

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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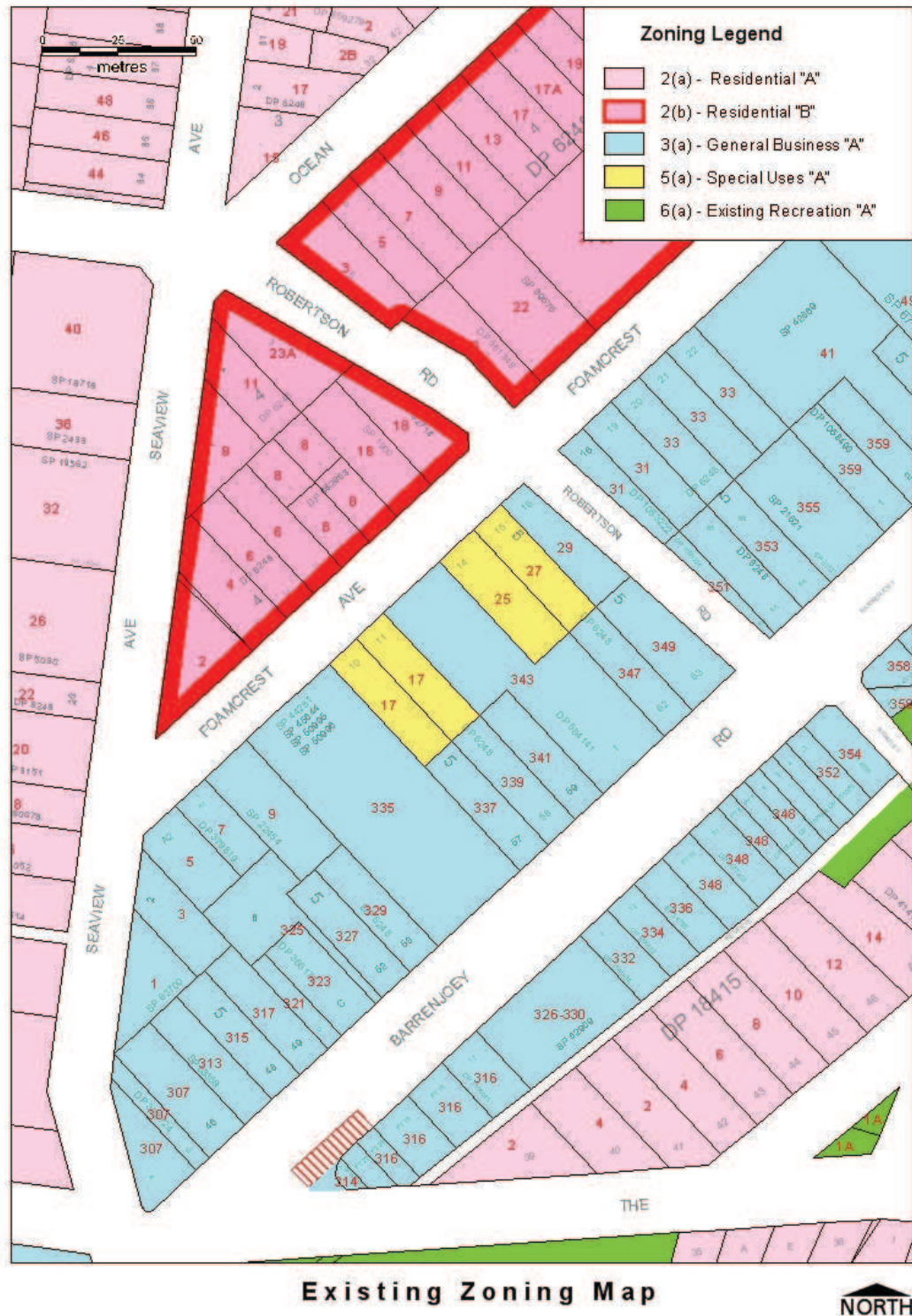
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PART 1 OBJECTIVES OR INTENDED OUTCOMES

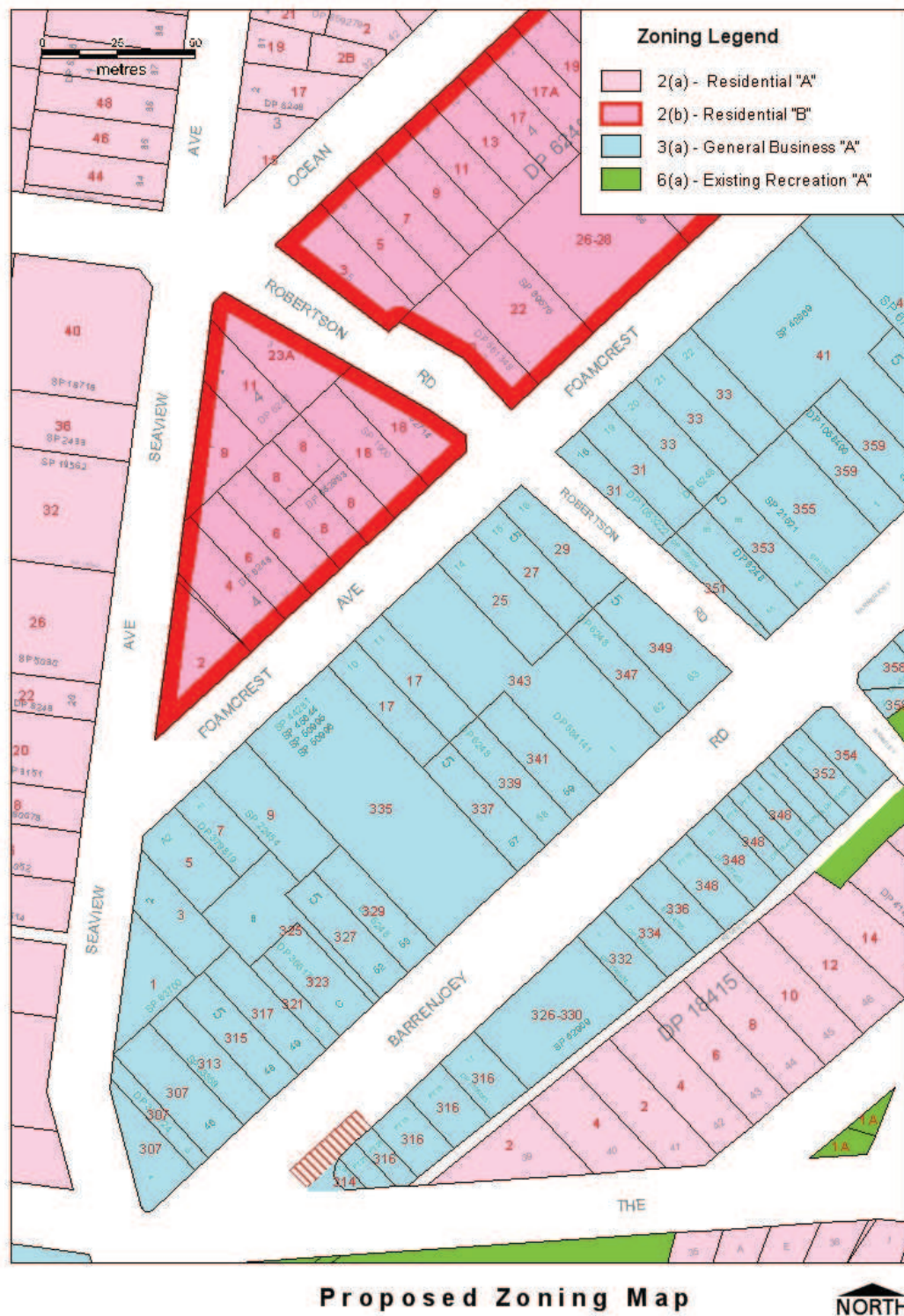
The objective of this Planning Proposal is for the rezoning of 17 and 25-27 Foamcrest Avenue Newport from its current 5(a) (Special Uses “A”) to 3(a) (General Business “A”) to enable the redevelopment of the site consistent with the surrounding commercial centre and land uses and generally consistent 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



MAP 4: Proposed Multi-Unit Housing Map



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:

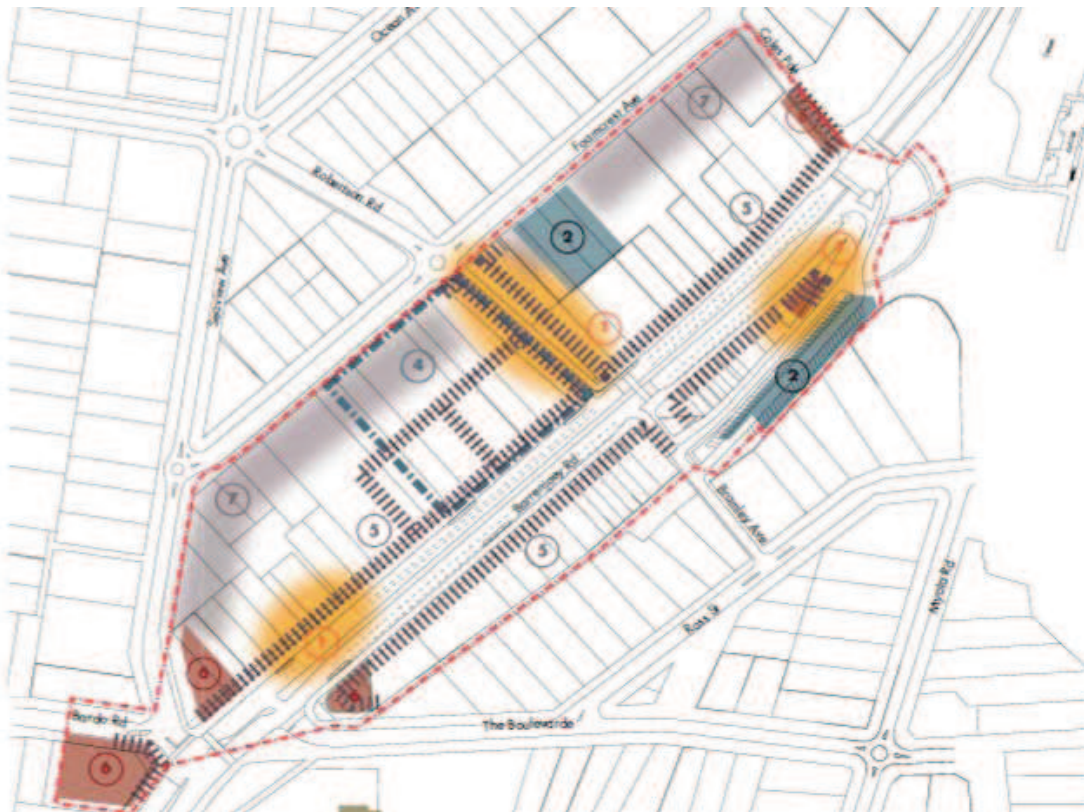
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"4.6 Land Uses

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

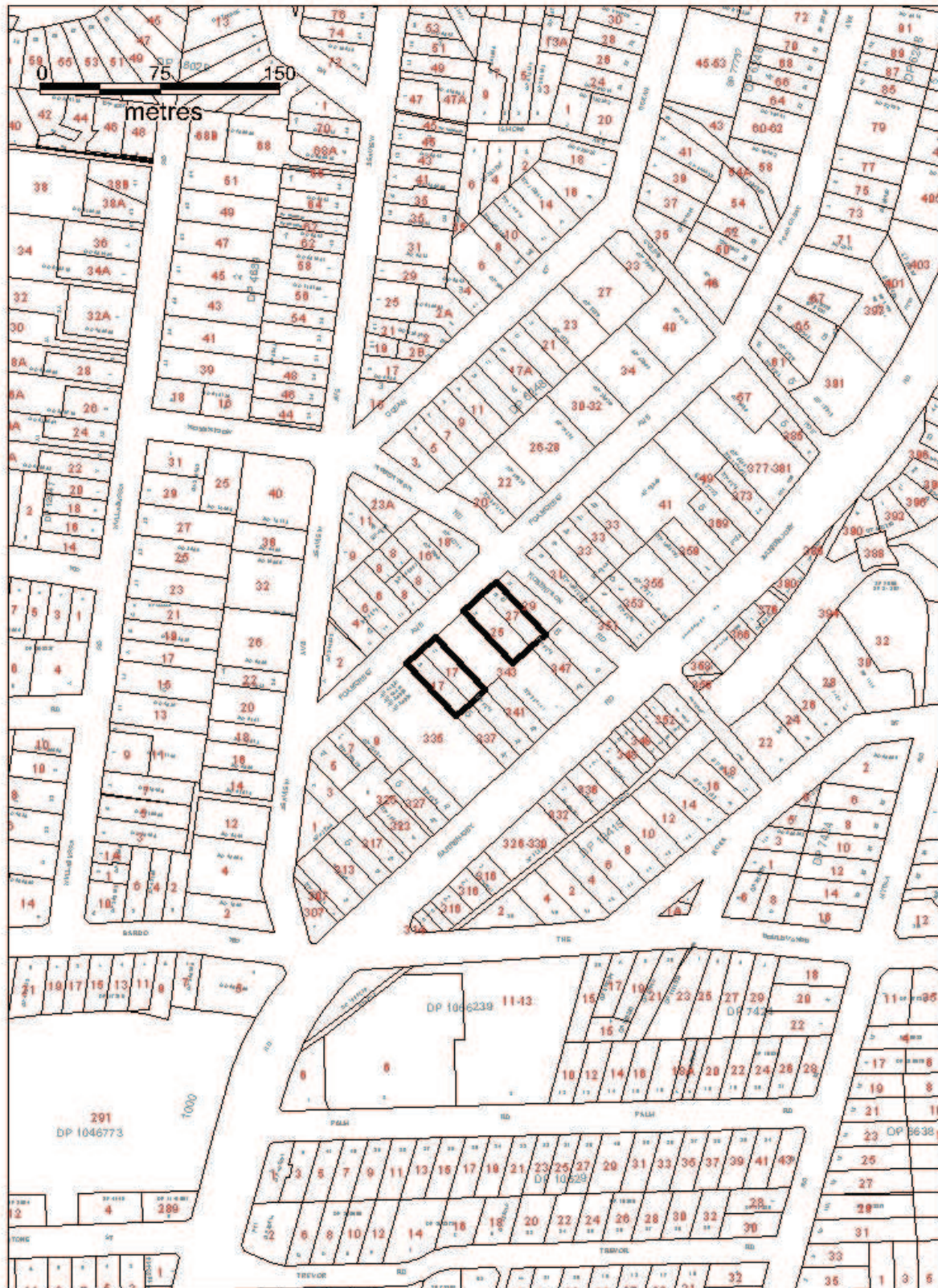
Government agencies will be formally consulted, as required by the Department of Planning. This is provided for by the Act, as part of the Department's "Gateway" assessment and decision regarding the Planning Proposal.

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.