.

The rezoning will result in a relatively minor increase in the quantum of 'business zoned' land within the wider Newport Commercial Centre and the rezoning is unlikely to have an overall adverse impact on the extent and adequacy of local community services and facilities.

No other State Environmental Planning Policies are considered relevant as summarised in the table at Appendix 2.

(B4) Is the planning proposal consistent with applicable Ministerial Directions (S117 Directions)?

This planning proposal is generally consistent with the applicable Ministerial Directions (S117 Directions). See Appendix 3.

C Environmental, social and economic impact

(C1) Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No, the Planning Proposal site is located in an existing business precinct (commercial centre) in a built up area of Newport. The Planning Proposal does not apply to land that has been identified as containing critical habitat or threatened species, populations or ecological communities, or their habitats.

(C2) Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Council's Flood Risk Map states the properties the subject of the Planning Proposal have been identified as being within a High Hazard Area, affected by a Flood Planning Level (FPL) and Probable Maximum Flood (PMF).

Council has a Flood Risk Management Policy which has been prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005. Future development will be subject to the provisions of the Policy and a flooding assessment of the site may be required.

Council's Engineer has reviewed the proposal and has confirmed that it is apparent that future development will be able to comply with flood related development controls.

Other likely environmental effects resulting from the planning proposal relate to traffic management, water management and potential impact on the amenity of adjoining residents.

It is however unlikely that the proposed amendment to the Pittwater LEP 1993 will result in development creating any environmental effects that cannot already be controlled as there are development controls within Council's suite of 'fine grain' planning provisions applying to the subject property in relation to such matters as traffic management, water management and amenity impacts. Any future development of the site will, when lodged as a DA, require assessment under Section 79C of the EP&A Act and be subject to Council's environmental development controls.

(C3) How has the planning proposal adequately addressed any social and economic effects?

Social effects

The Planning Proposal will provide an opportunity for the redevelopment of the site for land uses and activities commensurate with the surrounding Newport Commercial Centre. The proposed expansion of permissible uses and activities for the site has the potential to result in additional services and facilities which will benefit the wider community.

The above sections of this Planning Proposal demonstrate that the proposed rezoning accords with the relevant strategic planning framework and is likely to result in a net community benefit.

Economic effects

The economic effects are discussed within the Net Community Benefit Analysis.

Initial economic impact reporting relating to the potential redevelopment of the site for a one potential outcome being a supermarket, specialty retail shops and a car park (refer to Newport Commercial Centre Economic Assessment dated January 2010 and prepared by Hill PDA and Peer Review of Economic Assessment prepared by Leyshon Consulting dated April 2010) and broader economic analysis (refer to Chapter 6 in the SHOROC Regional Employment Study dated March 2008 and prepared by Hill PDA) indicate that the additional supply of commercial/retail floor space that would result from redevelopment of the site is unlikely to result in significant adverse impacts upon the economic viability of the Newport Village Commercial Centre or the viability of nearby centres.

The key positive economic effects being that the Planning Proposal will enable development of the site for the purpose of commercial premises where currently such development is prohibited. Hence the proposal is likely to result in increased commercial and retail floor space and increased

choice and competition within the Newport Village Commercial Centre and employment generation.

D State and Commonwealth interests

(D1) Is there adequate public infrastructure for the planning proposal?

There is adequate public infrastructure servicing the Newport Commercial centre and the proposed rezoning does not generate the need for additional infrastructure.

(D2) What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

At this stage of the Planning Proposal State and Commonwealth public authorities have yet to be consulted as the Gateway Determination has yet to be issued by the Minister for Planning.

This section will be completed following consultation with the State and Commonwealth Public Authorities identified in the gateway determination.

PART 4 COMMUNITY CONSULTATION

Preliminary consultation

Formal consultation with State and Commonwealth Authorities will be carried out as advised by the Department of Planning, and as proposed below.

Preliminary community consultation was undertaken with respect to rezoning the site in accordance with Council's Community Engagement Policy.

The consultation however related to a different Planning Proposal which sought to rezone the site in the same manner but with the specific stated objective and intended outcome for development of a supermarket and car park at the site (refer to discussion under the heading A3 in section 3 of this proposal).

The proposal for a rezoning for the purpose of a supermarket development at the site attracted significant objection within the community during the non-statutory notification and consultation carried out by Pittwater Council and this is summarised below:

The application was advertised between 7 September 2009 and 9 October 2009 with 1343 submissions received (1340 in objection and 3 in support). It is noted that 1019 of the 1340 objections received were in a 'pro-forma' style format

It is also noted that one of the 1340 objections had a petition attached with 2018 signatures.

Upon the amendment of the application and provision of additional information, the application was re-advertised between 28 April 2010 and 28 May 2010 with 1231 submissions received (1225 in objection and 6 in support). It is noted that 998 of the 1325 objections received were in a 'pro-forma' style format

It is also noted that one of the 6 submissions of support has a petition attached titled "*Letters From Newport Business Owners*" with signatures from the owners and / or operators of 60 businesses within Newport and 1 in Bilgola Plateau.

In total 2574 submissions were received (not including signatories to petitions). It has not been determined how many people lodged submissions in addition to signing petitions.

In addition to the notification periods outlined above a 'Public Information Session' was held (and independently facilitated) and a series of meetings were undertaken with identified 'Key Stakeholders' including the Newport Residents Association, the Newport vs Woolies Community Group, Pittwater Council Property Officer, and Woolworths Ltd representatives. It is noted that the Newport Chamber of Commerce were also invited to the Stakeholder meetings but did not attend.

The matters raised in the submissions are summarised below:

Objections raised.

- The proposal is inconsistent with the Newport Village Commercial Centre Masterplan.
- The proposal is inconsistent with controls within the Pittwater DCP 21 and the Pittwater LEP 1993.
- The proposal is inconsistent with Draft North East Draft Regional Strategy.
- The proposal is inconsistent with Section 117 Directions of the EP&A Act 1979.
- The proposal does not satisfy (or provide sufficient information to satisfy) the statutory requirements of a Planning Proposal.
- The Planning Proposal should not be considered without consideration of a DA because they are closely linked.
- Approval of the proposal effectively means approval of a future DA for a supermarket.
- There is no need for a second supermarket in Newport.
- Additional retail floor space will create over supply in Newport.
- A supermarket will negatively impact upon the viability of existing businesses within Newport.
- The economic report is inaccurate and or flawed.
- The proposal will lead to the loss of the sense of 'Village' that currently exists at Newport.
- The proposal will result in significant additional car and truck movements and will result in significant adverse impacts upon the local road network.
- Car parking should be provided below ground level (Note: The amended 'indicative concept' plans include below ground car parking).
- Additional parking is not required in Newport.
- The traffic reports submitted are inaccurate and or flawed.
- The proposal will not result in the highest and best land use of the site – for example an underground car park with public open space at ground level would be a better use of the site.
- The site should not be sold by Council.
- The site should be developed for the purpose of open space.
- The site should be developed for the purpose of 'green community space - as a focus for an off main road village centre'.
- The proposal will result in poor pedestrian outcomes in terms of safety and lack of pedestrian linkages through the site.
- The proposal will result in adverse built form/architectural outcomes.
- The proposal will result in a diminished streetscape for both Foamcrest Avenue and also to Barrenjoey Road.
- The proposal does not respond to the residential interface in Foamcrest Avenue and will result in adverse impacts to the residential amenity of nearby residential dwellings.
- Alternative proposals have not been fully or properly explored.
- The proposal will have adverse impacts upon wildlife.
- The proposal will have adverse upon existing infrastructure (roads, electricity, water sewerage and drainage).
- The proposal to rezone (and develop) the land is primarily for Council's economic and or financial purposes.
- There is concern about transparency with regard to the dealings of Council and Woolworths.
- There has been a lack of consultation with the community.

- The amended 'indicative concept drawings' do not address the issues raised in the first round of notification and submissions.

In support

- Woolworths project will upgrade 'tired' buildings and improve the streetscape.
- Woolworths project will revitalise the Newport shopping strip.
- Woolworths project will attract larger pedestrian flow to Newport shops.
- Woolworths project will draw more customers to the area that currently shop elsewhere and increase economic activity for existing small businesses.
- Woolworths project will attract new small businesses that would otherwise not come to Newport.
- There are insufficient car spaces and no loading zones at the southern end of Newport to support small businesses and the Woolworths project would help address this problem.
- The "protesters" don't speak for all small business owners in Newport.
- The amended design is considerably improved and is likely to be a good addition to Barrenjoey Road.
- Amended 'indicative concept' has addressed the majority of issues.
- The development of a Woolworths supermarket would provide choice and a balance to Coles.
- The long term benefits of a Woolworths store will outweigh the short term negative inconveniences.
- If Woolworths is unable to develop the site it will sell the land and the site will be developed for different purposes leaving the Council car park split and difficult to develop in the future.

The majority of matters raised relate to the future development of the site for the purpose of a supermarket. While recognising that the development of the site for the purpose of a supermarket is one potential development outcome, this Planning Proposal adopts a much wider strategic planning focus as detailed in the objectives and analysis in the sections above.

Further participation of the local community will be invited once the Minister for Planning has determined to commence the "Gateway" LEP process.

Proposed consultation

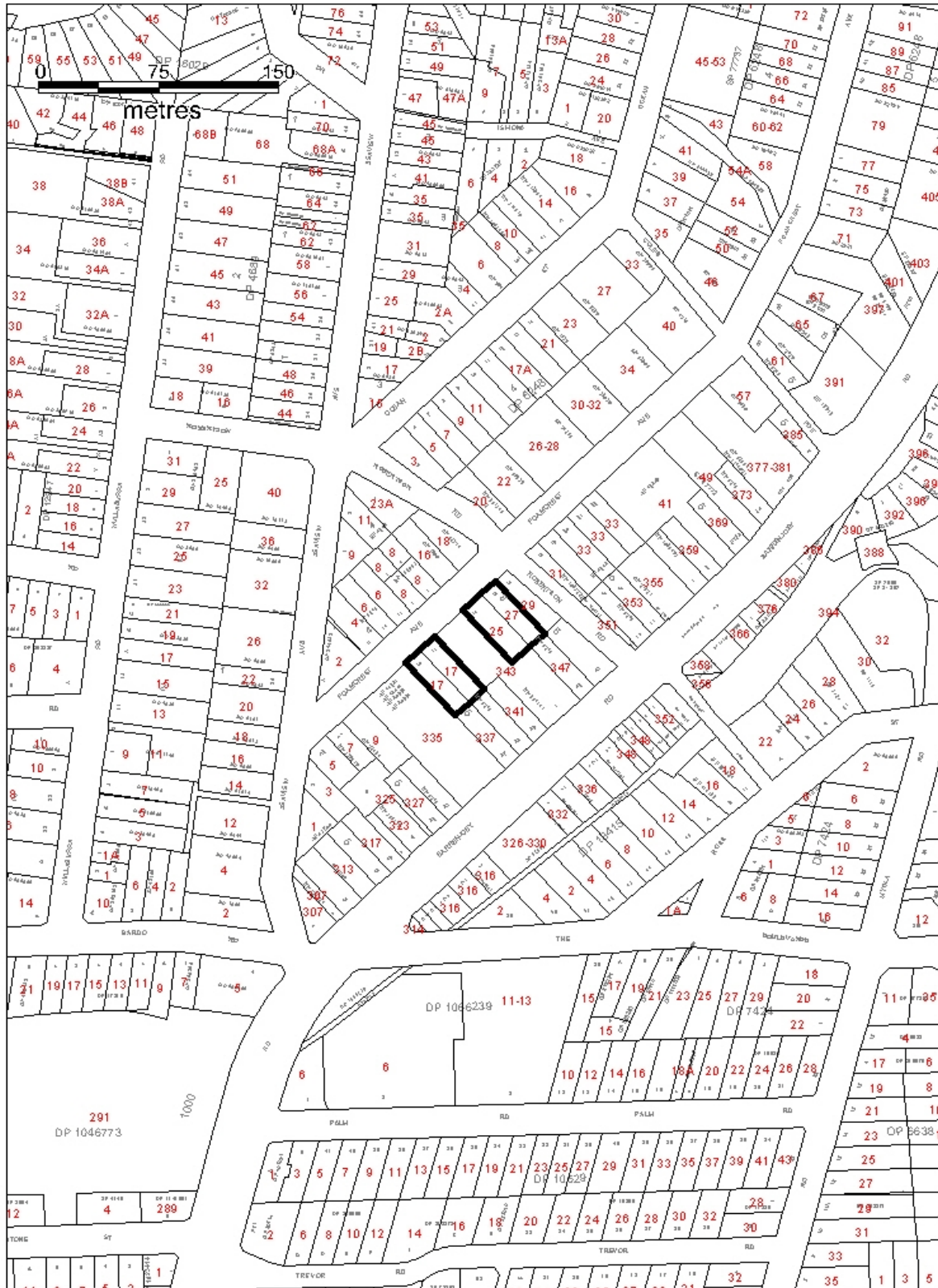
Government agencies will be formally consulted, as required by the Department of Planning. This is provided for by the Act, as part of the Department's "Gateway" assessment and decision regarding the Planning Proposal.

Further public involvement will be carried out in accordance with Council's adopted Community Engagement Policy, in the following manner:

As a minimum:

- advertising in the local newspaper and on Council's website at the start of the exhibition period
- exhibition period as required by the Gateway determination, of 14 to 28 days
- notify adjoining property owners (within a 400m radius of the subject site) and those individuals and organisations that made submissions during the preliminary consultation period.

LOCATION MAP



Location Map



Checklist - Consideration of State Environmental Planning Policies

The following SEPP's are relevant to the Pittwater Local Government Area.

Title of State Environmental Planning Policy (SEPP)	Applicable	Consistent	Reason for inconsistency
SEPP No 1 – Development Standards	NO	Not applicable	
SEPP No 4 – Development without consent...	NO	Not applicable	
SEPP No 6 – Number of Storeys in a Building	NO	Not applicable	
SEPP No 10 – Retention of Low-Cost Rental Accommodation	NO	Not applicable	
SEPP No 14 – Coastal Wetlands	NO	Not applicable	
SEPP No 21 – Caravan Parks	NO	Not applicable	
SEPP No 22 – Shops and Commercial Premises	NO	Not applicable	
SEPP No 26 – Littoral Rainforests	NO	Not applicable	
SEPP No 30 – Intensive Agriculture	NO	Not applicable	
SEPP No 32 – Urban Consolidation	YES	Yes	
SEPP No 33 – Hazardous and Offensive Development	NO	Not applicable	
SEPP No 44 – Koala Habitat Protection	NO	Not Applicable	
SEPP No 50 – Canal Estate Development	NO	Not applicable	
SEPP No 55 – Remediation of Land	YES	Yes	See below
SEPP No 62 – Sustainable Aquaculture	NO	Not applicable	
SEPP No 64 – Advertising and Signage	NO	Not applicable	

Title of State Environmental Planning Policy (SEPP)	Applicable	Consistent	Reason for inconsistency
SEPP No 65 – Design Quality of Residential Flat Development	NO	Not applicable	
SEPP No 70 – Affordable Housing (Revised Schemes)	NO	Not applicable	
SEPP (Building Sustainability Index: BASIX) 2004	NO	Not applicable	
SEPP (Exempt and Complying Development Codes) 2008	NO	Not applicable	
SEPP (Housing for Seniors or People with a Disability) 2004	NO	Not applicable	
SEPP (Infrastructure) 2007	YES	Yes	
SEPP (Major Development) 2005	NO	Not applicable	
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	NO	Not applicable	
SEPP (Temporary Structures and Places of Public Entertainment) 2007	NO	Not applicable	

SEPP 55

Preliminary environmental assessment of the site has been undertaken. The testing was undertaken with a focus on potential future development of the site for the purpose of commercial uses and the results indicate that contaminants of potential concern were not detected in fill or native soils at concentrations in excess of the assessment criteria for a commercial/industrial setting.

It is noted that it is proposed that shop top housing be permissible at the site upon rezoning the land. Given the results of the initial testing, Council can be reasonably confident that the site is suitable, or can be made suitable for the future uses of the site consistent with the proposed rezoning. It is considered that additional testing and reporting can be carried out if and when a Development Application is lodged or alternatively upon moving to the gateway process.

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

Title of deemed SEPP, being Sydney Regional Environmental Plan (SREP)	Applicable	Consistent	Reason for inconsistency
SREP No 20 – Hawkesbury-Nepean River (No 2 -1997)	NO	Not applicable	

The following is a list of the draft SEPP's relevant to the Pittwater Local Government Area.

Title of draft State Environmental Planning Policy (SEPP)	Applicable	Consistent	Reason for inconsistency
Draft SEPP (Competition) 2010	YES	Yes	

Section 117 Ministerial Directions Checklist
(Directions as per DoP website September 2010)

Table

**Compliance with Ministerial Directions, s117 Environmental Planning and
Assessment Act, 1979.**

1 Employment and Resources

	Applicable	Consistent	Reason for inconsistency
1.1 Business and Industrial Zones	YES	YES	
1.2 Rural Zones	NO	Not applicable	
1.3 Mining, Petroleum Production and Extractive Industries	NO	Not applicable	
1.4 Oyster Aquaculture	NO	Not applicable	
1.5 Rural Lands	NO	Not applicable	

2 Environment and Heritage

	Applicable	Consistent	Reason for inconsistency
2.1 Environment Protection Zones	NO	Not applicable	
2.2 Coastal Protection	NO	Not applicable	
2.3 Heritage Conservation	NO	Not applicable	
2.4 Recreation Vehicle Areas	NO	Not applicable	

3 Housing, Infrastructure and Urban Development

	Applicable	Consistent	Reason for inconsistency
3.1 Residential Zones	YES	YES	
3.2 Caravan Parks and Manufactured Home Estates	NO	Not applicable	

3.3 Home Occupations	NO	Not applicable	
3.4 Integrating Land Use and Transport	NO	Not applicable	
3.5 Development near Licensed Aerodromes	NO	Not applicable	

4 Hazard and Risk

	Applicable	Consistent	Reason for inconsistency
4.1 Acid Sulphate Soils	YES	YES	
4.2 Mine Subsidence and Unstable Land	NO	Not applicable	
4.3 Flood Prone Land	YES	NO	See below
4.4 Planning for Bushfire Protection	NO	Not applicable	

Directions 4.1 and 4.3

- (4.1) The site has a low probability of containing acid sulphate soils. The planning proposal itself does not include works. Notwithstanding, Council has in place planning provisions that ensure that any future development of the site proposed will be required to accord with the relevant development controls dealing with development on sites affected by acid sulfate soils.
- (4.3) Flooding to a high hazard classification is identified by Council's flood maps over part of the site. Despite this, and in accordance with clause 9 of Direction 4.3, the proposal is considered satisfactory, as a Flood Risk Management Policy has been prepared by Council in accordance with the principles and guidelines of the Floodplain Development Manual 2005, and future development will be subject to the provisions of the Policy and it is also considered exposure to flood risk will not change as a result of this proposal.

5 Regional Planning

	Applicable	Consistent	Reason for inconsistency
5.1 Implementation of Regional Strategies	NO	Not applicable	
5.2 Sydney Drinking Water Catchments	NO	Not applicable	
5.3 Farmland of State and Regional Significance on NSW Far North Coast	NO	Not applicable	
5.4 Commercial and Retail Development along the Pacific Hwy, North Coast	NO	Not applicable	

5.5 Development in the vicinity of Ellalong, Paxton and Millfield	NO	Not applicable	
5.8 Second Sydney Airport: Badgerys Creek	NO	Not applicable	

6 Local Plan Making

	Applicable	Consistent	Reason for inconsistency
6.1 Approval and Referral Requirements	YES	YES	
6.2 Reserving Land for Public Purposes	YES	YES	See below
6.3 Site Specific Purposes	YES	YES	See below

Directions 6.2 and 6.3

- (6.2) The proposal is not zoned as a public reserve or open space as such , notwithstanding the proposal seeks to rezone Council owned land to 3(a) (General Business “A”) from its current 5(a) (Special Uses “A”).

In accordance with the current zoning controls development of the site is limited to purposes relating to car parking and the site is currently used as an at grade public car park.

Car parking is a use/activity permitted with consent in accordance with the provisions of the 3(a) (General Business “A”) and therefore the proposed rezoning will not inhibit Council’s ability to maintain the quantum of public car spaces at the site.

As such the proposal does not represent the loss of land reserved for public purposes, rather it represents the widening of the permissible land uses and activities on Council owned land and as such the proposal accords with the objectives set out in clause 1 Direction 6.2.

- (6.3) The objective of the proposal is to enable the redevelopment of the site consistent with the surrounding commercial centre and land uses while maintaining a public car park. The site is proposed to be rezoned to 3(a) (General Business “A”) which is an existing zone within the Pittwater LEP 1993. The rezoning would enable the proposal’s objective to be realised without the need for imposing any development standards or requirements in addition to those already contained in that zone. The proposal accords with Direction 6.3.