

<b>JRPP No:</b>	2011SYE011
<b>DA No:</b>	DA2010/2089
<b>PROPOSED DEVELOPMENT:</b>	Community Title Subdivision to create 47 Lots, construction of private roads, infrastructure and transfer of land
<b>APPLICANT:</b>	Office Of Strategic Lands C/- Proust & Gardner Consulting P/L
<b>REPORT BY:</b>	Peter Robinson – Acting Director of Strategic and Development Services for Warringah Council

### Assessment Report and Recommendation

<b>Address / Property Description:</b>	Lot 5 in DP 514039, Lot 6 in DP 514039, Lot 11 in DP 244797, Lot 2 in DP 526613, Lot A in DP 347637, Lot 38 in DP 238042, Lot 39 in DP 238042, Lot 33 in DP 222330, Lot 13 in DP 587071, Lot 3 in DP 534463, Lot 12 in DP 225340, Lot 52 in DP 819308, Lot 5 in DP 260080, Forest Way, Pringle Avenue, Everton Road and Elm Avenue, Belrose
<b>Development Proposal:</b>	Community Title Subdivision to create 47 Lots, construction of private roads, infrastructure and transfer of land
<b>Development Application No:</b>	DA2010/2089
<b>Application Lodged:</b>	17/12/2010
<b>Amended Plans:</b>	YES
<b>Applicant:</b>	Office of Strategic Lands C/- Proust & Gardner Consulting P/L
<b>Owner:</b>	The Minister Administering the Environmental Planning and Assessment Act 1979, the Commissioner for Roads & Traffic Authority and the Crown
<b>Locality:</b>	C11 Belrose Road Corridor
<b>Category:</b>	Category 2 (Subdivision)
<b>Draft WLEP 2009 Permissible or Prohibited Land use:</b>	Permissible
<b>Warringah Development Control Plan:</b>	Belrose Road Corridor
<b>Draft WLEP 2009 Land Zoning:</b>	R2 Low Density Residential, E3 Environmental Management
<b>Variations to Controls (Cl.20/Cl.18(3)):</b>	NO
<b>Referred to ADP:</b>	NO
<b>Referred to WDAP:</b>	NO
<b>Referred to JRPP:</b>	YES (Constitutes a Crown Development with a Capital Investment Value greater than \$5 million)
<b>Land and Environment Court Action:</b>	NO

## SUMMARY

### Submissions:

A total of 198 submissions were received, which includes 53 duplicate / multiple submissions, 70 pro-forma submissions, 3 petitions containing a total of 35 signatures and 72 individual submissions)

### Submission Issues:

- Impact to Flora and Fauna
- Traffic
- Noise
- Flooding
- Waste / Recycling
- Bushfire Prone Land
- Open Space
- Provision of Infrastructure
- Future Development
- Accessibility of Public Transport

### Assessment Issues:

Consistency with WLEP 2000 and the Belrose Road Corridor DCP and outstanding flooding, stormwater and bushland management assessment

### Recommendation:

Refusal (outstanding assessment)

### Attachments:

List of the objectors  
Site Plan and subdivision plans

## LOCALITY PLAN (not to scale)



The subject site is denoted by crosshatching.

### Subject Site:

Lot 5 DP 514039, Lot 6 DP 514039, Lot 11 DP 244797, Lot 2 DP 526613, Lot A DP 347637, Lot 38 DP 238042, Lot 39 DP 238042, Lot 33 DP 222330, Lot 13 DP 587071, Lot 3 DP 534463, Lot 12 DP 225340, Lot 52 DP 819308, Lot 5 DP 260080, Forest Way, Pringle Avenue, Everton Road and Elm Avenue, Belrose.

**Public Exhibition:** The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan.

As a result, the application was notified to 327 adjoining land owners and occupiers (notice was sent to last known address) for a period of 14 calendar days commencing on 21/1/2011 and being finalised on 8/2/2011. Furthermore, the application has been advertised within the Manly Daily on 22/1/2011 and a notice was placed upon the site.

## SITE DESCRIPTION

The Belrose Road Corridor (the subject site) is a stretch of land approximately 8.4ha in area, approximately 1.0km in length and generally 75m in width and is comprised of various lots in actual and residual parcels acquired over time by the Minister Administering the Environmental Planning and Assessment Act 1979, the Roads and Traffic Authority of NSW for Motorway purposes and the Crown. However, the road reservation is no longer required for the purposes of an arterial road and so has been officially abandoned.

The road corridor extends from Forest Way in the east to Garigal National Park in the west.

Identification of the various lots is identified below including deposited plan and landowner.

FOLIO / LOT / DP	Land Owner
5 / 514039	Roads and Traffic Authority (RTA)
6 / 514039	Roads and Traffic Authority (RTA)
11 / 244797	MEPA *
2 / 526613	MEPA *
A / 347637	MEPA *
38 / 238042	Roads and Traffic Authority (RTA)
39 / 238042	Roads and Traffic Authority (RTA)
33 / 222330	Roads and Traffic Authority (RTA)
13 / 587071	Roads and Traffic Authority (RTA)
3 / 534463	Roads and Traffic Authority (RTA)
12 / 225340	Roads and Traffic Authority (RTA)
52 / 819308	Roads and Traffic Authority (RTA)
5 / 260080	MEPA *
Crown Road Reserve	Crown

\* Minister Administering the Environmental Planning and Assessment Act 1979.

The land is physically divided into four (4) sectors, separated by Elm Avenue, Pringle Avenue and Forest Way.

For the purposes of this report, **Sector 1** is bound by Garrigal National Park and Elm Avenue, **Sector 2** is bound by Elm Avenue and Pringle Avenue, and **Sector 3** and **Sector 4** are bound by Pringle Avenue and Forest Way.

The site is adjoined by the following:

- Forest Way to the east;
- Garigal National Park to the west;



- Residential development established generally 1960-70s, now fully housed to local roads: Willow Tree Crescent, Devere Avenue, Kew Close, Winani Close, Calool Crescent to the north;
- Residential development established generally 1960-70s, now fully housed to local roads: Kapunda Place, Birru Place, Turella Close, Maple Place, Camira Close to the south.

Currently, the subject site is vacant with areas of substantial bushland vegetation cover and open grassy areas.

Topographically, the land falls generally westerly from Forest Way at a level of 172.0 AHD at Forest Way to a level of 121.0 AHD at Garigal National Park. The gradients of each sector are as follows:

Sector	AHD	Gradient (%)
Sector 1	133.5 AHD to 121.0 AHD	4.7%
Sector 2	137.0 AHD to 128.7 AHD	3.5%
Sector 3	146.5 AHD to 135.4 AHD	6.1%
Sector 4	172 AHD to 148.4 AHD	7.1%



**Figure 1:** View of Sector 1 looking south from Elm Avenue.



**Figure 2:** View of Sector 2 looking north from Elm Avenue.



**Figure 3:** View of Sector 3 looking north from Pringle Avenue.



**Figure 4:** View of Sector 4 looking west from Forest Glen Grove.

## SITE HISTORY

The Belrose Road Corridor was originally acquired by the NSW State Government as a road reservation for the purposes of constructing an arterial roadway connection between Killeaton Street in St Ives and Forest Way in Belrose.

The Belrose Road Corridor was formally abandoned as an arterial road corridor land reservation by the Roads and Traffic Authority (RTA) in 1991 and Council has previously rejected two rezoning proposals for the land.

In August 1999, Council resolved to form a working party mediation process involving BOSCA (Belrose Open Space Corridor Association), the Department of Urban Affairs and Planning (predecessor to the Department of Planning), Roads and Traffic Authority and Council.

In July 2002, JBA Urban Planning Consultants Pty Ltd lodged an application for rezoning of the land on behalf of the NSW Department of Planning (formerly and at the time, known as Department of Infrastructure, Planning and Natural Resources (DIPNR)) proposing that the land be rezoned to allow the corridor to be developed for public open space and housing. Council subsequently resolved that the land should be retained for open space.

Two previous applications for rezoning of the land have been refused by Council, including February 1997 and October 1998.

At its meeting of 24 June 2003, Council resolved that the area be retained for open space, protected bushland and as a passive recreation area. At the Council meeting of 23 September 2003, Administrator's Minute No.4/2003 was brought forward proposing inclusion of the rezoning proposal within the draft LEP (Amendment to Warringah Local Environmental Plan 2000-Broad Review) on the basis that this would allow formal public exhibition of the rezoning proposal and that an independent consultant undertake the assessment of the rezoning application.

Following review by an independent consultant, a series of recommendations were made to Council regarding the future of the Belrose Road Corridor. On 15 September 2006, the land was subsequently rezoned by the making of Amendment 17 to WLEP 2000 with the creation of the C11 Belrose Road Corridor locality and as a new locality statement.

Prior to Amendment 17 of WLEP 2000, the land was 'deferred' from the operation of Warringah LEP 2000. Hence, it remained a road reservation under Warringah LEP 1985 until Amendment 17 was gazetted.

Amendment 17 introduced the C11 locality statement into the LEP and this is primarily a residential locality similar to other residential localities in WLEP 200, however development in the C11 locality was to be in accordance with a 'Masterplan' (now known as a DCP). Draft WLEP 2009 translates the C11 locality statement in a manner consistent with the manner in which it undertook the translation process for nearby land (eg. C1 - Middle Harbour Suburbs locality). Hence, it is proposed to be zoned (predominantly) R2 Low Density Residential under Draft WLEP 2009.

However, the 'cross hatched' areas applying to the site under Warringah LEP 2000 were proposed by Council to be zoned E2 Environmental Conservation. With certification of the Draft WLEP 2009, the Department of Planning changed the zone of the 'cross hatched' areas in the Belrose Road Corridor to E3 Environmental Management rather than E2 Environmental Conservation.

The subdivision of the Belrose Road Corridor as proposed under this application will enable the creation of residential allotments and public open space areas, which is consistent with the proposed zoning under the Draft WLEP 2009.

## **PROPOSED SUBDIVISION**

The Development Application involves the Community Title Subdivision of the existing allotments (collectively forming the Belrose Road Corridor) into 47 individual allotments and open space areas, private roads, infrastructure and eco-corridors.

As identified under the Site Description, the site comprises 4 sectors. The subdivision will be created as 4 Community Title schemes under the provisions of the Community Land Development Act 1989 and the Community Land Management Act 1989, with each sector being a separate scheme.

The Applicant's justification for the Community Title subdivision scheme is stated within the Statement of Environmental Effects as being:

*'The Community Title philosophy of the development process has emanated from Council's stated preference for private roads within the development, and from controls within WDCP Belrose Road Corridor, stating that "Council will not accept responsibility for the ongoing maintenance of water quality/detention tanks" constructed in the watercycle management process. Ongoing maintenance will consequently be the responsibility of proprietors of lots created in the subdivision process and the Community Title Scheme procedures provide the vehicle for ensuring that those responsibilities are met with full knowledge and awareness of purchasers in the marketplace.'*

### **Proposed Subdivision works by each Sector**

The proposed development in each of the 4 sectors is detailed as follows:

#### **Sector 1**

- Creation of Community Lot 1, comprising the access road and associated infrastructure;
- Creation of seventeen (17) residential allotments – Lots 2 to 18. The table below identifies the Lot areas:

<b>Lot No.</b>	<b>Site Area</b>
1 (community)	4270sqm
2 (residential)	1035sqm
3(residential)	755sqm
4 (residential)	760sqm
5 (residential)	760sqm
6 (residential)	760sqm
7 (residential)	760sqm
8 (residential)	760sqm
9 (residential)	1005sqm
10 (residential)	650sqm
11 (residential)	600sqm
12 (residential)	600sqm
13 (residential)	600sqm
14 (residential)	600sqm
15 (residential)	600sqm
16 (residential)	615sqm
17 (residential)	615sqm
18 (residential)	630sqm

- Construction of the access road and associated infrastructure for the residential lots.

#### **Sector 2**

- Creation of Community Lot 1 comprising the access road and associated infrastructure;
- Creation of ten (10) residential allotments – Lots 2 to 11. The table below identifies the Lot areas:

<b>Lot No.</b>	<b>Site Area</b>
1 (community)	1430sqm
2 (residential)	900sqm
3 (residential)	630sqm
4 (residential)	780sqm

<b>Lot No.</b>	<b>Site Area</b>
5 (residential)	650sqm
6 (residential)	905sqm
7 (residential)	935sqm
8 (residential)	600sqm
9 (residential)	600sqm
10 (residential)	605sqm
11 (residential)	665sqm
<b>12 (public reserve)</b>	<b>7345sqm</b>

- Transfer of Lot 12 to Council as public reserve;
- Construction of the access road and associated infrastructure.

### **Sector 3**

- Creation of Community Lot 1 comprising the access road and associated infrastructure;
- Creation of eleven (11) residential allotments – Lots 2 to 12. The table below identifies the Lot areas:

<b>Lot No.</b>	<b>Site Area</b>
1 (community)	2645sqm
2 (residential)	705sqm
3 (residential)	770sqm
4 (residential)	840sqm
5 (residential)	840sqm
6 (residential)	840sqm
7 (residential)	840sqm
8 (residential)	840sqm
9 (residential)	840sqm
10 (residential)	840sqm
11 (residential)	830sqm
12 (residential)	1425sqm
<b>13 (drainage reserve)</b>	<b>3000sqm</b>

- Transfer of Lot 13 to Council as drainage reserve;
- Construction of the access road and necessary infrastructure.

### **Sector 4**

- Creation of Community Lot 1 comprising the access road and associated infrastructure;
- Creation of nine (9) residential allotments – Lots 2 to 10. The table below identifies the Lot areas:

<b>Sector 4 Lot No.</b>	<b>Site Area</b>
1 (community)	2575sqm
2 (residential)	695sqm
3 (residential)	810sqm
4 (residential)	775sqm
5 (residential)	1795sqm
6 (residential)	1840sqm
7 (residential)	985sqm
8 (residential)	800sqm
9 (residential)	1260sqm



Sector 4 Lot No.	Site Area
10 (residential)	2570sqm
<b>11 (public reserve)</b>	<b>1.424ha</b>

- Transfer of Lot 11 to Council as public reserve;
- Construction of the access road and necessary infrastructure.

### **Other Proposed Works**

The application also proposes the general site clearing, revegetation, rehabilitation and regrading together with:

- installation of necessary stormwater management works;
- soil and water management works;
- road works and associated drainage;
- creation of necessary easements and restrictions-as-to-user;
- landscaping works including:
  - street tree planting;
  - corridor planting;
  - basin planting;
  - restoration / revegetation
- provision of utility services, including:
  - sewer;
  - water;
  - electricity;
  - telecommunications;
  - gas

### **AMENDMENTS TO THE PLANS**

On 8/4/2011 Council received amended subdivision plans relating to Sector 4. The amendments include a re-configuration of the location of the pedestrian pathway, removing it from within the proposed eco-corridor and relocation to be within the drainage corridor (Lot 1). The relocation of the pedestrian pathway subsequently results in the redistribution of allotment sizes (detailed above).

On 13/4/2011 Council received amended stormwater drainage plans relating to Sector 1, Sector 2, Sector 3 and Sector 4. The amendments to the stormwater drainage are in response to Council's Natural Environment Unit and Development Engineers referral comments (see discussion under the Referrals section of this report).

### **STATUTORY CONTROLS**

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulations 2000;
- Rural Fires Act 1997;
- State Environmental Planning Policy – Infrastructure;
- State Environmental Planning Policy No. 55 – Remediation of Land;
- Warringah Local Environmental Plan 2000;
- Warringah Development Control Plan - Notification;
- Warringah Development Control Plan – Belrose Road Corridor;
- Section 94A Developer Contributions Plan; and
- Draft Warringah Local Environmental Plan 2009.

## PUBLIC EXHIBITION

The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan.

As a result, the application was notified to 327 adjoining land owners and occupiers (notice was sent to last known address) for a period of 14 calendar days commencing on 21/1/2011 and being finalised on 8/2/2011. Furthermore, the application has been advertised within the Manly Daily on 22/1/2011 and a notice was placed upon the site.

### Submission Numbers:

Submissions	Quantity
Total received	198
Duplicate / Multiple	53
Proforma	70
Petition	3 containing a total of 35 signatures
Total individual submissions received	72

### Submission Respondents:

Submissions were received from the following respondents:

Name	Address
Wotherspoon, G	Address withheld
Miller, S	Address withheld
Collins, D	No.4 Birru Place, Belrose
Raye, W	No.5 Birru Place, Belrose
Sharpe, A	No.77 Brighton Street, Curl Curl
Seak, J *	No.2 Calool Crescent, Belrose
Wheeler, V *	No.7 Calool Crescent, Belrose
McLean, A *	No.13 Calool Crescent, Belrose
Sun, J (x2) *	No.15 Calool Crescent, Belrose
De Sousa, V *	No.17 Calool Crescent, Belrose
Lavery, G *	No.21 Calool Crescent, Belrose
Baldwin, L & D *	No.23 Calool Crescent, Belrose
Unknown *	No.1 Camira Close, Belrose
Owens, G & J (x2) *	No.2 Camira Close, Belrose
Kenny, V *	No.3 Camira Close, Belrose
Jarvis, L *	No.4 Camira Close, Belrose
Vialshaw, M *	No.5 Camira Close, Belrose
Garvey, J *	No.6 Camira Close, Belrose
Smith, W *	No.7 Camira Close, Belrose
Prassopoulos, K & C (x2) *	No.8 Camira Close, Belrose
Lloyd, R & J	No.9 Camira Close, Belrose
Keoroghlyan, H *	No.11 Camira Close, Belrose
Wall, D & L (x2) *	No.12 Camira Close, Belrose
Turnbull, M	No.13 Camira Close, Belrose
Browne, J *	No.14 Camira Close, Belrose
Felice, J *	No.15 Camira Close, Belrose
Kelstem, S & R (x2) *	No.17 Camira Close, Belrose
Karakeuzian, S *	No.18 Camira Close, Belrose
Smith, A & M (x3) *	No.4 Devere Avenue, Belrose
Burlet, L & K (x2)	No.10 Devere Avenue, Belrose
Morse, H	No.14 Devere Avenue, Belrose
Fordred, C & M	No.15 Devere Avenue, Belrose
Callaghan, C (x2)	No.16 Devere Avenue, Belrose
Treichel, L (x2)	No.19 Devere Avenue, Belrose
Belrose Open Space Corridor Association (x2)	c/o 18 Everton Road, Belrose

Name	Address
Hodgson, N	No.17 Fitzpatrick Avenue East, Frenchs Forest
Gotting, B	No.32 Forest Glen Crescent, Belrose
Brown, H & R & Jacquet, P (x3)	No.34 Forest Glen Crescent, Belrose
Shaw, B (x2)	No.38 Forest Glen Crescent, Belrose
Muir, R & P	No.40 Forest Glen Crescent, Belrose
Price, G *	No.30 Haigh Avenue, Belrose
Morrison, E *	No.34 Haigh Avenue, Belrose
Bucheron, D *	No.36 Haigh Avenue, Belrose
Woods, K (also signatory to petition)	No.2 Hews Parade, Belrose
Mohr, Susan	No.30 Holland Crescent, Frenchs Forest
Leslie, A	No.8 Kapunda Place, Belrose
Antcliffe, R *	No.1 Kew Close, Belrose
Kennedy, G *	No.2 Kew Close, Belrose
McGee, T *	No.4 Kew Close, Belrose
Thomson, L *	No.5 Kew Close, Belrose
Jones, C *	No.6 Kew Close, Belrose
Legros, C *	No.7 Kew Close, Belrose
Neale, R *	No.8 Kew Close, Belrose
Fisher, M (x2) *	No.37 King Street, Manly Vale
Parish, S *	No.1 Maple Place, Belrose
Banbury, L *	No.4 Maple Place, Belrose
Henson, S & P (x2)	No.6A Maple Place, Belrose
Stream, J *	No.8 Maple Place, Belrose
Marnoch, I *	No.9 Maple Place, Belrose
Paulsen, E	No.6 Marina Place, Belrose
Pessignon, I	No.114 Pringle Avenue, Belrose
Gibbs, M	No.withheld, Pusan Place, Belrose
Maddock, N & D (x2)	No.10 Stinson Place, Forestville
Bennet, R & Davis, M (x2) *	No.10 Stroud Place, Belrose
Muir, T	No.2 Turella Close, Belrose
Ramsay, W	No.3 Turella Close, Belrose
Hogg, P (x2)	No.6 Turella Close, Belrose
Clegg, S (x3)	No.3 Undula Place, Belrose
Melhuish, N *	No.8 Wanaka Place, Belrose
Paduicono, S *	No.5 Wallina Avenue, Belrose
Mihelic, P *	No.8 Wallina Avenue, Belrose
Bashford, P & Sykes, J (x2) *	No.9 Wallina Avenue, Belrose
Junghan, R & S (x2) *	No.10 Wallina Avenue, Belrose
Casey, C *	No.11 Wallina Avenue, Belrose
Nielsen, D *	No.5 Wanniti Road, Belrose
Gardiner, J (x2) *	No.7 Wanniti Road, Belrose
Roberts, S & M (x4) *	No.9 Wanniti Road, Belrose
Wines, J *	No.11 Wanniti Road, Belrose
James, S & B & C (x3) *	No.12 Wanniti Road, Belrose
Unknown *	No.16 Wanniti Road, Belrose
Bastford, A *	No.13 Wanniti Road, Belrose
Elston, E *	No.17 Wanniti Road, Belrose
Buchanan, R	No.29 Willow Tree Crescent, Belrose
Joy, P	No.39 Willow Tree Crescent, Belrose
Ates, K *	No.1 Winani Close, Belrose
Hastings, G *	No.2 Winani Close, Belrose
Stephens, P	No.3 Winani Close, Belrose
Coyle, A (x2) *	No.4 Winani Close, Belrose
<b>Petitions</b>	
Containing 6 signatures Smith, W	No.40 Haigh Avenue, Belrose
Containing 2 signatures Cunningham, G	No.3 Birru Place, Belrose
Containing 27 signatures Woods, L	No.2 Hews Parade, Belrose

\* Denotes pro-forma submissions.

Discussion of the relevant issues raised in the submissions received is provided as follows:

**i) Impact on Flora and Fauna**

The following specific concerns have been raised in relation to the impact on flora and fauna as a result of the proposed development:

- Destruction of natural bushland;
- Destruction of wildlife habitats and corridors;
- Loss of tree preservation;
- Destruction of native vegetation;
- Destruction of wildlife food source.

**Response:** The DCP notes that the Belrose Road Corridor is environmentally sensitive with respect to flora and fauna and contains specific provisions in relation to providing eco-corridors, a Bushland Management Plan, revegetation and landscape plans and details of fencing which is to allow for the movement of fauna.

At the time of writing this report, referral comments and or conditions from Council's Natural Environment Unit were outstanding due to the required assessment of additional information, submitted in response to the initial referral comments from Council's Natural Environment Unit. In this regard, a complete and thorough assessment cannot be completed.

To this effect, the incomplete assessment warrants the refusal of this application.

**ii) Traffic Impacts**

The following specific concerns have been raised in relation to traffic impacts on surrounding roads as a result of the proposed development:

- An increase in the volume of traffic flow;
- Necessity for traffic control measures;
- Necessity for road safety measures;
- Increased demand for on-street and visitor parking; and
- Safety concerns relating to new access roads.

**Response:** Council's Traffic Engineer has reviewed the proposed subdivision and has raised no objections or concerns with regards to traffic generation or impacts. Conditions of consent have been recommended for imposition by Council's Traffic Engineer, which will ensure appropriate traffic management measures are implemented.

The DCP contains specific provisions for new roads (location and design standards) and requires a Traffic Impact Assessment to determine compliance with the DCP and the impact on existing local roads.

Accordingly, this submission issue does not warrant further amendments or refusal of this application.

**iii) Noise Impacts**

The following specific concerns have been raised in relation to the impact of noise generation on the acoustic amenity of the locality as a result of the proposal:



- An overall increase in noise emissions due to additional housing;
- Impacts due to increased vehicle movements at night;
- Increase in acoustic impacts from household entertainment and recreational uses such as swimming pools; and
- Increase in acoustic impact from pet noise.

**Response:** This application relates to the residential subdivision of the land only. While the subdivision will introduce additional residential housing in the locality, the subdivision will maintain a residential land use, consistent with the established locality and as such, will not introduce the potential for excessive noise generation above that reasonably associated within a residential locality.

The Warringah DCP – Belrose Road Corridor also restricts any future residential allotments within the Belrose Road Corridor from the keeping of domestic animals such as cats and dogs.

Accordingly, this submission issue does not warrant further amendments or refusal of this application.

#### **iv) Flooding Issues**

The following specific concerns have been raised in relation to the impacts of flooding as a result of the proposal:

- Insufficient flood impact management;
- An increase in overland flow of stormwater;
- Inadequate stormwater drainage / disposal;
- Insufficient management of stormwater from Corridor Creek which is a creek and not a ditch drain; and
- Insufficient concern and regard for development within flood prone land.

**Response:** The DCP contains specific requirements with respect to flooding, including the provision of flood mitigation measures. In this regard, the accompanying stormwater drainage plans have been referred to Council's Natural Environment Unit and Development Engineers.

At the time of writing this report, referral comments and/or conditions from Council's Natural Environment Unit and Development Engineers are outstanding due to the required assessment of additional information submitted late in the processing of the application in response to the initial referral advice from Council's Natural Environment Unit. In this regard, a complete and thorough assessment cannot be undertaken. To this effect, the incomplete assessment warrants the refusal of this application at this stage.

#### **v) Waste / Recycling**

The following specific concerns have been raised in relation to waste and recycling as a result of the proposal:

- Insufficient accessibility for waste collection vehicles;
- Visual impacts from the storage and location of collection bins which will be left in surrounding streets; and
- Insufficient management of general street amenity.

**Response:** Council's Waste Officer has reviewed the proposed subdivision and has raised no objections to the provision for waste collection services and facilities for the future allotments. Conditions of consent have also been recommended to facilitate improved internal manoeuvrability of waste collection vehicles within each Sector.

Accordingly, this submission issue does not warrant further amendments or refusal of this application.

**vi) Bushfire Prone Land**

The following specific concerns have been raised in relation to bushfire prone land, state of the land and the proposed subdivision:

- An increase in the bushfire fuel load;
- Insufficient access for fire fighting vehicles and personnel;

**Response:** Council's certified Bushfire Prone Land Map indicates that the western most portion of Sector 1 (adjoining Garigal National Park) is within the 'Buffer Zone'.

It is noted that the DCP acknowledges that certain areas of the Belrose Road Corridor are bushfire prone and calls for a Bushfire Hazard Assessment to be undertaken and Asset Protection Zones (APZ's) identified in the subdivision design.

The Bushfire Assessment Report prepared by Advanced Bushfire Performance Solutions, dated November 2010, concludes that the proposed subdivision is satisfactory with regards to achieving compliance with the requirements of the NSW Rural Fire Service publication 'Planning for Bushfire Protection 2006' (PBP 2006).

Further, the NSW Rural Fire Service has reviewed the proposed subdivision and has raised no objections subject to conditions as provided in their General Terms of Approval which will ensure compliance with PBP 2006.

Accordingly, this submission issue does not warrant further amendments or refusal of this application.

**vii) Open Space Issues**

The following specific concerns have been raised in relation to the impact on the provision of open space as a result of the proposal:

- A loss of existing public open space for recreational purposes;
- Insufficient provision for future public open space.

**Response:** The Warringah Development Control Plan – Belrose Corridor (DCP – Belrose Corridor) requires a minimum of 3.0ha of the Belrose Road Corridor to be dedicated as public open space. The subdivision creates three (3) separate areas of public open space with a combined total of 3.4540 hectares.

These areas will be transferred to Council at no cost as public open space and in this regard, the proposal satisfies the open space requirements of the DCP – Belrose Road Corridor.

Accordingly, the submission issue is not supported and does not warrant refusal of the application.

#### **viii) Provision of Infrastructure**

The following specific concerns have been raised in relation to the provision of infrastructure for the development:

- There is insufficient provision within the subdivision design for future infrastructure;
- The subdivision will result in increased demands on the existing infrastructure in the locality.

**Response:** The subdivision proposes the installation of all necessary infrastructure, including, stormwater drainage and utility services such as gas, water, sewerage, electricity and telecommunications.

The NSW Office of Water and Energy Australia have both reviewed the proposed subdivision and have raised no objections to the development, subject to conditions to ensure protection of existing infrastructure.

Should this application be recommended for approval, conditions of consent will also be imposed to ensure that each allotment is serviced by individual connection to utility services, prior to the issue of any Subdivision Certificate.

Accordingly, this submission issue does not warrant further amendments or refusal of this application.

#### **ix) Future development on new lots**

The following specific concerns have been raised in relation to the impact of future development on the proposed new lots:

- Potential for multi-purpose or commercial development due to inconsistencies in the proposed allotment sizes;
- An impact on existing house values of surrounding properties due to the excessive bulk and scale of future dwellings.

**Response:** This application proposes the subdivision of the Belrose Road Corridor only and hence the creation of new housing lot, but does not propose the construction of any dwellings.

While there are allotments proposed of varying sizes, this is reflective of both the subdivision responding to site constraints such as topography and land shape, configuration and placement of access roads and the eco-corridors / creek, and the response to providing variety and housing affordability based on land sizes.

The C11 - Belrose Road Corridor locality statement in WLEP 2000 envisages detached style housing, and this is translated in Draft WLEP 2009 as the R2 Low Density Residential zoning. Commercial land uses are prohibited in the R2 Low Density Residential zoning, similar to the surrounding residential areas.

The suitability of future development on each allotment in terms of its visual impacts, compatibility of development within the streetscape and impacts in relation to amenity and privacy will be considered during the assessment of the Development Applications for each individual allotment. However, a review of the lot sizes and shapes, and potential building areas on each lot demonstrates that such issues can be resolved at the Development Application stage for new dwellings. In other words,

the lots are capable of being developed in accordance with the WLEP 2000 and the DCP.

Accordingly, this submission issue does not warrant further amendments or refusal of this application.

**x) Accessibility of Public transport**

The following specific concerns have been raised in relation to accessibility of public transport for the new residential development:

- Increased demand on public transport in an area which is currently inadequately serviced.

**Response:** The subject site is surrounded by an established residential locality which is currently serviced by, and has access to, public transport services. The proposed pedestrian connectivity within each sector and to public roads facilitates efficient pedestrian access between Garigal National Park and Forest Way and enables adequate connectivity of the pedestrian access network to public transport.

Further, each of the 4 sectors has direct connectivity to the existing arterial and sub-arterial road network.

Accordingly, this submission issue does not warrant further amendments or refusal of this application.

**MEDIATION**

Mediation has not been requested by the objectors in relation to this application.

**LAND AND ENVIRONMENT COURT ACTION**

No Land and Environment Court action has been taken in relation to this application at the time of writing this report.

**REFERRALS**

A summary of the relevant comments is provided as follows:

**Integrated Development Referrals**

**a) Rural Fire Service**

The site is partially located within an identified Bushfire Prone Area (Sector 1) adjoining Garigal National Park. In this regard, as the application proposes the subdivision of land, the proposed subdivision constitutes integrated development and requires a Bushfire Safety Authority under s100B of the Rural Fires Act 1997, being a 'special fire protection purpose'.

The NSW Rural Fire Service have reviewed the application and raised no objections to the proposed subdivision. The comments and recommendations of the NSW Rural Fire Service are provided within their General Terms of Approval which will be incorporated into the draft conditions of consent, if this application is recommended for approval.



**b) Department of Environment Climate Change and Water (NSW National Parks and Wildlife Service)**

The subject application was referred to the NSW National Parks and Wildlife Service (NPWS) as part of the site (western end of Sector 1) adjoins National Park.

The NPWS provided the following comments for inclusion in the conditions of consent should the application be recommended for approval:

- a) No stormwater is permitted to enter the adjacent National Park from the site at any time during construction or post construction;
- b) No sediment or soil is permitted to enter the adjacent National Park from the site at any time during construction or post construction;
- c) No material of any kind is to be deposited in the adjacent National Park at any time;
- d) Prior written approval of NPWS Northern Beaches Area Office must be obtained prior to the construction of any retaining wall at the National Park boundary;
- e) Vegetation and soil within the adjacent National Park must not be disturbed without prior written approval of NPWS Northern Beaches Area Office;
- f) Any spill or wastes, spoil or sediments into the adjacent National Park must be reported to NPWS Northern Beaches Area Office within 24 hours.

Accordingly, the above requirements will be incorporated into the draft conditions of consent, should the application be recommended for approval.

**c) NSW Office of Water**

The application constitutes 'integrated development' under the Water Management Act 2000 and requires a 'Controlled Activity Approval' from the NSW Office of Water. In this regard, the Development Application was referred to the NSW Office of Water under section 91A(3) of the *EPAA 1979* for the issuance of their General Terms of Approval.

The NSW Office of Water have raised no objection to the proposed development, and provided the following requirements for inclusion in the conditions of consent should the application be recommended for approval:

- a) The NSW Office of Water should be notified if any plans or documents are amended and these amendments significantly change the proposed development or result in additional 'works' on waterfront land (ie in or within 40 metres from top of highest bank of a watercourse, foreshore, or lake). Once notified, the NSW Office of Water will ascertain if the amended plans require review or variation/s to the GTA. This requirement applies even if the proposed 'works' are part of Council's proposed consent conditions and the 'works' do not appear in the original documentation.
- b) The NSW Office of Water is to be notified if Council receives an application to modify the consent conditions. Failure to notify may render the consent invalid.
- c) The NSW Office of Water requests notification of any legal challenge to the consent.

- d) A Construction Certificate must not be issued over any part of the site requiring a Controlled Activity Approval until a copy of the Approval issued by the NSW Office of Water has been provided to Council.

### ***Other External Referrals***

#### **a) Energy Australia**

The application was referred to Energy Australia under the provisions of Clause 45(2) of State Environmental Planning Policy (Infrastructure) 2007.

No objection was raised to the proposed development, subject to standard conditions of consent which will be incorporated into the draft conditions of consent should this application be recommended for approval.

#### **b) Aboriginal Heritage Office**

The application was referred to the Aboriginal Heritage Office as the Belrose Road Corridor is identified by Council's GIS data as having an extremely high Aboriginal archaeological potential.

The Aboriginal Heritage Office stated that there are known Aboriginal sites in the Belrose area and that several sites are recorded in the immediate vicinity of the subject site. The Aboriginal Heritage Office has also stated that there is a high potential for the presence of unrecorded sites.

Given the high archaeological potential and the number of recorded Aboriginal sites in the area, the Aboriginal Heritage Office have recommended that a full and comprehensive Aboriginal Heritage Assessment be carried out for the site by a qualified Aboriginal heritage professional.

The DCP contains specific requirements with respect to Aboriginal heritage. In this regard, conditions of consent are recommended, requiring the submission of an Aboriginal Heritage Assessment report should this application be recommended for approval.

### ***Internal Referrals***

#### **a) Development Engineers**

At the time of writing this report, referral comments and/or conditions from Council's Development Engineers are outstanding due to the required assessment of additional information which was submitted by the applicant late in the processing of this application, in response to the initial referral advice from the Development Engineers.

In this regard, a complete and thorough assessment has not been undertaken and to this effect, the incomplete assessment warrants the refusal of this application at this stage.

#### **b) Environmental Health and Protection**

The application was referred to Council's Environmental Health and Protection department for review as the subject site has the potential for being contaminated.

In this regard, the Environmental Site Assessment and Remedial Action Plan were referred to Council's Environmental Health and Protection department who raised no objections to the proposed development subject to conditions of consent which will be imposed should this application be recommended for approval.

**c) Landscape Officer**

The application was referred to Council's Landscape Officer for review as the subdivision proposes the removal of trees.

Council's Landscape Officer raised no objections to the proposed tree removal and the installation of new landscape planting as indicated on the landscape plans, subject to conditions of consent and the satisfactory review by Council's Natural Environment Unit for the removal of vegetation which may have specific environmental values.

**Comments:** The comments received from Council's Landscape Officer have been addressed throughout this report.

**d) Natural Environment Unit**

At the time of writing this report, referral comments and/or conditions from Council's Natural Environment Unit are outstanding due to the required assessment of additional information which was submitted by the applicant late in the processing of the DA. This information was in response to the initial referral advice received from the Natural Environment Unit.

In this regard, a complete and thorough assessment cannot be undertaken and to this effect, the incomplete assessment warrants the refusal of this application at this stage.

**e) Parks, Reserves and Foreshores**

At the time of writing this report, referral comments and/or conditions from Council's Parks, Reserves and Foreshores are outstanding.

In this regard, a complete and thorough assessment cannot be undertaken and to this effect, the incomplete assessment warrants the refusal of this application at this stage.

**f) Strategic Planning**

The application was referred to Council's Strategic Planning department for assessment of the proposed development against the strategies applicable to the Belrose Road Corridor including the DCP.

Council's Strategic Planning department provided the following comments:

*'The proposed subdivision of land to create 47 residential lots, together with a minimum of 3 lots comprising (in combination) a minimum of (approx.) 3ha of land to be dedicated to Council (at no cost to Council) for the purposes of public open space, is generally consistent with Warringah LEP 2000 and Warringah Development Control Plan – Belrose Road Corridor.*

*The above position is subject to Development Assessment being satisfied that the application provides for development that will maintain an appropriate level of compliance with the detailed controls within both Warringah LEP 2000 and Warringah DCP – Belrose Road Corridor.*

*In this regard, Strategic Planning makes the following specific comments:*

**a) Public open space and Bushland Management Plan**

*The location and size of land proposed to be dedicated to Council as public open space is generally in accordance with the Warringah DCP – Belrose Road Corridor.*

*Strategic Planning notes that in total, the land proposed to be dedicated to Council exceeds the minimum areas identified in the DCP.*

*It also notes that in Sector 3, proposed Lot 13, DP 587071 is to be dedicated to Council. This portion of land to be dedicated as public open space is shifted slightly (relative to DCP Figure 1) to the east. Strategic Planning raises no concerns in relation to this minor variation to the DCP provisions because:*

- the proposed open space parcel captures more of the ‘vegetation to be retained’ (see DCP Figure 4);*
- the area of proposed open space is larger than that identified by the DCP;*
- the ‘vegetation to be retained’ at the western extent of the sector 3 public open space will be largely contained within the eco corridor and the community lot.*

**b) Ecological corridor**

*The location and width of land proposed to function as the ecological corridor is generally in accordance with Warringah LEP 2000 and Warringah DCP – Belrose Road Corridor.*

*However, Strategic Planning notes:*

- 1. In Sector 3, proposed Lot 13 will contain both the ecological corridor and a drainage reserve. The DA proposes that the drainage reserve will be dedicated to Council. Both the location of the ecological corridor and the use of the land for drainage are consistent with Warringah LEP 2000 and Warringah DCP – Belrose Road Corridor and Strategic Planning raises no concerns in this regard.*

*However, Development Assessment is to ensure that the appropriate operational areas of Council agree to the dedication of this land as a drainage reserve as, in so doing, Council will be accepting responsibility for the on-going maintenance of both the drainage infrastructure and riparian vegetation (ecological corridor function of the land).*

*These comments are made on the basis that Strategic Planning is of the understanding that the proposed pedestrian access way that is to be located between the new access road (in Sector 3) and the proposed drainage reserve will be located wholly outside of the 10m wide ecological corridor. Should this not be the case, Strategic Planning does not support this location of the pedestrian access within the 10m wide ecological corridor as this will reduce the width of site available for the intended corridor purpose.*

- 2. In sector 4, Strategic Planning notes that the component of the ecological corridor at the northern boundary of the sector is located generally in accordance with Warringah LEP 2000 and Warringah DCP – Belrose road Corridor. However, Strategic Planning also notes that the DA proposes to dedicate this portion of the ecological corridor to Council as public open space and to include the provision of a pedestrian access way within this component of the ecological corridor.*



*Dedication of this portion of land to Council as public open space is over and above the requirements of Warringah DCP – Belrose Road Corridor (Part 3.1). Strategic Planning raises concern with the proposal to dedicate this portion of the ecological corridor to Council and to locate a pedestrian access way within the corridor for the following reasons:*

- The Desired Future Character statement within Warringah LEP 2000 requires that the ecological corridor is to be densely planted to facilitate fauna movement. The location of a pedestrian path within the 10m corridor will reduce the effective width of the corridor for its intended purpose and will further interfere with its functionality due to the introduction of people into the ecological corridor.*
- If the land is dedicated to Council as public open space, it is likely to be aligned, at both its northern and southern boundaries, by residential rear yard fencing. For security and safety reasons, it is not appropriate that a pedestrian access way is located in such an environment (that is, footpath approx. 1.2m wide flanked by 'dense bushland corridor' and solid fencing).*

**c) *Vegetation to be retained***

*Strategic Planning notes that, for the purposes of the application, 'Vegetation to be retained' (identified on Warringah DCP – Belrose Road Corridor, Fig. 4) has been defined by the applicant to be the edge of the tree canopy.*

*Council's Natural Environment Unit (NEU) should be satisfied that the proposal adequately addresses the issue of protection and management of remnant vegetation.*

**Comment:** The comments of Council's Natural Environment Unit are outstanding at the time of writing this report and in this regard, a complete and thorough assessment on the suitability of the proposed development with regards to the protection and management of remnant vegetation cannot be completed.

**d) *Pedestrian connectivity***

*Warringah DCP – Belrose Road Corridor, Part 3.2, calls for the provision of publicly accessible pedestrian access linking Garigal National Park, Hews Reserve and Forest Way and for improvement to local pedestrian permeability.*

*If the proposed new roads will be available for public access, then the DA provides for connectivity from Garigal National Park to Forest Way via the new roads; the existing road infrastructure and the parcels of proposed open space.*

*However, the SEE indicates that roads are to be 'private access roads'. Council's Development Engineers should ensure that the provisions of Part 3.2 of the Warringah DCP – Belrose Corridor are provided for in any approval for subdivision.*

**Comment:** The comments of Council's Development Engineers are outstanding at the time of writing this report. In this regard, a complete and thorough assessment on the suitability of the proposed access roads cannot be completed.

*Further to the above, it is noted that within Sector 4, pedestrian connectivity is proposed via the ecological corridor at the northern boundary of the sector. The DA proposes that this portion of the ecological corridor will contain a public access way and will be dedicated to Council as public open space. This arrangement is not supported by Strategic Planning and hence, has implications to the matter of pedestrian connectivity in Sector 4. See Strategic Planning comments under the heading Ecological Corridor (point 2).*

**e) Restrictive covenants**

*The DA proposes various restrictive covenants. Strategic Planning supports the use of restrictive covenants on all relevant lots to achieve the objectives and meet the controls of Part 4.1 of Warringah DCP – Belrose Corridor.*

*Strategic Planning also supports the construction of fencing fronting Winani Close as part of the works required to be undertaken as part of the subdivision process.*

**f) Dedication of public open space**

*The DA proposes to dedicate certain parcels to Council as public open space. This is consistent with the Warringah DCP – Belrose Road Corridor and with negotiations between Council and the land owners prior to rezoning of the land from arterial road reservation to residential.*

*The conditions of consent should ensure that any consent for subdivision include appropriate condition(s) to ensure that the intention to dedicate public open space (minimum to be those lots identified as proposed Lot 12 in Sector 2, proposed Lot 13 in Sector 3 and proposed Lot 11 in Sector 4) at no cost to Council, is to be clearly identified on the application for subdivision certificate.*

*Further, any such consent should secure compliance with the requirements of the Desired Future Character Statement as contained within the C11 Belrose Road Corridor Locality in Warringah LEP 2000 and Part 3.1 of Warringah DCP – Belrose Road Corridor.'*

**Comments:** The above comments from Council's Strategic Planning Department have been addressed throughout this report.

**h) Traffic Engineer**

The application was referred to Council's Traffic Engineer as the subdivision proposes the creation of new roads.

Council's Traffic Engineer raised no objections to the proposed subdivision in principle; subject to the imposition of conditions of consent which will be imposed should this application be recommended for approval.

**i) Waste Officer**

The application was referred to Council's Waste Officer as the subdivision will create multiple new residential allotments.

Council's Waste Officer raised no objections to the proposed subdivision, subject to conditions of consent, principally requiring a Positive Covenant to be provided in order for waste collection vehicles to access the private roads and that vehicle turning heads at the ends of roads must be kept clear of any parked vehicles or other obstructions.

Accordingly, the recommended conditions will be imposed should this application be recommended for approval.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
<b>Section 79C (1) (a)(i) – Provisions of any environmental planning instrument</b>	Refer to discussions on “State Environmental Planning Policy No. 55 – Remediation of Land”, “State Environmental Planning Policy (Infrastructure) 2007” and “Warringah LEP 2000” in this report.
<b>Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument</b>	Refer to discussions on Draft Environmental Planning Instruments as contained in this report.
<b>Section 79C (1) (a)(iii) – Provisions of any development control plan</b>	Warringah Development Control Plan – <i>Notification</i> and Warringah Development Control Plan – <i>Belrose Road Corridor</i> are applicable to this application and the relevant provisions are considered in this report.
<b>Section 79C (1) (a)(iia) – Provisions of any planning agreement</b>	None applicable.
<b>Section 79C (1) (a)(iv) – Provisions of the regulations</b>	<p>Pursuant to Clause 54 and 109 of the EPA Regulations 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this Clause within the Regulations.</p> <p>Clause 98 of the EPA Regulations 2000 requires the consent authority to impose a condition requiring compliance with the Building Code of Australia. As this application is made on behalf of the Crown, a condition of consent will be imposed requiring compliance with the Building Laws relevant to the State of NSW.</p>
<b>Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</b>	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the General Principles of Development Control in this report which demonstrates that the proposed subdivision will not have any adverse impact on the natural and built environments as a result of the design and construction of the roads and infrastructure, mitigation measures and management (including on-going) of the vegetation creek line and remnant vegetation.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the residential character of the proposal and the dedication of the required amount of Public Open Space.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the residential nature of the existing and proposed land use on what is land that has been specifically rezoned to allow for residential development.</p>
<b>Section 79C (1) (c) – the suitability of the site for the development</b>	<p>The subject site, being an abandoned road corridor is undeveloped and contains areas of dense bushland interspersed with presently areas of grassy open space.</p> <p>The amendments made to Warringah LEP 2000 (under Amendment 17) in September 2006 introduced the C11 Belrose Road Corridor into Warringah LEP 2000. This effectively envisages the development of this corridor for</p>

Section 79C 'Matters for Consideration'	Comments
	<p>residential use.</p> <p>The Draft Warringah LEP 2009, which awaits gazettal at the time of writing this report, translates the C11 Belrose Road Corridor locality in a manner consistent with the manner in which it undertook the translation process for nearby residential land. Subsequently, the Draft Warringah LEP 2009 identifies the zoning of the Belrose Road Corridor as being predominantly R2 Low Density Residential with pockets of E3 Environmental Management (public open space areas).</p> <p>The proposed subdivision will create allotments for residential uses, typically detached style housing, interspersed by remnant bushland vegetation and areas of dedicated public open space.</p> <p>The proposed subdivision is generally consistent with the provisions of the Warringah Development Control Plan – Belrose Road Corridor, the Warringah LEP 2000, including, the General Principles of Development Control, Desired Future Character Statement, Built Form Controls (housing density) and Schedule 7 – Matters for consideration in a subdivision of land. The general compliance with these provisions and the means in which the proposal has addressed issues such as creek line protection / rehabilitation, asset protection zones (APZ's) bushland management, remediation and general road and infrastructure design and construction, demonstrates that the subject site is suitable for the proposed development.</p>
<b>Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</b>	<p>In regards to public submissions refer to the discussion on "Notification &amp; Submissions Received" within this report. In summary, the submissions made to this Development Application do not warrant the refusal of the Development Application, notwithstanding the outstanding assessment pertaining to flooding, bushland management and stormwater management.</p>
<b>Section 79C (1) (e) – the public interest</b>	<p>Pursuant to case law of <i>Ex Gratia P/L v Dungog Council</i> [NSWLEC 148], the question that needs to be answered is '<i>whether the public advantages of the proposed development outweigh the public disadvantages of the proposed development?</i>'</p> <p>It is apparent that there is a positive public benefit in the subdivision of the abandoned Belrose Road Corridor in that the subdivision will:</p> <ul style="list-style-type: none"> <li>• create allotments for residential land use which will contribute to housing affordability through the provision of new allotments of varying sizes;</li> <li>• accommodates for areas of open space which will be dedicated to Council for the purposes of public open space;</li> <li>• will improve pedestrian accessibility over the site between Garigal National Park and Forest Way;</li> <li>• will facilitate improved stormwater management and overland flow into adjoining properties;</li> <li>• creates allotments that will enable the orderly and sensitive development of the site;</li> <li>• maintains a bushland corridor for ecological purposes;</li> <li>• generally complies with the relevant provisions of WLEP 2000, specifically, the Built Form Controls, Desired Future Character Statement, General Principles of Development and Schedule 7 – Matters for consideration in the subdivision of land.</li> </ul> <p>In this regard, the balancing of these matters results in a finding</p>

Section 79C 'Matters for Consideration'	Comments
	<p>that the advantages outweigh the disadvantages and as such the proposed development will have an overall public benefit.</p> <p>The number of allotments proposed complies with the Housing Density Built Form Control and in fact provides for a lesser number of lots than the maximum allowed under the DCP and WLEP 2000. This results in a better provision of landscaped open space to each allotment and enhanced preservation of bushland and importantly, the fact that more than the required 3 hectares is provided as public open space. To this effect, there is more public benefit than that envisaged in the DCP.</p> <p>Accordingly, it is considered that the proposed development is within the general public interest.</p>

## DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS:

### Draft Warringah Local Environmental Plan 2009 (Draft WLEP 2009)

The public exhibition of the draft WLEP 2009 commenced on 12 October 2009 and ended on 30 December 2009. The draft LEP was adopted by Council at its meeting held on 8 June 2010. The draft WLEP 2009 is therefore a mandatory matter for consideration under Section 79 C (1) (a) (ii) of the Environmental Planning and Assessment Act, 1979.

**Definition:** Subdivision

**Land Use Zone:** The subject site is comprised of the following land zonings:

R2 Low Density Residential  
RE1 Public Recreation  
E3 Environmental Management

**Permissible or Prohibited:** Permissible (It is noted that the subdivision proposes the creation of allotments specifically dedicated as public open space and as such, the areas of public recreation open space will not in turn be subdivided.)

### Principal Development Standards:

Development Standard	Required	Proposed		Complies
Minimum Subdivision Lot Size:	600sqm in R2 Low Density Residential zoning	<b>Sector 1</b>		
		Lot 2	1035sqm	YES
		Lot 3	755sqm	YES
		Lot 4	760sqm	YES
		Lot 5	760sqm	YES
		Lot 6	760sqm	YES
		Lot 7	760sqm	YES
		Lot 8	760sqm	YES
		Lot 9	1005sqm	YES
		Lot 10	650sqm	YES
		Lot 11	600sqm	YES
		Lot 12	600sqm	YES
		Lot 13	600sqm	YES
		Lot 14	600sqm	YES
		Lot 15	600sqm	YES
		Lot 16	615sqm	YES

Development Standard	Required	Proposed		Complies
	None specified in RE1 Public Recreation	Lot 17	615sqm	YES
		Lot 18	630sqm	YES
		<b>Sector 2</b>		
		Lot 2	900sqm	YES
		Lot 3	630sqm	YES
		Lot 4	780sqm	YES
		Lot 5	650sqm	YES
		Lot 6	905sqm	YES
		Lot 7	935sqm	YES
		Lot 8	600sqm	YES
		Lot 9	600sqm	YES
		Lot 10	605sqm	YES
		Lot 11	665sqm	YES
		<b>Sector 3</b>		
		Lot 2	705sqm	YES
		Lot 3	770sqm	YES
		Lot 4	840sqm	YES
		Lot 5	840sqm	YES
		Lot 6	840sqm	YES
		Lot 7	840sqm	YES
		Lot 8	840sqm	YES
		Lot 9	840sqm	YES
		Lot 10	840sqm	YES
		Lot 11	830sqm	YES
		Lot 12	1425sqm	YES
		<b>Sector 4</b>		
		Lot 2	695sqm	YES
		Lot 3	810sqm	YES
		Lot 4	775sqm	YES
		Lot 5	1795sqm	YES
		Lot 6	1840sqm	YES
		Lot 7	985sqm	YES
		Lot 8	800sqm	YES
		Lot 9	1260sqm	YES
		<b>Sector 2</b>		
		Lot 12	7345sqm	Not applicable
		<b>Sector 4</b>		
		Lot 11	1.424ha	Not applicable
Height of Buildings:	8.5m in R2 Low Density Residential zoning	The construction of dwellings does not form part of this development application.		Not applicable
	None specified in RE1 Public Recreation	The construction of dwellings does not form part of this development application.		Not applicable

Based on the above assessment, the proposed development is assessed as being consistent with the aims and objectives of the Draft WLEP 2009.

## **ENVIRONMENTAL PLANNING INSTRUMENTS (EPI's)**

### **State Environmental Planning Policies (SEPPs)**

Further consideration is required for the following State policies:

#### **State Environmental Planning Policy No 55 – Remediation of Land**

Clause 7(1)(a) of SEPP 55 requires the consent authority to consider whether land is contaminated and if the land is contaminated further consideration is required under Clauses 7(1)(b) and 7(1)(c) of the SEPP.

In response to the above requirements of SEPP 55, the applicant submitted to Council a Remedial Action Plan for Proposed Development at the Belrose Road Corridor, dated 25/6/2010 prepared by Coffey Environments Australia Pty Ltd.

The report provided comments on the presence of ground contaminants and the potential risk for ground contamination. Based on the assessment factors detailed within the report, Section 6.5 (being Preferred Remediation Option), Council is satisfied with regard to site contamination.

In this regard, it is considered that the subject site is suitable for the proposed subdivision and future residential development and appropriate conditions regarding requirements to notify of further contamination, remediation action plans to be prepared and implemented and certification to be provided that all site remediation works have been completed by an appropriately qualified person (EPA Registered).

#### **State Environmental Planning Policy – Infrastructure**

Clause 45 of SEPP Infrastructure requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists),
- immediately adjacent to an electricity substation,
- within 5m of an overhead power line
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5m of an overhead electricity power line

The proposal is not within or immediately adjacent to any of the above electricity infrastructure and does not include a proposal for a swimming pool; as such the development application is not required to be referred to the electricity supply authority. In this regard, the subject application is considered to satisfy the provisions of Clause 45 SEPP Infrastructure.

### **Regional Environmental Planning Policies**

There are no Regional Environmental Planning Policies applicable to this application.



## STATUTORY CONTROLS

### Warringah Local Environment Plan 2000 (WLEP 2000)

#### Desired Future Character – C11 Belrose Road Corridor

The subject site is located in the C11 Belrose Road Corridor Locality under Warringah Local Environmental Plan 2000 (Warringah LEP 2000). The Desired Future Character Statement for this locality is as follows:

*'The Belrose Road Corridor locality will be characterised by detached-style housing in landscaped settings interspersed by a range of complementary and compatible uses.*

*Development within the locality is to be assessed with regard to any development control plan applying to the land. Future development will maintain the visual pattern and predominant scale of the existing detached-style houses in the adjacent C1 Middle Harbour Suburbs locality. The streets will be characterised by landscaped front gardens and consistent front building setbacks.*

*In order to provide for fauna movements through the locality to and from Garigal National Park an ecological corridor, as shown cross-hatched on the map, will be rehabilitated and preserved as a bushland corridor. The corridor will be characterised by dense plantings of native trees and shrubs. Future development other than for the purposes of bushfire hazard reduction and water quality devices is to be excluded within the cross-hatched area.*

*Areas proposed to be dedicated to Council as public open space are to be dedicated taking into account the Bushland Management Plan adopted by the Council and are to be maintained by the developer (at no cost to Council) for a 5 year period following dedication.*

*The relationship of the locality to the surrounding bushland will be reinforced by protecting and enhancing the spread of indigenous tree canopy and preserving the natural landscape, including rock outcrops, remnant bushland and natural watercourses. The use of materials that blend with the colours and textures of the natural landscape will be encouraged.*

*Development within the locality on hillsides or in the vicinity of ridge tops must integrate with the natural landscape and topography.*

*Buildings within the locality will be located and grouped in areas that will minimise disturbance of vegetation, landforms and creeks and take account of any development control plan applying to the land.*

*Redevelopment of the Belrose Road Corridor locality will involve the remediation of the identified localised contamination at isolated locations across the locality.'*

Pursuant to Clauses 6 and 14(2) of Warringah LEP 2000, the proposed development is defined as 'subdivision' and as such, is identified as Category 2 development in this locality notwithstanding, the classification under the C11 Belrose Road Corridor locality. (it being noted that the site contains cross-hatched areas under the WLEP 2000 map where 'development' would normally be Category 3 development).

Clause 12(3)(b) states that before granting consent for development classified as Category 2, the Consent Authority must be satisfied that the development is consistent with the Desired Future Character described in the relevant Locality Statement.

### **The Role of the Desired Future Character Statement**

Warringah LEP 2000 adopts a placed based planning approach, recognising the desired qualities to be achieved in each distinctive locality. Each locality outlines the specific planning controls designed to achieve the desired qualities for the locality, i.e. the “Desired Future Character” (DFC).

It is the DFC which defines the distinctive characteristics of the locality or place that are to be maintained in future development within the locality. It also identifies any features of the area that should be retained and provides direction as to how future development will replicate, reflect or add to the important features that contribute to the locality.

In assessing whether a particular development is appropriate for a locality, the DFC provides the basis against which this assessment is made (aside from the matters under s79C of the Environmental Planning and Assessment Act, 1979).

Accordingly, an analysis of the various relevant components of the DFC of the C11 Belrose Road Corridor Locality is as follows:

***‘The Belrose Road Corridor locality will be characterised by detached-style housing in landscaped settings interspersed by a range of complementary and compatible uses.’***

**Response:** The subdivision proposes the creation of 47 allotments. Forty (40) of the 47 allotments will provide opportunity for the future accommodation of detached style housing. The remaining 7 allotments will be non-residential with 5 lots serving as community vehicular access and drainage lots and 2 lots being transferred to Council as dedicated public open space.

‘Landscaped settings’ and ‘interspersed complementary and compatible uses’ will be a matter for consideration at the time of development being proposed on each allotment under other Development Applications.

***‘Development within the locality is to be assessed with regard to any development control plan applying to the land. Future development will maintain the visual pattern and predominant scale of the existing detached-style houses in the adjacent C1 Middle Harbour Suburbs locality. The streets will be characterised by landscaped front gardens and consistent front building setbacks.’***

**Response:** The subdivision has been designed having regard to the provisions of the Warringah DCP – Belrose Road Corridor.

Future housing construction, in terms of visual pattern and scale, together with landscaping of front gardens and consistency with front building setbacks within the locality, will be matters for consideration at the time when housing is proposed. However, the regularity and consistency in the configuration of allotments will enable future development to establish a consistent streetscape character by virtue of setbacks and alignments which is the intent of the Desired Future Character statement.

***‘In order to provide for fauna movements through the locality to and from Garigal National Park an ecological corridor, as shown cross-hatched on the map, will be rehabilitated and preserved as a bushland corridor. The corridor will be characterised by dense plantings of native trees and shrubs. Future development other than for the purposes of bushfire hazard reduction and water quality devices are to be excluded within the cross-hatched area.’***

**Response:** Each of the 4 sectors within the subdivision provides for fauna movements through the locality to and from Garigal National Park through the provision of an ecological corridor which will be rehabilitated and preserved as a dedicated bushland corridor as detailed in the Development Application. The plans show that dense plantings of native trees and shrubs will be undertaken within the corridors.

***‘Areas proposed to be dedicated to Council as public open space are to be dedicated taking into account the Bushland Management Plan adopted by the Council and are to be maintained by the developer (at no cost to Council) for a 5 year period following dedication.’***

**Response:** The subdivision proposes the dedication of 3 lots of public open space to Council. The areas of public open space are considered to be in accordance with the Bushland Management Plan as adopted by Council. A maintenance period of five (5) years is acknowledged in the documentation and will be conditioned if this application is recommended for approval.

***‘The relationship of the locality to the surrounding bushland will be reinforced by protecting and enhancing the spread of indigenous tree canopy and preserving the natural landscape, including rock outcrops, remnant bushland and natural watercourses. The use of materials that blend with the colours and textures of the natural landscape will be encouraged.’***

**Response:** The subdivision proposal recognises the relationship of the locality to the surrounding bushland through the retention of trees, and intent to remove trees affected by future development. The documentation is clear on affectation on the natural landscape, remnant bushland and natural watercourses. Rezoning procedures over time have recognised affectations as a consequence of the residential zoning and land use and the proposal seeks to operate within the spirit and constraints of current development control.

The use of materials that blend with the colours and textures of the natural landscape will be matters for consideration at the time housing development is proposed on each lot through Development Applications.

***‘Development within the locality on hillsides or in the vicinity of ridge tops must integrate with the natural landscape and topography. Buildings within the locality will be located and grouped in areas that will minimise disturbance of vegetation, landforms and creeks and take account of any development control plan applying to the land.’***

**Response:** The configuration of the subdivision pattern and internal road network is responsive to the topographical site constraints within each Sector. The future development of each allotment will be determined on the basis of site constraints and development controls applying to the land under the locality statement of WLEP 2000 of the Draft LEP 2009 or DCP.

***‘Redevelopment of the Belrose Road Corridor locality will involve the remediation of the identified localised contamination at isolated locations across the locality.’***

**Response:** The subdivision provides for remediation of localised contamination as identified in the Remedial Action Plan for Proposed Development at the Belrose Road Corridor, dated 25/6/2010 prepared by Coffey Environments Australia Pty Ltd.

## Conclusions on Consistency with the DFC

Based on the above analysis, it is considered that pursuant to Clause 12(3)(b) of WLEP 2000, the proposed subdivision is consistent with the Desired Future Character statement for the C11 Belrose Road Corridor Locality. In this regard, the characteristics of the proposed subdivision, principally the lot sizes and lot dimensions, are reflective of development generally within an established residential area.

## Built Form Controls for Locality C11 Belrose Road Corridor

The following table outlines compliance with the Built Form Controls of the above locality statement:

<b>Compliance Table – C11 Belrose Road Corridor Locality</b>			
<b>Built Form Standard</b>	<b>Required</b>	<b>Proposed</b>	<b>Compliance</b>
<b>Building Height Metres</b>	8.5m	There are no dwellings proposed as part of this application.  The area and dimensions of residential allotments proposed in the subdivision will allow for future development to comply with this Built Form Control.	Capable of Compliance
<b>Building Height: Natural ground to upper ceiling (metres)</b>	7.2m	There are no dwellings proposed as part of this application.  The area and dimensions of residential allotments proposed in the subdivision will allow for future development to comply with this Built Form Control.	Capable of Compliance
<b>Front Setback</b>	6.5m	There are no dwellings proposed as part of this application.  The area and dimensions of residential allotments proposed in the subdivision will allow for future development to comply with this Built Form Control.	Indicative building envelope plans submitted showing compliance
<b>Housing Density</b>	1 dwelling per 700sqm	<b>Sector 1</b> – 1 dwelling per 964sqm (actual) 1 dwelling per 844sqm (excluding APZ of 25m)  <b>Sector 2</b> – 1 dwelling per 1607sqm (actual) 1 dwelling per 873sqm (excluding Lot 12 Public Open Space)  <b>Sector 3</b> – 1 dwelling per 1390sqm (actual) 1 dwelling per 1115sqm (excluding Lot 13 drainage reserve)  <b>Sector 4</b> – 1 dwelling per 3150sqm (actual) 1 dwelling per 1355sqm (excluding Lot 11 Public Open Space)	YES YES  YES YES  YES YES  YES YES
<b>Landscaping</b>	40% of site	There are no dwellings proposed as part of this application.  The area and dimensions of residential allotments proposed in the subdivision will allow for future development to comply with this Built Form Control.	Indicative building envelope plans submitted showing compliance
<b>Rear Setback</b>	6.0m	There are no dwellings proposed as part of this application.  The area and dimensions of residential allotments proposed in the subdivision will allow for future development to comply with this Built Form Control.	Indicative building envelope plans submitted showing compliance

<b>Compliance Table – C11 Belrose Road Corridor Locality</b>			
<b>Built Form Standard</b>	<b>Required</b>	<b>Proposed</b>	<b>Compliance</b>
<b>Side Boundary Envelope</b>	4.0 with inward projecting planes at 45 degrees	There are no dwellings proposed as part of this application.  The area and dimensions of residential allotments proposed in the subdivision will allow for future development to comply with this Built Form Control.	Capable of Compliance
<b>Side Setbacks</b>	Minimum 900mm	There are no dwellings proposed as part of this application.  The area and dimensions of residential allotments proposed in the subdivision will allow for future development to comply with this Built Form Control.	Indicative building envelope plans submitted showing compliance

## Clause 20 – Variation to Built Form Controls

Consideration under Clause 20 of WLEP 2000 for variation to the Built Form Controls for this locality is not applicable to this application, due to compliance with the relevant Built Form Controls for subdivision.

## Clause 21 – Can Land be Subdivided?

The following table demonstrates the proposal's compliance with Clause 21 of WLEP 2000.

<b>Clause</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Complies</b>
<b>21(1)(a)</b>	Land can be subdivided on the basis that the resulting allotment(s) can be developed in accordance with this plan.	The proposal's ability to accommodate future development in compliance with the development standards is discussed above under the Built Form Controls compliance table.	YES
<b>21(1)(b)</b>	Land can be subdivided on the basis that the resulting allotment(s) contain buildings or works that were lawfully created and approved.	None of the allotments contain existing buildings or works.	YES
<b>21(3)</b>	Land can be subdivided on the basis that the Consent Authority is satisfied that the proposed development is consistent with the provisions of Schedule 7 (Matters for Consideration in a Subdivision of Land) before approving an application for consent to subdivide land.	The proposal's inconsistency with the provisions of Schedule 7 is discussed further in this report.	NO

## GENERAL PRINCIPLES OF DEVELOPMENT CONTROL

The following General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 are applicable to the proposed development:

<b>General Principles</b>	<b>Applies</b>	<b>Comments</b>	<b>Complies</b>
<b>CL38 Glare &amp; reflections</b>	NO	No comment	Not applicable
<b>CL39 Local retail centres</b>	NO	No Comment	Not applicable
<b>CL41 Brothels</b>	NO	No Comment	Not applicable

<b>General Principles</b>	<b>Applies</b>	<b>Comments</b>	<b>Complies</b>
<b>CL42 Construction Sites</b>	YES	Conditions of consent would adequately address the construction requirements associated with the building works proposed on the site.  Accordingly, the proposal satisfies this General Principle.	YES, subject to conditions
<b>CL43 Noise</b>	YES	The application proposes the subdivision of land for the purpose of future residential development. In this regard, the subdivision is unlikely to generate significant noise emissions associated with the initial subdivision works and future residential development of the allotments.	YES
<b>CL44 Pollutants</b>	NO	No comment	Not applicable
<b>CL45 Hazardous Uses</b>	NO	No comment	Not applicable
<b>CL46 Radiation Emission Levels</b>	NO	No comment	Not applicable
<b>CL47 Flood Affected Land</b>	YES	The subject site is identified as flood affected land. The DCP contains specific requirements with respect to flooding including the provision of flood mitigation measures.  At the time of writing this report, the referral comments and / or conditions from Council's Natural Environment Unit and Development Engineers are outstanding due to the required assessment of additional information which was submitted late in the process by the applicant in response to the initial referral advice from Council's Natural Environment Unit and Development Engineers.  To this effect, this component of the assessment is outstanding and a complete and thorough assessment cannot be completed.  Accordingly, the outstanding assessment has been included as a reason for refusal at this stage.	NO
<b>CL48 Potentially Contaminated Land</b>	YES	This issue has been addressed under SEPP 55 of this report. In summary, the site is suitable for the proposed development.	YES
<b>CL49 Remediation of Contaminated Land</b>	NO	No comment	Not applicable
<b>CL49a Acid Sulfate Soils</b>	NO	No comment	Not applicable
<b>CL50 Safety &amp; Security</b>	NO	No comment	Not applicable
<b>CL51 Front Fences and Walls</b>	NO	The suitability of front fences and walls will be considered at the time of housing being proposed for each allotment under each Development Application.	Not applicable
<b>CL52 Development Near Parks, Bushland Reserves &amp; other public Open Spaces</b>	YES	The Belrose Road Corridor is adjacent to bushland and public open spaces. Sector 1 adjoins Garigal National Park and Sectors 3 and 4 adjoin Hews Reserve.  The subdivision configuration within Sector 1 provides for a buffer zone at the interface between Sector 1 and	YES

General Principles	Applies	Comments	Complies
		<p>Garigal National Park and will enhance pedestrian access to the National Park through the provision of dedicated access routes as required by the DCP – Belrose Road Corridor.</p> <p>Sectors 3 and 4 propose an area of remnant bushland to be dedicated to Council as public open space. This area of open space is aligned with Hews Reserve and will serve as an extension to the existing public reserve. Currently, there is limited public access to Hews Reserve through the Belrose Road Corridor. Although the subdivision does not directly accommodate for direct pedestrian access, the subdivision will facilitate opportunities for the future establishment of a formalised pathway.</p> <p>In general, the subdivision does not result in a perceived privatisation of public open space nor restrict existing public access. An appropriate transition at the interface of the new allotments within the corridor and the public open space will be provided through the retention of bushland vegetation, provision of buffer zones and enhancing the visual relationship between residential allotments and public open spaces.</p> <p>Accordingly, the development satisfies this General Principle.</p>	
<b>CL53 Signs</b>	NO	No Comment	Not applicable
<b>CL54 Provision and Location of Utility Services</b>	YES	<p>The Subdivision / Utility Services plans demonstrate that each of the 4 sectors will be provided with essential utility services which will enable individual connection by each of the proposed allotments.</p> <p>Conditions could be imposed if the application was approved requiring connection to all utility services including an approved telecommunications provider, energy, water and sewerage.</p>	YES, subject to conditions
<b>CL55 Site Consolidation in 'Medium Density Areas'</b>	NO	No comment	Not applicable
<b>CL56 Retaining Unique Environmental Features on Site</b>	YES	<p>The Belrose Road Corridor contains a number of significant unique environmental features including rock outcrops, watercourses, remnant bushland vegetation and threatened species and critical habitat.</p> <p>At the time of writing this report, the referral comments and / or conditions from Council's Natural Environment Unit are outstanding due to the required assessment of additional information which was submitted by the applicant late in the process in response to the initial referral advice from Council's Natural Environment Unit and Development Engineers.</p> <p>To this effect, this component of the assessment is outstanding and a complete and thorough assessment cannot be completed.</p> <p>Accordingly, the outstanding assessment has been included as a reason for refusal at this stage.</p>	NO



<b>General Principles</b>	<b>Applies</b>	<b>Comments</b>	<b>Complies</b>
<b>CL57 Development on Sloping Land</b>	NO	No comment	Not applicable
<b>CL58 Protection of Existing Flora</b>	YES	<p>The Belrose Road Corridor contains dense bushland vegetation. The subdivision proposes the removal of vegetation to accommodate for internal private roads and drainage and pedestrian corridors.</p> <p>The DCP contains specific provisions which require the provision of an eco-corridor to allow for the movement of fauna through the corridor.</p> <p>At the time of writing this report, the referral comments and / or conditions from Council's Natural Environment Unit are outstanding due to the required assessment of additional information which was submitted by the applicant late in the process in response to the initial referral advice from Council's Natural Environment Unit and Development Engineers.</p> <p>To this effect, this component of the assessment is outstanding and a complete and thorough assessment of the impact on flora, the proposed rehabilitation and revegetation together with the removal of trees, cannot be completed.</p> <p>Accordingly, the outstanding assessment has been included as a reason for refusal at this stage.</p>	NO
<b>CL59 Koala Habitat Protection</b>	NO	No comment	Not applicable
<b>CL60 Watercourses &amp; Aquatic Habitats</b>	YES	<p>The Belrose Road Corridor contains watercourses which traverse the corridor in numerous locations.</p> <p>At the time of writing this report, the referral comments and / or conditions from Council's Natural Environment Unit are outstanding due to the required assessment of additional information which was submitted by the applicant late in the process in response to the initial referral advice from Council's Natural Environment Unit and Development Engineers.</p> <p>To this effect, this component of the assessment is outstanding and a complete and thorough assessment cannot be completed.</p> <p>Accordingly, the outstanding assessment has been included as a reason for refusal at this stage.</p>	NO
<b>CL61 Views</b>	NO	<p>Clauses 61 to 71 of the General Principles of Development Control of WLEP 2000 relate to residential development.</p> <p>As this Development Application relates to the subdivision of land only to create residential allotments, Clauses 61 to 71 of WLEP 2000 do not apply to this application. Accordingly, the suitability of development will be considered against these clauses at the time of housing development for each allotment.</p>	Not applicable
<b>CL62 Access to sunlight</b>			
<b>CL63 Landscaped Open Space</b>			
<b>CL63A Rear Building Setback</b>			
<b>CL64 Private open space</b>			
<b>CL65 Privacy</b>			
<b>CL66 Building bulk</b>			
<b>CL67 Roofs</b>			
<b>CL68 Conservation of</b>			

<b>General Principles</b>	<b>Applies</b>	<b>Comments</b>	<b>Complies</b>
<b>Energy and Water</b>			
<b>CL69 Accessibility – Public and Semi-Public Buildings</b>			
<b>CL70 Site facilities</b>			
<b>CL71 Parking facilities (visual impact)</b>			
<b>CL72 Traffic access &amp; safety</b>	YES	<p>Council's Traffic Engineers have reviewed the proposed subdivision and raised no objection to the location and dimensions of the new private roads together with the impact on the surrounding local road network.</p> <p>The recommendations of Council's Traffic Engineers have been incorporated into Conditions of Consent.</p>	YES, subject to conditions
<b>CL73 On-site Loading and Unloading</b>	NO	No Comment	Not applicable
<b>CL74 Provision of Carparking</b>	NO	<p>Clauses 74 and 75 of the General Principles of Development Control of WLEP 2000 relate to residential development.</p> <p>As this Development Application relates to the subdivision of land only to create residential allotments, Clauses 74 and 75 of WLEP 2000 do not apply to this application. Accordingly, the suitability of development will be considered against these clauses at the time of housing development for each allotment.</p>	Not applicable
<b>CL75 Design of Carparking Areas</b>			
<b>CL76 Management of Stormwater</b>	YES	<p>At the time of writing this report, the referral comments and / or conditions from Council's Development Engineers are outstanding due to the required assessment of additional information which was submitted by the applicant late in the process in response to the initial referral advice from Council's Natural Environment Unit and Development Engineers.</p> <p>To this effect, this component of the assessment is outstanding and a complete and thorough assessment of the suitability of the subdivision and proposed stormwater management scheme cannot be completed.</p> <p>Accordingly, the outstanding assessment has been included as a reason for refusal stage.</p>	NO
<b>CL77 Landfill</b>	NO	No comment	Not applicable
<b>CL78 Erosion &amp; Sedimentation</b>	YES	<p>Appropriate conditions associated with management of erosion and sedimentation for the duration of works on the site will be imposed should this application be recommended for approval.</p> <p>Accordingly, the proposal is considered to satisfy this General Principle.</p>	YES, subject to conditions
<b>CL79 Heritage Control</b>	NO	No comment	Not applicable
<b>CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service</b>	NO	No Comment	Not applicable

General Principles	Applies	Comments	Complies
CL81 Notice to Heritage Council	NO	No comment	Not applicable
CL82 Development in the Vicinity of Heritage Items	NO	No comment	Not applicable
CL83 Development of Known or Potential Archaeological Sites	YES	<p>Council's GIS information identifies the subject site has having an extremely high potential for the presence of unrecorded Aboriginal archaeological sites.</p> <p>This application was referred to the Aboriginal Heritage Office for consideration and who have recommended that a full and comprehensive Aboriginal Heritage Assessment be carried out for the site by a qualified Aboriginal heritage professional.</p> <p>Conditions of consent have been imposed in this regard.</p>	YES, subject to conditions

## SCHEDULES

A detailed assessment with regard to the provisions of the relevant Schedules of Warringah Local Environmental Plan 2000 is as follows:

### Schedule 7 - Matters of consideration in a subdivision of land

The relevant components for consideration under Schedule 7 – Matters of consideration in a subdivision of land, as contained in WLEP 2000, are assessed in the following table:

Component:	Requirement	Proposed	Complies
<b>Access:</b>	<p>Subdivision should be designed to allow for access for motor vehicles on to each allotment of residential land.</p> <p>Access should be provided from a constructed road and dedicated public road.</p>	<p>Access is proposed to each of the four sectors as follows:</p> <p><b>Sector 1</b></p> <p>Each allotment is afforded direct access via an internal private road which connects to Elm Avenue.</p> <p><b>Sector 2</b></p> <p>Each allotment is afforded direct access via an internal private road which connects to Elm Avenue.</p> <p><b>Sector 3</b></p> <p>Each allotment is afforded direct access via an internal private road which connects to Pringle Avenue.</p> <p><b>Sector 4</b></p> <p>Each allotment is afforded direct access via an internal private road which connects to Everton Road and Forest Glen Close.</p> <p>Each sector is afforded access from a constructed and dedicated public road.</p>	YES
<b>Bushfire</b>	New subdivision should be designed to minimise the risk from potential bushfire.	<p>The subject site is identified as land affected by bushfire risk.</p> <p>The NSW Rural Fire Service has assessed the</p>	YES, subject to conditions

<b>Component:</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Complies</b>
		application and has issued their General Terms of Approval (GTA), subject to conditions of consent to ensure compliance with the provisions of Planning for Bushfire Protection 2006.	
<b>Design and Construction</b>	All design and construction is to be in accordance with the Council's Specification for Engineering works and On-site Stormwater Detention policy and technical specifications.	<p>At the time of writing this report, the referral comments and / or conditions from Council's Development Engineers are outstanding.</p> <p>To this effect, this component of the assessment is outstanding and a complete and thorough assessment of the suitability of the design and construction standards of internal private roads, driveways and the stormwater drainage and management scheme cannot be completed.</p> <p>Accordingly, the outstanding assessment has been included as a reason for refusal.</p> <p>It is noted that On-site Stormwater Detention will be considered at the time that housing is proposed for allotments under each Development Application.</p>	NO
<b>Drainage</b>	Provision should be made for each allotment to be drained by gravity to a Council-approved drainage system.	<p>At the time of writing this report, the referral comments and / or conditions from Council's Development Engineers are outstanding.</p> <p>To this effect, this component of the assessment is outstanding and a complete and thorough assessment of the suitability of the stormwater drainage and management scheme cannot be completed.</p> <p>Accordingly, the outstanding assessment has been included as a reason for refusal.</p>	NO
<b>Environmentally Sensitive / Constrained Land</b>	Subdivision should have regard to environmentally sensitive and constrained land.	<p>Environmental constraints identified on the subject site consist of the existing remnant bushland vegetation.</p> <p>In addition, the site is identified as land affected by bushfire risk and has been addressed and considered satisfactory by the relevant authorities.</p> <p>At the time of writing this report, the referral comments and / or conditions from Council's Natural Environment Unit are outstanding.</p> <p>To this effect, this component of the assessment is outstanding and a complete and thorough assessment of the suitability of the proposed subdivision with regards to environmentally sensitive and constrained land cannot be completed.</p> <p>Accordingly, the outstanding assessment has been included as a reason for refusal.</p>	NO
<b>Lot Dimensions</b>	Subdivision should provide allotments that meet the minimum specified dimensions.	<p>The proposed Lots resulting from the subdivision of the site are considered to comply with the numerical dimensions as specified under this requirement.</p> <p>The following table demonstrates this compliance:</p>	YES

Component:	Requirement	Proposed				Complies
		Lot		Minimum Width	Proposed	Comply
		Sector 1	2	13.0m	28.3m	YES
			3		21.0m	YES
			4		21.0m	YES
			5		21.0m	YES
			6		21.0m	YES
			7		21.0m	YES
			8		21.0m	YES
			9		21.0m	YES
			10		17.9m	YES
			11		21.5m	YES
			12		21.5m	YES
			13		21.5m	YES
			14		21.5m	YES
			15		21.5m	YES
			16		20.8m	YES
			17		15.4m	YES
			18		15.9m	YES
		Sector 2	2	13.0m	22.3m	YES
			3		20.0m	YES
			4		13.2m	YES
			5		18.0m	YES
			6		20.1m	YES
			7		27.0m	YES
			8		28.0m	YES
			9		28.0m	YES
			10		28.0m	YES
			11		17.1m	YES
		Sector 3	2	13.0m	21.8m	YES
			3		24.7m	YES
			4		16.5m	YES
			5		16.5m	YES
			6		16.5m	YES
			7		16.5m	YES
			8		16.5m	YES
			9		16.5m	YES
			10		16.5m	YES
			11		18.0m	YES
			12		18.7m	YES
		Sector 4	2	13.0m	39.0m	YES
			3		13.0m	YES
			4		16.5m	YES
			5		15.2m	YES
			6		29.2m	YES
			7		18.6m	YES
			8		18.8m	YES
			9		37.4m	YES
		Lot		Minimum Depth	Proposed	Comply
		Sector 1	2	27.0m	29.6m	YES
			3		35.2m	YES
			4		36.2m	YES
			5		36.2m	YES
			6		36.2m	YES
			7		36.2m	YES
			8		36.2m	YES
			9		36.2m	YES
			10		28.0m	YES
			11		28.0m	YES
			12		28.0m	YES
			13		28.0m	YES

Component:	Requirement	Proposed					Complies		
			14		28.0m	YES			
			15		28.0m	YES			
			16		28.2m	YES			
			17		23.8m	YES			
			18		35.6m	YES			
		Sector 2	2	27.0m	30.0m	YES			
			3		32.0m	YES			
			4		36.5m	YES			
			5		36.1m	YES			
			6		27.8m	YES			
			7		28.0m	YES			
			8		28.0m	YES			
			9		28.0m	YES			
			10		26.7m	YES			
			11		17.1m	NO*			
			Sector 3		2	27.0m		31.2m	YES
		3		31.0m	YES				
		4		48.7m	YES				
		5		48.7m	YES				
		6		48.7m	YES				
		7		48.7m	YES				
		8		48.7m	YES				
		9		48.9m	YES				
		10		48.8m	YES				
		11		48.8m	YES				
		12		38.7m	YES				
		Sector 4		2	27.0m			41.7m	YES
			3	40.9m		YES			
			4	34.8m		YES			
			5	51.8m		YES			
			6	57.6m		YES			
			7	49.9m		YES			
			8	38.8m		YES			
			9	37.7m		YES			
		* Although Lot No.11 in Sector 2 does not achieve numerical compliance with the minimum allotment depth requirement of 27.0m, the site is considered suitable as it is a corner allotment and achieves an area of 665.0sqm which is 65sqm above the minimum required allotment size.							
		Further, each allotment provides a satisfactory building area of a minimum of 150sqm, which will allow for the future development of the resulting allotments to contain dwellings that can achieve compliance with the relevant Built Form Controls for the locality.							
		Restrictions	The Council will require that any easement, right-of-way, or other restriction that is placed on the title of any land as a requirement of the approval of the subdivision is to be protected by a positive covenant or like instrument with the Council nominated as a party, to ensure that section of land is retained for the designated purpose.	Should this application be recommended for approval, specific conditions of consent will be imposed to ensure that any easement, right-of-carriageway or other restriction placed on the title of the land of the subdivision, is protected by a positive covenant or like instrument with Council nominated as a party to release such restrictions.				YES, subject to conditions	

## Schedule 8 – Site Analysis

A Site Analysis plan was submitted as part of this application and is considered satisfactory in addressing the requirements of this Schedule.

### DEVELOPMENT CONTROL PLANS

#### Warringah Development Control Plan – Belrose Road Corridor

The Warringah Development Control Plan – Belrose Road Corridor was prepared in accordance with Section 74 Division 6 of the Environmental Planning and Assessment Act 1979 and clauses 16 to 23 of the Environmental Planning and Assessment Regulation 2000. The Belrose Corridor DCP was subsequently adopted by Council on 22 July 2008 and is applicable to the subject site.

This development control plan provides more detailed provisions than the Warringah Local Environmental Plan 2000 (WLEP 2000) for development in Warringah. Its overriding aim is to guide the future development patterns within the Belrose Road Corridor. Subsequently, development should result in an increased level of local amenity and environmental quality.

The objectives of this plan are:

- To complement the provisions of the Warringah Local Environmental Plan 2000 and to provide more detailed controls than those contained in the LEP;
- To only allow development that meets the expectations established in the desired future character statement for locality C11 – Belrose Road Corridor;
- To ensure development responds to the characteristics of the site and the qualities of the surrounding neighbourhood.

Compliance with the relevant requirements of the DCP are identified in the following table:

Element	Numerical control / requirement	Proposed Development
<b>Public Domain</b>		
<b>3.1 Open Space</b>	a) A minimum of 3ha of public open space is to be provided within the Belrose Road Corridor and will be transferred to Council at no cost. The land allocated for public open space will be identified with the initial development application for subdivision of the land and transferred to Council with execution of the consent for subdivision. The public open space is to be located generally in accordance with <b>Figure 2</b>	Public open space is accommodated within the subdivision.  Sector 2 proposes an area equating to 7,345sqm which is generally consistent with the configuration set out in Figure 2 of the DCP (6,360sqm) and a riparian / buffer zone area (985sqm).  An area between Sectors 3 and 4 proposes an area equating to 1.103ha. Although not directly in accordance with the configuration and alignment of the public open space as shown on Figure 2 of the DCP, the area of public open space will align with that of the existing Hews Reserve and provide more appropriate integration with this existing reserve. The realignment also accommodates for the additional retention of vegetation which has been identified as a superior quality to the vegetation in the western section of the Figure 2 parcel. Council's Strategic Planning division have raised no objection to the proposed reconfiguration and accept that it results in an improved planning outcome.
	b) Prior to the public open space being dedicated to Council, the land is to be restored or revegetated in accordance with an adopted Bushland Management Plan for public open space.  The land is also to be appropriately remediated in accordance with SEPP 55 and in accordance with the environmental safeguards specified in the Bushland Management Plan.  Revegetation in non-vegetated areas	



Element	Numerical control / requirement	Proposed Development
	<p>or in areas that cannot be restored using bush regeneration methods will use vegetation that as far as possible represents the original 1750 vegetation community.</p> <p>Guidelines for the preparation of the Bushland Management Plan including revegetation details will be provided by Council. The Bushland Management Plan will apply to the land that is to be dedicated as public open space and is to be prepared by the applicant and submitted as part of any future subdivision development application.</p>	<p>Sector 4 proposes an area equating to 1.6161ha.</p> <p>In total, the subdivision will accommodate an area of 3.4540ha for the establishment of public open space. It is also proposed that these areas will be transferred to Council at no cost which is consistent with the requirements of the DCP.</p> <p>However, at the time of writing this report, the referral comments and / or conditions from Council's Natural Environment Unit and Parks, Reserves and Foreshores are outstanding.</p> <p>To this effect, this component of the assessment is outstanding and a complete and thorough assessment of the suitability of the location and provision of public open space cannot be completed.</p> <p>Accordingly, the outstanding assessment has been included as a reason for refusal.</p>
<b>3.2 Pedestrian and Road Network</b>	<ol style="list-style-type: none"> <li>1) New roads are to be located generally in accordance with <b>Figure 3</b>.</li> <li>2) New roads (public or private) are to be designed in accordance with Council's standard specifications for engineering works (AUSPEC 1).</li> <li>3) As part of any future subdivision DA, a traffic impact assessment is to be submitted to Council confirming compliance with the above specifications, in particular, with respect to road geometry and gradients. The assessment is to also address the impact of any additional traffic on local streets.</li> </ol>	<p>New roads are proposed for each of the four sectors and are generally in accordance with the layout and configuration, established in Figure 3 of the DCP.</p> <p>The new roads are 'private access roads' under the provisions of the Community Title legislation. It is proposed that a Community Scheme will operate independently in respect of each of the four sectors.</p> <p>Engineering design drawings accompany the application, which detail the roadway design. At the time of writing this report, the referral comments and / or conditions from Council's Development Engineers are outstanding.</p> <p>To this effect, this component of the assessment is outstanding and a complete and thorough assessment of the suitability of the provision, location and technical specifications of the new roads with regards to Council's standard specifications for engineering works cannot be completed.</p> <p>Accordingly, the outstanding assessment has been included as a reason for refusal.</p> <p>A Road Safety Audit has been prepared in respect of design proposals by Craig Hazell of Traffic Solutions Pty Ltd. This report concludes that there are no deficiencies in the preliminary design plans, and makes the following recommendations:</p> <ol style="list-style-type: none"> <li>1) <i>The existing speed hump located on Elm Avenue, south of proposed Road No.31 be relocated to avoid the</i></li> </ol>

Element	Numerical control / requirement	Proposed Development
	<p>4) Publicly accessible pedestrian access is to be provided linking Garigal National Park, Hews Reserve and Forest Way .</p> <p>The access is to be a minimum of 1.2m wide and be designed in accordance with Australian Standard 1428:1-4.</p>	<p><i>possibility of vehicle scraping when entering or exiting Road No.31.</i></p> <p>2) <i>Double white centrelines be provided around the bend in Forest Glen Close on the approach to the proposed Road No.41.</i></p> <p>Council's Traffic Engineer has reviewed the application and generally supports the proposal, subject to conditions. The recommendations of the Road Safety Audit will be incorporated into conditions of consent if this application is recommended for approval.</p> <p>The engineering design drawings provide for a publicly accessible access footway 1.2m wide which links Garigal National Park, Hews Reserve and Forest Way. The subdivision plans demonstrate that the proposed pedestrian access has been adapted to the topographical conditions of the site.</p> <p>The subdivision initially proposed a pedestrian access route within the eco-corridor of Sector 4. Amended plans have been received which subsequently relocate the pedestrian access route to within the drainage corridor which is a Community lot. This reconfigured location reduces the safety and security concerns of visual concealment between properties and also improves connectivity.</p> <p>Accordingly, the proposal is consistent with this requirement of the DCP.</p>
<b>Environmental Management</b>		
<b>4.1 Vegetation Retention and Rehabilitation</b>	<p>1) A Tree Survey Plan is to be submitted as part of any future subdivision development application.</p> <p>The Plan is to identify the location, type and condition of all existing trees and is to indicate those trees proposed to be removed and those to be retained.</p> <p>2) The existing remnant vegetation shown at <b>Figure 4</b> is to be retained and restored within public open space or within private allotments. Where existing remnant vegetation is to be retained within a private allotment, a restrictive covenant is to be placed on the title requiring the ongoing retention and rehabilitation of the vegetation and the restriction of use of the affected area.</p>	<p>The application is accompanied by a Tree Survey together with an Aboricultural Report, prepared by Stuart Pittendigh.</p> <p>Overlays have been prepared in respect of each of the four sectors which indicates the site topography, trees and trees which are proposed for removal.</p> <p>The remnant vegetation shown in Figure 4 of the DCP that exists within the proposed public open space areas in Sectors 2, 3 and 4, will be retained and restored within those public lands.</p> <p>Council's Landscape Officer has reviewed the Tree Survey and Aboricultural Report and generally raised no objections, subject to conditions to ensure the protection of trees which have been identified for retention. However, at the time of writing this report, the referral comments and / or conditions from Council's Natural Environment Unit are outstanding.</p> <p>To this effect, this component of the</p>

Element	Numerical control / requirement	Proposed Development
	<p>3) A corridor that is at least 10m wide is to be provided in accordance with <b>Figure 4</b> and <b>5</b>. The corridor shall be planted and maintained in accordance with revegetation guidelines provided by Council.</p> <p>4) The corridor may be within private or communal ownership. In either situation, a restrictive covenant or similar mechanism is to be placed on the title requiring the ongoing retention and management of the vegetated corridor.</p> <p>5) Potential fauna movement along the corridor is not to be restricted through fencing, driveways or other structures. Concept details of all fencing is to be submitted as part of the subdivision development application.</p> <p>6) Any fencing fronting Winani Close is to utilise high quality materials and is to include low landscaping between the fence and the kerb line. Examples of appropriate fencing styles are shown at <b>Figure 6</b>.</p>	<p>assessment is outstanding and a complete and thorough assessment of the suitability of the removal, retention and rehabilitation of vegetation cannot be completed.</p> <p>Accordingly, the outstanding assessment has been included as a reason for refusal.</p> <p>An eco-corridor with a width of 10.0m wide has been provided in accordance with Figures 4 and 5 of the DCP. The corridors will be planted and maintained in accordance with the Revegetation and Landscape Plans, prepared by Stuart Pittendrigh.</p> <p>Generally, the eco-corridor is in part private and part communal ownership.</p> <p>In Sector 1, the corridor will remain within Lots 2 – 9 in private ownership.</p> <p>In Sector 2, the corridor will remain within Lots 2 – 9 in private ownership.</p> <p>In Sector 3, the corridor will remain within Lot 13 Drainage Reserve which will be transferred to Council and thus be held in public ownership.</p> <p>In Sector 4, the corridor will remain within Lots 5 – 9 in private ownership.</p> <p>A Restrictive Covenant or similar mechanism is proposed on the Titles of Lots 2 – 9 in Sector 1 and Lots 2 – 6 in Sector 2. The Restrictive Covenant will require the ongoing retention and management of the vegetated corridors.</p> <p>The Landscape Plan prepared by Stuart Pittendrigh illustrates concept detail of fencing across the vegetated eco corridors, however it is noted that there is no fencing proposed as part of the subdivision and the suitability of fencing will be considered under the assessment of all future Development Applications for individual allotments.</p> <p>The Landscape Plan prepared by Stuart Pittendrigh provides indicative fencing details for the erection of fencing along Winani Close which will generally utilise high quality materials and will include low landscaping between the fence and the kerb line.</p> <p>The Statement of Environmental Effects prepared by Proust &amp; Gardner indicates that detail of fencing will be provided to Council for approval prior to construction.</p> <p>A condition of consent is recommended to require the erection of fencing along Winani Close as part of the subdivision works and</p>

Element	Numerical control / requirement	Proposed Development
	<p>7) A restrictive covenant or similar mechanism is to be placed on all residential allotments preventing the owning of cats or dogs.</p> <p>8) A detailed Bushland Management Plan for private allotments is to be submitted as part of any future subdivision development application. The Plan is to apply to areas of remnant vegetation that are to be retained within private allotments and the proposed Eco-Corridors. The Plan is to be prepared in accordance with guidelines provided by Council and is to address ongoing management, weed control, environmental education and awareness and monitoring.</p>	<p>to be erected prior to the issue of any Subdivision Certificate.</p> <p>The Statement of Environmental Effects prepared by Proust &amp; Gardner indicates that a restrictive covenant or similar mechanism preventing the owning of cats and dogs will be incorporated in the Section 88B Instrument related to each Title.</p> <p>A detailed Bush Management Plan has been prepared by Chris Brogan of Earth Repair and Ecology Pty Ltd which provides recommendations for bush management of the remnant vegetation which is to be retained within both private allotments and eco-corridor.</p> <p>At the time of writing this report, the referral comments and / or conditions from Council's Natural Environment Unit are outstanding.</p> <p>To this effect, this component of the assessment is outstanding and a complete and thorough assessment of the suitability of the subdivision with regards to on-going management, weed control, environmental education and awareness and monitoring, cannot be completed.</p> <p>Accordingly, the outstanding assessment has been included as a reason for refusal.</p>
<p><b>4.2 Watercycle Management</b></p>	<p>1) All development is to incorporate water sensitive urban design (WSUD). A stormwater management plan incorporating WSUD principles is to be submitted as part of a development application for subdivision of the land. The plan is to include watercycle management measures generally in accordance with the 'Water Quantity and Quality Assessment' prepared by Webb, McKewon and Associates Pty Ltd (May 2002) as shown at Figure 7. Alternate watercycle management measures that meet the above objectives may be considered by Council.</p> <p>On site stormwater detention is to be provided in accordance with the Council's "On Site Stormwater Detention Technical Specification". Council will not accept responsibility for the ongoing maintenance of water quality/detention basins. A development application for subdivision of the land shall include arrangements to Council's satisfaction that address ongoing maintenance of these facilities.</p> <p>(2) Water Quality monitoring to be carried out before, during and after</p>	<p>The application is accompanied by design drawings prepared by J.Wyndham Prince Pty Ltd. The plans incorporate water sensitive urban design principles.</p> <p>Water quality and detention basins are to be constructed on Community lots, Lot 1 in each of the four sectors. The proposed Community Management Scheme for each sector will provide for the ongoing maintenance of these facilities, which will be the responsibility of the proprietors of the lots created in each Community Management Scheme.</p> <p>At the time of writing this report, the referral comments and / or conditions from Council's Development Engineers are outstanding.</p> <p>To this effect, this component of the assessment is outstanding and a complete and thorough assessment of the suitability of the proposed stormwater drainage and management scheme cannot be completed.</p> <p>Accordingly, the outstanding assessment has been included as a reason for refusal.</p> <p>The Statement of Environmental Effects prepared by Proust &amp; Gardner states:</p>

Element	Numerical control / requirement	Proposed Development
	<p>development works (for a period of 12 months following completion of each stage) in accordance with ANZECC and ARMCANZ (2000) <i>Australian Guidelines for Water Quality Monitoring and Reporting (No.7) – Chapter 3 – Study Design</i> or from an appropriately qualified person.</p> <p>3) Flooding impacts on new development within the corridor land, adjoining and downstream properties are to be minimised. To this end, flood mitigation measures generally in accordance with those detailed in the <i>'Water Quantity and Quality Assessment'</i>, prepared by Webb, McKeown and Associates Pty Ltd (May 2002) are to be implemented. Alternate flood mitigation measures that meet the above objectives may be considered by Council.</p>	<p><i>'Water quality monitoring program has been carried out by Worley Parsons Consulting Engineers Urban Infrastructure on brief from the Department of Planning and will be ongoing. Submission 'Belrose Road Corridor Development AUSRIVAS Monitoring, prepared by Worley Parsons dated June 2010 is attached'.</i></p> <p><b>Comment:</b> At the time of writing this report, the referral comments and / or conditions from Council's Natural Environment Unit and Parks, Reserves and Foreshores are outstanding.</p> <p>To this effect, this component of the assessment is outstanding and a complete and thorough assessment of the suitability of the water quality monitoring program cannot be completed.</p> <p>Accordingly, the outstanding assessment has been included as a reason for refusal.</p> <p>The Statement of Environmental Effects prepared by Proust &amp; Gardner states:</p> <p><i>'The issue of flooding impacts on new development within the corridor land, adjoining and downstream properties has been addressed in the strategies initiated in work undertaken by J.Wyndham Prince Pty Ltd Consulting Engineers and incorporated in the design work subsequently completed.'</i></p> <p><b>Comment:</b> At the time of writing this report, the referral comments and / or conditions from Council's Natural Environment Unit are outstanding.</p> <p>To this effect, this component of the assessment is outstanding and a complete and thorough assessment of the suitability of the subdivision with regards to flooding cannot be completed.</p> <p>Accordingly, the outstanding assessment has been included as a reason for refusal.</p>
<b>4.3 Bushfire Hazard</b>	<p>A bushfire hazard assessment is to be submitted as part of any future subdivision development application for any land identified on the Warringah Bush Fire Prone Land Map. The assessment is to identify the required Asset Protection Zone (APZ) adjacent to the National Park and any specific recommendations relating to planting species and density with the APZ, access, water supply, and dwelling construction. The assessment is to be undertaken in accordance with the relevant bush fire planning guidelines.</p>	<p>The Statement of Environmental Effects prepared by Proust &amp; Gardner states:</p> <p><i>'A Bushfire Hazard Assessment has been prepared by Terrence O'Toole of Advanced Bushfire Performance Solutions. The assessment addresses land identified on the Warringah Bushfire Prone Land Map; land in Sector 1 adjacent to Garrigal National Park'.</i></p> <p><b>Comment:</b> The application has been referred to the NSW Rural Fire Service as the subdivision constitutes 'integrated development'. No objection was raised to</p>

Element	Numerical control / requirement	Proposed Development
		<p>the proposed subdivision, subject to conditions of consent.</p> <p>Accordingly, the proposal is consistent with this requirement of the DCP.</p>
<b>4.4 Remediation</b>	<p>1) As part of any future subdivision development application, a detailed Environmental Site Assessment (ESA) and Remedial Action Plan (RAP) is to be submitted to Council. The reports are to be prepared by a suitably qualified and experienced Contaminated Land Consultant in accordance with relevant NSW EPA guidelines.</p> <p>2) The site, specifically the areas of localised contamination identified in the <i>Preliminary Environmental Site Investigation</i> prepared by Coffey Pty Ltd dated September 2004, shall be remediated in accordance with <i>SEPP 55 - Remediation of Land</i> and made suitable for the uses proposed.</p>	<p>The Statement of Environmental Effects prepared by Proust &amp; Gardner states:</p> <p><i>'A detailed Environmental Site Assessment Work and Remedial Action Plan (RAP) has been undertaken by Coffey Environments Pty Ltd. The RAP addresses the Preliminary Environment Site Assessment prepared by Coffey Environments Pty Ltd, dated September 2004 and details a remediation and validation strategy..</i></p> <p><b>Comment:</b> At the time of writing this report, the referral comments and / or conditions from Council's Natural Environment Unit are outstanding.</p> <p>To this effect, this component of the assessment is outstanding and a complete and thorough assessment of the Environmental Site Assessment Work and Remedial Action Plan (RAP) cannot be completed.</p> <p>Accordingly, the outstanding assessment has been included as a reason for refusal.</p>
<b>4.5 Soil and Water Management</b>	<p>1) All development must incorporate soil conservation measures to minimise soil erosion and siltation during construction and following completion of development.</p> <p>2) A Soil and Water Management Plan, prepared in accordance with Council's <i>Specification for Erosion and Sediment Control</i> and <i>Design and Specification Manuals for Engineering Works</i> is to be submitted with each development application.</p> <p>3) All sediment and erosion controls are to be installed prior to the commencement of any construction works and maintained throughout the course of construction until disturbed areas have been revegetated/ established. The applicant will be required to present certification to this effect, to be lodged with Council prior to construction.</p> <p>4) A Construction Management Plan is to be submitted with each development application. The Plan is to demonstrate that the construction site will not unreasonably impact on the surrounding community, pedestrian or road safety, or the natural environment.</p>	<p>The Statement of Environmental Effects prepared by Proust &amp; Gardner states:</p> <p><i>'Soil and Water Management Plans have been prepared by J.Wyndham Prince Pty Ltd, Consulting Engineers, as part of the package of engineering design drawings for road and drainage works and watercycle management'.</i></p> <p><i>'All sediment and erosion controls will be installed prior to the commencement of any construction works, maintained throughout the course of construction, certified as required and lodged with Council prior to construction'.</i></p> <p><i>'Construction Planning is inherent in the detailed design work completed by J.Wyndham Prince Pty Ltd'.</i></p> <p><b>Comment:</b> At the time of writing this report, the referral comments and / or conditions from Council's Natural Environment Unit and Development Engineers are outstanding.</p>

Element	Numerical control / requirement	Proposed Development
		<p>To this effect, this component of the assessment is outstanding and a complete and thorough assessment of the Soil and Water Management Plan and Construction Management Plan cannot be completed.</p> <p>Accordingly, the outstanding assessment has been included as a reason for refusal.</p>
<b>4.6 Aboriginal Heritage</b>	<p>1) Should any historical relics be unexpectedly discovered during excavation, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with Section 146 of the Heritage Act 1977.</p> <p>2) Should any Aboriginal relics be unexpectedly discovered then all excavation or disturbance of the area is to stop immediately and the National Parks and Wildlife Service is to be informed in accordance with Section 91 of the National Parks and Wildlife Act, 1974.</p>	<p>The Statement of Environmental Effects prepared by Proust &amp; Gardner states:</p> <p><i>'It is acknowledged that if any historical or Aboriginal relics are unexpectedly discovered during the excavation process, the established protocols must be observed.'</i></p> <p><b>Comment:</b> The application was referred to the Aboriginal Heritage Office (AHO) who have provided comments stating that there are known Aboriginal sites in the vicinity of the subject site and that there is a high potential for unrecorded sites to be present.</p> <p>In this regard, the AHO have recommended that a full and comprehensive Aboriginal Heritage Assessment be carried out for the land by a qualified Aboriginal heritage professional.</p> <p>Accordingly, conditions of consent are recommended, requiring the submission of an Aboriginal Heritage Assessment report.</p>
<b>Subdivision and Dwelling Controls</b>		
<b>5.1 Dwelling Design</b>	<p>1) Building facades are to be articulated and roof form is to be varied to provide visual variety.</p> <p>Suitable elements for articulated appearance include verandahs, windows, awnings, eaves, and wall line variation. Suitable elements for roof forms include hips, skillions, flat roofs, curved roofs, and gables. Eave overhangs are to provide sun shading and protect windows and doors and provide aesthetic interest. Eaves should have a minimum of 400mm overhang and be provided to a minimum of 70% of the dwelling.</p> <p>2) Proposed dwelling colours, materials and finishes are to be from a neutral palette of colours.</p> <p>Bright and highly reflective colours are to be avoided. Multi-coloured roof tiles are not permitted.</p> <p>3) The front elevation of dwellings are to incorporate entrances, verandahs, porches and balconies and the like to provide articulation, visual interest and to allow casual surveillance of the street.</p>	<p>The application relates to the subdivision of the land only and does not propose the construction of dwellings.</p> <p>In this regard, consideration of the numerical standards and requirements of this component of the DCP will be considered in the assessment of all future Development Applications for dwellings on each individual allotment.</p>



Element	Numerical control / requirement	Proposed Development
	<ol style="list-style-type: none"> <li>4) Long, unarticulated facades fronting the street are not permitted.</li> <li>5) Building facades on corner sites shall address both streets and incorporate elements within the roof and wall to create an articulated appearance.</li> <li>6) All front fencing is to be consistent in design and style with its dwelling. On corner allotments, the front fencing style is to be continued along the secondary street frontage to at least 1m behind the building line of the dwelling.</li> <li>7) Any fence visible to a public place, including common property must be of a decorative finish to Council's satisfaction. Colorbond or timber paling or lapped/capped fencing can only be used internally between dwelling lots.</li> </ol>	
<b>5.2 Private Open Space and Landscaping</b>	<ol style="list-style-type: none"> <li>1) Private open space is to: <ul style="list-style-type: none"> <li>- be provided for all housing, and</li> <li>- be clearly set apart for private use, and</li> <li>- have a maximum gradient of 1:10, and</li> <li>- be directly accessible from a living area of the dwelling and capable of serving as an extension of the dwelling for relaxation, dining, entertainment, recreation and children's play, and</li> <li>- incorporate an area of principal private open space with a minimum area of 24m<sup>2</sup> (4m x 6m) that is directly accessible from the main living area of a dwelling.</li> </ul> </li> <li>2) A Landscape Plan is to be submitted with each development application involving public domain works or a residential dwelling. Use of low flow watering facilities is encouraged to avoid over watering by residents. Low water demand drought resistant vegetation is to be used in common landscaping areas, including native salt tolerant trees.</li> <li>3) Landscape treatment is to be provided within the front setback zone to provide a clear delineation between the private and public domain. Front setback areas are to contain landscaping.</li> <li>4) At least one "tall or low tree" from the list at <b>Appendix A</b> is to be provided where possible within the front setback area of every residential dwelling. This may include existing trees that are to be retained within the front setback area.</li> <li>5) Subsoil drains are to be installed around the perimeter of residences and connected to the stormwater system to prevent accumulation of water and concentration of salts.</li> </ol>	<p>The application relates to the subdivision of the land only and does not propose the construction of dwellings.</p> <p>In this regard, consideration of the numerical standards and requirements of this component of the DCP will be considered in the assessment of all future Development Applications for dwellings on each individual allotment.</p>

Element	Numerical control / requirement	Proposed Development
<b>5.3 Access and Parking</b>	<ol style="list-style-type: none"> <li>1) A maximum of 2 car parking spaces is to be provided for each dwelling.</li> <li>2) Carports and garages are to be treated as an important element of the dwelling facade and interface to the public domain. They are to be integrated with and complementary, in terms of design and material, with the dwelling design. Garage doors are to be visually recessed though use of materials, colours, and overhangs. Where facing the street, the maximum width of a garage or carport is to be 6m per dwelling and the area of any garage door should not comprise more than 45% of the total frontage of the dwelling's (street-facing) elevation.</li> <li>3) The maximum width of a driveway at the property boundary is to be 4m.</li> </ol>	<p>The application relates to the subdivision of the land only and does not propose the construction of dwellings.</p> <p>In this regard, consideration of the numerical standards and requirements of this component of the DCP will be considered in the assessment of all future Development Applications for dwellings on each individual allotment.</p>
<b>5.4 BASIX</b>	<p>All applications for residential dwellings, including alterations and additions, are to be accompanied by a BASIX Certificate.</p> <p>Developments are to incorporate all commitments stipulated in the BASIX Certificate.</p>	<p>The application relates to the subdivision of the land only and does not propose the construction of dwellings.</p> <p>In this regard, consideration of the numerical standards and requirements of this component of the DCP will be considered in the assessment of all future Development Applications for dwellings on each individual allotment.</p>
<b>5.5 Waste</b>	<ol style="list-style-type: none"> <li>1) A Waste Management Plan is to be submitted with all development applications (where relevant).</li> <li>2) Development must demonstrate that the design takes into account refuse storage and collection without reducing the amenity of the dwelling or neighbouring lots.</li> <li>3) Storage areas for rubbish bins are to be located away from the front of development where they have a significant negative impact on the streetscape, on the visual presentation of the building entry and on the amenity of residents, building users and pedestrians.</li> </ol>	<p>The application relates to the subdivision of the land only and does not propose the construction of dwellings.</p> <p>In this regard, consideration of the numerical standards and requirements of this component of the DCP will be considered in the assessment of all future Development Applications for dwellings on each individual allotment.</p>
<b>5.6 Servicing</b>	<ol style="list-style-type: none"> <li>a) Utility services including service structures, plant and equipment are to be located under ground or be designed to be an integral part of the development and suitably screened from public places or streets. Where possible, underground utility services are to be provided in a common trench.</li> <li>b) Garbage and mail box structures are to be integrated with the overall design of buildings and/or landscaping.</li> </ol>	<p>The application relates to the subdivision of the land only and does not propose the construction of dwellings.</p> <p>In this regard, consideration of the numerical standards and requirements of this component of the DCP will be considered in the assessment of all future Development Applications for dwellings on each individual allotment.</p>

## POLICY CONTROLS

### Warringah Section 94A Development Contribution Plan

The following table identifies the monetary contributions applicable and a condition of consent imposed accordingly should this application be recommended for approval:

<b>Warringah Section 94A Development Contributions Plan</b>		
Contribution based on total development cost of		<b>\$ 8,866,000.00</b>
<b>Contribution - all parts Warringah</b>	<b>Levy Rate</b>	<b>Contribution Payable</b>
S94A Levy	0.95%	\$84,227.00
S94A Planning and Administration	0.05%	\$4,433.00
<b>Total</b>	<b>1.0%</b>	<b>\$88,660.00</b>

## OTHER RELEVANT LEGISLATION

### a) Local Government Act 1993

Council is empowered under the Local Government Act 1993 to grant any works or permits required in accordance with specified activities under Section 68 as part of the development assessment process. The development work will require permits in regard to activities listed under Section 68 for stormwater and road works. Conditions of consent are recommended for imposition in this regard.

### b) Community Land Management Act 1989

Part of the proposed subdivision includes land in Community Title. The Community Land Management Act makes provisions for the establishment and ongoing management of land within a community title arrangement. Compliance with the Community Land Management Act will be a statutory requirement and no special conditions are recommended other than Council's standard wording with the community management plan for waste services.

## OTHER MATTERS FOR CONSIDERATION

### a) Section 100(B) Rural Fires Act 1997

Section 100(B) of the Rural Fires Act 1997 requires a Bushfire Safety Authority prior to developing within bushfire prone land.

As the subject site is identified as Integrated Development, the Application has been referred to the New South Wales Rural Fire Service pursuant to Section 100(B)(1)(b) being development for the purpose of subdivision. (See comments under 'Integrated Referrals')

**b) Threatened Species Conservation Act 1995**

Assessment for Significant effect on threatened species, populations or ecological communities, or their habitats (Section 5A EPA Act 1979)

For the purposes of this Act and, in particular, in the administration of Sections 78A, 79B, 79C, 111 and 112, the following must be taken into account in deciding whether there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats:

<i>Matter for consideration</i>	<i>Assessment Comments</i>
(a) in the case of a threatened species, whether the action proposed is likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction	<p>At the time of writing this report, the referral comments and / or conditions from Council's Natural Environment Unit are outstanding.</p> <p>To this effect, a complete and thorough assessment of the proposed subdivision with regards to the potential impact on threatened species cannot be completed.</p> <p>Accordingly, the outstanding assessment has been included as a reason for refusal.</p>
(b) in the case of an endangered population, whether the action proposed is likely to have an adverse effect on the life cycle of the species that constitutes the endangered population such that a viable local population of the species is likely to be placed at risk of extinction	
(c) in the case of an endangered ecological community or critically endangered ecological community, whether the action proposed:	
(i) is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or	
(ii) is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction,	
(d) in relation to the habitat of a threatened species, population or ecological community:	
(i) the extent to which habitat is likely to be removed or modified as a result of the action proposed, and	
(ii) whether an area of habitat is likely to become fragmented or isolated from other areas of habitat as a result of the proposed action, and	
(iii) the importance of the habitat to be removed, modified, fragmented or isolated to the long-term survival of the species, population or ecological community in the locality,	
(e) whether the action proposed is likely to have an adverse effect on critical habitat (either directly or indirectly),	
(f) whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan,	

<i>Matter for consideration</i>	<i>Assessment Comments</i>
(g) whether the action proposed constitutes or is part of a key threatening process or is likely to result in the operation of, or increase the impact of, a key threatening process.	

## CONCLUSION

The site has been inspected and the application assessed having regard to the provisions of Section 79(C) of the Environmental Planning and Assessment Act, 1979, the relevant Environmental Planning Instruments including Warringah Local Environmental Plan 2000, State Environmental Planning Policy No.55, State Environmental Planning Policy – Infrastructure and the relevant codes and policies of Council including Warringah Development Control Plan – Belrose Road Corridor and Draft Warringah Local Environmental Plan 2009.

The issues raised in the public submissions received have been considered and have been addressed within this report, with the exception of the outstanding assessment in relation to flooding, stormwater, riparian and bushland issues, which form part of the reasons for refusal of the application.

The proposed subdivision is consistent with the Desired Future Character statement for the C11 Belrose Road Corridor locality in that the characteristics of the proposed subdivision, principally the lot sizes and lot dimensions, are reflective of development generally within an established residential area and will enable future development to establish a consistent streetscape character by virtue of setbacks and alignments. An ecological corridor is also proposed through each of the 4 sectors and approximately 3ha will be dedicated to Council at no cost as public open space.

The 4 Sectors each achieve compliance with the Housing Density Built Form Control and demonstrate that future dwelling houses will be able to comply with the Built Form Controls of C11 – Belrose Road Corridor Locality Statement within WLEP 2000.

The proposal is inconsistent with the provisions of Clause 21(3) of WLEP 2000 in that there is outstanding assessment, which prevents a complete and thorough assessment of the provisions of Schedule 7 'Matters for consideration in a Subdivision of Land' of WLEP 2000.

In principle, no objection is raised to the proposed subdivision on planning grounds, which is reflected through the proposal's consistency with the Desired Future Character Statement, numerical compliance with the Built Form Controls and ability for the future accommodation of dwellings that achieve compliance with the Built Form Controls of WLEP 2000 and the compliance with the minimum lot sizes of Draft WLEP 2009.

However, at the time of writing this report, there is outstanding flood, stormwater drainage and management, and bushland management assessment, due to the assessment of additional information submitted by the applicant late in the processing of the application.

Consequently, a complete and thorough assessment of this application cannot be made. For this reason, the application deemed to be inconsistent with the relevant General Principles of Development Control, the relevant provisions of the Development Control Plan – Belrose Road Corridor and relevant Schedule 7 'Matters for consideration in a Subdivision of Land' of WLEP 2000. However, upon completion of the review of the additional information by Council's Development Engineers and Natural Environment Unit and receipt of that advice, a supplementary report will be prepared with a recommendation based on the full and total assessment of the application.

Accordingly, on the basis of the incomplete assessment of the application, the proposed development is recommended for refusal.

### **RECOMMENDATION (REFUSAL – Outstanding Assessment)**

That the Development Application No.DA2010/2089 for Community Title Subdivision to create 47 Lots, construction of private roads, infrastructure and transfer of land, at Lot 5 in DP 514039, Lot 6 in DP 514039, Lot 11 in DP 244797, Lot 2 in DP 526613, Lot A in DP 347637, Lot 38 in DP 238042, Lot 39 in DP 238042, Lot 33 in DP 222330, Lot 13 in DP 587071, Lot 3 in DP 534463, Lot 12 in DP 225340, Lot 52 in DP 819308, Lot 5 in DP 260080, Forest Way, Pringle Avenue, Everton Road and Elm Avenue, Belrose, be refused for the following reasons:

1. Pursuant to Section 79(C)(1)(a) of the Environmental Planning and Assessment Act 1979 and Clause 12(1)(a) of Warringah Local Environmental Plan 2000, the outstanding assessment in relation to flooding, stormwater drainage and management, and bushland management prevents a complete and thorough assessment of the proposed subdivision with regard to the relevant General Principles of Development Control.

In this regard, the proposed development cannot be determined to be consistent with the following General Principles of Development Control:

- a) Clause 47 – *Flood Affected Land*;
  - b) Clause 56 – *Retaining Unique Environmental Features on Site*;
  - c) Clause 58 – *Protection of Existing Flora*;
  - d) Clause 60 – *Watercourses & Aquatic Habitats*; and
  - e) Clause 76 – *Management of Stormwater*.
2. Pursuant to Section 79C(1)(a) and (b), of the Environmental Planning and Assessment Act, 1979 and Clause 21(3) of Warringah Local Environmental Plan 2000, the outstanding assessment of matters listed above prevents a complete and thorough assessment of the proposed subdivision with regards to the relevant provisions of Schedule 7 *Matters for Consideration in the Subdivision of Land* as contained within WLEP 2000.