



NSW GOVERNMENT
Department of Planning

***Currawong Beach, Pittwater
Residential Development
Major Project Application MP 07_0117
Proposed by Eco-Villages Australia Pty Ltd***



Director-General's
Environmental Assessment Report
Section 75I of the
Environmental Planning and Assessment Act 1979

April 2009

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EXECUTIVE SUMMARY

On 18 September 2007, the Minister for Planning agreed that the development of Currawong Beach, Pittwater be considered as a Major Project under Part 3A of the *Environmental Planning and Assessment Act 1979* (the Act). The Minister also agreed to consider the Currawong Beach site as a potential State significant site (SSS) under Schedule 3 of the *State Environmental Planning Policy (Major Projects) 2005* (Major Projects SEPP). The Minister formed this opinion on the basis that Currawong Beach is a coastal site and of environmental and social importance to the State given its amenity, cultural heritage, ecological, social and historical significance. It has a number of important attributes, including its location adjacent to Ku-ring-gai Chase National Park, a significant proportion of high quality native vegetation, known sites of Aboriginal heritage and buildings of potential State heritage significance.

This assessment relates to a Project Application to carry out a residential subdivision, pursuant to Part 3A of the Act. The Proponent also submitted a SSS study, as part of their environmental assessment, requesting an amendment to Schedule 3 of the Major Projects SEPP to rezone the area. The proposed amendment to Schedule 3 of the Major Projects SEPP is being considered separate to this report.

The Currawong Beach site is located on the western foreshore of Pittwater in Sydney's Northern Beaches. It is approximately 19.77 hectares in area of which 4.35 hectares is currently zoned Residential 2(a) and 15.42 is currently zoned Reservation County Open Space 9(b) under the *Pittwater Local Environmental Plan 1993*.

On 7 December 2007, the former Minister for Planning directed the constitution of a Ministerial Review Panel and Independent Hearing and Assessment Panel (IHAP) to provide advice on the proposed listing of the Currawong Beach site on the State Heritage Register and the Project Application, respectively.

Eco-Villages Australia (the Proponent) lodged their Environmental Assessment for development of the Currawong Beach site with the Department on 23 March 2008. The Proponent was originally seeking approval for a residential subdivision at Currawong Beach, comprising of the following:

- Subdivision of the site to create 36 lots including:
 - 24 residential freehold lots;
 - 10 heritage freehold lots;
 - 1 community open space lot (comprising public access and private access areas);
 - 1 National Park dedication lot; and
 - Easements for inter-allotment services.
- Upgrade and refurbishment of 'Midholme' homestead and the 9 holiday cabins; and
- Utilities, common facilities, pathways, landscaping and rehabilitation works.

The Project Application was publically exhibited for 46 days between 9 April 2008 and 23 May 2008. In response to the exhibition, the Department received 125 submissions, including 81 individual public submissions and 39 form letters. Of these, 123 objected to the proposal. Key issues arising from submissions were the impacts on the heritage values of Currawong Beach, the geotechnical risk, coastal hazard and climate change risk, traffic impacts and impacts on the adjoining National Park.

Following exhibition of the project application, the Panels held a public hearing on 4, 5 and 13 June 2008 to allow members of the public to present their submissions, regarding both the proposed heritage listing and project application, to the Panels. The Panel received 294 submissions in relation to the Project Application and a further 511 submissions in relation to the proposed heritage listing. A total of 99 persons made presentations to the Panel.

On 25 August 2008 the Proponent amended the application via a Preferred Project Report (PPR) to address issues raised by the Department, the IHAP, public hearings, agencies and public submissions. The estimated project cost of the total development as modified in the PPR is approximately \$33.7 million. The Project Application will create approximately 25 full time construction jobs over the life of the project. A copy of the PPR was provided to the IHAP for their consideration.

The more significant amendments included:

- no separate subdivision of the holiday cabins;
- a reduction in the area of land to be transferred to DECC with the remaining land to be retained as Community Association Nature Reserve;
- amendment to the proposed site coverage and maximum building heights;
- preparation of a conservation management plan;
- an increased setback to account for recession; and
- additional statement of commitments.

On 16 March 2009, the Panels submitted their reports, detailing their consideration of the proposed heritage listing and project application, in light of issues raised in submissions, at the public hearings and the Preferred Project Report. Following review of all documentation relevant to the proposed listing of the site on the State Heritage Register, the Ministerial Review Panel recommended that the Minister list the site, in its entirety, on the register. In regard to the project application, the IHAP provided a recommendation that the Minister refuse the project, in its current form, as it was not considered acceptable on heritage and environmental grounds. The Panel also observed that there is some development potential on the site and made related recommendations in that regard.

The Department has closely considered the IHAP report and submissions and assessed the merits of the proposal, and concurs with the main findings and conclusions of the IHAP. In particular, the Department considers that the proposed development in its current form would have an adverse impact on the heritage significance of the site, is inconsistent with the precautionary principle, in regard to development of the valley floor and does not offer a sustainable solution in terms of long term effluent management.

The IHAPs recommendation for refusal is not unreasonable and is supported by the Department. In light of the above, the Department does not propose to progress the SSS process, at this stage. Any future action in this regard should take into consideration the IHAP recommendation and may be resolved by Council through the comprehensive Local Environmental Plan process.

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1 BACKGROUND

1.1 SITE LOCATION AND CONTEXT

Currawong Beach is located on the western foreshore of Pittwater in Sydney's Northern Beaches, approximately 2 kilometres west of Palm Beach between Great Mackerel Beach and the Basin, and approximately 31 kilometres north of Sydney. The site is located within the Pittwater Local Government Area (LGA) and has no road access. The location of the site within its regional context is shown in **Figure 1**. The site is approximately 19.77 hectares in area and comprises of Part Lot 10 DP 752017, Lot 10 DP 166328, Lot 4 DP 978424 and Lot 1 DP 337208.

The site is currently privately owned by Eco-Villages Australia Pty Ltd. During the 1950s and 1960s the site was developed as a holiday camp by the Labour Council of NSW, who owned the site from 1949 to 2007. It is currently operated as a tourist resort, offering short stay holiday accommodation and conference facilities.

The site is currently zoned Residential 2(a) and Reservation County Open Space 9(b) under the provisions of the *Pittwater Local Environmental Plan 1993*.



Figure 1. Site location of Currawong Beach, Pittwater

The site is comprised of steep, well vegetated rocky slopes in the north, south and west and an alluvial flat area of land that has been largely been cleared in the east, adjacent a stretch of sandy beach (refer to **Figure 2**). An informal golf course has been established within the alluvial flat area, altering the natural landform through deposition of beach sand (refer to **Figure 3**).



Figure 2. Aerial photograph of the Currawong Beach site (Department of Lands)



Figure 3: View across the valley floor from the southern side of the creek, towards Midholme.

An unnamed creek traverses the site extending from the sandstone plateau in the northern section of the site through a rocky gully and down onto the lower clearing (refer to **Figure 4**).

The creek intermittently discharges into Pittwater during significant rain events and flood tides. As such, the eastern portion of the creek is estuarine in nature, supporting small stands of remnant mangrove and saltmarsh vegetation.



Figure 4. Unnamed creek

As illustrated in **Figure 2**, existing development at Currawong Beach is concentrated in the lower footslope and foreshore area and comprises the following:

- Midholme homestead constructed c1915 (refer to **Figure 5**);
- Tennis court (pre 1949);
- Nine holiday cabins with external toilet facilities and rear paved courtyards (built between 1949 and 1953);
- Kenny's Cabin (built c1949) (refer to **Figure 6**);
- Games room (1949);
- Office (1961);
- Caretakers Cottage (c1990);
- Conference centre (known as the TUTA building) (1997);
- Maintenance sheds;
- Volleyball court;
- Substation;
- Retaining walls and walkways;
- A picnic area; and
- A timber jetty extending about 58 metres into the water.



Figure 5. Midholme homestead (built c.1915)



Figure 6. Prefabricated holiday cabins located on the upper slopes of the site.

1.2 SITE HISTORY

Aboriginal occupation in the Sydney region dates back around 40,000 years. Coastal areas, estuaries and river systems were important resources for Aboriginal people. The Pittwater area was originally the traditional lands of the Garigal people, a sub-group or clan belonging to the Darug language group.

Currawong, originally called Little Mackerel Beach, was surveyed in 1832 and title deeds were issued by way of a conditional Crown Grant in 1835 to Martin Burke. The grant was conditional requiring 20 hectares to be cleared and cultivated, with buildings and farm infrastructure to the cost of 100 pounds. Within a few years the land was well developed with a series of huts, outbuildings, stables, vegetable gardens, orchards and paddocks. In or around 1915 Midholme was erected to replace earlier family cottages. This pattern of development continued for the remainder of the 19th century.

Between 1942 and 1944, the Port Jackson and Manly Steamship Company progressively purchased Currawong, with the intention of developing the site as a tourist venue featuring a picnic ground. These plans were never realised as the company was forced to sell the property due to an economic downturn.

In 1949, the Labour Council of NSW purchased the site from the Port Jackson and Manly Steamship Company. The new venture was inspired by Jim Kenny, the Labour Council Assistant Secretary, following a trip to the UK where he saw the well established Butlins holiday camps in operation. Jim Kenny promoted the idea of an inexpensive holiday location close to Sydney, where ordinary people could enjoy the bush and the beach. In 1949, the first of ten cabins was completed and became known as 'Kenny's cottage'. The cottage (now cabin no.1 or Blue Tongue) comprised a simple rectangular form with a mono-pitch roof. A second building of a similar form was then erected as a games room. A further eight cottages were erected between 1950 and 1953.

Little further development took place at the Currawong Beach site in the decades after it was established. Subsequent decades, particularly from 1977, saw a number of attempts by the Labour Council to dispose of Currawong, expand its facilities or develop the site in partnership with other parties. These proposals generally foundered in the face of strong community opposition. The Government also made attempts to transfer the land to Ku-ring-gai Chase National Park, however this proposal was unsuccessful. An attempt by the Labour Council to expand the number of cabins on the site in 1986 was also rejected by Warringah Shire Council.

Works were undertaken from the 1980s to upgrade the existing facilities and a new conference facility was erected in 1997.

1.3 HERITAGE LISTINGS

Midholme is contained in the Heritage Schedule of the *Pittwater Local Environmental Plan 1993* (LEP). In 2005, Pittwater Council listed Midholme and the entire Currawong site as items of local Significance in a Draft Amendment to Pittwater LEP 1993 (database no.'s 2270410 and 2270040), which is yet to be gazetted.

Under the NSW *Heritage Act 1977*, places and items may only be added or removed from the State Heritage Register (SHR) at the direction of the Minister, following a recommendation from the Heritage Council (NSW).

In 1999 and again in 2003 Currawong was nominated for listing on the SHR, however due to insufficient comparative data, the Heritage Council was unable to make a determination. Following the review of further information, the Heritage Council resolved, on 7 November 2007 that the Minister for Planning list the entire Currawong site on the SHR. Subsequently a Ministerial Review Panel was established, to provide advice to the Minister regarding the Heritage Council nomination. This matter is being progressed by the Department's Heritage Branch and is subject to a separate process.

According to the Statement of Significance prepared by the Heritage Council, Currawong is "of State heritage significance as the most intact remaining example of a mid-twentieth century, union-organised workers holiday camp in NSW". Currawong was identified as meeting five out of the seven criteria for State heritage listing (including historical, social,

representation, rarity and association values). It was also assessed by the Heritage Council as having local significance for aesthetic, historic, rarity and scientific values.

Two Aboriginal rock engraving sites have been recorded within the Currawong site boundary.

1.4 SURROUNDING DEVELOPMENT

The Currawong Beach site is situated adjacent Ku-ring-gai Chase National Park in the south, west and north-west and Great Mackerel Beach Reserve in the north-east.

The closest residential development is located about 650 metres to the north of the site at Great Mackerel Beach (refer to **Figure 7**). This area was subdivided in the 1920s and now contains approximately 120 residential properties. Great Mackerel Beach is accessible only by boat and contains low to medium density residential development concentrated along approximately 600 metres of beachfront. The surrounding bushland is managed as a reserve by Pittwater Council (Great Mackerel Beach Reserve) and the DECC (Ku-ring-gai Chase National Park). Council also operates a boat tie-up facility at Mackerel Beach Wharf.

Coasters Retreat is another residential development located to the south of Currawong Beach, opposite The Basin campground (refer to **Figure 8**). It contains approximately 50 low density dwellings along the foreshore and is accessible only by boat. Council is in the process of developing a boat tie-up facility here at Bennets Wharf. Nearby, at The Basin, located within the Ku-ring-gai Chase National Park, is a campground which provides basic temporary accommodation and facilities.



Figure 7. Currawong Beach, viewed from the Northeast. (Eco-Villages).

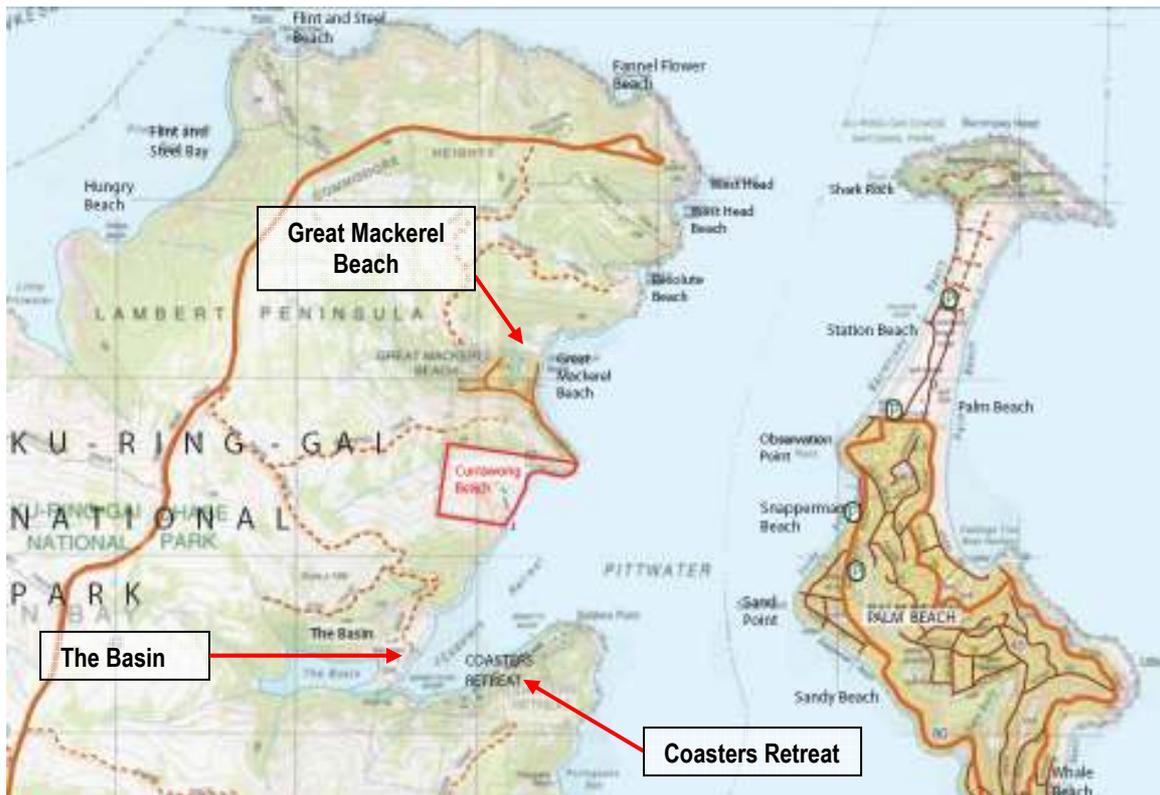


Figure 8. Currawong Beach site (outlined in red) and surrounding developments at Coasters Retreat and Great Mackerel Beach (Source: Eco-Villages).

2 PROPOSED DEVELOPMENT

2.1 THE PROPOSED DEVELOPMENT

The Proponent is seeking project plan approval for low density residential subdivision of the Currawong Beach site, comprising of (refer to **Figure 9**):

- Subdivision of the site to create 36 lots including:
 - 24 residential freehold lots;
 - 10 heritage freehold lots (comprising Midholme and the 9 holiday cabins);
 - 1 community open space lot (comprising public access and private access areas);
 - 1 National Park dedication lot; and
 - Easements for inter-allotment services.
- Upgrade and refurbishment of 'Midholme' homestead and the 9 holiday cabins for continued use for holiday letting;
- Environmental rehabilitation and enhancement works;
- Creation of an 'Asset Protection Zone' and 'Riparian Zone';
- Utilities and infrastructure including a centralised water reclamation plant and a community rural fire service shed;
- Common facilities including a pool, decking and a pavilion;
- Pathways, walking trails and landscaping; and
- Removal of the existing tennis court, volleyball court, golf course, conference centre and ancillary storage sheds.

Of the 19.77 hectares that comprises the site, the Proponent proposed to dedicate 11.38 hectares to the Ku-ring-gai Chase National Park. A further 4.35 hectares would comprise private common open space and 1.1 hectares would be publicly accessible open space (including 0.5 hectares of beachfront).

The proposal includes the creation of a Community Association and implementation of a Community Management Scheme, By Laws and restrictive covenants to protect the site's heritage and ecological values. In addition, the Proponent proposed that House Design Guidelines would be developed and enforced to ensure a consistent high quality of development. The Proponent included a Draft House Design Guideline as part of the PPR, identifying maximum building heights and the extent of developable area within each lot. The Proponent proposed that this guideline would be enforceable through its Statement of Commitments, or as a Section 88B instrument under the *Conveyancing Act 1919* or *Strata Schemes (Freehold Development) Regulation 2002*, to be registered on individual titles of land.

The Proponent is not seeking approval for the construction of any dwellings or any upgrade to the existing jetty.

It is proposed that access to the site would continue to be by existing ferry services or water taxi. The site will also be serviced by a Community Association owned and managed boat. No mooring facilities are proposed in order to limit access by private vessels and the storage of small boats, such as dinghies, would be prohibited on the site.



Figure 9. Proposed subdivision plan

2.2 PREFERRED PROJECT REPORT

On 25 August 2008, the Proponent amended the Project Application via a Preferred Project Report (PPR) in response to the issues raised in submissions made during the exhibition period and submissions made to the IHAP public hearings. This report was also submitted to the IHAP for their consideration.

The PPR provides responses to submissions, additional information on key issues and an updated Statement of Heritage Significance. A revised Statement of Commitments is also contained in the PPR, outlining the proposed submission of a single consolidated Project Application detailing all built form and proposed upgrades at Currawong. The amendments included (refer to **Figure 10**):

- No separate subdivision of the nine holiday cabins. The PPR proposes the cabins be retained on a single community freehold lot;
- A reduction in the area of land to be dedicated to Ku-ring-gai Chase National Park, from 11.38 hectares to 3.32 hectares, in response to DECC's submission;
- Conservation of the remaining 7.17 hectares in a Nature Reserve, to be managed by the Currawong Community Association in accordance with the Vegetation Management Plan submitted in the PPR;
- Amendment of the proposed zoning and zone boundaries to reflect changes to the Ku-ring-gai Chase National Park dedication area and Nature Reserve;
- Amendment of the proposed Housing Guidelines to reflect controls contained in the Pittwater Council Development Control Plan No. 21 in relation to site coverage and building heights;
- Amendment of the subdivision layout to reflect the creation a single lot for the holiday cabins
- Commitment to lodge a single consolidated Project Application under Part 3A of the *Environmental Planning and Assessment Act 1979*, for which the Minister for Planning would be the consent authority, for all built form at Currawong;
- Preparation of a Conservation Management Plan for the site;
- Modification of the proposed amendment to the Schedule 3 of the SEPP (Major Projects) 2005 to reflect the changed zoning and zone boundaries, as well as the preservation of trees and vegetation in line with the *Standard Instrument – Principal Local Environmental Plan*;
- Increase in the proposed setback at the northern end of the beach, adjacent proposed Lots 24 and 25, to 22 metres to account for shoreline recession due to sea level rise, storm demand and creek delta instability;
- Incorporation of additional Statement of Commitments to address various potential environmental impacts.



Figure 10. Revised subdivision plan

2.3 STATE SIGNIFICANT SITE STUDY

On 18 September 2007, the Minister for Planning agreed to consider the Currawong Beach site as a potential State significant site (SSS) under Schedule 3 of the *State Environmental Planning Policy (Major Projects) 2005* (Major Projects SEPP).

The Proponent has indicated that the proposal provides an opportunity to amend the current inappropriate zoning of the site (refer to **Figure 11**). The Proponent prepared a State Significant Site (SSS) study seeking to establish a new planning framework for the Currawong site, comprising rezoning of the site, adjustment of zone boundaries, and new development controls and approvals processes. The SSS study proposes that the site be listed in Schedule 3 of the SEPP (Major Projects) 2005. Listing the site in Schedule 3 is sought by the Proponent to enable the provision of new zonings for the site that reflect the proposed subdivision and development.

The SSS study was prepared in accordance with Clause 8 of the SEPP (Major Projects) 2005 and was submitted and exhibited with the EA and the Preferred Project Report (PPR). In light of the IHAP recommendations (as discussed in Section 5.3) the Department does not propose to progress the SSS process, at this stage. Future actions in this regard may be resolved by Council through the comprehensive Local Environmental Plan process.

2.4 PROJECT NEED AND JUSTIFICATION

The Proponent asserts that the proposal will improve and protect the ecological values and biodiversity of the site by providing an opportunity to undertake environmental rehabilitation of Currawong, which is subject to weed infestation, beach erosion and effluent pollution. Rehabilitation of an endangered salt marsh community and retention of native vegetation is integral to the proposal. The Proponent also considers that the proposal provides for the ongoing conservation and maintenance of the site by ensuring the continued holiday letting of the cabins, improving existing site management, providing formalised public access to the foreshore and historic cabins, and upgrading the existing facilities. The proposal also includes the provision of improved common facilities for residents and guests, such as a pool. The Proponent considers that the dedication of part of the site to the Ku-ring-gai Chase National Park provides further justification for the project.



Figure 11. Existing and proposed land zoning.

3 STATUTORY CONTEXT

3.1 MAJOR PROJECT

On 18 September 2007, the then Minister for Planning formed the opinion that the proposed development at Currawong is development of a kind that is described in Schedule 2, Clause 1(1)(j)(i) of *State Environmental Planning Policy (Major Projects) 2005* and is thus declared to be a project to which Part 3A of the *Environmental Planning and Assessment Act 1979* applies for the purpose of section 75B of that Act.

3.2 PERMISSIBILITY

The site is currently zoned 2(a) Residential and 9(b) County Open Space under the provisions of the *Pittwater Local Environmental Plan 1993*. Elements of the proposed development are not permissible under the 9(b) County Open Space zoning provisions, that is, dwelling houses are prohibited within this zoning (refer to **Figure 11**).

Under clause 8N of the *Environmental Planning and Assessment Regulation 2000* (the Regulation), the Minister cannot determine to approve any project, or part of a project, that:

- is located within an environmentally sensitive area of State significance or a sensitive coastal location; and
- is prohibited under an environmental planning instrument that would not (because of section 75R of the Act) apply to the project if approved.

The Project Application area encompasses land located within 100 metres of mean high water mark, making it a sensitive coastal location. In addition, the project contains prohibited elements (i.e. dwelling houses within land zoned 9(b) Country Open Space). As such, should the Minister determine to approve the application, a rezoning is required before any such determination.

3.3 STATE ENVIRONMENTAL PLANNING POLICY (MAJOR PROJECTS) 2005

Clause 8 of the Major Projects SEPP includes provisions that allow the Minister to determine that a site is State significant and to add it to the list of State significant sites that appear in Schedule 3 of the Major Project SEPP.

As discussed in Section 2.3, the Minister agreed to commence the process of amending Schedule 3 of the MP SEPP and rezone the Currawong Beach site. In light of the IHAP recommendations (as discussed in Section 5.3) the Department does not propose to progress the SSS process, at this stage. Future actions in this regard may be resolved by Council through the comprehensive Local Environmental Plan process.

3.4 OBJECTS OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The objects of any statute provide an overarching framework that informs the purpose and intent of the legislation and gives guidance to its operation. The Minister's consideration and determination of a project application under Part 3A of the Act must be informed by the relevant provisions of the Act, consistent with the backdrops of the objects of the Act.

The objects of the Act, as specified in section 5 of the Act, are as follows:

(a) to encourage:

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

(b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and

(c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.

Of particular relevance to the assessment of the subject application is consideration of the Objects under section 5(a). Relevantly, the Objects stipulated under section 5(a) (i), (ii), (iv), (vi) and (vii), are significant factors informing the determination of the application. The project does not raise significant issues with regards to (iii), (v) and (viii). With regard to 5(c), the proposal has been through a rigorous public consultation process in accordance with the provisions of the Regulations and further opportunities for public involvement associated with the IHAP process were provided.

With respect to ESD, the Act adopts the definition in the *Protection of the Environment Administration Act 1991* including the precautionary principle, the principle of inter-generational equity, the principle of conservation of biological diversity and ecological integrity, and the principle of improved valuation, pricing and incentive mechanisms.

The Department has considered the Objects of the Act, including the encouragement of ESD in the assessment of the project application.

3.5 ECOLOGICALLY SUSTAINABLE DEVELOPMENT PRINCIPLES

There are five accepted Ecologically Sustainable Development (ESD) principles:

- (a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations (the integration principle);
- (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation (the precautionary principle);
- (c) the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations (the inter-generational principle);
- (d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making (the biodiversity principle); and
- (e) improved valuation, pricing and incentive mechanisms should be promoted (the valuation principle).

The Department has considered the proposed development in relation to the ESD principles and has made the following conclusions:

- **Integration Principle**

The Department's assessment has duly considered all issues raised by the community and public authorities and the recommendations made by the IHAP. The Department considers that the proposed development, in its current form, would have an adverse impact on the long term environmental and social significance of the site and does not represent current best practice planning through the provision of long term management strategies. It is considered that the proposal would compromise the attributes of the site, particularly the ability of future generations to interpret the site's history.

- **Precautionary Principle**

The EA and PPR are supported by technical and environmental reports based on which the Proponent has concluded that the proposal's impacts can be effectively mitigated. The Department, however, having regard to advice from DECC and the IHAP, considers that while the proposed development is technically possible it is not justifiable or consistent with best practice planning (particularly regarding development of the valley floor). In particular, the Department considers that proposed safeguards and mitigation measures for coastal processes, climate change, flooding and wastewater management, such as progressively filling the site to raise the ground level, to be inconsistent with the precautionary principle.

- **Inter-Generational Principle**

As outlined in the PPR the existing holiday cabins and Midholme residence would be retained and restored and the holiday cabins would continue to be used for short stay holiday accommodation for the benefit of the public. Public access to the foreshore area and cabin precinct would also be maintained. It is, however, considered that the scale of the proposed development and siting of lots 1-3 and 21-25 on the valley floor would have a negative impact on the curtilage of heritage items and ability of future generations to interpret the site's history.

- **Biodiversity Principle**

Studies have been conducted, as part of the environmental assessment and PPR to identify potential flora and fauna impacts. DECC have reviewed these studies and raise no significant concerns, subject to the establishment of a number of management regimes. Existing vegetation to be removed will total 1.8ha, with the vegetation on the remainder of the site to be retained. The 3.32 hectares of land transferred to DECC to form part of the Ku-ring-gai Chase National Park adds to the State reserve system.

- **Valuation Principle**

It is difficult to assign a monetary value to the environment of a locality, or social values associated with former use. A monetary value could not be placed against the proportion of environmental attributes or community attachment of the site which may be affected. The more appropriate approach adopted is to manage environmental impacts and social values by identifying appropriate safeguards to mitigate adverse environmental impacts. The Department considers that several of the safeguards identified for the proposed development, do not constitute effective and long term sustainable solutions and are inconsistent with best practice planning. The cost of implementing these safeguards is considered significant as risks associated with flooding, erosion, coastal recession etc will all potentially intensify due to the effects of climate change.

3.6 THE DIRECTOR GENERAL'S REPORT

The Director General's report to the Minister for the proposed project satisfied the relevant criteria under Section 75I of the Act and clause 8 of the Environmental Planning and Assessment Regulation 2000 as follows:

Section 75I(2) criteria	Response
A copy of the proponent's environmental assessment and any preferred project report;	The Proponent's EA and Preferred Project Report are located on the assessment file.
Any advice provided by public authorities on the project;	Copies of the submissions provided by public authorities on the project for the Minister's consideration are set out in Section 4 of this report.
A copy of any report of the Planning Assessment Commission in respect of the Project;	An Independent Hearing and Assessment Panel and a Ministerial Review Panel were established to advise the Minister regarding the proposal. A copy of the Panel reports are provided in Appendices B and C and a summary of the findings are outlined in Sections 5 and 6 of this report.
A copy of or reference to the provisions of any State Environmental Planning Policy that substantially govern the carrying out of the project;	Relevant SEPP's have been identified in Section 3.7 and Appendix G of this report.
Except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division,	An assessment of the development relative to the prevailing environmental planning instrument is provided in Sections 3, 5, 6 and 7 of this report.
Any environmental assessment undertaken by the Director-General or other matter the Director-General considers appropriate;	The environmental assessment of the project application is this report in its entirety.
A statement relating to compliance with the environmental assessment requirements under this Division with respect to the project.	The proposal has adequately addressed the Director-General's requirements in order for a through assessment to be undertaken. The Department advised the Proponent that the EA adequately addressed the DGRs on 4 April 2008.
Clause 8B criteria	Response
An assessment of the environmental impact of the project.	An assessment of the environmental impact of the proposal is discussed in Section 7 of this report.
Any aspect of the public interest that the Director-General considers relevant to the project.	Public interest is considered in Sections 5, 6 and 7 of this report.
The suitability of the site for the project.	The site is not considered suitable for the proposed development, in its current form, as discussed in Sections 5 and 7 of the report.
Copies of submissions received by the Director-General in connection with public consultation under section 75H or a summary of the issues raised in those submissions.	A summary of the issues raised in the submissions is provided in Section 4 and Appendix G of this report.

3.7 OTHER RELEVANT LEGISLATION AND ENVIRONMENTAL PLANNING INSTRUMENTS

Appendix G sets out the relevant consideration of legislation (including other Acts) and environmental planning instruments as required under Part 3A of the Act. They include the following:

- *State Environmental Planning Policy No. 71 Coastal Protection;*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX);*
- *State Environmental Planning Policy No. 44 Koala Habitat Protection (SEPP 44);* and
- *State Environmental Planning Policy No. 55 (Remediation of Land) (SEPP 55).*

4 CONSULTATION AND ISSUES RAISED

4.1 PUBLIC EXHIBITION

Section 75H(3) of the Act requires that after the Environmental Assessment has been accepted by the Director-General, the Director-General must, in accordance with any guidelines published in the Gazette, make the Environmental Assessment (EA) publicly available for at least 30 days.

On 31 March 2008, the Proponent lodged an EA for the proposed project application. The EA for the proposal was placed on public exhibition for a total of 45 days between 9 April 2008 and 23 May 2008. A total of 125 submissions were received regarding the Currawong Beach project application.

Copies of the EA documents were forwarded to the local Council, relevant Government Departments, agencies and non-government organisations.

The Department placed a notice in the public notices section of the Sydney Morning Herald and Manly Daily on 9 April 2008. The advertisements provided details of the proposal, exhibition locations and dates, and how interested parties could make a submission.

Copies of the Environmental Assessment and associated documents were placed on the Department of Planning's website, and made available for inspection at the following locations:

- Department of Planning, Sydney; and
- Pittwater Council Chambers (Mona Vale Customer Service Centre).

On 18 June 2008, the Department provided the Proponent with the issues raised by the Department, Council, other government agencies and a summary of public submissions in response to the proposal.

4.2 AGENCY SUBMISSIONS

The Department received 6 submissions from the following agencies in response to the public exhibition of the project:

- Department of Environment and Climate Change;
- Department of Primary Industries;
- Department of Lands;
- Heritage Council of NSW;
- NSW Rural Fire Service; and
- Pittwater Council.

The following key issues were raised in the submissions:

Issue	Raised By
<p><u>Scale of the Proposal / Urban Design</u></p> <ul style="list-style-type: none"> • Scale of new buildings will dwarf existing cottages • Proposed lots 1-3, 5 and 21-25 crowd the existing heritage items • Too visually intrusive • Number of permanent residents tripled 	<ul style="list-style-type: none"> • Heritage Council of NSW • Pittwater Council

Issue	Raised By
<u>Sea Level Rise/Climate Change</u> <ul style="list-style-type: none"> Impact of protection measures on freehold land Consideration of changes in rainfall intensity due to climate change Shoreline recession Dune restoration 	<ul style="list-style-type: none"> Department of Lands Pittwater Council Department of Environment and Climate Change
<u>European Heritage</u> <ul style="list-style-type: none"> State Heritage Register nomination Heritage curtilage of existing structures has not been retained 	<ul style="list-style-type: none"> Heritage Council of NSW Pittwater Council
<u>Geotechnical Risk</u> <ul style="list-style-type: none"> Underestimated risk / assessment methodology 	<ul style="list-style-type: none"> Pittwater Council
<u>Flooding</u> <ul style="list-style-type: none"> Define the nature of flood hazard Siting of pool/pavilion within flood prone land 	<ul style="list-style-type: none"> Department of Environment and Climate Change Pittwater Council
<u>Effluent Disposal</u> <ul style="list-style-type: none"> Wet weather storage capacity Irrigation demand/process Proximity of irrigation area to natural waterways Impact on groundwater 	<ul style="list-style-type: none"> Department of Environment and Climate Change Pittwater Council
<u>Access/Traffic</u> <ul style="list-style-type: none"> Insufficient parking available on the eastern foreshore Traffic studies misleading (conducted mid week) Capacity of existing wharf Boat storage 	<ul style="list-style-type: none"> Department of Lands Pittwater Council
<u>Ecology</u> <ul style="list-style-type: none"> Impact on estuarine habitats including seagrass beds Rehabilitation of EECs and riparian vegetation Native tree retention 	<ul style="list-style-type: none"> Department of Environment and Climate Change Department of Primary Industries Department of Lands Pittwater Council
<u>Visual Amenity</u> <ul style="list-style-type: none"> Impact on views from opposite foreshore areas Visual impact on the curtilage of existing cabins and the setting of the site 	<ul style="list-style-type: none"> National Trust of Australia (NSW)
<u>Acid Sulphate Soils</u> <ul style="list-style-type: none"> Impact of ASS exposed during excavation works 	<ul style="list-style-type: none"> Department of Environment and Climate Change Pittwater Council
<u>Emergency Evacuation</u> <ul style="list-style-type: none"> Adequacy of existing services to cope with increased demand 	<ul style="list-style-type: none"> Department of Lands Pittwater Council
<u>Bushfire Risk</u> <ul style="list-style-type: none"> Adequacy of water supplies Construction standards 	<ul style="list-style-type: none"> NSW Rural Fire Service Pittwater Council
<u>Public Access/Use</u> <ul style="list-style-type: none"> Limited public access to open space areas 	<ul style="list-style-type: none"> Heritage Council of NSW
<u>Land Dedication</u> <ul style="list-style-type: none"> DECC will not accept dedication of steeper sections of the site due to geotechnical and stormwater risks 	<ul style="list-style-type: none"> Department of Environment and Climate Change

Copies of these submissions are located in **Appendix H**. A response to these issues and the submissions is located at **Appendix F**. A discussion of the key issues is contained in section 7 of this report.

4.3 PUBLIC SUBMISSIONS

A total of 119 public submissions (including 39 proforma submissions) were received in relation to the public exhibition of the Project Application. Of these, 117 objected to the proposal.

Issues raised in the submissions are identified as:

- scale of the development;
- impacts on European heritage values and the State Heritage Register nomination;
- impact of climate change, rising sea levels (wave inundation) and flooding;
- provision of adequate services (water, sewage, waste disposal);
- inadequate access, traffic and parking consideration;
- alienation of public users (social inequity);
- bushfire risks;
- geotechnical risks;
- ecological impacts, including impacts on threatened species and EECs;
- inappropriate development in a sensitive coastal location;
- loss of visual amenity and aesthetics of the site;
- impacts on indigenous heritage;
- justification/need for the project;
- emergency evacuation; and
- not in the public interest.

A detailed response to the public submissions is located at **Appendix F**.

4.4 PREFERRED PROJECT REPORT / SUBMISSIONS REPORT

A Preferred Project Report (PPR) and response to submissions was prepared by the Proponent (refer to **Appendix F**). As the changes were not significant, the proposal was not re-exhibited but was placed on the Department of Planning website in accordance with the Act. However, the PPR was referred to DECC and Pittwater Council for comment. DECC provided a response to the preferred project report and their comments are summarised below:

- DECC supports the transfer of 3.32ha of land to Ku-ring-gai Chase National Park
- The Archaeological Plan of Management needs to assess the results of the test excavation works undertaken in the West Head area;
- The potential impacts of re-contouring works on the alluvial flats needs to be re-evaluated;
- The floor level plans need to be revised to indicate a minimum floor level of 3.31 m AHD to minimise flooding impacts; and
- The wet weather storage capacity of the wastewater management system needs to be identified. Details are also required regarding compliance with relevant environmental protection legislation and long term monitoring requirements.

5 IHAP AND MINISTERIAL REVIEW PANEL

5.1 PANEL ESTABLISHMENT

Section 75G of the Act provides that the Minister may constitute a panel of experts (Independent Hearing and Assessment Panel) to assess any aspect of a project.

On 7 December 2007, the Minister appointed an Independent Hearing and Assessment Panel (IHAP) of experts to provide independent, external, and technical expertise on the key issues in the terms of reference, as a result of the level of community interest and potential impacts of the proposed development, along with the project application for Currawong. The panel members were Mr John Whitehouse (chair), Mr Martin Hill (valuer and land economist) and Mr Stephen Davies (heritage consultant).

The terms of reference for the IHAP were to:

1. *Consider and advise on the:*
 - (a) *impacts of the project on the following issues:*
 - *Both Aboriginal and non-Aboriginal heritage conservation;*
 - *Sensitive ecological areas, including the adjacent Ku-ring-gai Chase National Park and Pittwater waterway;*
 - *Public access to coastal and recreation areas, and appropriate ownership and management regimes;*
 - *Visual amenity both on the site and from surrounding public areas;*
 - *Coastal development best practice, including matters for consideration required under State Environmental Planning Policy No 71 Coastal Protection;*
 - *Bushfire;*
 - *Geotechnical risk;*
 - *Water supply, water quality, drainage and flooding;*
 - *Utilities; and*
 - *Traffic, parking (both on-and off-site) and access.*
 - (b) *relevant issues raised in submissions in regard to the above impacts; and*
 - (c) *adequacy of the proponent's response to the issues raised in submissions, and*
2. *Identify and comment on any other related significant issues raised in submissions or during the panel hearings.*

On the same date, the Minister also appointed a Ministerial Review Panel of experts, under section 35(5) of the Heritage Act 1977, to provide independent, external, and technical expertise on the recommendation by the Heritage Council for the listing of the site known as Currawong on the State Heritage Register. The Ministerial Review Panel consisted of the same panel of experts as identified above.

The terms of reference for the Ministerial Review Panel were to:

1. *to provide advice in relation to key issues raised in the recommendation to list the site on the State Heritage Register. Issues to be considered include:*
 - (a) *previous presentations to the Heritage Council on the proposed heritage listing and previous submissions;*
 - (b) *the development proposal in the context of the proposed heritage listing;*
 - (c) *public debate about appropriate future uses for the site; and*
 - (d) *the proposed listing curtilage.*

The State Heritage Listing and Ministerial Review Panel recommendation is subject to a separate process and being considered in parallel to this report by the Department's Heritage Branch.

5.2 PUBLIC HEARING / SUBMISSIONS

On 4, 5 and 13 June 2008, the Panel conducted public hearings to allow members of the public to present their submissions in relation to the project application and the heritage nomination. A total of 99 persons made presentations to the Panel including:

- Mr Rob Stokes MP (local member for Pittwater);
- Pittwater Council;
- Pittwater Natural Heritage Association;
- National Parks Association (Sydney Branch);
- National Trust of Australia;
- Friends of Currawong;
- Careel Bay Pittwater Protection Association Inc.;
- Surfrider Foundation;
- Avalon Preservation Association;
- Brookvale Valley Community Group;
- Palm Beach and Whale Beach Association;
- Association for Berowra Creek;
- Royal Australian Institute of Architects;
- Church Point Reserve Association;
- Clareville and Bilgola Plateau Residents Association;
- Pittwater Residents Against Inappropriate Development;
- Scotland Island Residents Association; and
- West Pittwater Community Association.

In addition to presentations the Panel received 294 submissions in response to the public notices of the panel hearings on the proposed project application and heritage listing. An additional 37 individual submissions, 474 proforma letters in response to the proposed heritage listing of Currawong were received by the Heritage Office.

The major issues raised in submissions and presentations to the Panel's included:

- Heritage significance and conservation;
- Geotechnical risks;
- Parking and site access;
- Impact on adjoining lands;
- Ownership and management of the proposed conservation lands;

- Visual amenity;
- Lack of public access;
- Flooding;
- Impact on coastal processes and sea level rise;
- Construction access and impacts;
- Lack of supporting infrastructure;
- Bushfire risks;
- Loss of short term accommodation;
- Proposed land zoning;
- Waste water management;
- Emergency management; and
- Aboriginal archaeology.

Following review of the project application documentation and conclusion of the public hearings the IHAP sought independent specialist advice in relation to two key issues:

- Coastal processes and flooding; and
- Geotechnical risks.

This advice was provided to the Panel for consideration on 3 October 2008 and 29 October 2008 for the geotechnical risk and coastal process and flooding issues, respectively.

In summary, Jeffrey and Katauskas provided advice to the Panel (on behalf of the Department) regarding geotechnical risks and concluded that:

“Based on our own assessment, we consider that the risk to life and property posed by the proposed subdivision of Currawong Beach to be ‘acceptable’ in accordance with the requirements of the Pittwater Risk Management Policy (2008).

However, we note the subjective nature of the risk analysis and that a risk which is marginal and too high with respect of the Pittwater Policy acceptance requirements can be obtained by varying, within reasonable and realistic limits, the parameters used. Based on the above, and the implication by PSM that the areas of highest risk are located downslope of 10% of the cliffline, we consider that there are ‘reasonable and practical’ measures which should be taken to reduce the geotechnical risks.”

In regard to coastal process and flooding, DECC provided advice to the Panel and concluded that:

“The real issue is not the accuracy of the assessments undertaken and documented in the various submissions, all of which can be argued. The site is a hazardous and isolated location. The risks of flooding, erosion, coastal inundation, water security and bushfires will all be potentially affected by climate change and by intensification of the land use. This is true for many coastal locations and where significant development exists at present will need to be managed. The issue is the appropriateness of intensifying the land use, expectations and property values in such a location at this time given the present uncertainty surrounding the likely outcomes. In all probability the development (with some modification) could be accommodated on the site to

2100, the question is whether this is a desirable outcome given our current level of knowledge."

5.3 PANEL REPORTS

On 16 March 2009, the Panels submitted their final reports detailing their consideration of the proposed heritage listing and project application, in light of issues raised in submissions and presented at the public hearings and PPR.

A copy of the Ministerial Review Panel report is provided in **Appendix D** and the Ministerial Review Panel report is provided in **Appendix E**.

The Ministerial Review Panel formed the opinion that the Currawong Beach site meets 6 of the 7 criteria for State Heritage listing and provided a recommendation that the Minister list the Site, in its entirety, on the State Heritage Register. The nomination for State Heritage listing is being progressed by the Department's Heritage Branch, in parallel to this report.

The IHAP Panel provided a recommendation that the Minister refuse the project application, in its current form, as it was not considered acceptable on heritage and environmental grounds. In particular, the IHAP raised concerns in relation to the following key issues and made the following recommendations:

IHAP Recommendations	Comments
<p>Recommendation 1– Heritage Impacts</p> <ol style="list-style-type: none"> 1. No new development should be allowed in the area of proposed Lots 1-3, 5, 21-25 and the valley floor and foreshore; 2. Any future development be contained to the area of lower heritage constraint located to the north west of the cabin group on the lower slopes (generally in the area of proposed lots 6-20 provided that any development in this area not conflict with the holiday camp use on the site and respects the Statement of Significance of the site; 3. Any new development or alterations and additions to existing cabins should be single storey, low in height, bulk and scale and be of a size befitting holiday accommodation rather than permanent residential development; and 4. Any proposal for development in the area to the north west of the existing cabin group should have regard to the findings of the AHMS report (August 2008) in relation to Aboriginal Archaeology. 	<p>The Department supports the recommendations made by the IHAP. The Department's consideration of the heritage impacts of the proposal are provided in further detail in Section 6 of this report.</p>
<p>Recommendation 2 – Geotechnical Issues</p> <p>The Minister note that the Panel is of the view that in terms of geotechnical issues development can occur on the site within an acceptable level of risk subject to future work being undertaken to determine areas of the most significant hazard and to identify appropriate measures to address these hazards.</p>	<p>The Department supports the recommendation made by the IHAP. Further investigations and remedial works would be required in order for future development to occur at Currawong.</p>
<p>Recommendation 3 – Coastal Processes and Flooding</p> <p>While the Panel has concluded that the proposed development of land affected by coastal processes and floor is technically possible it considers that it is inconsistent with best practice and</p>	<p>The Department supports the recommendation made by the IHAP and considers that the current proposal does not adequately respond to risks associated with</p>

IHAP Recommendations	Comments
<p>with the <i>NSW Floodplain Development Manual</i> and that unacceptable risks would be associated with the development of this land. Accordingly it is considered that the development on land on the valley floor should not proceed.</p>	<p>coastal processes and flooding. The Department's consideration of these risks is provided in further detail in Section 6 of this report</p>
<p>Recommendation 4- Bushfire Risk</p> <p>The Panel has concluded that bushfire risk does not preclude development of the subject site and considers that subject to other recommendations contained in this report any future proposed development should comply with the requirements of <i>Planning for Bushfire Protection 2006</i> or any future equivalent and any advice from the NSW Rural Fire Service.</p>	<p>The Department supports the recommendation made by the IHAP and considers that appropriate management and planning measures can ensure adequate protection to any future development at Currawong. The Department's consideration of bushfire risks associated with the proposal is provided in further detail in Section 6 of this report.</p>
<p>Recommendation 5 – Visual Assessment</p> <ul style="list-style-type: none"> • In the context of separate recommendations contained in this report, additional development on the subject site outside of upgrading and refurbishment of the existing cabins and Midholme, be confined to the area to the north west of the existing cabins as identified on Figure 2 above. • Any such development should be low in scale, require minimal tree removal, touch the ground lightly and be compatible in size and character to the existing cabins; • Site specific built form principles be developed to guide any future development having regard to the site's Statement of Significance to ensure an appropriate form of development consistent with the recommendations contained above. 	<p>The Department supports the recommendations made by the IHAP and the suggestions regarding any future development to be appropriate. The Department's consideration of visual impacts associated with the proposal is provided in further detail in Section 6 of this report.</p>
<p>Recommendation 6 – Services and Infrastructure</p> <ul style="list-style-type: none"> • Prior to the issue of any development consent for any future development proposal on the subject site, it should be demonstrated that appropriate arrangements exist for the provision of sewer services and stormwater volume management to the site in a manner that will not result in any significant environmental impacts, will be acceptable over the predicted long term and will not require ongoing filling of the ground level; • Any future development on site should not include the provision of a water supply pipeline from Palm Beach but rather should rely on rainwater tanks as is the case with other offshore developments. 	<p>The Department supports, in principle, the recommendations made by the IHAP. The Proponent has not adequately addressed the provision of services and infrastructure associated with the proposal (refer to Section 6 of this report).</p> <p>The Department notes that the proposed water pipeline across Pittwater has been approved by Sydney Water. The Department considers that the proposed pipeline can be laid with minimal impact on the seagrass bed, despite the IHAP's comments.</p> <p>The Department notes that any future development application will be subject to merit based assessment.</p>
<p>Recommendation 7 – Inclusion in National Park</p> <p>The Minister and Proponent note the Panel's view that appropriate conditions could be applied to any future development consent to ensure the ongoing management and use of the proposed Community Association Nature Reserve in a manner that is consistent with the adjacent National Park.</p>	<p>The Department supports, in principle, the recommendation made by the IHAP. Any future development application will be subject to merit based assessment.</p>
<p>Recommendation 8 – Public Access</p>	<p>The Department notes the recommendation</p>

IHAP Recommendations	Comments
<p>As provided in separate recommendation, the Panel considers that the current development proposal should not proceed and that any future proposal for the subject site should provide for public access to the cabin precinct, the foreshores and the valley floor.</p>	<p>made by the IHAP and considers the provision of public access in the current proposal to be inadequate. Development at Currawong should provide for and improve formalised public access to the foreshore area and historic parts of the site. The Department's consideration of public access is provided in further detail in Section 6 of this report.</p>
<p>Recommendation 9 – Parking and Access</p> <p>The Panel considers that the proposed development is inappropriate in terms of car parking and access arrangements and that future development of the site should be contingent upon satisfactory arrangements existing to provide for parking generated by the development</p>	<p>The Department supports the recommendation although there may be ways to resolve this issue with any future development application. The Department's consideration of parking and site access is provided in further detail in Section 6 of this report.</p>
<p>Recommendation 10 – Consistency with Relevant Plans and Policies</p> <p>The Panel considers that no adequate justification has been provided to demonstrate that the land should be rezoned as proposed.</p>	<p>The Department notes the recommendation made by the IHAP. The Department does not propose to progress the SSS process any further, at this stage. Future actions in this regard may be resolved by Council through the comprehensive Local Environmental Plan process.</p>

ASSESSMENT ISSUES

The following issues requiring further attention have arisen after consideration of the proposal, submissions received, the Proponent's response to submissions and the IHAP report:

- Heritage impacts;
- Geotechnical risk;
- Coastal processes and flooding;
- Bushfire risk;
- Visual amenity;
- Services and infrastructure;
- Public access; and
- Parking and access.

These issues are discussed in detail below.

5.4 HERITAGE IMPACTS

Non-Indigenous Heritage

A Statement of Heritage Impact, prepared by Graham Brooks & Associates (GBA) as part of the original EA, identified Currawong as a site of State heritage significance, in accordance with five of the seven criteria established by the NSW Heritage Council. The assessment concluded that the proposal would have an acceptable level of impact on the non-Indigenous heritage values of the site. Mitigation measures were not recommended, but a Heritage Agreement was proposed for the long term management of the site.

A Historical Archaeological Impact Assessment, prepared by Archaeological & Heritage Management Solutions (AHMS) also accompanied the original EA. The proposal was assessed against the archaeological potential identified across the site. The assessment concluded that the impact of the proposal would largely be limited to areas identified with low to nil archaeological potential. Some potential impact was however identified in localised areas with moderate archaeological potential.

Many submissions (including that of the Heritage Council and the National Trust) raised concerns regarding the impact of placing the nine holiday cabins and Midholme homestead on individual freehold lots. The impact of proposed Lots 1-3 and 5 on the holiday cabins and Midholme was also raised in submissions. In response to these concerns, the PPR contained a revised subdivision plan retaining the nine existing holiday cabins on one community title lot. No changes were made to proposed Lots 1-3 and 5, however lots adjacent to the creek were reconfigured.

The PPR also contained several specialist heritage and archaeology reports, including a Conservation Management Plan (CMP) prepared by GBA. The CMP has not been endorsed by the Heritage Council to date. The CMP identifies the entire Currawong site as being of State significance, and recommends listing on the SHR. The PPR asserts that the proposal will not result in unacceptable heritage impacts as it has been guided by the recommendations and policies contained within the CMP. As the design and construction of future development at Currawong does not form part of the current proposal, the revised

Statement of Commitments included a commitment to submit a single comprehensive project application following approval for residential subdivision, detailing all future construction and proposed upgrade and refurbishment works for Midholme and the nine holiday cabins. To further ensure that future development does not adversely impact on the heritage values of the site, the Proponent has also committed to proposed upgrade and refurbishment works being undertaken by a qualified heritage architect.

Indigenous Heritage

An Aboriginal Heritage Impact Assessment was carried out by AHMS as part of the original EA. Surveys undertaken identified a range of moderate to very low archaeological potential across the site but recommended test excavations in areas identified as having moderate potential. The surveys did not extend beyond the southern bank of the creek.

Test excavations were undertaken by Total Earth Care between May and August 2008. The accompanying report was submitted as part of the PPR. During the test excavations a Potential Archaeological Deposit (PAD) containing a concentration of stone artefacts was identified as Area 1 – Currawong Terrace, and a complex midden site was identified as the 'Northholme Midden' site. The Currawong Terrace PAD is located within Lot 20 of the proposed subdivision. The Northholme Midden is located on the northern side of the creek mouth, in the northern part of the site, and is under threat of erosion.

The Test Excavation report identified the Currawong Terrace PAD as being of high rarity and research significance at a local level and regional level. It was recommended that the PAD be conserved, or should this not be possible, salvage excavation should be undertaken within parts of the Currawong Terrace site where development is proposed. The Northholme Midden was identified in the report as having significant research potential at a local, and possibly a state level. It was also noted that there is a small but significant possibility that human skeletal remains may be present in the Northholme Midden or in its vicinity. The report recommended that the presence of the Northholme Midden be brought to the attention of DECC, and that the site should be conserved. Where this is not possible, it was recommended that ongoing monitoring or archaeological salvage excavation occur.

IHAP Recommendation

Following the recommendation made by the Ministerial Review Panel (refer to **Appendix D**) to list the entire Currawong site on the SHR, the IHAP considered the proposal in the context of the recommended Statement of Significance. The IHAP report identified an area located on the lower slopes of the escarpment to the northwest of the cabin group where small scale residential development could occur with minimal impact on the heritage significance of the site (refer to **Appendix E**).

The IHAP found that the proposed residential lots 1-3 and lot 5, located immediately below the cabin group and adjacent to Midholme, were inappropriate. This area of the site, between the cabin group and the waterfront, was considered an integral part of the historic setting and use of the cabins and homestead, and as such within their heritage curtilage. Similarly, proposed residential lots 21-25 were also found to be inappropriate, as their location on the valley floor was considered to be highly visually intrusive and would adversely impact on the heritage significance of the site. These findings are consistent with advice provided by the Heritage Council (NSW) in their submission.

Recommendation 1 of the IHAP report, having regard to the potential Indigenous and non-Indigenous heritage impacts of the proposal, is as follows:

No new development should be allowed in the area of proposed Lots 1-3, 5, 21-25 and the valley floor and foreshore;

Any future development be contained to the area of lower heritage constraint located to the north west of the cabin group on the lower slopes (generally in the area of proposed lots 6-20 provided that any development in this area not conflict with the holiday camp use on the site and respects the Statement of Significance of the site;

Any new development or alterations and additions to existing cabins should be single storey, low in height, bulk and scale and be of a size befitting holiday accommodation rather than permanent residential development; and

Any proposal for development in the area to the north west of the existing cabin group should have regard to the findings of the AHMS report (August 2008) in relation to Aboriginal Archaeology.

Department's Response

The Department considers that the impact of the proposal on the Indigenous and non-Indigenous heritage significance of the site has not been adequately reviewed and supports the recommendations of the IHAP. The Department notes that the impact assessments undertaken have ignored fundamental aspects of the proposal. The impact of the proposed dune restoration and sand extraction works (which would be carried out within the area where the Northholme Midden is located) and works involving the raising of the valley floor, have not been assessed. The Department also notes the absence of detailed analysis of individual elements and fabric of the site, including built structures and landscape features, which may embody or contribute to the significance of the site. As such the impact of the proposed removal of some site elements such as plantings, the tennis courts and the demolition of ancillary structures including the Managers Office and Games Room, has not been adequately assessed (refer to **Figures 12 and 13**). The IHAP has not commented on the impacts of these aspects of the proposal.

DECC has indicated that a conservation outcome should be sought for any Aboriginal archaeological deposits identified as having moderate to high significance, and that an Archaeological Plan of Management is required for the site, to provide for the management and care of the entire site during construction. Consequently the Department considers that the Northholme Midden and Currawong Terrace PAD should be conserved, in accordance with the advice provided by DECC and the recommendations contained in the Archaeological Test Excavation report dated August 2008.

The Department concurs with the IHAP's identification of a potential developable area to which low heritage constraints apply (refer to **Figure 2 of Appendix E**). With the exception of the Currawong Terrace PAD, this area excludes most site elements which contribute to the overall significance of the site, including but not limited to the holiday cabins, recreational facilities and areas, Midholme and the foreshore. Any proposal to develop this area of low heritage constraint, or to alter or remove existing elements elsewhere on the site, must have regard to the heritage significance of the site and its various elements, and should include a statement of heritage impact, prepared in accordance with guidelines prepared by the former Heritage Office.

The Department notes that the CMP fails to provide comprehensive guidance as to the management, conservation and maintenance of the site and its various elements. The Department considers that any future development applications would require the preparation of a CMP that is endorsed by the NSW Heritage Council and which provides comprehensive and objective guidance for the conservation of the site. Such a CMP should contain, as a minimum, detailed analysis (including establishing a hierarchy of significance) for the fabric and elements that comprise the site, clear curtilage diagrams, policies to guide conservation works and prompt regular reviews of the CMP and a schedule of conservation works.

Consequently, the Department concurs with the IHAP that the proposal does not respond appropriately to the heritage significance of the site, and has the potential to adversely impact on that significance.



Figure 12: The volleyball court and tennis courts adjacent to Midholme are proposed to be removed.



Figure 13: One of the earliest structures on the site, the Games Room, is also proposed to be removed, along with other more recent ancillary structures.

5.5 GEOTECHNICAL RISK

According to Pittwater Council's geotechnical hazards mapping, Currawong is within zone H1, which requires detailed landslide risk assessment and management. The north facing escarpment, situated above the existing cabins and proposed development area is illustrated in **Figure 14**.

The Proponent submitted a Geotechnical slope risk assessment prepared by Pells Sullivan Melnink (PSM) with the original EA. The assessment concluded that with the exception of Cabin No.1 (Blue Tongue) the risk to human life from boulder fall was acceptable. Recommended risk management measures included improved surface drainage and no bulk excavation to occur. The assessment undertaken by PSM was based on requirements contained in Council's *Landslide Geotechnical Risk Management Policy (2007)*, however, a submission from Pittwater Council included a slope risk assessment by GHD contradicting key assumptions made in the Proponent's slope risk assessment.

In an attempt to resolve the inconsistencies between the PSM and GHD assessments, a further report was prepared by PSM as part of the PPR, in which the major points of disagreement were re-assessed (i.e. boulder regeneration and travel distance distribution). The report concluded that PSM's assessment, undertaken in accordance with Council policy, was sound, and that the geotechnical risk of the proposal is acceptable. The Proponent also commissioned a peer review by Coffey Geosciences (Coffey), which supported the methodologies and findings of the PSM reports.



Figure 14: North-facing escarpment within the Currawong Beach site.

IHAP Recommendation

Due to the conflicting assessments provided by the Proponent and Council, the IHAP requested independent advice in regard to geotechnical risks associated with the proposal. Jeffery and Katauskas Pty Ltd were engaged by the Department of Planning to undertake a review of geotechnical information for the proposal and assess geotechnical risks associated with the site. Their assessment was conducted in accordance with the Pittwater Risk Management Policy (2008).

Jeffrey and Katauskas concluded that the proposal involved an acceptable level of risk to life and property. The report acknowledged the subjective nature of risk analysis and the inability of risk to be removed entirely. Detailed mapping of the cliff line was recommended in order to identify and treat the most significant hazards, such as through scaling, rock bolting or underpinning.

Recommendation 2 of the IHAP report, having regard to the geotechnical risks associated with the proposal, is as follows:

The Minister note that the Panel is of the view that in terms of geotechnical issues development can occur on the site within an acceptable level of risk subject to future work being undertaken to determine areas of the most significant hazard and to identify appropriate measures to address these hazards.

Department's Response

The Department does not consider that the geotechnical issues at Currawong preclude development of the site. The Department considers that the geotechnical risks associated with the proposal are manageable and supports the recommendation made by the IHAP. The recommendations of the IHAP should be considered in any future applications for the site.

5.6 COASTAL PROCESSES AND FLOODING

The Currawong Beach site is affected by ocean processes at the shoreline (refer to **Figure 15**) and by flooding and bank instability at the un-named creek entrance (refer to **Figure 16**).



Figure 15: Currawong Beach shoreline (looking north).



Figure 16: Erosion at the mouth of the un-named creek confluence with Pittwater Estuary.

To enable development to proceed on the site, the Proponent is proposing to recreate and reinforce sand dunes to mitigate against shoreline recession. Sand would be sourced from deposits situated within the valley floor area and a sand platform at the northern end of the beach, with the development set back 20 metres from the high tide mark. The valley floor including proposed lots 1-3 and 21-25 is located within the 1 in 100 year flood level. It is proposed that dwellings would be built with habitable areas above the predicted flood level and a raised walkway provided to connect the dwellings with areas of higher ground during flood events. As a long term management solution, it is proposed to gradually fill the land in response to sea level rise.

Many submissions (including that of the DECC and Council) raised concerns regarding the impact of coastal processes, flooding and the effects of climate change. In particular Council requested a more conservative approach be adopted in regard to estimating shoreline recession. In response to the submissions and IHAP public hearings Worley Parsons, on behalf of the Proponent, undertook further assessment as part of the PPR, which included a peer review by Dr Peter Cowell. In their revised work Worley Parsons adopted a more conservative reference line and proposed to increase the set back distance of lots 24 and 25 to 22 metres.

IHAP Recommendation

In a similar fashion to their assessment of geotechnical risk, the IHAP requested independent advice in regard to coastal processes and flooding associated with the proposal due to conflicting assessments provided by the Proponent and Council. At the request of the Department, DECC's Coastal Unit undertook a review of coastal processes and flooding information for the proposal and provided specialist advice to the IHAP. DECC advised that the Currawong Beach site was a hazardous coastal site for development, affected by coastal hazards which would no doubt increase over time with climate change. DECC indicated that some of the assumptions used by the Proponent were not conservative and that sea level rise would impact the long term efficiency of the proposed stormwater infiltration and effluent disposal systems. DECC concluded that the appropriateness of intensifying the land use,

expectations and property values in a location subject to risks of flooding, erosion, coastal inundation and water security is questionable given our current level of knowledge and the potential for intensification of risks by climate change.

Recommendation 3 of the IHAP report, having regard to the coastal processes and flooding associated with the proposal is as follows:

While the Panel has concluded that the proposed development of land affected by coastal processes and floor is technically possible it considers that it is inconsistent with best practice and with the NSW Floodplain Development Manual and that unacceptable risks would be associated with the development of this land. Accordingly it is considered that the development on land on the valley floor should not proceed.

Department's Response

The Department, having regard to advice from DECC and the IHAP, considers that while the proposed development is technically possible it is not justifiable or consistent with best practice planning. In particular, the Department considers that proposed safeguards and mitigation measures for coastal processes, climate change, flooding and wastewater management, such as progressively filling the site to raise the ground level, to be inconsistent with the precautionary principle.

Furthermore, the Department notes that the impact assessment does not adequately described or assessed the impact of the proposed safeguards and mitigation measures, such as the proposed dune restoration and re-shaping of the valley floor. The impact assessment appears to contain significant inconsistencies in regard to the proposal to lower the valley floor through the removal of sand deposits (which were to be transferred to the dune area) to re-establish a more natural drainage pattern and the need to raise the valley floor to ensure efficiency of the wastewater management system.

Consequently, the Department considers that the proposed development and the provisions outlined in the EA and PPR to mitigate coastal process and flooding risk are unacceptable, and supports the recommendations made by the IHAP.

5.7 BUSHFIRE RISK

A Bushfire Threat Assessment has been prepared on behalf of Eco-Villages (Travers Environmental, 2008) which considers the proposed development against the requirements of *Planning for Bushfire Protection 2006* and *Australian Standard 3959 - Building in Bushfire Prone Areas*. The assessment established requirements for asset protection zones (APZs) and minimum construction standards for all proposed lots. The assessment indicates that, with the exception of Holiday Cabin 1, adequate Asset Protection Zone widths can be provided for all lots with a maximum level 1 construction standard.

Submissions received following exhibition of the Environmental Assessment raised a number of concerns, in particular, the increased demand on emergency services, limited emergency evacuation options, restricted vehicular access around the development and capacity of the proposed dedicated fire fighting water supply. The PPR (2008) provides a detailed response to these submissions. The Proponent has outlined in the Statement of Commitments that it will adopt all recommendations made by the NSW Rural Fire Service in the PPR (2008). These recommendations include:

- management of the site in accordance with "Schedule 1 – Bushfire Protection Measures" from commencement of buildings works to perpetuity;
- compliance with Australian Standard AS3959-1999 construction level 1 for all new dwellings;

IHAP Recommendation

Recommendation 4 of the IHAP report, having regard to bushfire risks associated with the proposal, is as follows:

The Panel has concluded that bushfire risk does not preclude development of the subject site and considers that subject to other recommendations contained in this report any future proposed development should comply with the requirements of Planning for Bushfire Protection 2006 or any future equivalent and any advice from the NSW Rural Fire Service.

Department's Response

The Department acknowledges that Asset Protection Zones have been provided for all proposed new and existing structures (with the exception of Holiday Cabin 1) in accordance with *Planning for Bushfire Protection 2006*. In regard to Holiday Cabin 1, the minimum Asset Protection Zone requirement cannot be achieved as the Cabin is situated only 17 metres from the Ku-ring-gai Chase National Park boundary. As Cabin 1 is a pre-existing structure it is not subject to approval from the NSW Rural Fire Service. However an alternative provision of adequate safety for this building would be required, to the satisfaction of the NSW Rural Fire Service.

CSIRO studies have indicated that climate change and associated predicted temperature rises will lead to an increase in the average number of days when the Forest Fire Danger Index (FFDI) rating is very high to extreme. The combined frequency of days with very high and extreme FFDI ratings is likely to increase from 4-25% by 2020 and 15-70% by 2050, with the increase in fire weather risk being greater away from the coast. Studies highlight a number of uncertainties when assessing the impacts of fire weather risk associated with climate change, such as:

- Changes in rainfall thresholds;
- Changes in ignition and fire loads; and,
- Changes in El Nino-Southern Oscillation events under climate change.

There is an increased risk of fire weather associated with climate change, as indicated by the FFDI predictions mentioned, however at this stage, the regional impacts cannot be easily quantified with any certainty. The coastal location of Currawong would appear to be an advantage, with a lesser risk than inland areas. Given the uncertainties, the application of current requirements embodied in *Planning for Bushfire Protection (2006)* is a logical response and the contents of the EA and PPR relating to the provision of asset protection zones and requirements regarding construction standards have responded to fire hazard and risk.

Consequently, the Department considers that adequate protection can be afforded to development at Currawong through appropriate construction standards, and the implementation of management plans and emergency and evacuation plans, developed in accordance with the relevant authorities. The Department supports the recommendations made by the IHAP.

5.8 VISUAL AMENITY

A visual analysis undertaken as part of the original EA identified the Currawong foreshore as the most visible part of the site when viewed from Pittwater. Comparison with nearby development at Great Mackerel Beach was undertaken to demonstrate that the proposal would not impact on views of Currawong when viewed from Pittwater. The proposed subdivision places the majority of future development on the lower slopes of the escarpment and has been designed to retain as much native vegetation as possible, in order to minimise

the visibility of any new development from the water. Proposed lots located on the flat central part of the site (lots 1-3 and 21-25) have the greatest potential visual impact.

In order to manage development to follow the proposed subdivision of Currawong, House Design Guidelines were drafted. The guidelines identify maximum building heights (between 7 and 12 metres above ground), maximum building development envelopes for each lot and comprehensive requirements for building, siting and landscaping design. The guidelines were initially proposed to be implemented as a Development Control Plan or as a Section 88 instrument to be included on individual lot titles. However, in order to provide further assurance that appropriate development would follow the proposed subdivision of the site, the Proponent has committed to submit, sometime in the future, a single comprehensive project application to obtain approval for architectural designs and proposed upgrades outlined in the PPR. The Proponent is not seeking approval for the construction of any dwellings as part of this approval. A commitment was also made to ensure that all subsequent development will comply with the requirements of Pittwater DCP 21.

The maximum possible building height was also revised in the PPR, and reduced to 10 m above ground (from 12 m). The proposed maximum building height for lots 1-3 (located immediately below the cabin group) is 8.5m above ground, and for lot 5 (adjacent to Midholme) is 10 metres above ground. The proposed maximum building height for lots 21-25 (located near the creek) is 8.5m above ground.

IHAP Recommendation

As stated previously, the IHAP identified the area to the northwest of the cabin group (proposed lots 6-20) as the most suitable area of the site for potential development to occur. Recommendation 5 of the IHAP report, having regard to the potential visual impacts of the proposal, is as follows:

In the context of separate recommendations contained in this report, additional development on the subject site outside of upgrading and refurbishment of the existing cabins and Midholme, be confined to the area to the north west of the existing cabins as identified on Figure 2 above.

Any such development should be low in scale, require minimal tree removal, touch the ground lightly and be compatible in size and character to the existing cabins;

Site specific built form principles be developed to guide any future development having regard to the site's Statement of Significance to ensure an appropriate form of development consistent with the recommendations contained above.

Department's Response

The Department notes that the sensitive coastal location of the site requires careful consideration of visual amenity and urban design, in accordance with the *Coastal Design Guidelines for NSW* (refer to **Figure 18**). The Department considers the foreshore and valley floor area to be particularly sensitive areas of the site, as these areas are considerably exposed. Furthermore these areas form the setting of the historic cabin group and Midholme.

The Department does not consider development of other western foreshore areas of Pittwater, such as Great Mackerel Beach which was subdivided in the early 1920s, provides precedence for development at Currawong. The Department considers that detailed design guidelines should be developed to ensure that any development at Currawong is sympathetic to its sensitive coastal location and unique character. These would need to be considered in future applications for this site.

The Department supports the IHAPs recommendation that any development of the site should occur in the area to the northwest of the cabin group (identified in **Figure 2** of

Appendix E) subject to detailed design guidelines. Consequently, the Department considers proposed lots 1-3 and 5 and lots 21-25 would have an unacceptable impact on the visual amenity of the site. Given that significant deviation from the existing proposal would be required in order to comply with the recommendations of the IHAP, the Department considers that the proposal should be refused.



Figure 18: View of Currawong from Pittwater, showing its sensitive coastal location surrounded by Ku-ring-gai Chase National Park

5.9 SERVICES AND INFRASTRUCTURE

The Currawong Beach site is not serviced by mains water or sewer services. The Proponent has proposed to install an on-site centralised water reclamation plant to service both the existing cabins and new dwellings. The system would be designed to receive all wastewater generated on the site and deliver reclaimed water for non-potable reuse and site irrigation. It is proposed to establish a permanent irrigation field on the valley floor.

Potable water will be provided by rainwater harvesting, with a water supply tank installed on each lot. A potable water supply pipeline, for emergency and top-up supply only, would be installed across Pittwater.

Through harvesting of rainwater, the total volume of runoff from the site would be reduced. The excess stormwater would be directed and collected in bioretention swales, located downslope of all proposed dwellings, before being discharged into the un-named creek.

Many submissions (including that of the DECC and Council) raised concerns regarding the impact of reclaimed water irrigation on the water quality of the un-named creek and Pittwater Estuary. In particular DECC raised concerns regarding the capacity of the development site to deal with long term effluent irrigation and the capacity of the system to store reclaimed water during sustained periods of wet weather.

In the PPR, the Proponent outlined a proposal to periodically increase the height of the irrigation field, with the use of imported fill material, to counter a rising groundwater table associated with the effects of climate change and sea level rise.

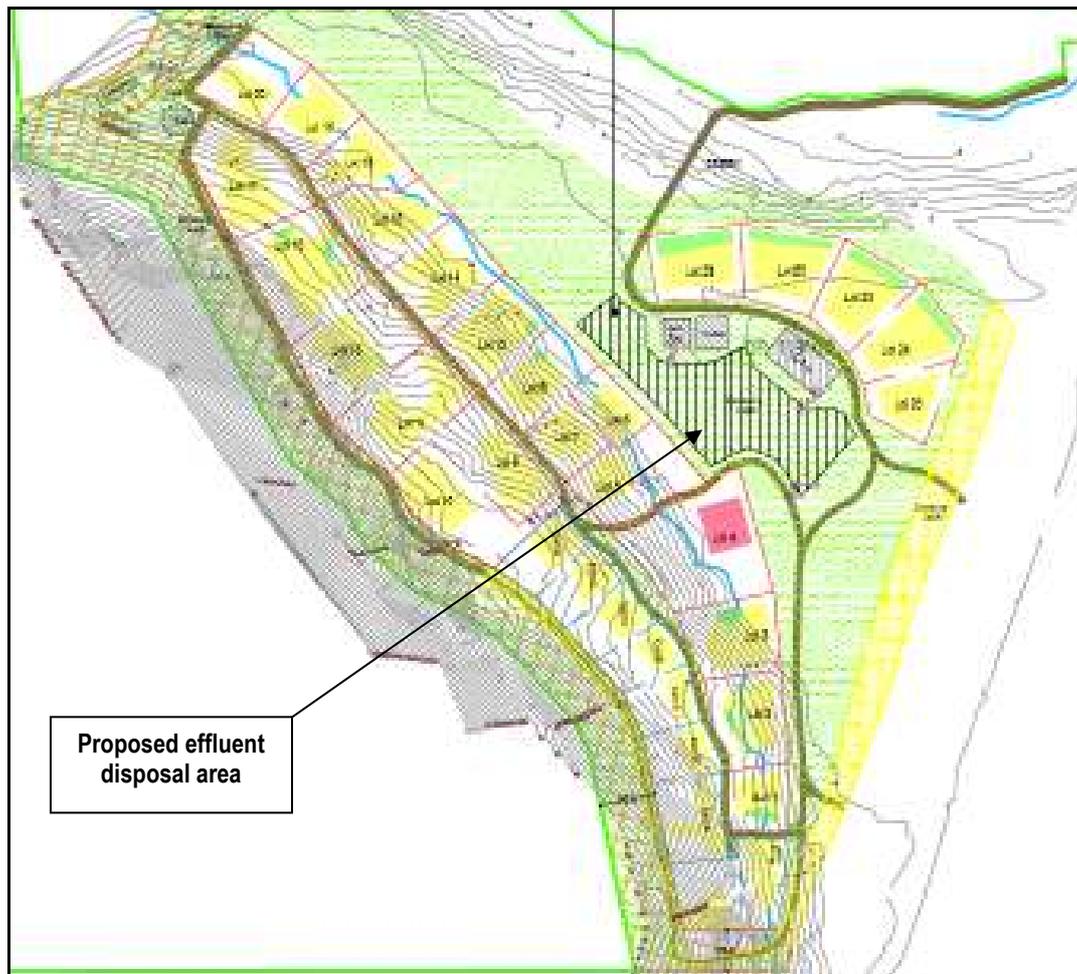


Figure 19. Proposed effluent disposal area

IHAP Recommendation

The IHAP report noted advice provided by DECC's Coastal Unit that elevation of the water table, in response to sea level rise, would adversely impact on stormwater infiltration and effluent disposal. The IHAP considered that the proposed safeguards and mitigation strategies proposed by the Proponent are unacceptable and not sustainable over the long term.

Recommendation 6 of the IHAP report, having regard to services and infrastructure, is as follows:

Prior to the issue of any development consent for any future development proposal on the subject site, it should be demonstrated that appropriate arrangements exist for the provision of sewer services and stormwater volume management to the site in a manner that will not result in any significant environmental impacts, will be acceptable over the predicted long term and will not require ongoing filling of the ground level;

Any future development on site should not include the provision of a water supply pipeline from Palm Beach but rather should rely on rainwater tanks as is the case with other offshore developments.

Department's Response

The Department considered the proposal in light of the significant concerns raised regarding the proposed wastewater treatment system. Following review of the proposal, the Department is not satisfied that the proposed sewerage system can operate effectively in the

long term without significant impact to the surrounding environment. The Department considers that siting of the irrigation field on the valley floor, in an area subject to periodic inundation and characterised by a high ground water table to be unacceptable and contrary to best planning practice. Whilst the Department acknowledges that reactive management measures will be required to combat rising sea levels on existing developments, it is not considered appropriate to knowingly site key infrastructure for a development in locations where hazards such as flooding and a rising water table will only be exacerbated over time.

Furthermore, the Department notes that the impact assessment does not adequately describe or assess the impact of the proposed safeguards and mitigation measures, such as the proposed re-shaping, leveling and raising of the valley floor. The impact assessment appears to contain significant inconsistencies in regard to the proposal to lower the valley floor through the removal of sand deposits (which were to be transferred to the dune area) to re-establish a more natural drainage pattern and the need to raise the valley floor to ensure efficiency of the wastewater management system.

The Department supports the recommendation made by the IHAP that any future development must demonstrate that appropriate arrangements exist for the provision of sewer and stormwater management services.

The Department notes that the proposed water pipeline across Pittwater has been approved by Sydney Water. The Department considers that the proposed pipeline can be laid with minimal impact on the seagrass bed, with the implementation of appropriate management measures, despite concerns raised by the IHAP. As such, the Department notes that any future development application will be subject to merit based assessment.

5.10 PUBLIC ACCESS

The proposal to subdivide Currawong entails the rezoning of the site. The provision of open space comprises land to be dedicated to Ku-ring-gai Chase National Park (3.32 hectares) and land to be contained on Community Title, to be divided into zone A, for private use by freehold residential and cabin occupants and zone B, for general public access.

The initial proposal provided for 1.03 ha of publicly accessible open space within zone B (to be rezoned RE1, Public Recreation), comprising the beach and a formalised walking trail to the cabin group. Public access was proposed to be restricted to the hours between 7am and 6pm, and to be managed by a Community Management Association. The remaining open space within zone A was to be rezoned RE2 (Private Recreation). Cabins would continue to be available for letting by the general public. The proposal did not include provision for disabled access or interpretation of Indigenous or non-Indigenous heritage values of the site.

The amended proposal contained within the PPR revised the proposed zoning to account for shoreline recession (refer to **Figure 15**) reducing the amount of proposed publicly accessible foreshore to 0.68ha. The IHAP report noted that a portion of the publicly accessible foreshore indicated in the PPR still includes land that is currently underwater at mean high tide. As such the actual amount of publicly accessible foreshore is in fact less than 0.68 hectares.

The initial proposal provided for 10.49 hectares of land to be dedicated to Ku-ring-gai Chase National Park, however, in response to the Department of Environment and Climate Change's submission this was reduced in the PPR to 3.32 hectares with the remaining 7.17 hectares to be retained in a Community Association Nature Reserve.

IHAP Recommendation

The IHAP considered the proposal against the aims and objectives of *State Environmental Policy (SEPP) 71 – Coastal Protection*, which includes the protection and enhancement of public access to coastal foreshores and identifying and realising new opportunities for public

access to coastal foreshores. The IHAP considers that the current proposal does not meet the aims and objectives of SEPP 71.

Recommendation 8 of the IHAP report, having regard to public access, is as follows:

As provided in separate recommendation, the Panel considers that the current development proposal should not proceed and that any future proposal for the subject site should provide for public access to the cabin precinct, the foreshores and the valley floor.

Department's Response

The Department considers accessibility and interpretation of the site's heritage is vital to the conservation of the site's significance. While the revised Statement of Commitments contained in the PPR includes provision of expanded public foreshore access, it is widely accepted that informal public access has long been available. The Department considers the provisions for public access in the current proposal to be inadequate. The Department considers that any development at Currawong should improve public access to the foreshore as well as significant historic areas of the site, and supports the recommendations made by the IHAP. The mechanisms for public access arrangements, and the final delineation of publicly accessible areas would need to be considered in future applications for this site. The Department also acknowledges that this will need to be considered as part of the proposed rezoning.

5.11 PARKING AND SITE ACCESS

Currently the only access to Currawong is via Pittwater. The proposal relies on the use of existing water taxi and ferry services to and from the site, with the provision of a community owned boat to enable users of the site to utilise several parking facilities. The suggested parking facilities contained in the EA include Palm Beach, Sand Point, Careel Bay, Paradise Beach, Salt Pan Cove, Clareville, Stokes Point, Bay View, Newport and Church Point. Of these only Palm Beach, Bay View and Church Point are listed on Council's website as having long term parking facilities. Short term parking is provided at Clareville, Newport and Careel Bay. At present, the only ferry service to and from Currawong departs from Palm Beach.

Barges are proposed to transport materials, equipment and personnel during the construction phase, to be loaded and unloaded at a suitable commercial wharf. The EA identified Church Point, Sandy Point, Careel Bay, Palm Beach or Bayview as potentially suitable loading and unloading locations. No upgrades to the Currawong jetty or additional measures to provide emergency access were proposed. Also not included in the EA or PPR were provisions for the mooring or storage of privately owned boats.

The Proponent submitted a Traffic Impact Assessment prepared by Masson Wilson Twiney with the original EA. The assessment analysed potential traffic generation, parking demand, and associated implications for the existing road network associated with the proposal. As Palm Beach wharf currently provides the main boat access to Currawong, the assessment was based on survey data from this location. The assessment nominated car parking at Careel Bay as a viable alternative to Palm Beach during peak times. The proposal was considered to potentially generate parking demand for between 5 and 20 vehicles, and existing car parking facilities at Palm Beach wharf were assessed as adequate to accommodate this number of vehicles. It was also concluded that due to the relatively small size of the proposed development, the proposal would not adversely impact on the surrounding road network.

A number of submissions, including that of Council and the Department of Lands, raised concerns with the parking demand estimated in the Traffic Impact Assessment. Council indicated that it considered the likely parking demand generated by the proposal to be

approximately 45 additional vehicles, rather than a maximum of 20. Council indicated that the existing car parking facilities at Palm Beach wharf are under parking stress and that parking at Careel Bay is unsuitable. A summary of the constraints of proposed parking locations provided in Council's submission is contained in Table 1 below. Furthermore Council indicated that the existing ferry services to Currawong were not reliable or suitable to this development.

Location	Narrow Road/ Access	Few Car Spaces	Already Parked Out in Peak Periods	No Wharf Facility	Excessive Boat Travel Distance
Palm Beach			X		
Sand Point				X	
Careel Bay		X	X		
Stokes Point				X	
Paradise Beach	X	X	X		
Clareville Beach			X	X	
Salt Pan Cove	X	X	X		
Newport			X		X
Bayview			X		X
Church Point			X		X

Table 1: Parking constraints contained in Council's submission

IHAP Recommendation

The IHAP report noted that where developments cannot provide the required parking, Councils may levy Section 94 Contributions for the provision of off site parking. Recommendation 9 of the IHAP report, having regard to parking and site access is as follows:

The Panel considers that the proposed development is inappropriate in terms of car parking and access arrangements and that future development of the site should be contingent upon satisfactory arrangements existing to provide for parking generated by the development

Department's Response

The Department considers that the Proponent has failed to identify parking facilities that can adequately provide for parking demand generated by the proposal, or to adequately mitigate the impacts of the proposed development on existing parking infrastructure. Furthermore, the assessment undertaken has not taken into account the competing needs of local businesses located adjacent to the Palm Beach carpark, for the limited parking available.

The Department notes the Draft Pittwater Park Plan of Management has identified very limited potential to realign the existing parking facilities at Palm Beach wharf in order to increase the amount of parking available. Furthermore, the draft Plan of Management proposes to impose further parking restrictions in this location by implementing a four hour time limit. The car park at Palm Beach wharf is located on Crown Reserve and as such may not be allocated for parking to off-set the requirements of private development. The Department notes that Council and the Department of Lands are engaged in ongoing negotiations to attempt to resolve the demand for increased parking in this location, and elsewhere in the Pittwater LGA.

The Department notes that no agreement has been reached between the Proponent and Council to provide adequate off site parking for the proposed development. Consequently, the Department considers that the proposed access and parking provisions of the current proposal are unacceptable, and supports recommendations made by the IHAP.

The Department also notes that water access to the site is constrained and there is limited opportunity for private boat access, mooring and anchoring due to the presence of adjacent seagrass beds and the noxious seaweed *caulerpa taxifolia*. Any future proposal would need to demonstrate that adequate site access can be provided to cater for the demand generated by the development, without significantly impacting on existing parking infrastructure and the marine/foreshore environment.

6 CONCLUSION

The Department has assessed the EA, PPR and IHAP report and considered the submissions in response to the proposal. The key issues relating to the development are heritage significance, geotechnical risk, coastal processes and climate change, flooding, built form and urban design, traffic and parking impacts, bushfire risk, environmental conservation, utilities and services impacts, and emergency management.

The Department has considered these issues and the IHAP report and supports the main recommendations made by the IHAP.

In addition the Department considers the proposed safeguards and mitigation measures for coastal processes, climate change, flooding and wastewater management to be unsustainable in the long term and inconsistent with the precautionary principle. Consequently, the Department considers that while development of the Currawong Beach site is technically possible it is not justifiable in its current form.

The Department concurs with the IHAPs identification of a potentially developable area to the north-west of the existing holiday cabins, which is of low heritage significance and not significantly constrained by risks associated with flooding and coastal processes. The Department notes that any future proposal for development of this area should be of low scale and would need to demonstrate that it did not conflict with the holiday camp use on the site and respect the Statement of Significance of the site.

Accordingly, the Department recommends that the proposed Project Application be refused consent in accordance with the IHAP recommendation.

7 RECOMMENDATION

It is recommended that the Minister:

- (A) **consider** the findings and recommendations of this report;
- (B) **refuse** the Project Application for the proposal under section 75J *Environmental Planning and Assessment Act, 1979* (the Act).

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APPENDIX A. INSTRUMENT OF DETERMINATION

APPENDIX B. STATEMENT OF COMMITMENTS

APPENDIX C. ENVIRONMENTAL ASSESSMENT

APPENDIX D. MINISTERIAL REVIEW PANEL REPORT

APPENDIX E. INDEPENDENT HEARING AND ASSESSMENT PANEL REPORT

APPENDIX F. RESPONSE TO SUBMISSIONS/ PREFERRED PROJECT REPORT

APPENDIX G. CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENTS

The table below provides the Department's assessment of compliance against Environmental Planning Instruments, including State Environmental Planning Policies that substantially govern the carrying out of the development.

State Environmental Planning Policy (Major Projects) 2005

State Environmental Planning Policy (Major Projects) 2005 outlines the types of development declared a major project for the purposes of Part 3A of the EP&A Act. For the purposes of the SEPP certain forms of development may be considered a Major Project if the Minister (or his delegate) forms the opinion that the development meets criteria within the SEPP.

On 18 September 2007, the then Minister for Planning formed the opinion that the proposed development at Currawong is development of a kind that is described in Schedule 2, Clause 1(1)(j)(i) of *State Environmental Planning Policy (Major Projects) 2005* and is thus declared to be a project to which Part 3A of the *Environmental Planning and Assessment Act 1979* applies for the purpose of section 75B of that Act. At the same time, the Minister agreed to consider the site as a State significant site under the provision of Schedule 3 of the Major Projects SEPP.

State Environmental Planning Policy No.71 – Coastal Protection

SEPP 71 aims to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast.

The Currawong Beach site is located within the Coastal zone.

It is considered that the proposal addresses the aims of the SEPP through its dedication of environmental conservation lands, generation of employment opportunities and protection of the heritage significance of the 'holiday cabins' and 'Midholme' house.

State Environmental Planning Policy No.44 – Koala Habitat Protection

SEPP 44 aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline.

SEPP 44 applies to the site as it is located in a local government area listed in Schedule 1. The ecological assessment provided in the EA considers SEPP 44, and found that the site is not considered core or supplementary koala habitat.

Pittwater Council Local Environmental Plan 1993

The site is currently zoned 2(a) Residential and 9(b) County Open Space under the provisions of the *Pittwater Local Environmental Plan 1993*. The proposed development is not permissible under the 9(b) County Open Space zoning provisions.

Under clause 8N of the Environmental Planning and Assessment Regulation 2000 (the Regulation), the Minister cannot determine to approve any project, or part of a project, that:

- is located within an environmentally sensitive area of State significance or a sensitive coastal location; and
- is prohibited under an environmental planning instrument that would not (because of section 75R of the Act) apply to the project if approved.

The Project Application area encompasses land located within 100 metres of mean high water mark, making it a sensitive coastal location. In addition, the project contains prohibited elements

(i.e. dwelling houses within land zoned 9(b) Country Open Space). As such, should the Minister determine to approve the application, a rezoning is required before any such determination.

APPENDIX H. PUBLIC AUTHORITY SUBMISSIONS

APPENDIX I. SUBMISSIONS SUMMARY
