
Church Point Draft Plan of Management July 2008



Report to Pittwater Council
on submissions to the exhibited draft Plan

Prepared by an Independent Panel

January 2009

Executive Summary

Pittwater Council recently prepared the *Church Point Draft Plan of Management July 2008* (Draft PoM). The preparation of the draft PoM and its subsequent public exhibition have been critical steps in regard to the achievement of a cohesive urban design and management strategy which is needed in response to the complexities facing the Church Point locality.

In response to these complexities the draft PoM presents an ambitious plan nominating various social, environmental and economic strategies. The figure below summarises the key spatial elements of the draft PoM.

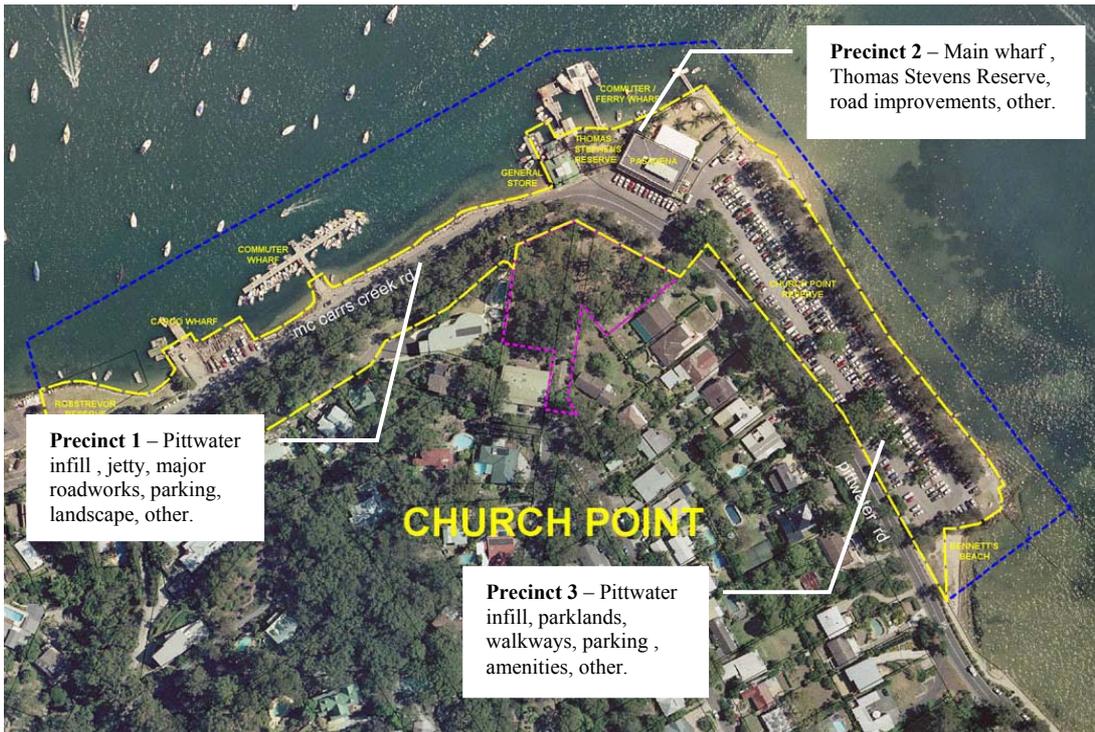


Figure: Outline of Draft Plan of Management Precincts and brief indication of works proposed.

This report brings forward the views of an independent panel appointed by Pittwater Council and commissioned to review the public submissions to the draft PoM, and provide recommendations regarding the future adoption of a final Plan of Management by Council.

Commendable work from a number of parties

The draft PoM which was exhibited in mid 2008 has been a critical step in what is aspired to as a process of development of a cohesive urban design and management strategy for Church Point. A major feature of the work has been the extraordinary inputs into the process from local residents. It is clear from the submissions that there are many committed and creative people living within the foreshore and onshore communities who have taken to heart the issues at hand. Useful primary research has been undertaken by many of the parties, with most commendable levels of knowledge sharing having occurred, not always evident in situations like this. There has also been commendable commitment and resilience and the capacity to build trust on the part of residents and key council officers involved, along with those from the Department of Lands.

One point of particular note is the indication that after much consultation a “user pays” approach has been largely agreed in terms of access to onshore crown land for parking and dinghy storage by offshore residents. The cost of works proposed in the draft PoM (between \$10.129m. and \$11.629m.) is very high to the relatively small number of beneficiaries. User-pay offers the Council the opportunity to put forward a plan on the scale proposed at Church Point, while acting responsibly in regard to the wider community.

A broad vision for Church Point appears to be reasonably commonly held, and seems to comprise:

- retaining environmental and social distinctiveness of this special locality, notwithstanding the need for practical improvements and tidying up
- in particular, improving pedestrian, parking and traffic safety and convenience for locals, especially offshore but also onshore residents
- reasoned approach to capital works funding - given local and wider community interest.

The spatial goals provide for:

- additional and safer parking (offshore residents indicate they are seeking around 40 to 50 more spaces and a number of onshore residents seek the relocation of some of the existing parking)
- additional and safer dinghy berthing, especially for commuters from offshore
- improved waterfront landscaping and walkways including connections to the wider locality
- additional local parks and open space, including improvements to the wharf and village square.

The draft PoM has clearly referenced a most commendable earlier masterplan¹. In our view there is capacity to achieve the most significant spatial elements of this earlier master planning work as the Church Point project moves into more detailed stages.

It is most important to note that the risks, including financial risks, are considerable in this project. It is our advice that at approximately \$12m it would be the largest project Pittwater Council has undertaken. Therefore, there is a need for ongoing exacting procedures to be followed as work continues.

Spatial Vision to Practical Implementation – Questions of Finance and Spatial Constraints/Opportunities

The draft PoM, with its examination of various issues to a greater level of detail than has previously occurred, has drawn out specific matters of contention – a required step if a workable outcome is to be achieved. As an entity, the draft PoM seeks to deliver quite a complex array of service improvements and includes a neat funding strategy which nevertheless brings risks with it of particular significance. In a sense the draft PoM is attempting to deliver both a master spatial plan of some detail and a management planning instrument. There is a need for further connecting up of the professional and creative work to date in regard to the design and practical / financial considerations. The key concerns are summarised below.

Additional Parking Provision Links Directly to Financial Considerations

Parking was a key issue in submissions and proposals for an elevated parking deck, as a component of a response plan, was a particular target for objections.

Key Issue 1 - Additional Parking Provision Links Directly to Any Funding Strategy

| Issue | Comment | | | | |
|---|--|------------------------------------|-------------|---------------------------------------|-------------|
| Submissions from offshore residents request an extra 40-50 car parking spaces, (while no doubt some would desire more again), along with some commitment to user-pays arrangements. | This provides for a reasonable limit to parking, considerably below offshore car ownership levels, and potential long term sustainable use of selected crown lands for parking as a component of an integrated scheme. | | | | |
| In recognition of the PoM's large capital works program, an objective of the elevated parking deck is to secure private funding (\$4000/annum/space indexed) the income from which would offset the cost of the capital works, and thus reduce the charges to local offshore residents. | Under the PoM's financial plan the following annual fees would accrue to offshore residents seeking a parking space: <table border="1" style="width: 100%;"> <tr> <td>With income from Suspended Carpark</td> <td>\$300/annum</td> </tr> <tr> <td>Without income from Suspended Carpark</td> <td>\$577/annum</td> </tr> </table> <p>Annual fees for car parking space</p> <p>Dinghy berths would be a further \$430/annum. All figures would be indexed annually.</p> | With income from Suspended Carpark | \$300/annum | Without income from Suspended Carpark | \$577/annum |
| With income from Suspended Carpark | \$300/annum | | | | |
| Without income from Suspended Carpark | \$577/annum | | | | |

¹ Church Point Reserve Association Proposed Masterplan, July 2008 and the prior design elements.

Conclusion – Parking and its Relationship to Funding Strategy

1. A fiscally responsible capital works program is crucial to an effective outcome at Church Point.
2. It is reasonable that there be fees charged to offshore residents if large areas of Crown Lands and other public assets are to be directed to securing parking and dinghy storage improvements for the long term.
3. There is a need to examine all alternatives to keeping fees charged to offshore residents to a minimum. The draft PoM usefully examines particular options, including the elevated parking deck – alternatives which require greater examination include:
 - a. Reductions in capital works program (see **Key Issue 3** below)
 - b. Innovative means of securing pedestrian and vehicle safety and convenience at lower capital cost (see **Key Issue 4** below).

Key Issue 2 - Elevated Parking Deck has low levels of community acceptance at this point and could bring serious amenity impacts

| Issue | Comment |
|--|--|
| The draft PoM has had extensive levels of consultation in its development and the elevated parking deck, as a late inclusion, presents starkly as a matter of serious objection. | Notwithstanding the actual impacts, there is a concern about the process of inclusion of this item which has acted against the PoM's acceptance. Community ownership is a key plank for a successful outcome. |
| <i>Actual amenity impacts would need to be addressed through a full environmental assessment – however this report can provide preliminary comments, as follows:</i> | |
| Visual impact | It would be necessary for a full visual impact assessment to be undertaken. As it stands the elevated parking area would only be a low level structure and would be dominated by the vegetated escarpment above by all but the close quarter views when viewing from Pittwater. When travelling from the east, the deck would not be visible until rounding Church Point and would have a similar narrow view from the west. It would similarly have minimal impact from the south. Its key impact would be for those walking or parking in the immediate vicinity, and in the near waterway of Pittwater. There is a concern to ensure no unreasonable precedents are set given the widespread nature of parking problems around the Pittwater shore. |
| Acoustic impact | The key concern would be for residents above and to the south. There is insufficient detail at this point, but it is evident that some screening is available, or could be provided |
| Traffic – safety and amenity | There is some suggestion of the use of the private road which parallels McCarrs Creek Road for this purpose. Serious egress problems are evident here. Perhaps most important of all is the principle of the introduction of some 60 parking spaces more than has been requested. There is a fear of cars further visually dominating the pleasing local character of the area. |

Conclusion – impacts of elevated parking deck

1. At best there is a need for further consultation and examination of the elevated deck.
2. There would be an adverse amenity impact and this would need to be weighed against a demonstrable associated community benefit. In this instance the benefit seems to be associated with reducing parking fees to off-shore residents.
3. In addition to potential visual and noise impacts, there would be substantial impacts arising from an additional concentration of cars owned by offshore residents to the immediate Church Point area.

Key Issue 3 - Need to closely consider alternatives to reduce capital works budget.

| Issue | Comment |
|---|---|
| <p>Most obvious options for reduction in capital works were considered in the masterplan prepared by Church Point Reserve Association (CPRA) which was tabled in 2007. This proposal:</p> <ul style="list-style-type: none"> • reduces quantum of area required for road re-alignment and associated earthworks in Precinct 1 • does not provide for decked parking • brings forward a simplified landscape improvement plan. <p>The potential savings could be up to \$500,000.</p> | <p>This proposal also provides for an alternative dinghy berthing arrangement. The proposal designed by the offshore community is favoured for reasons discussed in the body of the report.</p> <p>The CPRA proposal has also raised concerns when discussed with local RTA officers. This matter is discussed at Key Issue 4 below.</p> |
| <p><i>Further relevant options for reducing capital works program, some of which were also addressed in the CPRA Plan, do not directly align with the Precinct 1 locality but include reducing or eliminating:</i></p> | |
| <ul style="list-style-type: none"> • proposed works at the amenities building in Precinct 3 <p>The potential savings could be up to \$572,000.</p> | <p>These upgrade works would improve the local setting but are discretionary as the toilet block and associated area is in reasonable repair.</p> |
| <ul style="list-style-type: none"> • reclamation and landscape works along Precinct 3 promenade | <p>The promenade here already is a pleasant place, low key and shaded by existing trees, with visual interest at the waterline and delightful views over to the island. Again the proposed improvements would be welcome, but seem to more flavoured towards creating an improved tourist experience. This is no bad thing, but discretionary and not fundamental to the current casual appeal of the locality, and the walkway to Bayview.</p> |
| <ul style="list-style-type: none"> • reclamation and landscape works associated with park at Bennett's Beach in Precinct 3. <p>The potential savings could be up to \$1m for the reclamation and landscape works in Precinct 3.</p> | <p>This is a high cost item but has the potential to add to the recreational experiences at Church Point. Church Point already enjoys quite magnificent exposure to recreational assets including small beaches and walking opportunities. However, toddlers and people of all ages would enjoy and use the new space safely. As it is, away from the sometimes hectic village square, the reclamation area has the potential to provide more public recreation opportunity than the public land off Quarter Sessions Rd, as referenced in the draft PoM.</p> <p>This proposal has environmental and funding issues which require resolution.</p> |
| <p>Capital cost of the elevated carpark would also be no longer included.</p> | <p>In financial terms (as opposed to environmental/aesthetics, etc) the elevated carpark was included at the last moment because it would: (a) provide a good source of income that would reduce the weight of income to service the Council loans that otherwise would be coming from the permits for car/boat parking; and (b) if the Suspended Carpark were to be abandoned, the rise in car permit prices would jump, and quite possibly restrict the demand for permits (and, hence, risk the flow of funds to repay the loans).</p> |

Conclusion – reducing capital works

1. It is quite practical to consider capital works reductions of the order of \$2m, and with further analysis it is our view that the key goals of the plan may be able to be achieved reducing works by around \$3m.
2. While there is a need for further financial planning here, there would seem to be a need for reductions of costs in the order of \$3m to offset the financial benefits which are sought from the leasing of private car spaces on the elevated parking deck.

Key Issue 4 - Sustainable Strategy for Pedestrian and Vehicle Safety and Convenience

| Issue | Comment |
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| Need for fully co-ordinated involvement, analysis and delivery of the public sector components of the PoM. | This project has regional significance and warrants an outcome-based involvement from all relevant public agencies, including RTA, DPI (Fisheries), DECC, Ministry of Transport along with Council and Lands. “Silo-based” approaches would be expected to result in few changes to the status quo. |
| Vehicle speeds in the vicinity may increase and safety decrease with the proposed improved sight distance | The draft PoM presents changes to McCarrs Creek Road horizontal alignment which of itself would promote higher vehicle speeds. |
| There are very low traffic volumes in the locality and a core element of the plan would include design elements to bring speeds down to very low levels in the locality. This will also allow increases in local parking due to reduced design constraints. RTA support should be readily forthcoming on this matter. | RTA has already acknowledged that McCarrs Creek and Pittwater Roads in this vicinity are low traffic volume and lower order roads from a practical viewpoint. However negotiations continue between council and RTA on financial considerations relating to handover. This negotiation should not prevent adoption of a practical position to assist in the resolution of Church Point problems in the short term. |
| <i>There is a need for a strategy in response to the potential for the extra parking to merely be occupied over the next five years or so and the current congestion and inconvenience to onshore residents re-appear. It is this area which requires additional innovative input and collaboration. Each strategy element nominated below should reasonably look to the RTA and Ministry for Transport for expert input/endorsement/ sponsorship.</i> | |
| <ul style="list-style-type: none"> • Car share schemes | |
| <ul style="list-style-type: none"> • Coordinated public transport | |
| <ul style="list-style-type: none"> • Bike drop-off schemes | |
| <ul style="list-style-type: none"> • Providing incentives for long stay parking to locate away from Church Point. | |

Conclusion – Sustainable Strategy for Pedestrian and Vehicle Safety and Convenience

1. There is a core requirement for the Church Point precinct to be accepted and designated as a low traffic speed environment (40km/hr). This will both improve traffic and pedestrian safety and improve parking opportunity.
2. With a view to ensuring the provision of additional parking is more than a temporary respite, the final PoM would need to include a program for ongoing implementation of car share schemes, bike drop off arrangements at remote or longer stay parking locations and improvements in the coordination of ferry/bus timetables. The program would recognise the importance of incentives and commitment of the offshore community.

Key Issue 5 – Infill of Pittwater and ecological impact

| Issue | Comment |
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| It is inappropriate for Council to adopt a strategy which assumes infill of the Pittwater without any in principle | The proposals in the draft PoM are dependent on extensive infill of the Pittwater i.e. the road re-alignment, the |

| Issue | Comment |
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| approval from DPI Fisheries | commuter wharf proposal and the waterfront boulevard reserve and local park at Bennett's Point. A permit is required for infill under Pt 7 of the <i>Fisheries Management Act 1994</i> |
| Before any adoption of a PoM which rests on infill proposals, it is necessary to initiate an outcome-based involvement with DPI (Fisheries) in relation to feasibility of Pittwater infill | The Panel has been advised that initial consultations with DPI (Fisheries) have indicated some support for infill in Precinct 1 (safety reasons), but not for Precinct 3 (recreational purposes). |
| The infill proposal will have an adverse ecological impact on protected seagrass, the extent of which is unclear. | An aquatic ecological survey has been undertaken for Precinct 1 which identifies an adverse ecological impact on protected sea grass and suggests selective relocation. No survey has yet been obtained for Precinct 3. |
| There is <i>prima facie</i> evidence in support of infill proposals in Precinct 1. | Based on the aquatic survey, and the additional safety factors which the draft PoM will deliver, the Panel supports the reclamation works in Precinct 1. |
| There is no evidence in support of infill proposals in Precinct 3. | There is no aquatic survey available for Precinct 3 and no evidence of DPI Fisheries support. The Panel gives in principle support to the infill proposal, but only if this can be achieved without any significant impact on the aquatic ecology or marine vegetation. |
| There is a need to consider alternatives or a fallback position if infill proposals cannot proceed. Alternatives should provide an equitable balance between car parking and recreational space. | There seems to be more support for infill in Precinct 1 than in Precinct 3. If infill cannot be carried out in Precinct 3, it will be necessary to supplement recreational space elsewhere. |

Conclusion – Infill of Pittwater and Ecological Impact

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| <ol style="list-style-type: none"> 1. An aquatic ecological survey should be undertaken to assess the impact of infill in Precinct 2. Discussions should be held with DPI (Fisheries) to obtain clearer advice on feasibility of infill proposals for both Precincts 1 and 3. 3. A fallback position should be considered, in the event that the infill proposals do not proceed or are substantially reduced. This should ensure an equitable balance between car parking and recreational space. |
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Key Issue 6 – Proposed Sale of Community Land and related open space planning considerations

| Issue | Comment |
|---|---|
| It is inappropriate for Council to adopt a strategy which assumes the sale of public land currently classified as community land under the <i>Local Government Act 1993</i> . | The draft PoM assumes the sale of two parcels currently zoned open space and classified as community land as a means of funding almost the entirety of works in Precinct 3, and a smaller portion of works in Precinct 2. |
| Before any adoption of a PoM which sources part of its funding strategy from the sale of the two parcels it is necessary that due process be followed in regard to the proposed reclassification and rezoning of the two parcels. | This process includes preparation and exhibition of a draft LEP, undertaking a public hearing and consideration of a report by an independent chair and finally a decision by State government to gazette the rezoning and reclassification. |
| There is <i>prima facie</i> evidence in support of improved open space recreation outcome in regard to these elements of the draft PoM | The land currently classified for community purposes has some community value as a feature in the landscape, however there is potential for a more unique recreational asset to be created with what would be in part the equivalent of a land swap. This proposal has environmental issues, especially Pittwater infill proposals, which require resolution |
| There is a need to consider alternatives/ fallback | If a holistic outcome is still to be delivered then the proposed |

| Issue | Comment |
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| positions if the reclassification does not proceed or revenue is not as great as expected | elevated parking area (or part of it) may ultimately provide a source of parking which can justify the transformation of some of the existing parking in the Church Point Reserve to a pleasant waterside park (ie without any reclamation within Pittwater). This solution would partially offset concerns about excessive additional parking in the locality as discussed at Key Issue 1 above. |
| <p>The public park within the Church Point Reserve need not be overly large in area given:</p> <ul style="list-style-type: none"> • the extensive and pleasant walking opportunities, small beaches and delightful environmental setting which presents • the capacity to deliver a most pleasant park in an area of around 1500-2000m² on the waterside • The general spatial limitations in regard to public land and its use in the immediate locality, including in regard to parking. | The Panel sees the Church Point area as relatively well serviced with recreational and public open space opportunities. The draft PoM provides for the existing mix to be augmented by the new waterside landscaped park Bennetts Beach. In our view the final should comprise either the proposed park delivered through reclamation of Pittwater, or the transformation of part of the existing Church Point Reserve (should alternative parking be made available), but not both, given the shortages of public land for parking and physical constraints. |
| Any development proposed on the two blocks of land should consider how it will conserve the archaeological significance of the graveyard. Given the historic significance of the two blocks of land, the terms of the original grant should be investigated. | The blocks formed part of the original grant to Oliver in 1842 and were part of an area donated by him for public open space. They are in close proximity to the graveyard which is identified in PLEP 1993 (sch 9) as of archaeological significance. |

Conclusion – Community Land Sale and associated open space issues

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| <ol style="list-style-type: none"> 1. Sale of the 2 blocks of land cannot be assumed. The process relating to reclassification and rezoning should proceed prior to adoption of the PoM. 2. The open space value of the 2 blocks is outweighed by the potential benefits of a waterside boulevard park (assuming any infill issues are resolved). A full examination of the value of this public land would be reasonably explored during the required reclassification proceedings. 3. Alternatives or a fall back situation is necessary if the sale cannot proceed or the proceeds are inadequate. 4. The terms of the original grant of the land and heritage issues should be explored. |
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Recommendations

At this point, Council is not in a position to adopt the current PoM, due to procedural issues associated with land reclassification and rezoning. However the momentum for the delivery of an improved outcome at Church Point can certainly be continued. **Section 7** in the body of the report outlines a series of principles and recommended actions in this regard. These are summarised below:

Giving Recognition to Basic Strengths of Proposed Strategy

1. Council indicate its support in principle for:
 - a. the provision of additional parking at Church Point to the south of the McCarrs Creek Road alignment numbering 40-50 spaces minimum
 - b. The provision of additional and safer dinghy berthing arrangements up to the 190 spaces indicated in the draft PoM
 - c. Each of the above elements as a component of a user-pay system and integrated with major capital works program for the Church Point area (see specific comments on financial aspects below).

Commence Land Reclassification Process

2. Council prepare draft LEP to rezone and reclassify the community land described as Quarter Sessions Road Reserve and move through steps to public hearing and a resolution on this matter.

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3. Council initiate approaches to United Church in regard to the upgrading of the Cemetery as a partnership program and integrated with the further PoM development

Facilitating Coordinated Public Sector Inputs - Much Needed to Secure Desired Outcomes

4. Council request the local member to initiate a meeting between the Mayor and the Minister for Roads to secure a special low speed status for the identified sections of McCarrs Creek Road and Pittwater Road and to outline the proposed sustainable transport strategy.
(This to open up cost reductions and a more sustainable financial strategy – traffic counts for McCarrs Creek west of Church Point should be undertaken before this meeting)
5. Council's General Manager and Lands Department Regional Manager meet with Regional Managers of Roads, Transport, Fisheries, Environment and Climate Change with a view to forming a working party to ensure a common understanding and coordinated planning of public sector inputs into the project.
6. Council initiate outcome-based involvement with DPI (Fisheries) in relation to feasibility of Pittwater infill.

Design Specifications for PoM – Focus on Modest Baseline Improvements

7. In the interests of financial sustainability while minimising user fees, an alternative works program be prepared which assumes low speed traffic environment and concomitant reduced capital costs (eg through reduced roadworks) and improved low cost parking availability (including in appropriate sections adjacent to the road carriageway). This plan should be the subject of meetings with State authorities.
8. The provisions of the CPRA Masterplan should be referenced in the development of this alternative plan.

Ensuring environmental values are preserved

9. An aquatic survey should be undertaken in Precinct 3, ideally by a consultant outside the area;
10. A species impact assessment should be carried out to assess any potential impacts on spotted gums, flora and fauna and vegetation communities;
11. The proposals should preserve the balance between recreational amenity and car parking.

Ensuring visual and recreational amenity of the area is preserved

12. A visual impact statement should be undertaken in relation to the proposal for the suspended car park;
13. A landscape plan should be prepared and made available for community consultation;

Ensuring the heritage character of the area is preserved

14. The heritage significance of the area should be maintained and it should be clarified how this will be enhanced by the proposals;
15. The terms of the original grant of the 2 blocks of community land should be explored.

Ensuring value for money for Council and the community underpins any PoM.

16. The Council should carefully consider the financial and economic risks associated with the financial modelling plan of the PoM, identifying the possible areas of risk, their level of likelihood, the time-frames within which risk reviews should be made, the information bases on which financial risk can be recognised and measured, the responsibilities of Councillors and Staff in relation to risk, and the ways in which risk can be managed. Council must develop a risk management strategy.
(The body of the report outlines the Panel's view on risks associated with the draft PoM).

Financial planning and modeling – transparent and protective of risks

17. The Council should develop a business plan which will provide a sense of how the PoM will be implemented, the levels of financial, technological, design, probity, professional and legal support, and other needs that are necessary for the advancement of the Plan.
18. The Council should identify priorities within the PoM, the expected time-frames for the various parts of the redevelopment programme, and the management needs to ensure that the PoM proceeds in line with community expectations.
19. The Council should investigate the level to which the building of the Suspended Carpark is necessary to provide a secure financial base for the plan. In relation to this it should do a market analysis of demand for guaranteed car spaces, the competitive nature of its proposed fees, and generally proof the commercial base of the proposal.

Programming

20. A timetable should be initiated for the above actions with a view to reconsidering a final Plan of Management in accordance with achievable work programming given other Council commitments.

Community Liaison

21. Continuing liaison with representative groups should be undertaken during the course of the process.

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1. Introduction

1.1 Background

Pittwater Council, in association with the NSW Department of Lands, has prepared a draft Plan of Management for Church Point. The draft Plan was placed on public exhibition during a six week period from 27th July 2008 to 6th September 2008. Ninety-nine submissions were received from local residents and a number of community based organisations.

Church Point is a unique and environmentally significant area. Historically the area serviced the pioneer off-shore communities. Church Point continues to play the role of a maritime centre, but over time a substantial community has grown in the adjacent on-shore areas. The two communities (off-shore and on-shore) have developed deeply entrenched views on management of the waterfront area that serves as the link-point between on-shore and off-shore communities.

In 2005, at the direction of the Minister for Lands, Pittwater Council resolved to prepare a Plan of Management (PoM) for Church Point. Key objectives nominated in the draft PoM are to:

- Identify and assess the values and local significance of the study area
- Establish a responsible planning approach to resolution of long term conflicts of interest evident within the study area
- Resolve management issues with a “triple bottom line” approach – economic, environment, and social values
- Recognise and provide for local resident issues, developing management strategies consistent with community values and expectations
- Acknowledge the design input and “self-determination” process undertaken to achieve a preferred “Master Plan” for the study area
- Ensure ongoing viability of established and new commercial entities within the study area
- Meet legislative and policy requirements for managing Crown Land

The land component of the study area is mostly reserved Crown Land under the care, control and management of several reserve trusts. The affairs of those trusts are managed by Pittwater Council. A number of Crown Leases are also in place.

1.2 Role of Independent Panel

In November 2008 Pittwater Council established an independent panel to assess the submissions made to the Council in relation to the draft PoM. The role of the Independent Panel is to:

- Assess the PoM development and consultation process to date
- Review the submissions against the draft PoM and determine the validity of the issues raised
- Identify any issues not considered by PoM which should be addressed
- Provide advice about any potential legal environmental and economic risks to Council
- Provide a report to Council about the with recommendations concerning the final PoM to be presented to Council for adoption

The members of the Panel are:

- Emeritus Professor Maurice Daly
- Professor Zada Lipman
- Mr. Peter Walsh.

A short summary of their background is attached as **Appendix 1**.

1.3 Report Structure

Section 2 of the report addresses the draft PoM's development and consultation process to date.

Section 3 reviews the benefits offered by the draft PoM.

Section 4 outlines the key objections and concerns about the draft PoM.

Section 5 addresses the significance of the potential beneficial impacts or adverse effects from the draft PoM, the overall contribution and the validity of the issues raised.

Section 6 considers whether the draft PoM's outcomes are achievable, and the risks involved in delivering them.

Section 7 provides recommendations related to Council's adoption of a final PoM.

2. Processes Involved in the Development of Draft PoM

The draft PoM was placed on public exhibition for a six week period from 27 July 2008. However this represents only the most recent, nonetheless critical, stage of the processes involved in its preparation.

It is our understanding that this draft PoM was preceded by a series of meetings held over the past two years with various members of the community including representatives of residents groups. The intent of these sessions was to provide opportunity for opinions to be voiced and priorities suggested. In addition it is noted that planning for Church Point goes back much further than this, with prior masterplans prepared and representative groups referring to “filing cabinets filled” with background research along with previous documents relating to liaison with Pittwater Council (and its predecessor), the Department of Lands and other authorities.

In regard to the processes involved in the development of the draft PoM, the Panel would make the following particular remarks:

- A six week exhibition period appears reasonable especially given the background consultation that has occurred.
- A little over 100 submissions were received including very recent submissions made direct to the Panel by representatives of local groups. This of course provides evidence of significant local community interest in the draft PoM.
- While there is evidence of objections significantly outweighing the supporters in volume of submission, we note it is not uncommon in instances like this for those who do not support a proposal to be more vociferous than those who do.
- A particular concern was the “new” provisions for an elevated parking deck of around some 60 parking spaces. This component had not been included in early meetings with residents, and this was certainly made clear in submissions.
- The appointment of an independent Panel to review submissions is consistent with a strategy of openness which is obviously important in any management plan for Church Point, given the need for community ownership.

There are other points which the Panel would observe about the process to date which are commendable. A major feature of the work has been the extraordinary inputs into the process from local residents. It is clear from the submissions that there are many committed and creative people living within the foreshore and onshore communities who have taken to heart the issues at hand. Useful primary research has been undertaken by many of the parties, with most commendable levels of knowledge sharing having occurred, not always evident in situations like this. There has also been commendable commitment and resilience and the capacity to build trust on the part of residents and key council officers involved, along with those from the Department of Lands.

We note that plans are devices used for setting a future direction. If they are to be meaningful they need to confront the local problems as well as opportunities, and there are many of each in this setting. The test is whether a plan sets an appropriate vision and the practical mechanics of its achievement on the ground. The following sections of the report examine these factors in the context of submissions.

3. What Benefits do the Changes Proposed in the Draft PoM Offer?

3.1 Planning, Environment and Management Benefits

Improved pedestrian and traffic safety

The particulars can be summarised as follows:

- Significant changes to horizontal alignment of Pittwater Road with improved stopping sight distance with vehicle speeds kept constant
- Consequential improvements to pedestrian safety and accident risk, including bus access improvements
- Significant potential reduction in informal and at times unsafe parking practice at least in the years immediately after implementation of the plan.
- Car and pedestrian safety is significantly improved.

Improved car parking availability

- Car parking availability has been increased by between 50 and 60 spaces or up to around 120 spaces including the elevated parking deck. New spaces are in good proximity to destination points.

Improved dinghy storage

- Dinghy storage is currently limited to around 140 berths but many spaces are not directly linked to the jetty
- While it appears part of the tradition of offshore living, piggybacking of dinghies is a matter of some real risk of accident based on submissions.
- The proposal provides for around 180 dinghy berths in a safer and more accessible arrangement with improved drop-off arrangements and, according to users, an improved alignment when dealing with winds and adverse weather.

Improvements to the walkway along the Pittwater foreshore

- The Bayview to Church Point walkway experience would be significantly improved. It would be expected that there would be significant benefit to local amenity and local tourism, with potentially significant public health benefits, through more attractive exercise.

Improved physical amenities

- Thomas Stephens Reserve is in urgent need of an upgrade. Seating, lighting and other facilities would be greatly enhanced by the proposals in the plan.
- The plan addresses the need for better seating, lighting and pedestrian access to Quarter Sessions Road.
- An upgrade of the cemetery with better access pathways would be a considerable improvement given its historical and archaeological significance.

Landscape improvements

- The development of the waterside foreshore reserve near the Pasadena will enhance the foreshore area and provide more public open space.
- Rosstrevor Reserve and Thomas Stephens Reserve would benefit from improved landscaping and water access.
- The proposals in the plan to create a waterfront boulevard reserve at Church Point would enhance the amenity of the area.
- The creation of a local park adjacent to Bennett's beach would provide additional recreational space.
- The plan has aesthetic appeal. The overall result would be an attractive landscaped area.

3.2 Finance and Economic Benefits

Funding Base

- The needs and desires for improvement of Church Point, expressed by residents of both the onshore and offshore areas, have been expressed over many years. Designs have been created and numerous discussions have stimulated a set of options that have finally been pulled together in the form of a PoM. This is a great advance, and the stimulating and largely insightful comments by community members in their Submissions points to a genuine feeling that the PoM can provide a satisfactory outcome.
- A significant factor is the willingness of the Council to provide substantial funding to support greatly improved infrastructure base for Church Point. Expenditure on the various improvements might run to \$11.629 million. The financial model of the PoM shows that the Council would provide \$4,458,221 million directly from its own funds, and, in addition, would take out loans of between \$4.998 million and \$6.698 million to support much of the remaining costs.

Time Horizons

- Much of the infrastructure created over recent decades in New South Wales has been based on up-front expenditure, even if the expected life of the infrastructure might expect an economic life up to, and sometimes beyond, 30 to 50 years. The Council is basing its borrowings on a 20 year loan period. This shifts the payments from the present residents of the area to a more equitable reasonably long generational period. The financial modelling is not built around mandatory charges or fees for the residents.

Transparency

- The detailed tables of costings and income in the PoM present a reasonably full listing of what expenditure is expected to be needed for the various developments of infrastructure, the sources of income to pay for the development costs, and the ways in which resident might be involved in repayment processes.

4. Key Objections to the Draft PoM

Ninety nine submissions were made to the Council following the display of the draft PoM. There were a large number of submissions expressing general support of the PoM. A number of people and groups, who supported the draft PoM, also raised objections and concerns about particular aspects, and put forward alternative suggestions. There was a smaller group of submissions that opposed the draft PoM. This section provides a summary of the key issues of concern raised in the submissions.

4.1 Environmental concerns

- The plan proposes extensive infill into the Pittwater and there is a lack of clarity in the plan on how extensive this infill is likely to be.
- The provision of additional car parking and recreational area in the plan is dependent on infill of the Pittwater which would impact on the environment, and prove expensive.
- The infill is likely to have an adverse impact on sea grass and aquatic ecology, including the proposal to relocate sea grasses.
- The plan will have an adverse impact on views.
- The plan will result in the removal of a number of trees. Of especial concern are the spotted gums on the cliff line.
- The plan could have an impact on recreational space
- The plan will result in a loss of community land.
- The plan could impact on the heritage values of the area, especially the historic cemetery.
- There will be pollution issues, especially noise and lights.
- The plan is contrary to the character and values of the area which favour low impact, environmentally sensitive development.

4.2 Planning and management concerns

- The plan will only partially address the local car parking and commuter dinghy berthing demand.
- The plan exceeds expectation in regard to supply car parking and dinghy berthing spaces which will result in unreasonable changes to the local character
- There will be continuing problems, and in particular the additional parking and berthing will be quickly taken up and similar problems to the existing will recur, and the plan does not sufficiently encourage more sustainable transport options (ferry, public transport, cycling, car sharing, minibus, use of non-powered boats).
- The plan does not bring sufficient of the Church Point Reserve into recreational use
- There is a lack of equity in the proposed premium service pay car parking.
- Pasadena interests, including in regard to possible additional commercial outlets
- Design parameters for parking and roadworks in Pittwater Road and McCarrs Creek Road are onerous relative to traffic levels and prevent works of optimum value to the community
- There has been inadequate public consultation on some matters.

4.3 Finance and economic concerns

The draft PoM components are too costly and represent overkill in terms of the nature of the area and its needs.

- The gains made in terms of additional car parking and dinghy facilities do not justify the level of expenditure.
- There are a number of suggestions about reducing the costs by better design of some components and the abandonment of others (eg. the redevelopment of the toilet block).
- There is a belief that offshore communities do not receive the array of services provided by the Council, but they pay rates in the same way that the rest of Pittwater residents do.
- Onshore residents who pay for their own parking (garages, car ports) and driveways argue that the Council has no obligation to provide residents with parking.
- Car parking spaces at Church Point should be charged at commercial rates; if the Council were to charge concessional rates it would lose \$13.5 million at the end of the 20 year period of the loan repayments.
- Offshore residents suggest that a levy on all households in the Scotland Island/Bays area instead of the user-pays permit system.
- Offshore residents propose that persons with disabilities or financial constraints should not be liable for the proposed levy.
- The Suspended Carpark would introduce divisions between those who could afford to purchase a space in the Carpark and those who could not afford to do so.
- The financing of works in Precinct 3 is wholly dependent on the sale of two blocks of Council land, a sale that is strongly opposed by onshore residents.

5. Weighing Significance of Potential Benefits and Impacts

5.1 Environmental Concerns

5.1.1 Infill

The proposal to reclaim sections of the Pittwater has been strongly opposed by the community.

Infill is excessive and its extent undefined

There is community concern that the infill into the Pittwater is likely to be extensive and that its extent is undefined in the draft PoM. One submission estimates that in Precinct 1 height of infill in Precinct 1 would be in the order of 4-5 metres. The height and extent of infill in Precinct 3 are unclear, but are likely to be fairly extensive if the local park at Bennett's beach is to proceed.

The Panel had the opportunity to conduct a view of the subject area accompanied by Mark Eriksson and Jane Mulronev. In addition a (draft) survey plan¹ was provided indicating seabed levels and proposed levels for the proposed seawall. The plan indicates a maximum height of the seawall at 3.85m. It notes that there will be a drop-off area extending beyond the seawall and it is assumed at the same level as the roadway. This drop off zone is about 4m wide and extending for about 30m along the re-aligned road. The construction of the drop zone is not clear. The maximum width of the infill at Precinct 1 seems to be about 16m according to the survey plan not including the drop off zone.

The infill proposed for Precinct 3 is likely to be about 3 metres high, run parallel to the Reserve at a width of approximately 3 metres and culminate in an extensive circular area at the side of Bennett's Beach. It was the Panel's understanding that the extent of infill in Precinct 3 was flexible, unlike Precinct 1 where it was essential to carry out the refurbishments proposed in the draft PoM.

Conclusion: The draft PoM is a strategic document and thus does not provide precise detail on the extent of the infill proposed. However, having regard to the plan attached to the Aquatic Survey (Fig 1) and from personal observations, the Panel accepts that the reclamation works are likely to be extensive. More detail at this stage would have been helpful, particularly in relation to Precinct 3.

Appropriateness of infill to provide additional recreational areas and car parking given potential environmental impact and expense

A number of submissions on the plan question the appropriateness of infill to provide additional recreational areas and parking given its potential environmental impact and expense.

The plan will generate approximately 40 additional car spaces (without the multi-storey option) and 50 additional boat spaces. It is unclear from the figures what the exact cost of the infill will be in Precinct 1. However the total works for car park construction, road re-route, seawall, outbuildings and covered ways are \$2,234,100. Infill in Precinct 3 is estimated as \$1 million.

Marine Pollution Research Pty Ltd undertook a preliminary survey of possible aquatic ecological impacts arising from the proposed works in Precinct 1 and reported to Council in December 2007 (see Appendix H -Aquatic Ecology Survey: Proposed Commuter Wharf). There are some reservations about the objectivity of this survey since it was conducted by a consultant from Scotland Island who allegedly would have a vested interest in the proposals in the draft PoM proceeding.

The Aquatic Survey supports the infill proposal in Precinct 1 as being necessary for the purpose of commuter vessel parking and existing road alignment for pedestrian safety. It points out that short of moving the whole commuter vessel parking arrangement completely away from its present location, any proposal which balances out present commuter vessel mooring needs against retention of public plus private amenity would necessitate infill some ecological impact (see 5.1.2 below).

Safety factors are an important issue, especially in Precinct 1. A number of submissions have expressed concern about the dangerous situation which the current road and boat configuration presents. Dr Stokes MP has stated in Parliament that “Pittwater Road at Church Point is a very dangerous stretch of road” and that children “leaving the bus to join the ...ferry must cross a sharp corner, almost blind to oncoming traffic” while “cyclists using this popular stretch have nowhere to go to avoid collision. He further stressed the "need to ensure that boats are tied up securely and that people can access them safely.”ⁱⁱⁱ

Infill in Precinct 3, on the other hand, is intended only to provide additional open space or recreational area.

Conclusion: The expense of reclamation works, the undesirability of extensive infill and potential loss or damage to aquatic marine vegetation should be weighed against the additional safety factors which the plan will deliver. In Precinct 1 reclamation works will improve public safety; while in Precinct 3 the objective is to provide more recreational area. Recreational needs are not as cogent as safety factors. To ensure that there is no suggestion of bias it is desirable that any further surveys should be undertaken by a consultant outside the subject area.

5.1.2 Impact of infill on seagrass and aquatic ecology

It is apparent from a number of the submissions that the potential ecological impacts of the reclamation works are a major source of concern.

Aquatic ecological survey report

The preliminary survey of Precinct 1 found that there were no threatened species listed under the *Fisheries Management Act 1994*. There was also no significant habitat for species protected under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*. No mangrove stands or salt marsh plants were identified at the site or in the vicinity. However, the survey showed patches of seagrasses within the subject area, namely, *Zostera capricorni* (eelgrass), *Posidonia australis* (strapweed), and some *Halophila* (paddleweed). There was also evidence of *Caulerpa taxifolia* although this has not yet reached invasive proportions (see Appendix H -Aquatic Ecology Survey: Proposed Commuter Wharf).

The Aquatic Survey concludes that the proposed works in Precinct 1 would impinge on the existing seagrass beds. Interestingly, these seagrasses were not present in a survey undertaken by West et alⁱⁱⁱ in 1981 and appear to have colonized slopes created as part of previous reclamation works. The survey suggests that some of the *Posidonia* loss could be mitigated by transplanting it to seagrass beds located off-shore from Church Point Reserve (Precinct 3) and cites several projects currently underway in which this has been done (e.g. Newport).

As far as Precinct 3 is concerned, no aquatic survey appears to have been undertaken to assess the extent or types of ecological habitats. Hence the Panel is unaware of the types or extent of seagrasses and other habitat in this area. However, a visual inspection and aerial photographs in the draft POM indicate the presence of fairly extensive marine vegetation some metres from the shore. The ecological value of this area seems also to be supported by the s 7(a1) zoning in PLEP 1993.

Conclusion: Reclamation works will impact on the aquatic ecology according to an Aquatic Survey which has identified 3 types of seagrasses in Precinct 1. No survey appears to have been conducted for Precinct 3.

DPI (Fisheries)

Some of the submissions query the legality of the infill and whether DPI (Fisheries) has been consulted. It is understood that there are further approval stages required for any works and that these stages will bring detailed environmental assessment. However, there is an interest in ensuring the proposals for fill are not an unreasonable assumption at this point.

The draft PoM points out that a permit will be required under Part 7 of the *Fisheries Management Act 1994* (FMA) both for reclamation work and to harm marine vegetation. An aquatic survey has been undertaken for Precinct 1. There are issues concerning proposals in the aquatic survey to relocate seagrass as well as possible damage to seagrass in Precinct 3. No survey has been done in Precinct 3. The implications are discussed below.

The FMA enables the Minister to make Habitat Protection Plans for the protection of any habitat of fish. Once gazetted, the Minister and Public Authorities must have regard to any Fish Habitat Protection Plan that is relevant to the exercise of their functions. Habitat Protection Plan No 2 is specific to the protection of seagrasses.^{iv} Fish Habitat Protection Plan No 2 outlines the pivotal role played by seagrasses in the coastal ecosystems of Australia and the world. Seagrasses are described as a fragile habitat. Some species such as *Zostera* are comparatively hardy and may recolonise areas after removal. However, others, such as *Posidonia australis* do not and are particularly susceptible to impacts. *Posidonia* is also comparatively restricted in distribution. The Habitat Plan points out that major estuaries have lost as much of 85% of their seagrass beds in the past 30-40 years which may contribute to declines in the abundance and diversity of fish and in vertebrates in some of these estuaries and the nearby coastal zone.

One of the broad strategies of ensuring no net loss of seagrasses outlined in the Habitat Plan is to regulate developments/activities that cause direct and indirect damage to seagrasses and to restrict the issue of permits to damage or remove seagrasses. Applications to damage *Posidonia* will generally not be granted. Applications to damage other seagrass such as *Zostera* or *Halophila* will be assessed on a case by case basis. If the circumstances justify it, and removal is the only practical option, then damage should be minimised e.g. replanting of

seagrass. Council will obviously need to consult closely with DPI (Fisheries) on this aspect. The panel has not been provided with any correspondence from relevant NSW authorities on the implications of the infill.

No information is available as to the extent or types of seagrasses in Precinct 3. However, it is noted that Pittwater 21 DCP: B4 Controls Relating to the Natural Environment states at B4.16 that “development shall not significantly affect seagrass beds. Further no filling, dredging or other disturbance will be permitted within a 50 metre buffer zone.

Conclusion: A permit will be required to undertake reclamation works and for consequential harm to the seagrasses. Habitat Plan No 2 indicates the importance of protecting seagrasses, in particular *Posidonia*, which is hard to relocate. Pittwater 21 DCP also reinforces the need for seagrass protection and buffer zones. Council will need to obtain advice from DPI (Fisheries) on the statutory and environmental assessment aspects of Pittwater infill. An aquatic survey is necessary in Precinct 3.

5.1.3 Loss of views and visual impact

Loss of views of residents above the cliff-line

Residents above the cliff-line are concerned about the impact of the Suspended Carpark proposal on their views. This has been questioned in a submission by a Morning Bay architect who estimates the total height of the upper deck to be about 4m including safety rails. He concludes that because of the existing levels of screening bush, the houses above the cliff-line will hardly see the car park and that it will remain well below their views of the water.

Four metres seems a reasonable maximum for the topside deck level including balustrade even assuming some additional height is required should sea level considerations come into play – see AS2890 reference below.^v As the existing cliff line is in excess of 4 metres in height, the Suspended Carpark is thus unlikely to have a significant impact on views.

Residents above the cliff-line are concerned that further tall indigenous plantings to mask the two level car park would affect views. This would arise if plantings were likely to reach excessive heights. There is no precise information on this aspect and is a matter for consideration at the DA stage. However, if the car park is to be a maximum height of approximately 4 metres and below the cliff line, screening would not need to be any higher and is therefore unlikely to significantly impact on views.

Pittwater 21 DCP supports equitable preservation of views. The court has also stressed the importance of water views, the need to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating, and finally, to assess the reasonableness of the proposal that is causing the impact. This process will determine whether the view loss is significant and unreasonable.^{vi}

Conclusion: In this case any view loss would be minor. The proposal to improve the commuter wharf is reasonable and improves commuter safety. It does not significantly and unreasonably reduce the amenity of the residents. Any planting should be carefully chosen so that no view loss will result. The panel supports the principle of equitable preservation of views and the principles laid down by the court in *Tenacity* case^{vii}

Impact on views of Pittwater infill

Several of the submissions were concerned that extensive infill would impact on Pittwater vistas at Commuter Wharf in Precinct 1. In addition it was pointed out that the extensive infill proposed in Precinct 3 was purely for recreational purposes and would enclose Bennetts Beach and impact on vistas.

Conclusion: Concerns regarding impact on vistas must be weighed against the benefits of additional safety in Precinct 1 and the provision of additional recreational space in Precinct 3.

Visual impact of the commuter wharf

A number of submissions expressed concern about the visual impact of the commuter wharf and considered it to dominate short vistas out to the waterway. It was also considered to impact on the view of adjacent houses and across the bay.

The impact of the proposed commuter wharf on views from the public domain will generally be mitigated. It replaces an existing commuter wharf structure which is aesthetically unattractive and described by Dr R Stokes MP as "resembling Shanghai harbour in the 1930's - a real mess".^{viii} It is viewed from the water as part of a series of waterfront development including HolmePort Marina. It represents a relatively modest increase in size. It will continue to cater for commuter craft so that the boats will be the same size as those currently moored. The boats are of a size and scale that is compatible with the area and are not dominant structures. The potential visual impact is reduced by the retention of view corridors from foreshore public open space to open water and from waterways back to sections of shoreline.^{ix}

The proposal to reconfigure the commuter wharf will increase the safety of those using the wharf. Currently, commuters have to climb over boats that are moored two or three deep.

The court has pointed out that the potential visual impact on adjoining public open spaces and residential areas resulting from moored or berthed boats is strongly influenced by the relative size of the boat and distance from the viewer.^x The commuter wharf and adjacent car spacing will be clearly visible from properties above the cliff-line and adjacent properties but the boats are small and some distance away and will not result in any loss of views.

Conclusion: The commuter wharf will not have an unreasonable visual impact when viewed from the public domain. The panel supports the principles enunciated by the court in the *Addenbrooke* case.^{xi} The increase in size of the wharf should be weighed against the enhanced safety features it offers to commuters. There will be no loss of views from adjacent properties.

Visual impact of the Suspended Carpark

There is concern about the visual impact of the Suspended Carpark when viewed from the water and the headland and from National Park areas above Lovett and Elvina Bays.

A submission by a Morning Bay architect states that since the total height of the upper deck would be about 4m high, the line of planting on the southern side of the road could be quite sufficient to visually screen the building and top level vehicles from view along the road and from the Pittwater. This view is not shared by the bulk of submissions who believe it will be difficult to adequately screen with landscaping. The sketch of the proposed upper deck (Appendix 1) and the detailed sketch which the Panel was shown by Mark Eriksson suggest that the car park will be highly visible from the Pittwater. Mark Eriksson confirmed that it will be almost impossible to screen.

A number of submissions point out that the proposal is inconsistent with Pittwater 21 DCP D Locality Specific Development Controls D4 Church Point and Bayview Locality which requires future development to minimise bulk and scale and reinforces the importance of views, particular those from the Pittwater. SEPP 71 also requires council to have regard to any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing and any significant loss of views from a public place to the coastal foreshore (cl 8(e)). Applying the principles in the *Tenacity* case, the visual impact could be described as moderate to severe. The proposal for extra parking is for the convenience of off-shore residents who want dedicated parking and to generate more revenue to fund the development proposed in the plan. It is not necessitated by safety considerations. However, provision of extra parking does have the potential for reducing conflict between water and shore-based residents as envisaged in cl 2 (k) of SEPP 71.

In the *Addenbrooke* case, Biscoe J considered that the views of greatest significance are those where the full expanse of [the area] is viewed from the public domain. This full expanse includes the foreshore, the water, the land/water interface, the land mass and reserves.^{xiii} The court considered a visual impact assessment to be useful as "an analysis of the potential detrimental or negative impacts a building or structure may have on views from the public or private domain and to the foreshore from the waterway. The overall objective is to identify the potential level of visual impact as well as measures to mitigate those potential impacts".

Conclusion: The Suspended Carpark will be highly visible from the Pittwater and will be difficult to screen. It is inconsistent with the aims of the Locality Specific Controls in Pittwater 21 DCP. It is also counter to the aims of SEPP 71 (cl 2(k)). These factors should be weighed against SEPP 71 (cl 8(k)) which considers the potential of the proposal for reducing conflict between water and shore based activities. As the proposal is strongly opposed by a large section of the community, a visual impact assessment should be undertaken prior to any decision being taken.

5.1.4 Impact on trees - especially spotted gums

A number of submissions have expressed concern that the construction of the suspended car park along the cliff-line will result in the loss of spotted gums and other vegetation. There is also concern about possible loss of spotted gums adjoining the access road and the impact on the amenity of the adjoining heritage eucalypt reserve.

The area is in a landslip zone and geotechnical assessment of the cliff face is proposed prior to any works being undertaken (draft PoM p 38). Some of the submissions have suggested that before construction of the car park is undertaken, extensive landslip management will be required which could potentially destroy the natural cliff face reserve and vegetation and obscure it with retaining walls.

Pittwater Council has consistently endeavoured to protect its natural environment. Pittwater 21 DCP : D Locality Specific Development Controls D4.4 Church Point and Bayview Locality states: "as far as possible the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, and to enhance wildlife corridors".

There are remnant spotted gums on the cliff-line in the subject area as identified at p 13 of the draft PoM. The Pittwater Spotted Gum Forest was listed as an Endangered Ecological Community in the Sydney Basin Bioregion under the *Threatened Species Conservation Act 1995* in 1998. All remaining remnants of Pittwater Spotted Gum Forest have conservation significance at a State level. Pittwater 21 DCP reinforces the need to control development on land containing spotted gums or adjacent to a spotted gum forest. Pittwater Council considers protection of remnants on private [and public] land to be vital to the future of the Spotted Gum Forest (<http://www.pittwater.nsw.gov.au/>).

Conclusion: The precise extent of tree loss and vegetation should be investigated as well as its impact on the adjoining spotted gum forest. If only isolated trees and vegetation require removal and no EEC issues arise, this may not be an insurmountable problem. A species impact assessment should be undertaken.

5.1.5 Loss of recreational space

A fundamental concern expressed in the submission is the need to increase recreational space in the Church Point area. The Bayview Church Point Residents Association Inc (BCPRA) submitted an analysis of recreational space per household on Scotland Island for comparison with that in the Church Point Precinct. The study shows that Church Point has an average of 10sq metres of recreational space per household as opposed to Scotland Island which has approximately 257 square metres per household. Based on these figures BCPRA believes that Church Point residents have been unjustly treated in relation to recreational space. There are a number of reserves and recreation areas close to Church Point but these are not within close walking distance.

Church Point Reserve, Rosstrevor Reserve and Thomas Stephens Reserve are all zoned 6(a) Existing Recreation "A" under Pittwater LEP 1993. The draft PoM proposes certain changes to these reserves some of which are opposed by the community. This aspect is discussed below.

Church Point Reserve

The most controversial aspect of the draft PoM is the proposal in relation to Church Point Reserve in Precinct 3. Church Point Reserve is a Reserve for Public Recreation and Urban Services (car parking) (Draft PoM p 3) managed by Pittwater Council. The reserve was created by reclamation of land in the early 1960's. Church Point Reserve extends from Bennett's Point in the south east to the Pasadena in the north. Car parking now extends over 80% of the area. The main issues raised in the submissions in relation to Church Point Reserve are:

(i) Car parking versus recreational space

There is a marked division of opinion between offshore residents who want to continue to use the reserve for car parking and on-shore residents who would like it returned to open space. The draft PoM seeks to accommodate both users. Land reclamation to the east is proposed to extend available recreational space and provide a broad walkway connection along the Pittwater foreshore. The car park area is to be reconfigured and upgraded. It is also proposed that up to 30 spaces in Church Point Reserve will revert to open green space when further car parking becomes available (other than the suspended car parking option). A new trust

management will be established and s 34A lease will be established over the reserve used for car parking.

There is considerable concern amongst local Church Point residents as to the limited amount of additional recreational space in the draft PoM and the fact that most of this is being created by infill. BCPRA wants 50% of Church Point Reserve returned to recreational space. BCPRA suggests that some cars be relocated to Crown land south- west of HolmePort Marina but it is not clear whether this is feasible. A number of onshore residents have argued that the no “loss no gain” principle should apply so that as soon as other car spaces become available, spaces should be removed from Church Point Reserve.

Residents would also like to have a local fenced play area and equipment for children. This is in fact proposed in the draft PoM on the reclaimed area at Bennett’s Point. However, this park can only be achieved by a large amount of infill which has led to further concerns.

At this stage most of the recreational space proposed to be returned to the public in Church Point Reserve is largely hypothetical. It is unknown whether a permit will be available to reclaim land in Precinct 3 and to harm sea grasses, assuming that valuable sea grass beds are found in this area. Lack of an aquatic ecological survey makes this unclear. If there are sea grass beds adjacent to Church Point Reserve, it is questionable whether a permit will be granted for the purpose of providing additional recreational space (see 5.1.1 and 5.1.2). It would also seem unlikely that more parking spaces are going to become available at HolmePort Marina in the near future (as per discussions with Mark Eriksson).

Conclusion: If the infill proposals do not proceed, Church Point Reserve will remain predominantly a car park and that the draft PoM may not produce any more recreational space.

ii) Landscaping and tree removal

It is noted that every second casuarina tree in the Reserve has been earmarked for removal in the draft PoM. There is strong community support for retention of as many as possible of the existing casuarina trees lining the waterfront walkway, both within the car park and the foreshore area. These trees are estimated at about 20 years old and they contribute to the ambience of the walkway and provide some screening from the adjacent car park. More community consultation on this aspect would be beneficial before any decision is made.

There is also community opposition to the proposal to seal, line mark and drain the car parking area in the Reserve. A low impact aesthetic approach is preferred.

Conclusion: Any works in the Reserve should be low impact and not encroach any further on existing recreational space. Community consultation should be undertaken prior to tree removal or landscaping.

Rosstrevor Reserve

This is a small Crown Reserve for Public Recreation to the west of the subject area adjacent to the HolmePort Marina car park in Precinct 1. Changes proposed in the draft PoM include a pedestrian walkway connecting the Reserve to the General Store and beyond; additional landscaping, lighting and park furniture (Draft PoM p 37). The proposal to upgrade this reserve is generally uncontroversial. There is some community support for maintaining

sufficient open space in the upgrade, as it is the only area where young children can enjoy open space and kick a ball.

Conclusion: An upgrade of Rosstrevor Reserve is supported. A landscape plan should be developed for public consultation as recommended in the draft PoM.

Thomas Stephens Reserve

This is a Crown Reserve for Public Access and Recreation. This area is to be refurbished under the draft PoM. It will be opened up to the water and have a village square theme with improved landscaping and seating. Thomas Stephens Reserve is currently paved and is a regular social hub for locals although it is badly in need of maintenance. Historic use of this area has altered little over time and its unique social attributes define the area not the quality of the infrastructure (Draft PoM p 10). It could benefit from the upgrade and the proposals in the draft PoM for this area are largely uncontroversial provided its historic character is preserved (submissions as to commercial and social aspects are discussed elsewhere).

Conclusion: The proposed upgrade of Thomas Stephens Reserve is supported. As recognised in the draft PoM it is important that any works preserve the historic character of the area and reinforce the “village square” concept.

5.1.5 Loss of community land

To the south of Pittwater Road is the Historic Cemetery and two adjacent blocks of land currently zoned 6(a) ‘Existing Recreation A’. These blocks of land are owned by Pittwater Council and classified as “community” land (Local Government Act 1993 s 26). Council proposes to rezone these blocks and sell them for residential development. The proceeds of the sale will be used to fund part of the development proposed in the draft PoM.

The sale of these two blocks of land has been vigorously opposed by the community. Some of the key issues raised are as follows:

Loss of open space

A number of submissions point out that a large proportion of open space at Church Point is already used for car parking and oppose the sale of more land zoned for public recreation to fund car parking. These two blocks are considered by some residents to be strategically located to be sympathetically developed and landscaped to provide ancillary open space. They are considered as providing a “breathing space” between the housing, the historic cemetery and the Pasadena. Other submissions argue that since the blocks were set aside for public recreation and there is no evidence that they are no longer required, they should be retained in perpetuity as such.

The two blocks of land are very steep and somewhat overgrown and do not seem to be used for active recreation. The draft PoM proposes to use the funds from the sale to create more open space, i.e. the waterfront boulevard park proposed for Precinct 3.

Conclusion: The two blocks of land do not appear to be used for active recreation. They do provide a green buffer between houses and the Pasadena. However, this has to be weighed against the benefits which would be derived from the creation of the proposed waterfront boulevard park. There is some uncertainty about the extent of the park, given that it is to be created by reclamation and there is no aquatic survey of the Pittwater adjacent to Precinct 3.

These aspects need clarification to ensure there is no net loss of open space as a community asset.

Flora and fauna

A further concern is the environmental and conservation value of the two blocks of land which are described as an important flora and fauna conservation area and as a wildlife corridor and habitat.

The Draft PoM indicates that they propose to detail house envelopes to be established to maximize tree retention and neighbourhood amenity.

Conclusion: A species impact assessment should be undertaken prior to rezoning.

Drainage issues

Many submissions include concerns about drainage. The two blocks accommodate a large amount of run-off and assist in the dispersal of heavy rain. Storm water is described as running down Quarter Sessions Road in a torrent, sometimes flooding the point. There are concerns that housing here would be problematic and would create further issues in relation to landslip and drainage. Most submissions oppose any heavily engineered drainage works.

Mark Eriksson has advised that any residential development on these blocks would be for pole houses and that this would not impede run-off.

Conclusion: Drainage issues need to be investigated.

Reclassification of community land

A few submissions question the right of Pittwater Council to sell the land, given its current reservation and the fact that it is community land.

Conclusion: Prior to any sale, the land will need to be reclassified as “operational land” (s 30 Local Government Act 1993). The statutory process for the reclassification of community land would need to run its own course and its own approval process. Any reclassification also requires the gazettal of a Local Environmental Plan and thus the approval of the Minister for Planning. It would be inappropriate for a council to adopt a plan of management which is fundamentally based on a future statutory process. In this instance it would be appropriate to await the reclassification process for Quarter Session Rd Reserve and its outcome before adoption of the components of the draft PoM which assume the sale of the reserve.

Heritage issues (discussed below at 5.1.6)

5.1.6 Heritage issues

A number of submissions have expressed concern about the impact of the plan on heritage items in the area. A main issue for residents is the sale of the two blocks of land given their historic significance and their proximity to the historic graveyard which is identified in the heritage provisions of PLEP 1993 (sch 9) as of archaeological significance. These blocks formed part of the original grant to William Oliver at Church Point in 1842 and were part of an area donated by him for public open space.

PLEP 1993 cl 36 requires that development in vicinity of a heritage item, archaeological site or conservation area demonstrate how the heritage significance will be maintained by the development proposal. This is reaffirmed in Pittwater 21 DCP B1 2. PLEP 1993 schedule 9 lists three items of heritage significance at Church Point: "Rosstrevor House", Church Point Post Office and Store and the Memorial Obelisk in Rosstrevor Reserve. The graveyard is listed as an archaeological item. The plan does not impact on any of the items of heritage significance although care should be taken to ensure that the redevelopment of James Stephens Reserve is will conserve its heritage significance.

The two blocks of land are not listed as heritage items in schedule 9. The only issue is whether their rezoning and sale will impact on the archaeological significance of the graveyard and how it is proposed to conserve that significance. The graveyard is adjacent to the two blocks of land but separated by Quarter Sessions Road. This aspect has not been elaborated in the plan although there are proposals to upgrade and restore the graveyard.

Conclusion: It is necessary to ensure that any development of James Stephens Reserve will conserve its heritage significance. Any development proposed on the two blocks of land should consider how it will conserve the archaeological significance of the graveyard. Given the historic significance of the two blocks of land, the terms of the original grant should be investigated.

5.1.7 Pollution issues, especially noise and lights

Noise

A number of the submissions are concerned about noise, especially from the suspended car park. Residents above the cliff-line are concerned that to have the upper level of some 70 parking spaces accessed from the Council Public Road (resident's access road) would cause congestion with increased traffic and noise. The access road is currently for single lane traffic and is allegedly already dangerous at times to children.

It is unclear how the upper deck of the car park would be accessed. The BCPRA proposal and draft PoM indicates that it will be accessed from the Council public road above the cliff-line. However, Mark Eriksson indicated to the Panel that this may not be the case.

The draft PoM indicates (at p 38) that the public roadway above the cliff line is to be upgraded which should address any safety concerns of residents. However, there may well be an increase in traffic noise from general use of the upper deck. Given the height differences, alignment of escarpment and more or less line of sight characteristics of noise travel, the northern line of car parks are more likely to be impacted than the southern alignment. There is also a question about background noise levels i.e. ambient levels would not be as low as some areas including due to Pittwater's natural sounds

Conclusion: Residents above the cliff-line will benefit from the upgrading of the access road which should address safety concerns. However, traffic and noise will increase as a result of the suspended car park proposal. Noise levels are likely to vary depending on location and background noise levels.

Lights

Some of the submissions have expressed concern about light pollution at night from the suspended car park. There is also concern that proposals in the plan to increase lighting in the

reserves and at cargo and commuter wharf would impact on the amenity of residential properties, particularly those above the cliff-line.

Conclusion: Lighting should be planned to ensure that the impact on residents is minimised.

5.1.8 Contrary to the character and values of the area

Some submissions see the proposal as injecting a dominant industrial element into a peaceful landscape. This is said to set an undesirable precedent that car parking issues should take priority over landscape. This runs counter to the character and values of the area which favour low impact, environmentally sensitive development. Of particular concern is the suspended car park proposal.

As mentioned in (c) above, both SEPP 71 and Pittwater 21 DCP D Locality Specific Development Controls D4 Church Point and Bayview Locality require future development in this area to minimize 'bulk and scale'. The suspended car park proposal is inconsistent with the current character of the area. It raises a number of problems in relation to visual impact and pollution. However, by providing more parking, it has the potential for reducing conflict between land and water based activities as envisaged in SEPP 71 cl 8(k).

Conclusion: The bulk and scale of the suspended car park and its location is inconsistent with the character of the area as expressed in SEPP 71 and Pittwater 21 DCP. These factors should be weighed against the potential for reduction of conflict between land and water based activities in SEPP 71 cl 8(k).

5.2 Planning and Management Concerns

5.2.1 Whether the additional parking and dinghy berthing is appropriate

Car parking

Submissions from offshore residents request 40-50 extra car parking spaces. The precise position on parking availability is not particularly clear with suggestions of around 380-390 parking spaces regularly available to offshore residents. However some of these spaces are suggested as having safety concerns. More spaces again would be available of course along the road reserves if one is willing and able to walk longer distances. Advice indicates that the total offshore community numbers around 570 households with some 1.4 cars per household according to 2006 census. This suggests around 800 cars owned by offshore residents. Clearly many of these cars are either stored in local commercial marinas, otherwise parked elsewhere than Church Point or not in regular use by permanent offshore residents.

Again the comparative position on parking before and after the draft PoM's implementation is not absolutely clear but it is generally agreed that the provision of 40-50 additional spaces would be occurring (not including the elevated parking deck's 60 spaces). The draft PoM would provide 76 additional spaces on the southern alignment of McCarrs Creek Road in Precinct 1, but commuter parking would be lost in the Church Point Reserve of at least 20 spaces, and at least around 10 existing (although constrained) parking spaces near the Cargo Wharf would be lost.

Offshore residents have suggested that there has in fact been a loss of some 100 parking spaces over the past 25 years, including further parking along road alignments and within the

Church Point Reserve. Be that as it may, the current situation at Church Point with regular evidence of inadequate parking causing significant inconvenience to both onshore and offshore residents is not satisfactory and the proposed additional parking levels are seen as reasonable.

Conclusion: The draft PoM is seen as providing a reasonable level of additional parking given the current difficulties. Other critical points which have a relation to the question of parking (and berthing) which are discussed elsewhere in the report are as follows:

- How to ensure that the additional provision of parking and dinghy berthing provides a sustainable solution and does not merely provide short term benefits and the current situation recurs 5-10 years into the future (see **Section 5.2.2** below).
- The importance of the offshore community's commitment to a user-pay arrangement if improved parking and berthing outcomes are to be secured (see **Section 5.3**).

Dinghy berthing

It is understood that surveys have indicated that some 140 dinghies have been berthed at the commuter wharf in times of high use. Many of these dinghies would not be berthed directly to the existing wharf but would be tied off onto other small craft, sometimes two and three vessels deep. The existing commuter wharf is measured to provide only some 140m of tie-up length. The draft PoM indicates a tie-up length of some 240m available and berthing for some 190 dinghies. It is important that any draft PoM is concerned with optimising the safety and convenience of dinghy berthing. There is a concern about increasing berthing at the commuter wharf to the extent that it may increase parking demand. However, consistent with other report findings, there is potential for alternative transport solutions to private parking of vehicles and some relatively small increases to dinghy access to Church Point of itself would not be seen to provide significant adverse effects.

An alternative scheme prepared by the Church Point Reserve Association indicates a marginally reduced length of tie-up (around 200m) and what seems to be a lower cost scheme overall.

This plan also adopts the current alignment of the jetty. Offshore residents have, we are advised, deliberately adopted a jetty and tie-up alignment which is perpendicular to the existing. This was indicated as reflecting ease of tie-up in respect of prevailing winds, including in regard to more severe weather.

Conclusions: It is reasonable to assume the jetty alignment suggested by offshore groups (who need to go through the process of berthing and tie-up on a regular basis) provides the better solution. As far as the quantum of berths is concerned, the draft PoM does provide for increased use of the Church Point commuter jetty. While desirable for offshore commuters in terms of convenience, the quantum beyond 140 or 150 spaces is discretionary and becomes a matter for investigation as the capital cost of the PoM is sought to be minimised concomitantly with annual charges to offshore residents.

5.2.2 Whether the proposal provides a short term solution only

Further to the above issue, some submissions suggested that the plan does not bring forward a sustainable long term solution, or any particular contingency for the long term, and as cars fill new motorways over time, so will cars fill the newly available parking at Church Point. We

do note advice from Council that there is very limited further growth opportunity at Scotland Island and the western foreshore areas (with the currently contentious Currawong proposal a marked exception but still having an uncertain future).

In the view of the Panel there is a limitation in the draft PoM in regard to the midterm future. There is a need for a strategy in response to the potential for the extra parking to merely be occupied over the next five years or so and the current congestion and inconvenience to onshore and offshore residents re-appear. It is noted that there is considerable difficulty in the development of sustainable strategy for a location like Church Point without some coordinated involvement of State agencies with responsibility for road and transport programs. In our view this matter requires additional innovative input and collaboration. If a long term solution for Church Point is to be implemented, there is a need for a coordinated government response in regard to:

- Car share schemes – arrangements are currently underway
- Coordinated public transport arrangements – ferry and bus transport
- Bike drop-off schemes – whereby more distant parking opportunities may become more conveniently accessible
- Providing incentives for long stay parking to locate away from Church Point – it is not clear whether there are an unreasonable number of vehicles located in the accessible parking which is rarely used.

Conclusion: A final PoM should take greater account of the mid and long term position in regard to parking. Council should initiate or advance its dialogue with the RTA and Ministry for Transport to together provide expert input/endorsement/ sponsorship for sustainable strategies including in regard to the schemes nominated above.

5.2.3 Whether the plan provides adequately in terms of Church Point Reserve

A number of submissions seek the removal of car parking from an area of the Church Point Reserve and for the space to come into use for other purposes with broader public appeal. The submissions argue that the current parking unreasonably constrains the public use and benefit which the reserve should be able to provide.

The draft PoM does indicate an area at the southern extremity of the Church Point reserve (“maximum 30 parking spaces”) which would become open space with replacement parking at “HolmePort Marina or the like”.

The status and history of the Church Point Reserve is variously documented in submissions. It is accepted that there was a revocation of the lands prior status as a “reserve for public recreation” and its status changed to that as a reservation for “public recreation and urban services (parking)” in 1995. This was done it seems to reflect the use of the land^{xiii}. Be that as it may, the Panel sees the Church Point area as relatively well serviced with recreational and public open space opportunities. The draft PoM provides for the existing mix to be augmented by the new waterside landscaped park at Bennett’s Beach.

Conclusion: Any final strategy should comprise either the provision of the proposed park at Precinct 3 (delivered through reclamation of Pittwater), or the transformation of part of the existing Church Point Reserve (should alternative parking be made available), but not both given the extent of recreational and public open space opportunities in the locality, and shortages of public land for parking and physical constraints.

5.2.4 Whether there is reasonable equity in regard to the premium service pay parking

Concerns were expressed that the accessibility of parking and thus levels of convenience on offer for individual offshore residents would depend on their capacity to pay for a space in the pay for parking area. Fees for spaces in this area are indicated as approximately \$4000 per annum indexed annually.

A convenient level of parking access is an expected baseline service by most residents of the onshore community. However it is also recognised in submissions that residents who choose the offshore lifestyle do so accepting many inconveniences. While there are a number of difficulties associated with the provision of the premium parking arrangement, it is the potential cross subsidisation associated with income from the \$4000 per annum charges which has the capacity to reduce charges otherwise payable by offshore users.

Conclusion: The premium parking arrangement, should it pass other tests outlined elsewhere in this report, could assist in bringing about an affordable user pay arrangement for those not subscribing to the higher cost parking. As a matter of principle, the availability of this parking option is not seen to create unreasonable equity questions. However sufficient lower cost parking must be part of any parking mix.

5.2.5 Pasadena interests

A number of points were raised in the submission on behalf of the owners of the Pasadena which have been addressed elsewhere in this report. One particular concern related to the draft PoM's suggestion of opportunities for a commercial kiosk selling "coffee and newspapers" at either of the Ferry Masters building or adjacent to the proposed bus shelter. It was suggested that such uses may be contrary to the controls imposed on commercial uses for crown land, and would be in "direct conflict with established services already ably provided from the "Pasadena" and the "Waterfront Store" without any justification or need".

As indicated elsewhere in this report it is imperative that government is conscious of all opportunities for offsetting of the cost of capital works in various crown and public lands as proposed with the draft PoM. The capacity for the locality to provide viable commercial leasing opportunities without adverse effects for the local community or the local environment would remain as a matter for consideration in the ongoing work as the final plan of management is adopted.

Conclusion: While it would seem likely of course that the interests of the current commercial operators would remain strong in the locality, as far as we are aware there is no rights to exclusivity. Any proposals for a future kiosk would need to satisfy commercial imperatives and meet the statutory requirements for the subject crown lands.

5.2.6 Design parameters for parking and roadworks on Pittwater and McCarrs Creek Road

Concerns were expressed regarding excessive design parameters for any parking or road alignment changes to Pittwater and McCarrs Creek Road, with such parameters preventing lower cost changes to deliver similar outcomes. It is a further concern that vehicle speeds in the vicinity may increase and safety decrease with the proposed improved sight distance

consequent from the changes to the horizontal road alignment changes to the west of Church Point in particular.

While there are no traffic counts available at present in the immediate vicinity of Church Point, it can be deduced from other data that in the order of 4000 vehicle trips per day may occur along Pittwater Road around Church Point, with possibly even lower volumes to the west of the Point on McCarrs Creek Road. There are very low traffic volumes^{xiv} in a hierarchical sense. A core element of the plan would include design elements to bring speeds down to very low levels in the locality. This will also allow increases in local parking supply due to reduced design constraints. A low speed environment would of course provide improved safety and pedestrian friendliness in this location which relative high levels of pedestrian use at different times.

It is our advice that the RTA has already acknowledged that McCarrs Creek and Pittwater Roads in this vicinity are low traffic volume and lower order roads from a practical viewpoint. However negotiations continue between Council and RTA on financial considerations relating to any handover. This negotiation should not prevent adoption of a practical position to assist in the resolution of Church Point problems in the short term.

Conclusion: Securing a low speed environment in the Church Point vicinity is an important consideration given local safety and amenity concerns and the importance of this to providing parking and roadworks at good levels of value to the community. It would seem that there is little if any practical traffic management reason why Pittwater and McCarrs Creek Road should not be adopted as 40km/hr speed roads which could allow more practical and affordable parking and traffic management solutions. It would be expected that RTA support should be readily forthcoming on this matter given its previous indications of acceptance of the low key status of this road. Approaches to the Minister for Roads and RTA should be made in regard to this matter.

5.2.7 Public consultation

The key concern relating to public consultation was that related to the addition of the elevated parking deck in the exhibition draft subsequent to earlier dialogue and public meetings. It is a matter of fact that the elevated deck was included in the recent formal exhibition material, although evidently as a late addition. As such there has been the opportunity for public comment on this aspect of the draft plan. The considerable objections have been noted.

Conclusion: There has been extensive public consultation in the lead-up to the exhibition of the draft PoM. The key point of concern relating to the late addition of the elevated parking deck into the draft PoM has been considered closely in the Panel's analysis.

5.3 Finance and Economics

5.3.1 The financial roles of the State Government and Pittwater Council

Finding the best way to manage the future of Church Point as a unique maritime community has bred controversy over decades. This controversy is a consequence of the differing expectations and solutions posed by the make-up of this maritime community, comprising as it does an offshore component and an onshore component. The sustainability of the draft PoM's operational and infrastructure propositions, in the long run, depends on their

affordability, and the overall benefits gained by the two components of the maritime community. A cost benefit analysis was discussed at community forums but no such analysis was ever made.

According to the provisions of the *Crown Land Act 1989*, the land is to be managed for the benefit of the people of New South Wales. The scope of the Plan, therefore, has broader parameters than those of the maritime community, with the Department of Lands actively partnering the Council in developing the draft PoM. Since the infrastructure is intended generally to provide benefits for the people of New South Wales, it might be expected that the State would provide substantial assistance in funding the PoM strategy. This is not scheduled to happen.

The detailed financial data in the draft PoM records the Department of Lands as providing just \$100,000. This sum represents 0.90% of total income for the PoM (Scenario 1A) or 0.99% (Scenario 1B). The Department of Lands' input is restricted to Precinct 2 which has the lowest cost of infrastructure (\$1.542 million) of the three Precincts. The Department of Lands' contribution makes up 6.5% of the total income needed for Precinct 2, but this is subject to confirmation. Through leases and licences the Department of Lands actually generates income in Church Point, with revenue managed by a Trust directed to the general purposes of the Reserve Trust.

More broadly, the proportion of income listed in the draft PoM (subject to confirmation) for all government agencies is 6.88% (Scenario 1A) or 7.90% (Scenario 1B) of total expenditure. This means that Pittwater Council has to devise ways of generating over 92% of the funds needed for the PoM.

Since the State Government offers very little in terms of income support, the Council is left almost totally responsible for harnessing the resources needed to put the PoM strategy in place. The draft PoM financial plan has no fall-back position if unforeseen circumstances emerged, and it would appear that no financial solace can be expected to come from the State authorities. A number of Submissions have argued that State Government support should be forthcoming.

5.3.2 Direct financial contributions by Pittwater Council

There are three sources of funds proposed to support the implementation of the P00M. The Council from various accounts provides \$1.356 million (Scenario 1A) or \$1.557 million (Scenario 1B), and a further \$3 million from the sale of land. The Council's funds are responsible for 37.5% of the funds (Scenario 1A) or 45.0% (Scenario 1B). A further 7 to 8% is to be gleaned from State Government Agencies. The remainder is to be paid for by the community, servicing loans made by the Council. Since the Council will be the body accountable for the loans, it is providing the basic funds to turn the PoM into a reality.

In the introduction to the PoM much is made of community consultation in the lead-up to its development. On page 7 it is pointed out that community consultation is an integral part in the process of preparing the PoM, and it speaks of active community participation. The process is deemed to have been one of self-determination (p.8). The Church Point draft PoM has been classified as a Level 1 community impact in line with the Community Engagement Policy (No. 17). The PoM records that it underwent extensive community consultation to gain an

understanding of the local and broader community needs. Needs, however, have to be satisfied, and in the process of doing that resources have to be generated to achieve desired outcomes.

It would appear, however, that in the build-up to the PoM there has been little discussion with the community about the general costs that would be involved in satisfying community needs, or about how the financial resources would be sourced, and what costs to the community would be forthcoming. Appendix D, Appendix E and Appendix F (of the PoM), which provide summaries of community meetings in November and December 2006 have few references to the income/expenditure details of the Strategy. Indeed the PoM itself contains only 5 pages (out of 62 pages) that deal with the financial modelling.

In Appendix D (reporting on the Offshore Meeting, 12th November 2006) the only references to financial matters (and rather oblique references at that) are the possibility of gaining community ownership of Holmeport marina, or half of its land. There is also a proclamation that “the most significant vision is one where the area is managed publicly and where there is no land issued to a private individual or company”.

In Appendix E (Issues and Options Paper December 2006) it is stated that “neither Council nor the Department of Lands has an obligation to provide private parking”. In listing Options for Precinct 1 the Paper stated that parking would be available on a user pay basis (but without any information on just how that process would be organised and at what cost to the community). In relation to three options concerning Precinct 3, each began with the promise that there would be: “a cost benefit analysis based on economic and social users, including the economics environmental approvals and long term viability of the option”. Appendix F (Combined Meeting 4th December 2007) reported no financial or economic material.

It would appear that the promised cost benefit analysis was never undertaken, or if it were, there is no record of it being presented to the community.

5.3.3 Finance and the Suspended Carpark

The largest single item of complaint in the Submissions is the proposition of building a Suspended Carpark. Objections from both onshore and offshore residents have been raised. Few of these submissions appear to understand the financial role that the Suspended Carpark would play. There is little evidence of that role being explained to the community in the various meetings prior to the development of the draft PoM. The financial role of the Suspended Carpark is detailed in the financial tables at the end of the draft PoM, but the tabular form does not explain its significance.

The expenditure needed to construct the Suspended Carpark is \$1.5 million or 19.1% of the costs for Precinct 1, or 12.9% of the total cost of the three Precincts. This positions the Suspended Carpark as one of the largest single item costs. Some submissions have objected to its cost, although that factor is a relatively minor complaint amongst the many made about the Suspended Carpark.

The financial modelling has shifted an extra \$2.01 million of costs to the Suspended Carpark books. This is the essence of Scenario 1A. These additional costs are transferred from the group of costs associated with the Suspended Carpark and the McCarrs Creek Roadway Reserve Re-Route, and represent a 45% reduction in their overall costs.

The third element of Scenario 1A is the Commuter “dinghy” wharf. The overall costs associated with that amount to \$1.502 million, making the total costs for Precinct 1 \$7.855 million.

The Council will be responsible for funding all of the three elements of Precinct 1. Various Council accounts will provide \$1.466 million, or 18.64% of the \$7.855 million. The remainder will be financed by loans undertaken by the Council.

The largest loan, \$3.511 million, will be related to the Suspended Carpark.

5.3.4 Cost outcomes for the community

The repayment of the Council loans will be primarily met by the offshore community through a user pays system related to the parking of vehicles and boats. The user pays system is based on a yearly payment for permits to park in the Church Point Council car parks and/or to tie up at the Commuter Wharf.

User Pays systems might be understood in two different ways, and the draft PoM does not distinguish between them.

In the first case, user pays springs from a base where those who use a facility, or receive a service, pay in relation to the frequency and level of usage. Each time, for example, a person makes use of a parking meter, he or she pays a certain fee. The level of expenditure by that person is therefore determined by their pattern of usage. Some may determine to use it often (and thence pay high user fees) and others may use it infrequently (paying little in fees).

In the second, every person, including those who might never, or very infrequently, use a facility or service, will contribute to the cost of providing the facility or service, and may even face extra charges if occasionally they use all or part of the facility or service.

The User Pays system in the draft PoM is something of a quixotic hybrid. Individuals may purchase a car or boat permit but they are not guaranteed of being able to park their cars or boats. They make payments but have no guarantee of being able to use the parking spaces when needed. This because there will be more permits issued than there will be parking spaces.

In addition to those who pay for permits, a certain income stream will be created by those who do not have a permit, and who occasionally park there paying a time-rate for so doing (as with the first example of a User Pays system).

The cost per permit is based on an estimated demand for car park spaces (450), the number of boat spaces (190), and the number of spaces in the Suspended Carpark (60). There are two propositions concerning the annual payments on the loans: a fixed rate established by dividing the total size of the loans by the estimated demand, and an incremental rate based on a lower initial cost per permit which would grow annually at 4% increase per year.

It is likely that the incremental rate will be followed, as it has the advantage of keeping permit costs low initially and gradually increasing them over the 20 year span of the loans.

The first year fees, based on the incremental model, would be \$300 per a Council car space permit, \$4000 for a space in the Suspended Carpark, and \$430 for a permit for the Community Wharf.

Although there will be incidental income through payment for vehicle parking spaces from onshore residents and visitors to Church Point, the great bulk of the repayments will be met by offshore residents. The revenue raised from permit purchases in the first year (on the incremental rate) would be \$135,000 from general parking, \$240,000 from the Suspended Carpark, and \$81,700 from permits purchased for the Commuter Wharf.

If the Suspended Carpark were not to be built the incremental fee per car parking permits would jump to \$577 in the first year (incremental) or \$859 (flat rate). This represents a 92.3% jump in the cost of a car permit (incremental) or a 90.9% increase (flat rate).

The many complaints about the Suspended Carpark do not seem to have appreciated the costs that the community would face if the Suspended Carpark is not built. Although the information is contained in the financial tables at the end of the draft POM, the significance of the Suspended Carpark for costs that individual residents of the offshore community will have to face appears to be unrecognised in the Submissions.

This is not surprising. As noted earlier, the draft PoM makes scant reference to the Suspended Carpark's role, and where it does mention it the implication is that it is minor compared to the detail of the other components of the Strategy. It appears to have been added late in the process of the PoM's development, and has not been widely canvassed in the various community forums. It appears to have been added belatedly to the scheme largely because it offers some substantial financial benefits to the proposals. As Section 6 suggests, the whole approach to the Suspended Carpark contains significant risks for both the Council and the community.

6. Desired Outcomes and Potential Risks

6.1 Summarising the Desired Outcome

Having reviewed the draft PoM including its nominated objectives along with the various submissions which have been made, including oral submissions from representative groups, it seems reasonable to summarise the vision and objectives for Church Point as follows.

The broad vision for Church Point is concerned with:

- Retaining environmental and social distinctiveness of this special locality, notwithstanding the need for practical improvements and tidying up
- In particular improving pedestrian and traffic safety and convenience for locals, especially offshore but also onshore residents
- Reasoned approach to capital works funding - given local and wider community interest.

The spatial vision is also relatively clear, with provision for:

- Additional and safer parking of between around 40 and 60 spaces and up to a further 60 again if an elevated parking deck were to be provided.
- Additional and safer dinghy berthing, especially for commuters from offshore
- Improved waterfront landscaping and walkways including connections to the wider locality
- Additional local parks and open space, including improvements to the wharf and village square.

6.2 Potential Risks in Implementation

6.2.1 Legal

Sale of two blocks of land

The draft PoM relies on another approval process to fund the majority of works. Final adoption of this element of the plan needs to be contingent on Council support for the land reclassification process. The two blocks of land are currently classified as community land. The draft PoM plans to reclassify the land, because under s 45 of the *Local Government Act 1993*, a Council does not have the power to sell, exchange, or otherwise dispose of community land. Under ss 29 and 30 of the Act a public hearing must be held in a reclassification of land. Given the level of objections to the sale of the land in the submissions, it is highly likely that the public hearings could cause a long delay with the sale of the land, and possibly even prevent its sale. Council can adopt the plan in principle subject to the public hearing and its associated deliberations.

Rezoning of land

The two blocks of land are also zoned for public recreation purposes and a rezoning would be required to allow housing development, which itself brings legal risks. It is also noted that within Precinct 3, areas of Pittwater which are proposed to be reclaimed are currently zoned 7(a1). Council's advice was that these works would not require a rezoning due to the

provisions of the Infrastructure SEPP. This matter has not been further investigated by the Panel.

Pittwater infill

The draft PoM relies on a permit from DPI Fisheries to carry out reclamation works and to harm marine vegetation which are fundamental to the delivery of the proposals in the plan. Under s 200 of the *Fisheries Management Act 1994*, a local government authority requires a permit from the Minister to carry out dredging or reclamation work. Section 205 of the Act prohibits any person from harming marine vegetation in a protected area without a Ministerial permit. “Marine vegetation” includes seagrasses (s 205). “Harm” is defined in s 4 of the Act as “cut, remove, damage or destroy”. A “protected area” is defined as “public water land”. “Public water land” includes Crown land or land vested in a public authority or land vested in trustees for public recreation or for any public purpose. Since the Pittwater area at Church Point is Crown Land (Pittwater Regional Crown Reserve R1012329) it is clearly a protected area.

6.2.2 Planning, Environment and Management Risks

Pittwater infill

Enhancement of the aquatic environment is an objective of the draft PoM. The main environmental risk is the proposal to reclaim areas of the Pittwater in Precincts 1 and 3. There is a lack of clarity as to the extent of the fill and its ecological impact. An aquatic survey undertaken in relation to Precinct 1 has identified several protected sea grasses and recommended that some of these be selectively transplanted. No survey has been carried out in Precinct 3.

Species impact assessment

An objective of the draft PoM is to enhance flora and fauna within the study area. Although the draft PoM states that there are no ‘designated areas of Pittwater Spotted Gum EEC in the subject area, it does provide valued habitat connections to remnant trees in the area’ (p 13). Selected areas are also considered to “provide sanctuary for native vegetation” and there are “important habitat connections”. The environmental impacts of the construction of the Suspended Carpark and development of the two blocks of community land are not clear and a species impact assessment should be undertaken.

Visual impact of Suspended Carpark

The proposal for a Suspended Carpark will have an adverse visual impact from the public domain. It is strongly opposed by a substantial section of the community. Much more will need to be done to convince the community that the Suspended Carpark is a useful and feasible part of the Plan. The council should commission a visual impact assessment to determine the extent of the impact and any measures that could be undertaken to mitigate it. Further community consultation should be undertaken.

Heritage issues

Church Point is a historic area with a distinct village atmosphere with historical and social values as recognized in the draft PoM. There are a number of items of heritage and archaeological significance. Submissions suggest that a reasonably large number of onshore residents object to the sale of the land. The prospective lots to be sold are part of a donation (Oliver’s Acre) by the original settler in Church Point, ceded to the community for its use by the public. Any proposal for developing the two blocks of community land and constructing

the suspended car park should be in keeping with the character and values of the area and demonstrate how these values have been preserved. Given the historic significance of the two blocks of land, the terms of the original grant should be investigated.

Recreation amenity

In most respects, the draft PoM enhances public recreation amenity. However, there will be a net loss of recreational amenity if the infill proposals do not proceed in Precinct 3 and the two blocks of open space land are developed. Church Point residents have a limited amount of recreational land. The loss of the two blocks is seen by the onshore residents as significant in their quest to add, rather than subtract, the amount of recreational land. In this context it might be pointed out that adjacent suburbs have quite substantial areas of parkland, and are relatively close in terms of pedestrian access. Bayview has 7 parks and Mona Vale 11 parks. However, while more open space may well be desirable, given the recreation and open space assets in the area this desire needs to be balanced against other community interests.

Subtlety in design

There is a need for subtlety and a respect for local scale in design considerations in relation to the project works. It is accepted that aspects of the current PoM as drawn (including the considerable roadworks and extent of proposed reclamation of Pittwater), are large scale and provide a threat to the retention of the quite informal and low key existing character which is distinctive and valued by Church Point locals and the offshore community. It is also accepted that the approved Pasadena development proposal will bring substantial change to Church Point of itself. There is a need to ensure that the opportunities for subtlety in design are retained as project specifications are prepared. Local architects have already made most effective inputs in previous work and their continued involvement should be sought. In particular it is suggested that there be ongoing liaison with the RTA to ensure the extant low volume traffic character of McCarrs Creek Road can be emphasised and accepted in design parameters for additional parking and road horizontal alignment specifications.

6.2.3 Financial and Economic Risks

Sale of two blocks of land

The expectation of the draft PoM is that the sale of land in the Quarter Sessions Road Reserve area will yield \$3 million, \$2.4 million of which is to be supplied as income for the Precinct 2 and Precinct 3 developments. The \$2.4 million is to provide 20.7% of the total costs for the draft PoM, if Scenario 1A is followed, or 23.8%, if Scenario 1B is followed.

The most obvious risk is that the land will not fetch the \$3 million estimate in the draft PoM. In the current economic circumstances there is no guarantee of that sum being achieved.

Between 2002 and 2009 the median price of houses in Church Point increased by 92.9%^{xv} with Church Point's rank in terms of housing prices across 659 Sydney suburbs moved from 31st highest to 18th. In the same five year period the average increase of prices for Sydney was 25.7%. In the five year period Church Point house prices rose 3.6 times faster than those of Sydney as a whole. Church Point's accelerated housing prices in the five years to 2007 were exceptional in a period that ranks as having the biggest boom in house prices in Sydney's history.

At the end of 2007 the median price of houses in Church Point was \$1.678 million. The average price of the three highest priced sales in Church Point was \$4 million. The house

prices, naturally, incorporate the value of both land and houses. The \$3 million figure for the two blocks of land suggest that each has a land value of around \$1.5 million: that is, the blocks of land are considered to have a value considered to be worth 89.4% of the median sales price for a house in Church Point. The Quarter Sessions Road land is valued at 37.5% per block in relation to the 3 most expensive houses in Church Point.

There is no guarantee that property values in Sydney will be sustained over the next five years, and certainly there is little expectation that the rate of growth of prices will repeat the extraordinary levels of the 2002-2007 period.

The topography of the site of the two blocks of land might also be a hindrance in the effort to sell them at the price estimated in the POM. The added construction costs associated with very steep land is likely to be a factor in lowering the sales price of the land.

The combination of the general mechanics of the Sydney property markets in the next few years and the issues of reclassifying the two lots might seriously delay the sales of the two blocks and reduce their price, presenting a risk to the timing of the implementation of the Precinct 3 redevelopments of the parking area and the extension of recreational space. At the extreme, there is a risk that the sales would not go ahead, and up to a quarter of the funds needed to put the POM in place would be missing.

Construction of the Suspended Carpark

The financial risks associated with the Suspended Carpark are extensive.

First, and most important, is the possibility that the Suspended Carpark will not be built. The late inclusion of the concept and the lack of detailed information presented to the community is a serious problem.

Second, average costs to offshore residents in terms of car parking fees would grow substantially if the Suspended Carpark was not built. The PoM's financial model suggests a prospective fee of a \$300 fee for an initial annual car parking permit in Church Point. Evidence from the submissions and the expressed view of offshore community organisations suggest that a starting cost of \$300 is acceptable. This acceptance would be severely tested if the annual fee were to jump by more than 92%, as would be the case if the Suspended Carpark failed to be built.

Third, demand from the community for car parking space permits is estimated to be 450. There is some information that suggests this is a reasonable estimate. On August 7 2008, at 5.00 am, a survey was conducted by the Bayview and Church Point Residents Association on the number vehicles parked in the parking areas and streets of Church Point. 388 vehicles and 4 motorbikes were counted. In a survey by the two community associations for Scotland Island and the Western Shores, a total of 576 vehicles were estimated to be owned by offshore residents.^{xvi} It is reasonable to expect 450 permits at \$300 each could be sold in the first year. In the fifth year, however, a permit would cost \$365 (because of the 4% indexed increase per year). This represents a 21.7% increase and it might be expected that demand for permits will then begin to decline over time.

Fourth, if, however, the lowest starting fee for car permits were to rise to \$577 (because the Suspended Carpark was not built) the expectation is that at a minimum 20 to 30% of the demand for car parking permits will fall off. After 5 years of obtaining permits the outlay will

have totalled \$3125.12 per permit with the incremental cost of a permit rising by 4% each year. The \$577 permit would cost \$600.06 in the second year, and within five years it would reach \$674.98, and a year later would top \$700. Such persistent increases would, year-by-year, most likely shed a rather significant proportion of the demand for permits. If, instead of the incremental fee, the flat rate system were to be applied, in the case of the Suspended Carpark not being built, the outlay for a permit over 5 years would be \$4295.

Capacity of the community to sustain 20 years of loan repayments

There are three financial elements to the repayment of the Council's loans that are to be used to fund the major part of the cost of infrastructure to be developed in Precinct 1. These are the permits that apply to the Commuter Wharf, car permits to be purchased by the community, and the fees to be paid by those who wish to take a car parking space in the Suspended Carpark.

The draft PoM estimates that 190 permits for boats will be sold. This appears to be a reasonable estimate. The price of boat permits, however, exceeds those of car permits by 50%. Unlike the car permits, the boat permit fees level would not be affected by the Suspended Carpark if it were not built. The price of a boat permit is set at \$644 (flat fee) and \$430 (incremental fee). The \$430 fee would, in five years, grow to \$503.04 per year. If one person held a permit over the 5 years they would have an outlay of \$2329.02. If the flat fee rate were charged, the five year's total expenditure would amount to \$3220. As with the car permits, there is likely to be some consumer reaction over time to the outgoings associated with purchasing the boat permits.

The range of alternative parking spaces for boats is greater than for cars, particularly dinghies that can be tied up or moored in a variety of places. The number of boats owned by offshore residents is not as well researched as the number of cars. The actual number of people who would apply for a parking permit or a Commuter Wharf permit cannot be known until the fees are determined and permits go on sale. The fees are currently dependent on the accuracy of the cost estimates of the draft PoM. Necessarily the actual fees cannot be known until the detailed plans and expenditure levels for the various parts of the infrastructure are drawn up and tenders are put forward.

The draft PoM is essentially a vision statement outlining a strategy for the improvement of Church Point. As such, at this point in time, the expenditure estimates are simply that: estimates. The draft PoM provides no details on the staging of the construction of the infrastructure and the time that each part will take to construct. Cost overruns can occur with such projects. The essence of a successful flow of funds, needed to pay off the Council loans, is in setting the fee structures at a level that will match anticipated construction and design costs. At this point the most relevant data are the estimates of the draft PoM. If a resident were to purchase both a car parking permit and a boat permit they would be liable for \$730 (incremental fees) in the first year. After 5 years the total fees would be \$854. If a person were to purchase both permits over the initial 5 years they will have expended \$3653.92. If the flat fee were applied the same person over 5 years would face a total cost of \$5470 for permits.

The costs of permits, whether a resident purchases only a car or a boat permit, or both, will amount to a significant additional impact on the residents' budgets since both car parking and boat wharfs run by the Council have been free. The figures quoted above illustrate that over time fees will increase significantly, if the incremental fee system is put in place. If the flat fee

system is adopted, costs over the next 5 years will be higher still. There is no doubt that the costs of purchasing permits will be a barrier to many residents, and the likelihood is that demand will fall as the costs rise.

The level of risk to council

Pittwater Council will face a loan bill of \$6.696 million (if the Suspended Carpark were built) or \$4.996 million if it was not built. The draft PoM relies on fees for car parking and boat permits to repay the loans. The ultimate financial risk is totally held by the Council.

The suspended car park works are estimated to cost \$1.500 million. If the Suspended Carpark was not built, the \$1.5 million would be removed from the total sum of borrowing repayments. But the non-building of the Suspended Carpark forces a reorganisation of the revenue space, with purchasers of both car parking and boat permits having to face considerably larger fees. As argued above, the increases are of such an order that they would reduce the market for permits.

If the construction of the Suspended Carpark was completed, there still remain questions about the repayment security of the level of income that is expected from the 60 spaces that would be available. The financial model adopted by the draft PoM involves a cost-shifting exercise that adds \$2.011 million to the \$1.500 million cost of building the Suspended Carpark. This exercise reduces the construction and design costs of the Suspended Carpark, the McCarrs Creek Roadway Reserve Re-Route, and other components (seawall, infill etc) to 55% of the estimated works bill.

The purpose of this cost shifting is to reduce the level of fees that purchasers of car parking permits would otherwise have to pay. With this book-entry manoeuvre the construction cost per parking space in the Suspended Carpark is entered at \$58,512, whereas its individual cost is only \$28,047. The \$3.511 million (actual cost plus cost shifting amount) is then used as the base on which the permit fee per space is calculated. The fee per parking space in the Suspended Carpark then becomes \$5960 (flat fee) or \$4000 (incremental fee). Depending on which fee system is implemented that will produce between \$240,000 and \$357,600 in revenue in the first year. After 5 years the incremental fee per annum for a parking space will have climbed to \$4679.44, and if a person were to have made payments through the five years total payments would be \$21,662.30.

There are a number of things that support the economics of the Suspended Carpark. At \$4000 per annum the parking space fee would be cheaper than the standard parking charges in the northern part of Pittwater. Unlike the other car parking permits in Precincts 1 and 3, those who purchase a space in the Suspended Carpark have a guaranteed space throughout the life of a year-long permit. In the other car parks the order is based on a first-in, first-served basis. There is no guarantee that with a parking permit in the general parking areas a space will be available. After five years the Suspended Carpark fee will have risen to \$4679.44 per space, a cost that would still be at the lower end of the parking cost scale. If the flat rate fee was adopted (\$5,960) it would be competitive with the more expensive parking alternatives in northern Pittwater.

The great advantage of the location of the Suspended Carpark would be its proximity to the Commuter Wharf and the Ferry Wharf. Since offshore residents cannot park their vehicles on Scotland Island or the Bays, a guaranteed car space that might be held for 10 years is cheaper than onshore residents would pay for garages, car ports, and driveways.

The income to Council from the sale of car parking and boat permits is necessary for it to service its loans. If the Suspended Carpark was built, the risk level would diminish. It would reduce the costs to those dependent on obtaining a standard car parking permit and would provide a stronger demand base to generate the income laid out in the draft PoM's financial model. The risk levels to Council are much greater if the Suspended Carpark is not built.

There is another, potentially quite significant, risk facing the Council that arises from the 20 year life of the loans that it will take on. Long-term loans are usually accompanied by some form of a guaranteed, or at least a regular, flow of income. The parking and boat permits are to be obtained on a yearly basis. Various factors might intervene to make residents decide not to make a repeat purchase of a permit. The most obvious is the year-by-year increases in the cost of a permit (if the incremental fee system is applied). Other factors apart from the rises in the cost of a permit are relevant. People's incomes and job security might change from year to year, people might leave or take up residence in the area (causing delays in taking new permits), and for a number of people the permits might be considered as an unnecessary cost. People who have experienced over many years the benefits of free parking in Council areas might decide to park beyond Church Point, either walking, or using public transport to reach these alternative, and free, parking areas. Life styles, workplace locations shifts and age structures are other factors that might affect decision-making on whether to pay for a permit. And, there are a host of other factors that might influence voluntary decisions about whether or not to pay for a permit.

Much of the income for Local Government is based on regular flows of funds from rates and charges (the bulk of which have mandatory bases) allowing a council to make budget decisions that might stretch over 5 years. The Department of Local Government is encouraging Councils to take longer time spans (at least of 10 year horizons) in their planning and decision-making (especially in relation to infrastructure development). With this draft PoM Pittwater Council is moving in that direction, but it is doing so on the basis of voluntary decisions by residents to purchase, or not to purchase, permits. There is a real risk in this process.

Managing risk

There are many indefinite areas of the financial aspects of the draft PoM which generate risks to the repayments of substantial borrowings by the Council over 20 years. There is, for example, strong opposition to the building of the Suspended Carpark. If the Council were to decide that it would not proceed with the Suspended Carpark, a substantial increase in the cost of car and boat parking permits would ensue. This could lead to a decline in the demand for permits, and permits are the largest providers of the funds that are needed to repay the Council's loans. It is quite possible that over 20 years, as the cost of permits will rise (based on the likelihood of an incremental 4% increase in the price of car permits being adopted), and that will have a high probability of leading to shortfalls in the anticipated income from permit sales. Those shortfalls could produce a compounding problem for the Council, one that would eat more broadly into the Council's basic budget.

As well, the estimate of revenue from the sale of land may be overstated, as might be the case with the projected \$1.05 million to be supplied by State Government Agencies (which have not been negotiated and confirmed). Once the borrowings are put in place the Council will be committed to servicing loans over 20 years that will range between \$4.999 million (Scenario 1B) and \$6.699 million (Scenario 1A).

As argued elsewhere, there are a range of possible deficits in the prospective income over time arising from lower than expected sales of annual car and boat parking permits, a lower than expected return on the sale of land, and a lower than expected funds base from State Government Agencies. There is no consideration of these risks in the draft PoM.

Priorities, contingencies, and time-frames

The first step in managing the financial risks is for the Council to determine its priorities amidst the array of infrastructure developments to be made across the three Precincts. Second is the development of contingency plans that can deal with any shifts in costs or revenue bases of the plan.

The draft PoM is based on a vision for the Church Point Study area. It foresees the area as: “A maritime hub recognising the social and historical significance of the Church Point precinct, surrounded by high quality recreational facilities servicing the communities of Pittwater and New South Wales” (p.29). The implementation of that vision is spelt out in the detail of the draft PoM. The capacity of the Council and the community to fulfil the vision’s objectives ultimately relies on it having the financial resources to do the job.

There are layers of unpredictability about the revenue bases of the infrastructure projects, as well as their costs. The financial modelling of the draft PoM is an excellent start, but it needs to be supported by identification of the priorities of the elements of the plan, so that decisions can be made about what steps to take if either revenue or cost bases shift.

The draft PoM has a financial plan, but it does not have a business plan. Building a business plan involves establishing a clear set of priorities, both between the infrastructure projects within each precinct, and between each precinct. Associated with the business plan is the establishment of time-frames related to the development priorities, and a clear process of project managing the various projects. It needs to define responsibilities, reporting processes, KPIs and milestones, probity and transparency aspects, and reporting mechanisms against a clear background of its financial base.

The development of a business plan cannot be scoped in detail in the draft PoM. Sufficient elements of a general business plan, however, should be included so that such things as priorities, time-frames, contingencies, and a sense of robust processes can be assessed by the Council in making decisions on approving or not approving the draft PoM.

Suggestions on strengthening the financial base of the PoM

- There is a need to reduce the reliance on the income from the car and boat parking permits for repayment of loans.
- There is a strong natural justice case for minimising the payment levels of the car parking permits. In the financial model for Precinct 1 part of the expenditure is for the Suspended Carpark, and the remainder is for re-routing McCarrs Creek Road, landscape improvements, the seawall, infill, outbuildings, and covered ways (p.57-58). No detailed break-up of the component costs of the various items are provided in the PoM. The building of the Suspended Carpark would be a minor part of the \$4.062 million in the total works costs for these component parts. While the major beneficiaries are clear, there is some sharing of the benefits of the various components

of this infrastructure among offshore, onshore residents, visitors and commercial interests. There is no logical reason why the purchasers of car parking permits should be left with the task of funding all the parts of this infrastructure, and this is not the case given the general funding contributions from Council and the indicated State funding.

- The draft PoM should determine the choice between building or not building the Suspended Carpark (Scenarios 1A and 1B). There are strong arguments on aesthetic and/or environmental grounds put forward against building the Suspended Carpark. But, if the argument rested solely on financial grounds, the Suspended Carpark ought to be built. There has not been a great deal of effort to develop architectural designs that may ameliorate the aesthetic/environmental concerns.
- In the financial model of the draft PoM (Scenario 1A) 45% of the total costs (\$1.828 million) of the Suspended Carpark/McCarrs Creek Road group of works is shifted to the Suspended Carpark expenditure pool. This has the effect of reducing the car parking fee by 47.6% (flat fee). This makes the car parking fee affordable to many more residents (and helps boost the likelihood of the payments providing a more secure base for the Council's loan). The loan for the Suspended Carpark and the 45% transfer of works costs from the suspended car park/McCarrs Creek Road group of works amounts to \$3,510,650. It is feasible to accept that the revenue from the Suspended Carpark's guaranteed parking spaces (starting at \$4000 on an incremental basis) will help cover the repayments of the loan.
- The risk to Council of the \$3.511 million loan might be reduced by adding other elements. Such as:
 - outsourcing the management of the Suspended Carpark to a private operator,
 - outsourcing the construction/ownership to a private operator, or
 - selling car spaces to the public.

Each of these processes would involve agreements to a licence by the Department of Lands and/or the establishment of a strata title role to the car park. These kinds of processes would reduce, and possibly remove, some or all of the risk of this, the largest loan that would be entered into by the Council, in relation to the draft PoM.

- A further step might be taken by the Council to reduce risk. Two other loans are included in the financial model, apart from the Suspended Carpark loan. These are the \$1.986 million loan related to the suspended car park/McCarrs Creek Roadway Reserve Re-Route works, and the \$1.202 million loan for the Community Wharf works. The permit systems that apply to both works, and are assumed to provide the repayments of the loans, carry two problems. Many offshore residents will purchase both car and boat permits which will amount to them making substantial total payments (\$1094 per year flat fee or \$720 per year incremental fee which grows by 4% per year). Such aggregate total fees will diminish demand for permits in the first place, and will probably reduce the income to Council in the long run. Consideration could be given to reducing the total fee (car and boat parking permit) if a person purchased both permits in the one year.
- A further possibility is to add to the income from permits by introducing a levy on both offshore and onshore residents. It is understood from submissions received that

the community does not favour the use of a levy. The user-pay system is restricted to those who purchase permits. Infrastructure throughout Pittwater (or any other Council) is provided from rates and other income streams, and in some cases from levies. The infrastructure then built may, or may not, be utilised by all (or even a majority) of residents. At Church Point the cost of the infrastructure is to be paid for mostly by those who use part of it (parking spaces for cars and boats). The infrastructure that is to be put in place for Church Point is more extensive than parking spaces and both offshore and onshore will benefit from this. It is noted that there is also intended to be significant contributions from Council's general funds towards the infrastructure. However, a levy system (with a definite time-frame, say 5 years) could be introduced with householders providing modest payments, subject to State Government approval. This added to the various other suggestions about adding to council's income stream, and so reducing risks in relation to their costs and borrowings for Church Point. It would be possible to reduce the Council's loan payments to a little over 50% of the Church Point loan targets. Permit fees would be commensurately reduced, thereby strengthening the probability of income from permit fees being consistent over the 20 year loan period. This option may not be feasible in view of the lack of community support.

7. Recommendations Relating to Council's Adoption of a Final PoM.

The draft PoM presents a mix of safety, amenity and convenience improvements. These improvements are admirable of themselves. However there is considerable complexity and risk in the financial strategy, statutory processes and environmental considerations which underpin the achievement of these outcomes. Below we list a set of principles which should form the platform for the needed ongoing actions in relation to the final adoption of a strategy for Church Point. This is followed by a series of specific recommendations.

7.1 Principles

Principle 1: There is a clear community need for the essential improvements proposed in the draft PoM and this should be given recognition by Council at this point.

Principle 2: Due regard for the further environmental and land reclassification approvals is necessary before the formal adoption of any formal plan by Council

Principle 3: It is necessary to secure coordinated public sector inputs in achieving the laudable goals of the draft PoM.

Principle 4: Improvements should be essentially about delivering the baseline improvement to parking, safety and amenity, not change the local distinctiveness and pleasing aspects of the informal character of the local area.

Principle 5: It is important to ensure that the environmental values of the area are preserved, both aquatic and terrestrial;

Principle 7: It is important to ensure that the visual and recreational amenity of the area is preserved;

Principle 8: It is important to ensure the heritage character of the area is preserved.

Principle 9: Ensuring value for money for Council and the community should underpin any PoM.

Principle 10: There is a need for the development of a financial model that is transparent, protective of risks to the Council and the community, and of the Council's and the community's financial welfare.

7.2 Recommendations

At this point, Council is not in a position to adopt the current PoM, due to procedural issues associated with land reclassification and rezoning. However the momentum for the delivery of an improved outcome at Church Point can certainly be continued. The recommendations below provide the Panel's suggestion on how the intent of the draft PoM can best be progressed having due regard to submissions, financial practicalities and optimising community outcomes:

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1. Council indicate its support in principle for:
 - a. the provision of additional parking at Church Point to the south of the McCarrs Creek Road alignment numbering 40-50 spaces minimum
 - b. The provision of additional and safer dinghy berthing arrangements up to the 190 spaces indicated in the draft PoM
 - c. Each of the above elements as a component of a user-pay system and integrated with major capital works program for the Church Point area (see specific comments on financial aspects below).
 2. Council prepare draft LEP to rezone and reclassify the community land described as Quarter Sessions Road Reserve and move through steps to public hearing and a resolution on this matter.
 3. Council initiate approaches to United Church in regard to the upgrading of the Cemetery as a partnership program and integrated with the further PoM development
 4. Council request the local member to initiate a meeting between the Mayor and the Minister for Roads to secure a special low speed status for the identified sections of McCarrs Creek Road and Pittwater Road and to outline the proposed sustainable transport strategy.
(This to open up cost reductions and a more sustainable financial strategy – traffic counts for McCarrs Creek west of Church Point should be undertaken before this meeting).
 5. Council’s General Manager and Lands Department Regional Manager meet with Regional Managers of Roads, Transport, Fisheries, Environment and Climate Change with a view to forming a working party to ensure a common understanding and coordinated planning of public sector inputs into the project.
 6. Council initiates outcome-based involvement with DPI (Fisheries) in relation to feasibility of Pittwater infill.
 7. In the interests of financial sustainability while minimising user fees, an alternative works program be prepared which assumes low speed traffic environment and concomitant reduced capital costs (eg through reduced roadworks) and improved low cost parking availability (including in appropriate sections adjacent to the road carriageway). This plan to be the subject of meetings with State authorities.
 8. That provisions of the CPRA Masterplan be referenced in the development of this alternative plan.
 9. An aquatic survey be undertaken in Precinct 3, ideally by a consultant outside the area;
 10. A species impact assessment be carried out to assess any potential impacts on spotted gums, flora and fauna and vegetation communities;
 11. The proposals should preserve the balance between recreational amenity and car parking.

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12. A visual impact statement be undertaken in relation to the proposal for the suspended car park;
 13. A landscape plan should be prepared and made available for community consultation;
 14. The heritage significance of the area should be maintained and it should be clarified how this will be enhanced by the proposals;
 15. The terms of the original grant of the 2 blocks of community land should be explored.
 16. The Council should carefully consider the financial and economic risks associated with the financial modelling plan of the PoM, identifying the possible areas of risk, their level of likelihood, the time-frames within which risk reviews should be made, the information bases on which financial risk can be recognised and measured, the responsibilities of Councillors and Staff in relation to risk, and the ways in which risk can be managed. Council must develop a risk management strategy.
(The body of the report outlines the Panel's view on risk associated with the draft PoM).
 17. The Council should develop a business plan which will provide a sense of how the PoM will be implemented, the levels of financial, technological, design, probity, professional and legal support, and other needs that are necessary for the advancement of the Plan.
 18. The Council should identify priorities within the PoM, the expected time-frames for the various parts of the redevelopment programme, and the management needs to ensure that the PoM proceeds in line with community expectations.
 19. The Council should investigate the level to which the building of the Suspended Carpark is necessary to provide a secure financial base for the plan. In relation to this it should do a market analysis of demand for guaranteed car spaces, the competitive nature of its proposed fees, and generally prove the commercial base of the proposal.
 20. A timetable be initiated for the above actions with a view to reconsidering a final Plan of Management in accordance with achievable work programming given other Council commitments.
 21. Continuing liaison with representative groups to be undertaken during the course of the process.

Appendix 1

Background to Panel Members

Emeritus Professor Maurice Daly was Chair of the Independent Panel. He was McCaughey Professor of Economic Geography at the University of Sydney for some 20 years. He was also Director of the Planning Research Centre and Foundation Director of the Research Institute for Asia and the Pacific at the University. He has specialised in urban and regional development in Australia and internationally for over 40 years. He was a member and Chair of the NSW Local Government Grants Commission for 17 years (completing his tenure in June 2007), and has been Commissioner for a number of Public Inquiries into Councils.

Professor Zada Lipman was a member of the Independent Panel. She was formerly a Professor of Law at Macquarie University specializing in environmental law. She served for many years as Director of two Macquarie University Centres: the Centre for Environmental Law and the Centre for Environmental Dispute Assessment and Resolution. She also served as Associate Dean (Teaching and Learning) of the Division of Law, Macquarie University. She is currently an Adjunct Professor at Macquarie University and the University of Sydney. She has been admitted as a barrister of the Supreme Court of New South Wales and is an accredited mediator. She is a member of the (World Conservation Union) IUCN Commission on Environmental Law. She has 25 years experience teaching environmental law and planning law at Universities and in training courses for the government, non-government and corporate sector.

Peter Walsh was a member of the Independent Panel. He is a director of P&A Walsh Consulting Pty Ltd, a practice which has advised in town planning, public policy and management planning for over 15 years. Peter is a Fellow of the Planning Institute of Australia, a Visiting Associate at the University of Technology Sydney and has taught development assessment studies and related subjects at UTS for a number of years. Peter has qualifications in planning, surveying and an MBA, and has received two awards for excellence in planning from the Planning Institute of Australia. Peter has conducted a number of independent public hearings on matters associated with major land rezoning, land reclassifications and associated matters under relevant legislation.

End Notes

ⁱ Souter and Associates, Plan showing seabed levels and topographic detail at Church Point, 21/1/08 (draft). Note Mr Ian Souter is an offshore resident.

ⁱⁱ Hansard, Legislative Assembly, 6 March 2008 at

<http://www.parliament.nsw.gov.au/prod/parlament/hansart.nsf/V3Key/LA20080306041>.

ⁱⁱⁱ RJ West, C Thorogood, T Walford, RJ Williams (1985), "An Estuarine Inventory for NSW. Fisheries Bulletin No 2. Dept of Agriculture, NSW Sydney 165 pp.

^{iv} <http://www.dpi.nsw.gov.au/fisheries/habitat/aquatic-habitats/estuarine>.

^v *AS/NZS 2890.1:2004 Parking facilities - Part 1: Off-street car parking - Provides for headroom controls at section 5.3: "To permit access for both cars and light vans, the height between the floor and an overhead obstruction shall be a minimum of 2200 mm. NOTE: AS/NZS 2890.6* requires that any vehicular path of travel to or from a parking space for people with disabilities has a clearance of 2300 mm.*

^{vi} *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140.

^{vii} As per Pittwater 21 DCP which supports equitable preservation of views, and *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140.

^{viii} Hansard, Legislative Assembly, 6 March 2008 at

<http://www.parliament.nsw.gov.au/prod/parlament/hansart.nsf/V3Key/LA20080306041>.

^{ix} These considerations mentioned above all applied and approved by Biscoe J in *Addenbrooke Pty Pty v Woollahra Municipal Council* [2008] NSWLEC 190 and apply equally here.

^x *Addenbrooke Pty Pty v Woollahra Municipal Council* [2008] NSWLEC 190

^{xi} *Addenbrooke Pty Pty v Woollahra Municipal Council* [2008] NSWLEC 190

^{xii} *Addenbrooke Pty Pty v Woollahra Municipal Council* [2008] NSWLEC 190

^{xiii} Department of Conservation and Land Management, *Draft Assessment of Crown Lands at Church Point*, Assessment available for public inspection 5/11/93-14/12/93, p8.

^{xiv} For example, in guidelines issued by Landcom Collector Streets are nominated as carrying 3000-6000 vpd with local streets up to 3000 vpd. (Landcom, *Street Design Guidelines*, 2008.

^{xv} Based on Real Estate Institute and Domain reports

^{xvi} It is noted elsewhere that ABS figures seem to suggest around 800 vehicles in ownership of offshore community.