

Development Assessment and Planning

Minute Number: 672

Council Meeting Date: 25/03/2014

17/03/2014

DAP099-14

Outstanding Matters Excluded from draft SSLEP2013

File Number: LP/06/640581

Director: Planning & Environment Division (LW:MC)

Executive Summary

Purpose

At the direction of Council, the Environmental Planning Unit has considered a number of relatively minor rezoning and reclassification matters that have not progressed to date due to the delay in finalisation of draft SSLEP2013. The purpose of this report is to provide planning advice in relation to these outstanding matters and to seek Council's approval to progress those recommended through the preparation of a Planning Proposal for Gateway Determination seeking to amend Sutherland Shire's Local Environmental Plan to include these changes. The Planning Proposal will be written to amend Sutherland Shire's new Local Environmental Plan, when made.

Summary

This report considers six (6) relatively minor rezoning and reclassification matters which have not progressed due to the delay in finalisation of draft SSLEP2013. The report reviews the merits of each of the proposals and recommends that the following five (5) matters are incorporated into a Planning Proposal to proceed to Planning & Infrastructure (P&I) for a Gateway Determination to amend Sutherland Shire's Local Environmental Plan:

- The reclassification of a Development Control Strip at 34R-36R Caravan Head Road, Oyster Bay from 'community' land to 'operational' land to allow its sale to the adjoining owners 34-36 Caravan Head Road, Oyster Bay;
- The rezoning of part of 1-3 and 2-4 Gidji Road, Miranda which is part of the Ewey Creek open space corridor, provided agreement is reached as to a right of carriage way for public access to the open space;
- The reclassification of a drainage reserve from 'community' to 'operational' land at 13R Pinnacle Street, Miranda. However, this land should remain in Council ownership because it is needed to improve pedestrian access to a new high density housing precinct which will be delivered through the new LEP;
- The rezoning of three (3) sporting fields, being Loftus, Grays Point and Heathcote - located within the Royal National Park (RNP) and proposed to be transferred from the ownership of NPWS to Sutherland Shire Council - from SSLEP2006 Zone 20 - National Parks, Nature Reserves and State Conservation Areas to a 'Public Recreation' zone, and their classification as 'community' land; and

- The rezoning of 691 and 697 Old Illawarra Road, Illawong to a 'Special Uses' zone that allows community facilities to be permitted with consent.

The Planning Proposal is also intended to include the rezoning of approximately 183m² of Bundeena Reserve (Lot 5 DP 663309) from a 'Public Recreation' to a 'Private Recreation' zone, and to rezone 69-71 Loftus Street, Bundeena (Lot 1 in DP 1077138) from its current 'Environmental Housing' zone to a 'Private Recreation' zone into the Planning Proposal, as per Council Resolution DAP077-14 .

The report also provides planning advice in relation to the proposal to reclassify part of 2R Alexander Road, Taren Point to allow its sale to the adjoining owner at 98 Woodlands Road for rear access to the property. After receiving advice from across Council, it is considered that the loss of public reserve land for this purpose does not provide a net community benefit. Providing private access in this location presents potential safety risks for pedestrians and cyclists accessing Council facilities within the adjacent Taren Point Shorebird Reserve. Also known flood risk associated with the rear portion of 98 Woodlands Road is such that subdivision of this property to increase residential density in this location is inadvisable. Therefore, it is recommended that this proposal not proceed.

It should be noted that the Planning Proposal will be written so that it ultimately amends the new LEP.

Report Details

Purpose and Background

Over the past year there have been a number of relatively minor matters where Council has directed the Environmental Planning Unit to consider the rezoning and/or the reclassification of land. These matters have not progressed due to the delay in finalisation of draft SSLEP2013. This report provides planning advice in relation to each matter to move these matters forward. Those matters supported by Council would proceed to Gateway Determination.

The *Environmental Planning & Assessment Act 1979* (EP&A Act) sets out the process by which land may be rezoned or reclassified. In brief, Council must address the impact of the proposal on the immediate locality as well as how it fits into the broader strategic policy context. Once prepared, a Planning Proposal is forwarded to the Minister for Planning and Infrastructure for a Gateway Determination. A Determination considers the strategic merits of a Planning Proposal and, if approved, whether any conditions should be attached. Following formal public exhibition of the Planning Proposal and Council's consideration of submissions, changes may proceed as an amendment to a LEP.

It should be noted that the Planning Proposal will be written so that it ultimately amends the new LEP.

The outstanding matters addressed in this report are:

Land /Address	Matter for consideration
34R-36R Caravan Head Road, Oyster Bay	The reclassification from 'Community Land' to 'Operational Land' of a Development Control Strip at 34R-36R Caravan Head Road, Oyster Bay to allow the sale to the adjoining owners.
2R Alexander Road, Taren Point	The reclassification of part of a public reserve at 2R Alexander Avenue, Taren Point (known as the Taren

	Point Shorebird Reserve) from 'Community Land' to 'Operational Land', to allow the sale to the adjoining owners.
Part of 1-3 and 2-4 Gidji Road, Miranda	The rezoning of part of 1-3 and 2-4 Gidji Road, Miranda which is part of the Ewey Creek open space corridor.
13R Pinnacle Street, Miranda	The reclassification of a drainage reserve from 'community' to 'operational land at 13R Pinnacle Street, Miranda to facilitate its sale to the adjoining owners.
Loftus, Grays Point and Heathcote sporting ovals within Royal National Park	The rezoning of three (3) sporting fields, being Loftus, Grays Point and Heathcote, located within the Royal National Park (RNP) proposed to be transferred from the ownership of NPWS to Sutherland Shire Council, for 'public recreation', and their classification as 'community' land.
691 & 697 Old Illawarra Road, Illawong	The rezoning of 691 and 697 Old Illawarra Road, Illawong to allow a men's shed (i.e., a 'community facility') to be permitted with consent.

Subject Lands/Matters

1. *Reclassification of access Control Strip at 34R-36R Caravan Head Road, Oyster Bay*

At its meeting of 17 July 2013, council resolved that the Manager Environmental Planning prepare a report to consider the reclassification of land at 34R-36R Caravan Head Road, Oyster Bay from 'community' to 'operational' (FIN005-14 📄) to facilitate its sale to the adjoining owner at 34-36 Caravan Road.

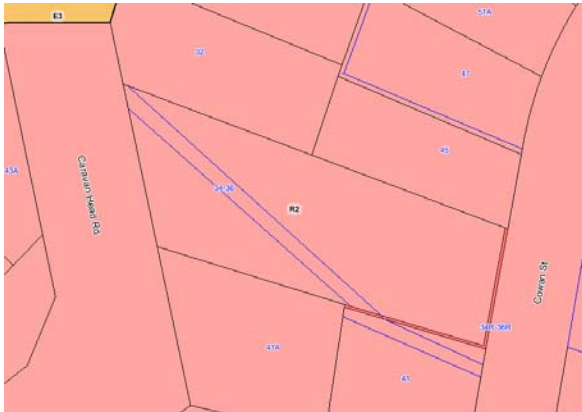
Current Situation

Sutherland Shire Council is the registered proprietor of 34R-36R Caravan Head Road, Oyster Bay (Lot 219 DP25965), a 1.5m wide, L shaped (26m² area) access Control Strip along the rear of 34-36 Caravan Head Road. Council records show the strip was purchased by Council to construct Cowan Street. At the time the residents of 34-36 Caravan Head Road, Oyster Bay did not contribute to the construction costs of the road, although it provided their land with direct access and improved the land's subdivision potential. Council used the access Control Strip across the Cowan Street frontage so that costs of road and drainage works to construct Cowan Street could be recouped when the subject property was subdivided.

Council has recently received a request from the owners at 34-36 Caravan Head Road, Oyster Bay to purchase the subject access Control Strip. Having regard to the fact that this parcel is surplus to Council's needs, Council's Land Management Committee has endorsed the reclassification for the sale of this small strip.



Location Map (subject land in green)



Draft SSLEP2013 Zoning Map
(Easement shown in blue)
2012 of 34-36 Caravan Head Road with
subject land (34R-36R) in red

Aerial View

The subject land and adjoining property at 34-36 Caravan Head Road are currently designated as Zone 4 – Local Housing. A direct transfer to the equivalent Standard Instrument zone (R2 Low Density Residential) is proposed under draft SSLEP2013. The R2 zone is primarily for single dwellings, but dual occupancies, multi dwelling houses, seniors housing and secondary dwellings are also permissible.

The property at 34-36 Caravan Head Road is occupied by a single dwelling which is at the low end of the sloping site (i.e., closest to Cowan Road). The land is not subject to any environmental or heritage constraints, however they are burdened by an easement, as shown above in blue.

Benefits/Disadvantages/Alternatives

The existing and proposed zone both set the minimum lot size area for subdivision at 550m², or 700m² for an internal lot. The lot is approximately 1744m² and is sufficiently large to allow subdivision in its own right. The proposed reclassification and sale of the access strip would increase the land size of 34-36 Caravan Head Road by approximately 25m². The proposed reclassification and sale would effectively give the property owner access via Cowan Street, Oyster Bay. This would facilitate the future subdivision and use of the upper lot for a range of permissible uses (subject to development consent).

From a planning perspective, the reclassification of 34R-36R Caravan Head Road, Oyster Bay from 'community' to 'operational' is minor and of no strategic importance. It does not contravene the objectives or actions of relevant State or local strategic plans, policies or directions. No endangered communities exist on or in the vicinity of the site, and there are no likely environmental effects from the reclassification and use of the subject land. Nor is it likely that its reclassification will result in any significant social or economic effects. The land is not identified as bush fire prone.

The owner of 34-36 Caravan Head Road, Oyster Bay is aware that the sale is subject to reclassification of the land from 'community' to 'operational' and the payment of an amount to be assessed by Council's independent property valuer. The proposed sale will be subject of a further report to council if reclassification is successful.

Conclusion

That, in accordance with Section 29 of the *Local Government Act 1993*, the proposal to reclassify 34R-36R Caravan Head Road, Oyster Bay (Lot 21 of DP 25965) from community to operational land is supported and is recommended for inclusion in a Planning Proposal to amend the Sutherland Shire LEP.

2. *Reclassification of part of public reserve at 2R Alexander Avenue, Taren Point*

On 8 October 2013 (BDS024-14), council resolved that a report be prepared to consider the reclassification of part of the public reserve at 2R Alexander Avenue, Taren Point - known as the Taren Point Shorebird Reserve - from 'community' land to 'operational' land to facilitate its sale to the adjoining land owner at 98 Woodlands Road. The proposal to reclassify the land was initiated at the request of the owner of 98 Woodlands Road to facilitate the subdivision of the lot.

Current Situation

Council is the registered proprietor of Lot 1 in Deposited Plan 234622, 2R Alexander Avenue, Taren Point. The land forms part of the Taren Point Shorebird Reserve. The Reserve is a 5017m² 'L' shaped parcel that starts at the end of Alexander Avenue and wraps around the eastern foreshore of Woollooware Bay. It provides habitat for an assemblage of migratory shorebirds known as the Taren Point Shorebird Community, an endangered ecological community. The reserve also provides opportunity for walking, cycling and passive recreation

while minimising impacts to, and creating awareness of, the shorebirds utilising the adjacent sandy shoals. The reserve is currently zoned Zone 13 - Public Open Space under SSLEP2006 and is classified as 'community land'. It is proposed to be designated as the equivalent Standard Instrument zone (RE1 Public Recreation) and to remain 'community land' under the new LEP.

Council has received a written enquiry from a consulting surveyor on behalf of the owner at 98 Woodlands Road, Taren Point (Lot 410 of DP 1114233) to acquire 75.5m² of 2R Alexander Avenue (part of Taren Point Foreshore Reserve) to, "enable efficient and sensitive use of their land". The property is 1531m² in area and occupied by an older, single dwelling with access via Woodlands Road. The land is currently zoned as Zone 2 - Environmental Housing (Scenic Quality). Under draft SSLEP2013 it is proposed to be zoned as E4 Environmental Living. As presently configured, subdivision of the property is only possible through the creation of an internal lot. Under both the current and the proposed LEP, this requires a minimum lot size of 1550m². The owner seeks to gain rear access to the property via Smith Street thus create the potential for subdivision of the lot into two (2) properties, each with independent street access. Under this scenario, the minimum lot size for subdivision is 1440m².

In 2008, Council acquired part of Lot A in DP 308062 located at the rear of 98 Woodlands Road, Taren Point 2008, in accordance with the Local Government Act, 1993 and the Land Acquisition (Just Terms Compensation) Act, 1991 to create a link between the existing State reserve and Council's bike path. The site was zoned for open space purposes under Sutherland Shire Council LEP 2000 and formed part of the area of open space now known as the Taren Point Shorebird Reserve. Council acquired only that portion of the site which was closest to the waterfront. That agreement did not obligate council to provide rear access to 98 Woodlands Road.



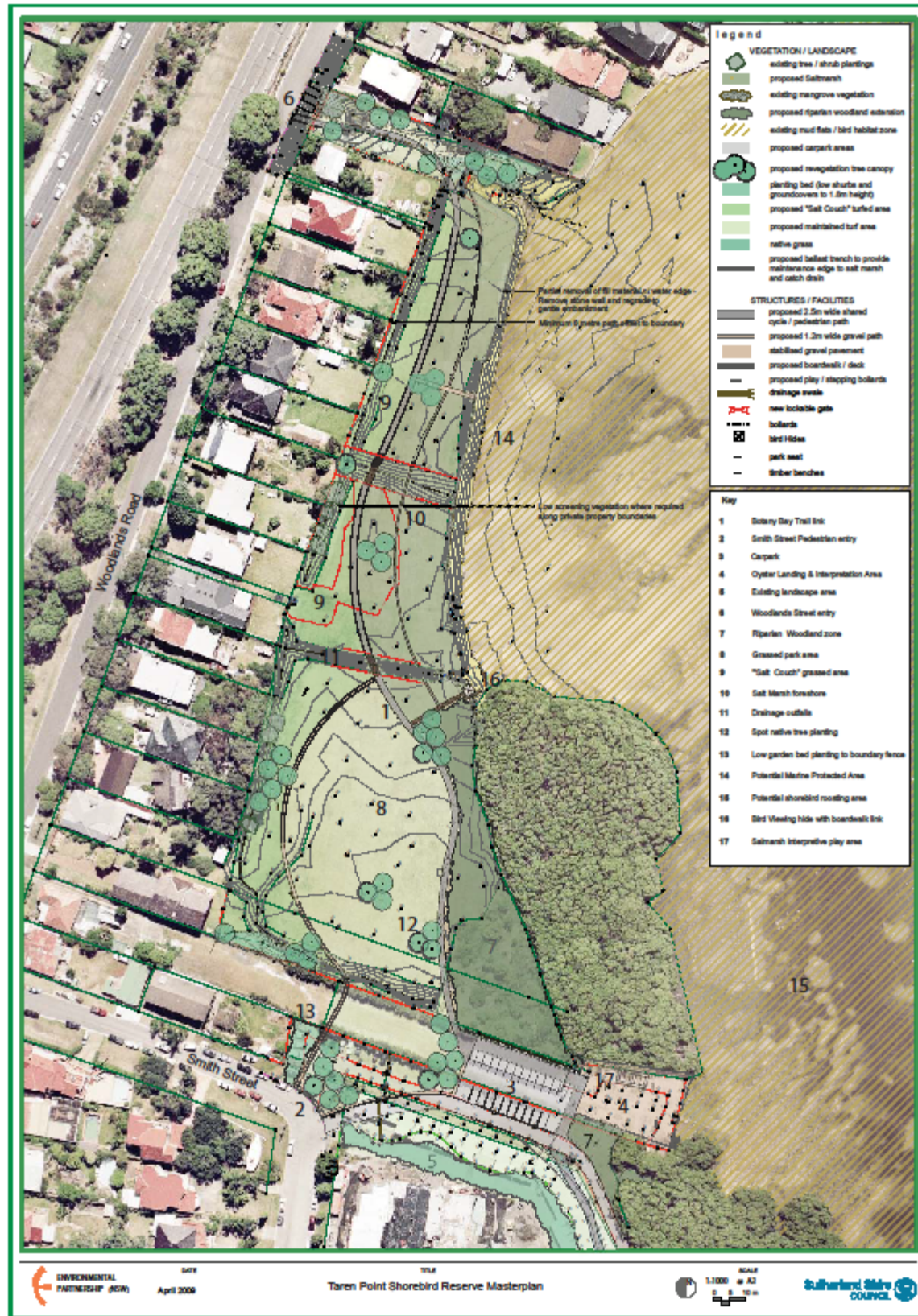
Overview of subject area:
Land requested to be rezoned outlined in red
2R Alexander Avenue outlined in blue
Council cycleway through the Taren Point Shorebird Reserve shown in yellow with red dashes



Detailed view of that part of 2R Alexander Ave proposed for reclassification and sale (see white arrow) and 98 Woodlands Road



**Street view of proposed reclassification area from the corner of Smith Street and Alexander Avenue:
Looking north to the rear of 98 Woodlands Road (behind fence)**



Taren Point Shorebird Reserve Masterplan - adopted by Council at its meeting on 11 May 2009 (WKS128-09)
Subject land adjacent to area '2': Smith Street Pedestrian Entry

The request was referred to Council's Land Management Committee meeting for consideration where no initial objections to the proposed reclassification and sale were raised. On further review, Council's Parks & Waterways Division advised that the Taren Point Shorebird Reserve, which includes the subject area, is subject to a masterplan to upgrade the reserve which was adopted by Council at its meeting on 11 May 2009 (WKS128-09 ). While the Division raised objection to the proposal, this view did not prevail in Council's Resolution (BDS024-14).

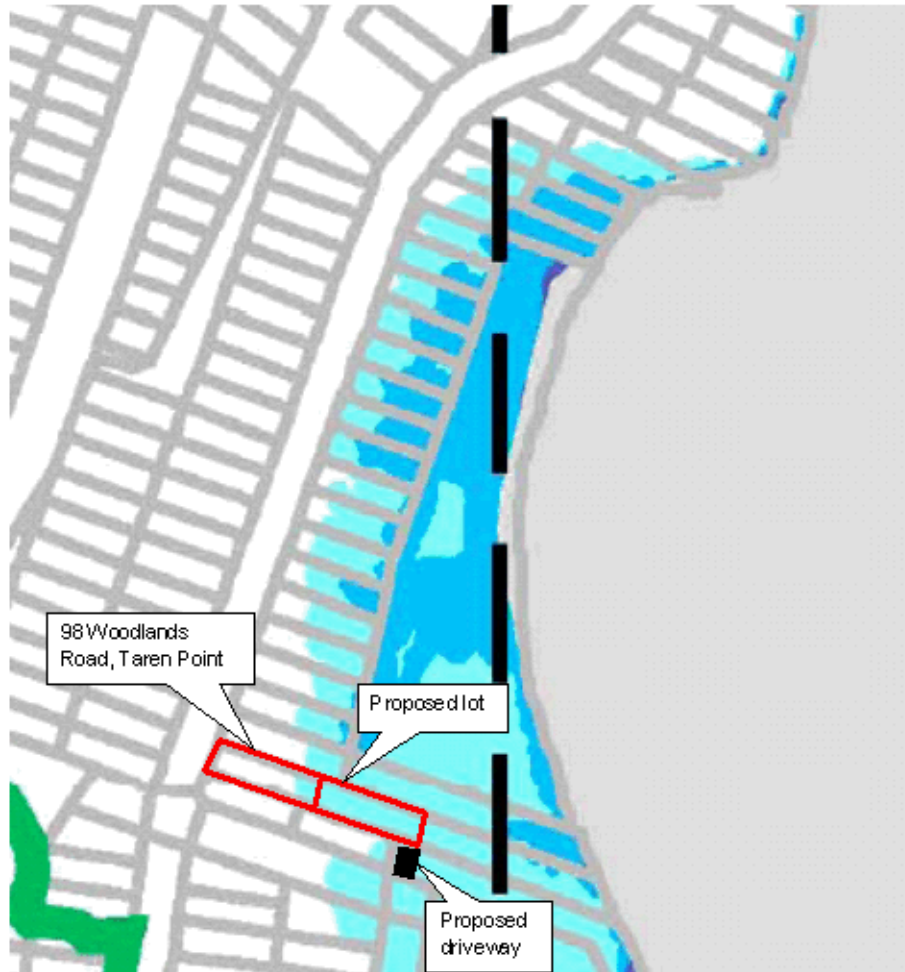
Benefits/Disadvantages/Alternatives

In its most simple terms, the reclassification does not contravene the objectives or actions of relevant state or local strategic plans, policies or directions. Nor is it likely that it will result in any significant social or economic effects. However, the proposal offers no net community benefit and, based on previous discussions, is likely to attract concerns from nearby residents, in particular the owner at 1 Smith Street. It also raises some important safety issues.

The Lower Georges River Floodplain Risk Management Study & Plan indicates that the property in question is subject to flooding and falls within the Flood Planning Area (FPA) as defined by the NSW State Government. The figure below shows the boundary of the 1% AEP (1 in 100 year Annual Recurrence Interval) flood. The proposed lot would be wholly affected by flooding to a water depth of between 100 and 200mm. Under the climatic conditions of 2014, the level of flood risk in the subject property is classified as *Low*. If the NSW State Government sea level rise predictions for the year 2050 become reality, the 1% AEP flood level could increase by up to 400mm.

The Flood Risk Management provisions in Chapter 5 of SSDCP2006 do not prohibit sub-division of land within areas of *Low* flood risk. However, from a floodplain risk management prospective it is not be in the community's long-term interest to create additional flood affected properties through land subdivision. Nevertheless, if Council is of a mind to approve the sub-division, then the following should be considered:

1. The minimum finished floor level requirement for a dwelling within the new lot would likely be 1 to 1.2 metres above existing ground level if Climate Change is taken into consideration.
2. The figure below shows that Smith Street is subject to flooding. Thus, it may not be possible to enter or exit the property by way of the proposed driveway in the event of an emergency. A 'right of way' to Woodlands Road is needed that is suitable for emergency services personnel and equipment.



Light blue indicates boundary of the 1% AEP (1 in 100 year Annual Recurrence Interval) flood

The subject land is also constrained by Class 2 Acid Sulfate Soils; however, provided excavation is not required, this should not present an obstacle to future development on this land.

On the advice of Council's Science Policy Unit, it is considered that there are no contamination risks associated with the residential use of this site. Nor are there likely any detrimental environmental effects from the proposed reclassification and use of the subject land. However, should the proposal proceed, care must be taken to ensure that any future development of the site does not hinder access for pedestrians or cyclists to either of the purpose built pathways through the Reserve, or for vehicles bound for the Anglers Club.

Council's Parks & Waterways Division has reiterated its opposition to the proposal for the following reasons:

- the proposal is contrary to the masterplan adopted for the area which shows a footpath connection through this area;

- sale of the land and its subsequent use as a private property access would narrow the access to the public reserve. The access is shared by pedestrians, cyclists and cars with boats and trailer accessing the Anglers Club via the adjacent drive. Narrowing of the access may cause user conflict;
- there is no public benefit in selling the land.

It is considered that the primary impetus for this proposal is for the landowner to acquire legal access to the rear of 98 Woodland Road via Smith Street, thereby increasing the usable land area and the value of any future subdivision of the property. However, while the proposal will deliver the minimum lot sizes required for its subdivision (1400m²) under both the current and draft LEP the lot, which is approximately 16m in width, does not comply with the minimum 18m lot width in either instrument .

Conclusion

After receiving advice from across Council, it is considered that the loss of public reserve land for this purpose does not provide a net community benefit. Providing additional access in this location also presents potential safety risks for pedestrians and cyclists accessing Council facilities within the adjacent Taren Point Shorebird Reserve. In addition the known flood risk associated with the rear portion of 98 Woodlands Road is such that subdivision to increase residential density in this location is inadvisable. Therefore, it is recommended that this proposal not proceed further.

3. Rezone part of 1-3 and 2-4 Gidji Road, Miranda

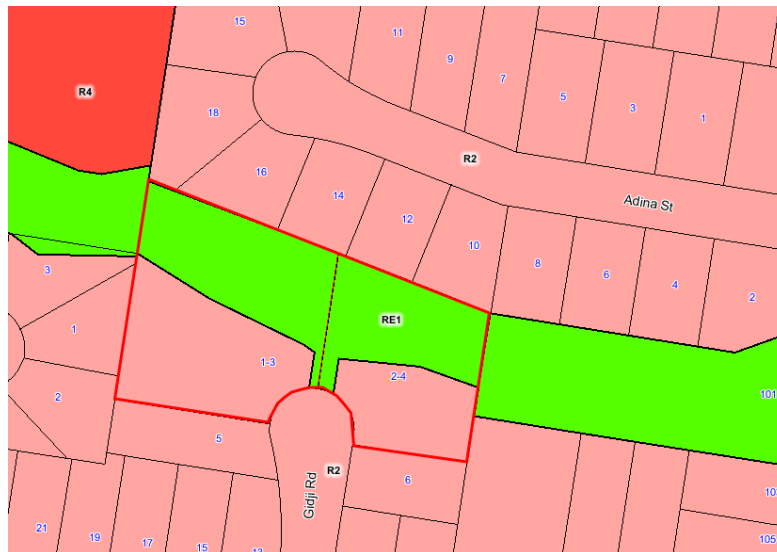
At its meeting of 5 August 2013, (FIN019-14 ) Council resolved that the Manager of Planning prepare a report to consider rezoning the tongue of land that adjoins the two (2) properties at 1-3 and 2-4 Gidji Road, Miranda via an amendment to Sutherland Shire Local Environmental Plan 2006. It also resolved that, “[an]...Agreement with the Proprietors be entered into to create a Right of Carriageway over the subject properties in a location to be agreed between Council and the Proprietors at terms and conditions to the satisfaction of the General Manager...”

Current Situation

A meeting was held on 3 May 2013 between the proprietors of 1-3 and 2-4 Gidji Road, Miranda, the Mayor and Council staff regarding a long standing matter of providing public access to the Ewey Creek corridor. At this meeting the proprietors requested that Council rezone the tongue of land which separates the two (2) land holdings. Essentially they seek the rezoning of part of the current Zone 13 – Public Open Space zone back to a residential zoning. Instead of Council acquiring the access tongue in free hold title, they have agreed to accept a Right of Carriageway (ROC) over the land on the basis that the location of the ROC could be moved to another more practical location, thereby facilitating redevelopment of the consolidated lot.



Aerial view of subject properties



Draft SSLEP2013 Zoning Map showing subject 'tongue' of land connecting Gidji Road to the Ewey Creek corridor (RE1).

The subject land, being part of 1-3 and 2-4 Gidji Road, Miranda is described as Part Lot 5 DP 26325 and Part Lot 4 DP 26325. Under SSLEP2006 it was rezoned from Zone 4 - Local Housing to Zone 13 - Public Open Space. This was done to enable the land zoned 13 - Public Open Space to be acquired by Council for inclusion in the Ewey Creek open space corridor, which has been a long-term Council commitment to establish as a pedestrian pathway in a natural setting.

After eight (8) years of negotiation, agreement over value of the open space portion of land to be acquired at 1-3 and 2-4 Gidji Road, Miranda is yet to be reached. However, the proprietors have now agreed to a Right of Way being located over their land to provide public access to

Ewey Creek corridor from Gidji Road. This requires the zoning of the tongue of land between the two (2) lots being part of Lot 5 DP 26325 to revert back from Zone 13 - Public Open Space to the appropriate residential zone (R2 Low Density Residential if amending the new draft LEP).

Benefits/Disadvantages/Alternatives

The subject property is included in the approved priority list of properties to be acquired for open space purposes. However, the only reason for the tongue of land being reserved for open space is to provide a pedestrian link to the future open space corridor for residents living in Gidji Road and properties to the south. The creation of a right of carriageway over the land will still achieve the objective of providing an access point and will assist in reaching an agreement with the proprietors to acquire the remaining Open Space portions of their land, which is necessary to complete the Ewey Creek corridor. This is a sensible outcome with net community benefit.

The rezoning of the tongue of land between the two (2) lots for residential use will allow the proprietors to consolidate their land at a future date. The lots will remain adjoining, which should avoid Council having to include severance costs in the compensation.

It is considered that the rezoning does not contravene the objectives or actions of relevant State or local strategic plans, policies or directions. Nor is it likely that its reclassification will result in any significant social or economic effects. On the contrary, it supports the key direction of the draft South Subregional Strategy with regard to Parks, Public Places and Culture: to ensure open space areas and facilities are managed to cater for residents and visitors to the region. It also supports community expectations to protect environmental values and provide good local amenity.

As specified in FIN019-14, in order to protect Council's interests, prior to the proposed rezoning of the tongue of land it is necessary that the parties enter into a formal written Agreement that a Right of Carriageway for public access be created over the subject land at a location that is agreed between Council and the proprietors. However, as of March 2014 there has been no agreement between the landowners and Council on the valuation of the land to be rezoned. Correspondence with the Council's Property Division (3/03/2014) indicates that it may be some time before this agreement is reached.

Given that to get to the current level of agreement between all parties has taken eight (8) years, the rezoning of this part of the reservation may encourage the parties to come to an agreement. However, should a Right of Carriageway not be formalised by the time the matter is further considered by Council, the subject land should not be rezoned. Public access from Gidji Road is essential to the future utility of the Ewey Creek Corridor. If agreement cannot be reached as to the right of carriageway, the reservation should remain and this element of the draft plan should not proceed to finalisation.

Conclusion

That the proposed rezoning of part of Part Lot 5 DP 26325 and Part Lot 4 DP 26325 should proceed to Gateway Determination and community consultation. However, it must not proceed to finalisation without a formal written Agreement that a Right of Carriageway for public access has been created over the subject land at a location and compensation price that is agreed between Council and the proprietors. Should this not be in place before this matter is next considered by Council, this matter should be removed from the draft LEP amendment. The land owners are to be advised of this timing and the need to come to an agreement prior to the end of the exhibition period.

4. 13R Pinnacle Street, Miranda

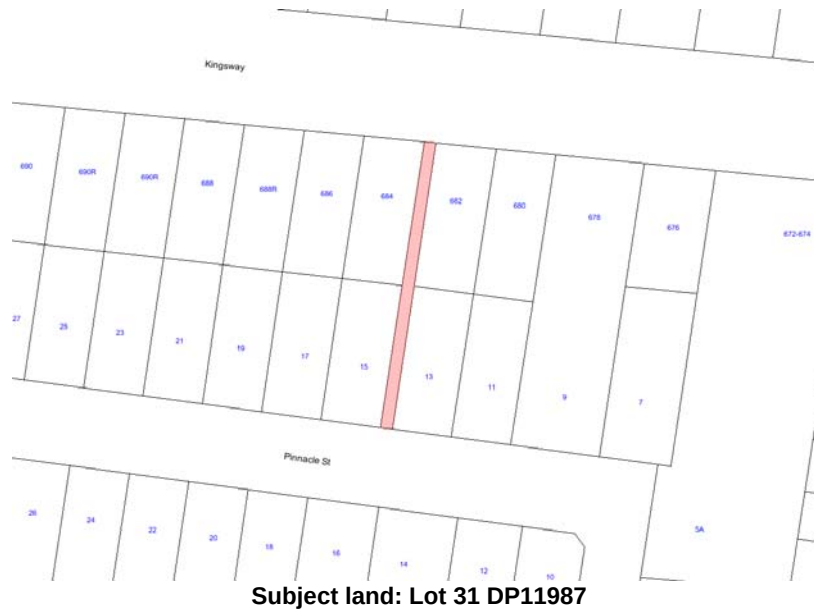
On 8 October 2013, Council resolved that the Manager, Environmental Planning prepare a report to consider reclassification of Lot 31 in DP11987 at 13R Pinnacle Street, Miranda from 'Community' land to 'Operational' land to facilitate a sale to the adjoining owners (BDS009-14).

Current Situation

Sutherland Shire Council is the registered proprietor of Lot 31 in DP 11987, a drainage reserve that acts as a pedestrian pathway located at 13R Pinnacle Street, Miranda. The reserve connects Pinnacle Street to the Kingsway as shown shaded pink on the cadastral map below. It is classified as community land. The adjoining owners at 13 Pinnacle Street and 15 Pinnacle Street have enquired with Council as to the possibility of purchasing part of the drainage reserve up to their rear property boundary to be incorporated into their properties. In order to sell the land, the drainage reserve would be required to be reclassified from 'Community Land' to 'Operational Land'. Council is prohibited from disposing of any 'community land' under the Local Government Act 1993.

The drainage reserve or pathway is approximately 225 square metres in area. Council's Stormwater Division has confirmed that no public infrastructure exists within the reserve and that there is no intention to utilise the drainage reserve in the future. In 2011, requests from the adjoining owners sought the closure of the drainage reserve. Council officers in conjunction with Miranda Local Area Command had analysed Council and NSW Police Force data which indicated no recorded incidents of criminal or anti-social activity. At that time Council officers did not support the closure of the pathway.

Council's Asset Management Group has suggested that the whole drainage reserve be reclassified from 'Community Land' to 'Operational Land'. The matter was considered at the Land Management Committee meeting in which no objection was raised to the proposed reclassification from 'Community Land' to 'Operational Land' and any subsequent sale, subject to a resolution of Council. However, the proposal to reclassify and sell the land has not come to the attention of the Environmental Planning Unit until now. It is considered that the decision to sell the land should be reconsidered in light of the proposed rezoning of the area for high density residential flat buildings as part of Draft Sutherland Shire Local Environmental Plan 2013. The reserve forms part of the Pinnacle Street Precinct at Miranda.



Proposed residential flat zone: Pinnacle Precinct

Benefits/Disadvantages/Alternatives

Under DSSLEP2013 an area bounded by the Kingsway to the north, the F6 transport reservation, the railway line and the public school to the east, is proposed to be rezoned from Zone 4 Low Density Residential to Zone R4 High Density Residential, with maximum allowable height increased from two (2) storeys to 25m (7-8 storeys) and maximum allowable floor space ratio increased from 0.45:1 up to FSR 2:1. The proposal is part of Council's Housing Strategy to increase dwelling numbers within walking distance of centres and this area is close to Miranda centre. Assuming that the proposed changes are in the LEP as ultimately gazetted, the area, known as the Pinnacle Street Precinct, will be developed with high density residential flats, with a corresponding substantial increase in population. With a large increase in residents, good pedestrian connectivity across this new high density residential precinct will be vital to making it

a good place to live. Residents will walk to local shops, schools and the railway station on a daily basis and Council should seek to make this walk as direct and safe as possible. Large lot amalgamation will be necessary for the land to be developed to the maximum allowable floor space ratio, but the rezoning will significantly increase the value of the land.

The existence of this Council owned pedestrian pathway in the Pinnacle Precinct is extremely fortunate. This path improves connectivity across the precinct, providing a pedestrian shortcut from Pinnacle Street to the Kingsway and hence to the shops, services and train station, as well as the bus stop on the Kingsway. The pathway may prove to be even more valuable once the F6 is built. It would be preferable if the pathway was wider with improved paving and lighting as this would make the space safer and more attractive for the user. It is suggested that the future DCP should include requirements to improve the pathway when adjacent lots are redeveloped.

It is considered essential that a pedestrian pathway is provided. However, in considering potential lot amalgamations to facilitate redevelopment, a better location for the path is parallel to the existing location, approximately 30m to the east, on the eastern edge of the two (2) lots at 680 Kingsway and 11 Pinnacle Street (shown on illustration below). This location would allow a larger amalgamation of lots to occur, while increasing options for better design outcomes if the owners decide to amalgamate lots and redevelop their land. This location would also allow or a better transition of building density to the existing multi dwelling development to the east. Moving the pathway could become feasible if the owners of all four (4) lots (at 682 Kingsway, 680 Kingsway, 13 Pinnacle Street and 11 Pinnacle Street) were in agreement and an agreement is also reached with Council.

The option of relocating the pathway would only be facilitated if the existing path was reclassified from Community to Operational. As the process of reclassification is a lengthy one, it is recommended that the reclassification proceed now, but the sale of the land should not be pursued. Reclassification will simply give Council officers greater flexibility to achieve a good public outcome as the precinct develops. It should be noted that reclassification does not affect the continuing function of the path in its current location, but will make it easier to relocate the path in the future.

Council's Property Unit have confirmed that, given the strategy for the Pinnacle Precinct outlined above, Council should not pursue plans to sell the land. However, the reclassification of the pedestrian path is supported.



Preferred location of path shown with red lines.

The Sutherland Shire Development Control Plan is currently being prepared to work with the new LEP. The DCP will include a locality strategy and controls for this new precinct, including controls to enlarge the existing path and improve its amenity and safety.

Conclusion

That the drainage reserve/path be reclassified, but remain in Council ownership. However, a land swap to move the pathway to the east to improved in its function as a pedestrian access way serving the future residents of this high density precinct is a better public outcome. The adjoining land owners who expressed an interest in buying this land should be advised of Council's decision and encouraged to seek a larger amalgamation pattern and relocate the access way to the east.

5. Rezoning in association with proposed transfer of playing fields at Loftus, Heathcote and Grays Point from NPWS to Council

At its meeting of 24 June 2013, Council resolved that a report be prepared by Manager - Environmental Planning on any necessary rezoning associated with the transfer of the sporting fields at Loftus, Heathcote and Grays Point, being part of Lot 356 MP144 (Royal National Park), from the State of New South Wales National Parks and Wildlife Service (NPWS) to Sutherland Shire Council (FIN153-13 📄).

Current Situation

The ovals at Loftus, Heathcote and Grays Point are located within the gazetted boundaries of the Royal National Park (RNP) and have been managed by Sutherland Shire Council as a recreational resource for almost 40 years. This arrangement was formalised as a 20 year licence agreement in 1979. Council's licence agreement over the three (3) sporting fields has expired and Council has tried without success to negotiate a licence renewal or land exchange since 2000.

On 16 May 2013, Council staff met with NPWS officers who expressed an interest in exchanging the three (3) playing fields within the Royal National Park for the Bundeena Sanitary Depot. The most recent correspondence received from the National Parks and Wildlife Service (a letter to Property Services dated 21/01/14) advises that a report on the proposed revocation of the three (3) subject playing fields - covering a total area of approximately 13 hectares - has been prepared by Cabinet and is scheduled to go before Parliament in this first part of this year. If supported, the revocation would be carried out by an Act of Parliament amending the *National Parks and Wildlife Services Act 1974*. Once the amending Act becomes operative, the subject lands will be revoked from the Royal National Park and will become fee simple land which the Minister can transfer to Council.

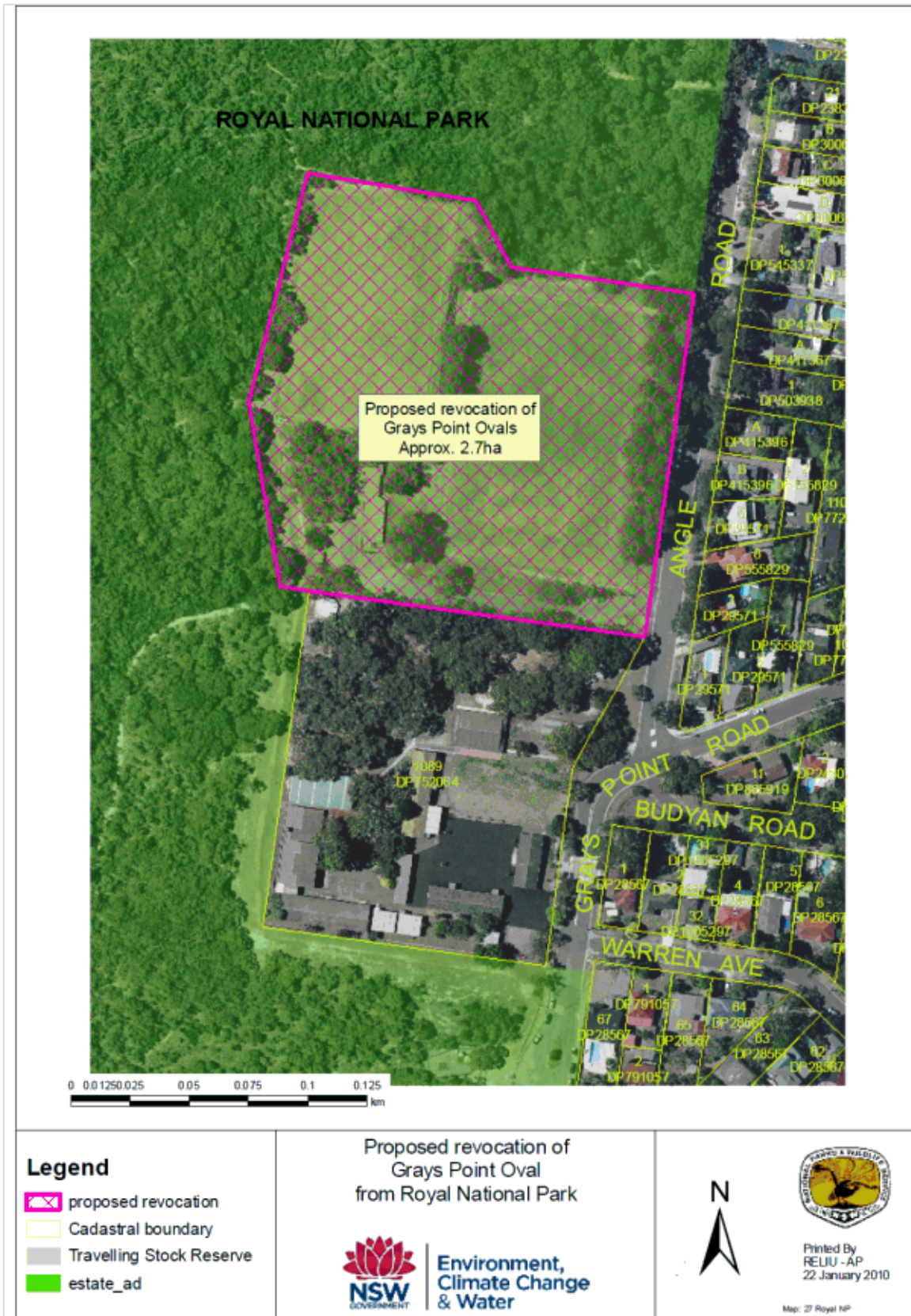


Aerial overview of north-west corner of RNP and subject sporting ovals/revocation sites (outlined in red)

A requirement for revocation is that the subject parcels have a legal description as a lot in a deposited plan and that they be appropriately zoned for their intended future uses. The exact boundaries and land size will be determined following a surveyed with the input of NPWS so they can be satisfied that a sufficient buffer zone is provided.

For the purposes of this stage of the LEP amendment process, the boundaries of the parcels to be transferred are indicative only. The maps below are supplied by NPWS. The Planning Proposal is seeking in principle support for the rezoning of these sites. Once the Act is amended and the parcels subject to a formal survey, their legal descriptions will become part of the Planning Proposal.







Each of the three (3) sporting fields are designated as Zone 20 – National Parks, Nature

Reserves and State Conservation Areas in SSLEP2006. Under draft SSLEP2013 they are proposed to be zoned as E1 National Parks and Reserves. It is intended that once transferred to Council, these sites will continue to be used as a public sporting fields.

Sporting fields come under the 'recreation area' land use definition in the Standard Instrument Dictionary. Consistent with how this use has been accommodated elsewhere in draft SSLEP2013, it is considered that the most appropriate future zoning for these sites is RE1 Public Recreation.

Objectives of the RE1 zone include:

- To enable land to be used for public open space or recreational purposes;
- To provide a range of recreational settings and activities and compatible land uses; and
- To protect and enhance the natural environment for recreational purposes.

As exhibited in draft SSLEP2013, uses proposed to be permitted with consent in the RE1 zone are:

Environmental facilities; Community facilities; Food and drink premises; Helipads; Information and education facilities; Kiosks; Passenger transport facilities; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Roads.

Benefits/Disadvantages/Alternatives

The proposed addition of the three (3) sporting fields to Council:

- will have a social benefit as it will secure the tenure of these playing fields for the future recreational use by residents of the Shire;
- will allow for improvements at these three (3) sites to be made without the difficulty of NPWS approval;
- is not expected to have a significant financial impact as council is already maintaining these playing fields, the sporting organisations are maintaining the facilities and the land;
- usage is not going to change;
- is not expected to pose any new environmental issues as council already maintains these ovals, and the sporting clubs who use the facilities maintain them.

Although the formal process to revoke these lands has not yet come before Parliament, the proposal is considered to be non-contentious and a decision imminent. It is therefore considered reasonable to progress the rezoning of these parcels in anticipation of an amendment to the *NPWS Act 1974* to revoke these lands in favour of Sutherland Shire Council. Should this outcome not eventuate, this part of the Planning Proposal can be withdrawn.

Conclusion

That those parts of Lot 356 MP144 (Royal National Park) being the Loftus, Grays Pont and Heathcote sporting ovals be rezoned from SSLEP2006 Zone 20 – National Parks, Reserves and State Conservation Areas to a public recreation zone in a Planning Proposal to amend the Sutherland Shire LEP, conditional upon a legal description of the subject lands being provided by the NPWS. Should the requested amendment to the *National Parks and Wildlife Services Act 1974* not be made, this matter should be removed from the draft LEP amendment prior to referral to the Minister for finalisation.

6. Rezoning of 691 Old Illawarra Road, Illawong

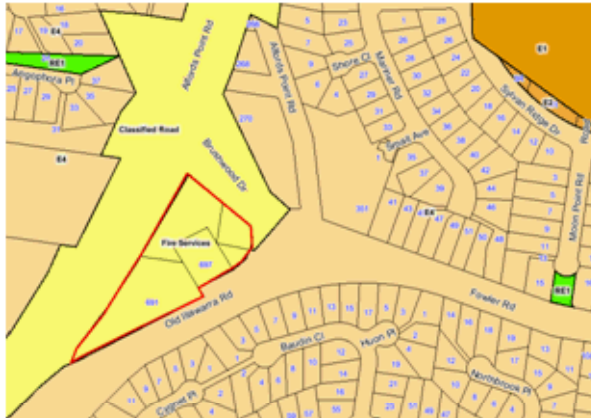
Council staff, in consultation with the E Ward Councillors, have been investigating a number of sites to determine a preferred site for the relocation of the Menai Men's Shed BDS006-14 📄. As a result of this work and preliminary consultation with interested parties, it is considered that the site at 691 Old Illawarra Road (Lot 7 DP 831160) which adjoins the Rural Fire Service (RFS) station, is the best option for the relocation of this use. The Illawong Rural Fire Service Station site is located at 697 Old Illawarra Road, Illawong (Lot 499 of DP752034). This report addresses the proposal to rezone 691 and 697 Old Illawarra Road, Illawong as SP2 Infrastructure (Community Facility) with the aim of maintaining the existing permissibility of the Fire Station while also providing permissibility for a men's shed at this location.

Current Situation

The Menai Men's Shed is an important community resource serving the needs of the local community. While it currently operates out of the Alford's Point Community Hall in Coachwood Drive, this location was always intended as a temporary measure until a permanent site could be found either on Council land or on other land. It has become clear that the workshop nature of the Shed makes it incompatible to share with other users. As a consequence, the need to find a permanent location for the Shed has become more important. Council staff have investigated a number of sites for their suitability to house a new facility for the Menai Men's Shed. (Criteria include: a flat site to minimise construction costs; a building area of approximately 200 sqm; connection to water, sewer and telephone services; and accessibility to a bus route.) These investigations have led them to consider part of 691 Old Illawarra Road, Illawong (Lot 7 DP 831160) as the preferred future site of this facility.

The subject site is vacant Crown Land located between Old Illawarra Road and Alford's Point Roads in Illawong. Deferred under SSLEP2006, it has retained its SSLEP2000 zoning as 5(d) Special Uses Future Arterial Road. The adjoining site at 697 Old Illawarra Road is zoned for Special Use (Community) in SSLEP2006. Under draft SSLEP2013, the subject land 691 Old Illawarra Road is proposed to be zoned consistent with the adjoining property, being SP2 Infrastructure (Fire Services). See maps below.





Aerial view 691 Old Illawarra Road
Zoning Map Draft SSLEP2013

Area zoned SP2 (Fire Services) outlined in red

(proposed as SP2 (Community Services))

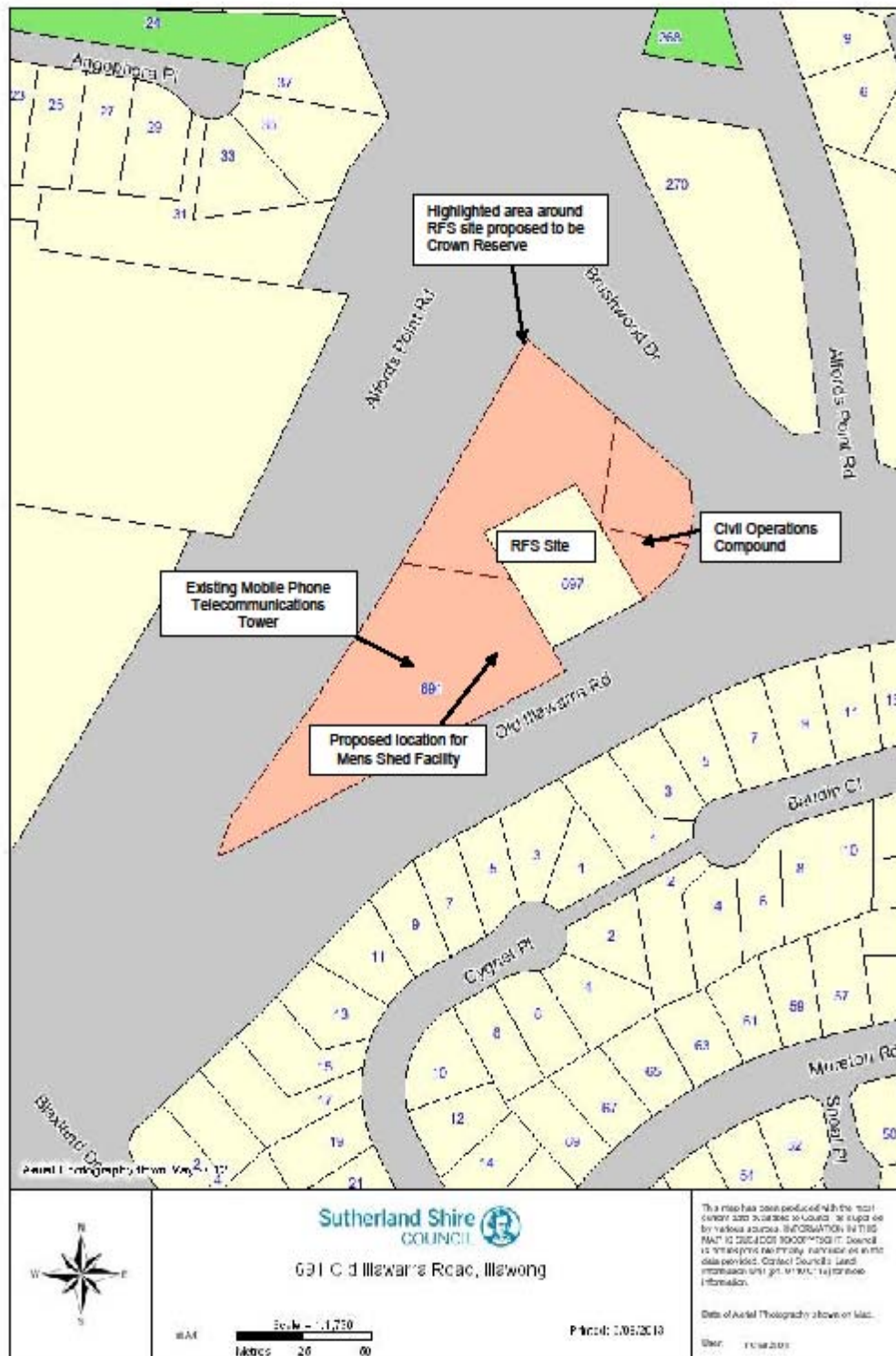
Deferred land signified by black diagonal lines

Zoning Map SSLEP2006

697 Old Illawarra Rd designated Zone 12

Special Uses (Community Services)

With regard to Council's interest in this land, on 26 August 2013 Council resolved to make representations to the Crown Lands division of Department of Trade and Investment, Regional Infrastructure and Services urgently seeking the reservation of land for community and recreation purposes, and appointing Council reserve trust manager (FIN033-14 ). Crown Lands have responded to Council's application advising that Lots 7 - 10 of DP 831160 (691 Old Illawarra Road) are currently subject to Reserve 752034 for future public requirements and communication facilities. However, they will consider the revoking of that reservation, to be replaced with a new reservation for public recreation, community purposes and communication facilities. The proposed uses for this land are illustrated below.



Detail of subject site: Proposed Men's' Shed adjoins western boundary of 697 Old Illawarra Road

When applying a Standard Instrument 'SP' zone to land, the annotation after the zone name indicates its purpose, i.e., the use permitted with consent in the zone, including any development that is ordinarily incidental or ancillary to development for that purpose. In addition to this use, Council has exercised its discretion to add other complimentary uses to the zone therefore 'food and drink premises' and 'roads' are also proposed uses permitted with consent in the SP2 zone. With respect to 697 Old Illawarra Road, the SP2 Infrastructure (Fire Services) designation is very specific and therefore very restrictive.

The issue is that the proposed Men's Shed is considered to be a 'community facility', i.e., a use not permissible under the SSLEP2013 designation. As defined in the LEP a 'community facility' means:

a building or place:

- (a) *owned or controlled by a public authority or non-profit community organisation, and*
- (b) *used for physical, social, cultural; or intellectual development or welfare of the community,*

but does not include educational establishment, hospital, retail premises, place of public worship or residential accommodation.

It is considered that this definition is comprehensive enough to also include the existing Illawong Rural Fire Service facility 697 Old Illawarra Road. Therefore, rezoning 691 and 697 Old Illawarra Road from draft SSLEP2013 zone SP2 Infrastructure (Fire Station) to SP2 Infrastructure (Community Facilities) would both maintain the current permissibility of the Illawong Rural Fire Service facility pursuant to the SEPP Infrastructure (Clause 47), and permit the development of the proposed Menai Men's Shed on Lot 7 of DP 831160.

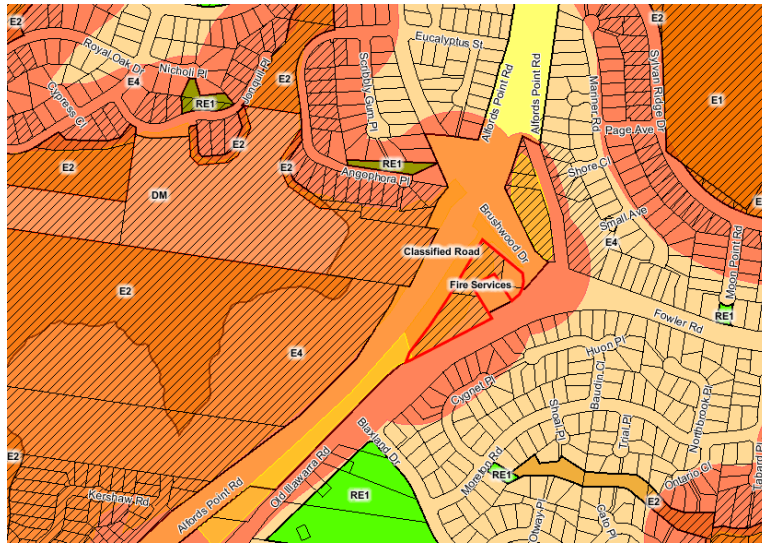
Benefits/Disadvantages/Alternatives

The existing Menai Men's Shed is an important community resource serving the needs of the local community. The provision of a new, purpose built Menai Men's Shed facility/service at this location is considered to be capable of better fulfilling this important social need. It also addresses the Key Direction 'To provide ...Resilient and sustainable local community organisations', articulated in Sutherland Shire's strategic policy document: *Our Shire, Our Future: Our guide to Shaping the Shire to 2030*.

As stated in Council Report FIN033-14, the subject land at 691 Old Illawarra Road has been identified as the best available option to locate the proposed facility with regard to the provision of power, waste services and parking. It is also considered to be sufficiently separated from neighbouring properties and screened by bushland vegetation.

No endangered communities exist on or in the vicinity of the site, and it is considered that there are no likely environmental effects from the proposed zoning and use of the subject land for this purpose. Nor is it likely that rezoning will result in any significant economic effects.

The site is identified as bushfire prone land (see map below).



**Bushfire Prone Land and Interface Map (subject land outlined in red)
Salmon = bushfire prone land**

Under draft SSLEP2013 developments that increase the number of people who may need additional time or assistance to evacuate in the event of a bush fire, such as childcare centres, residential care facilities and seniors housing are not permissible on bushfire prone land. This is acknowledged in the proposed zoning of the lands surrounding 691 and 697 Old Illawarra Road as E4 Environmental Living, where these uses and others such as 'community facilities' are prohibited. It is nevertheless considered that given the size of the subject site (Lot 7 of DP 831160 is approximately 5160m²) it is possible to provide a sufficient Asset Protection Zone (APZ) to minimise the risk to the proposed facility at this location. In addition, unlike with child care centres or places of public worship, the number of men's shed users will be relatively small and the hours of operation relatively limited. It is also considered that users will be more self-reliant and mobile than those frequenting other types of community facilities where these prohibitions apply. The site is well connected to main evacuation routes and adjoins the RFS facility. As such, it is not expected to contribute to local traffic congestion in a bushfire event. Thus, the risks associated with potential evacuation of men's shed patrons are considered to be acceptably low.

Conclusion

That 691 Old Illawarra Road, Illawong (being Lots 7,8,9 &10 of DP 831160) and 697 Old Illawarra Road, Illawong (being Lot 499 of DP 752034) be rezoned for 'special uses - community facilities' through the Planning Proposal process as SP2 Infrastructure (Community Services).

Previously considered matters

At its meeting of 10 February 2014, (DAP077-14 📄) Council resolved that the Environmental Planning Unit prepare a formal Planning Proposal for Gateway to rezone approximately 183m² of Bundeena Reserve, located at 75 Loftus Street, Bundeena (Lot 5 DP 663309) from RE1 Public Recreation to RE2 Private Recreation, and that the adjoining property at 69-71 Loftus Street, Bundeena (Lot 1 in DP 1077138) be rezoned from E3 Environmental Management to RE2 Private Recreation. This decision will also be incorporated in the Planning Proposal the subject of this report.

Conclusion

Five (5) of the of six (6) minor reclassification/rezoning matters assessed in this report are considered appropriate for inclusion in a Planning Proposal. As such it is recommended that a Planning & Infrastructure to amend the Sutherland Shire LEP be progressed to Gateway.

Report Recommendation

That the Environmental Planning Unit submit a Planning Proposal to Planning and Infrastructure to:

1. Reclassify 34R-36R Caravan Head Road, Oyster Bay (Lot 219 DP25965) from 'community' to 'operational' land in accordance with Section 29 of the *Local Government Act 1993*.
2. Reclassify a drainage reserve pedestrian pathway located at 13R Pinnacle Street, Miranda (Lot 31 in DP 11987) from 'community' to 'operational' land in accordance with Section 29 of the *Local Government Act 1993*. This land is to remain in Council ownership to facilitate better public access to the future high density housing precinct. However, Council supports this land being swapped for land to move the pathway to the east to improved in its function as a pedestrian access way. The adjoining land owners who expressed an interest in buying this land are to be advised of Council's decision and encouraged to seek a larger amalgamation pattern and relocate the access way to the east.
3. Rezone those parts of Lot 356 MP144 (Royal National Park) being the Loftus, Grays Pont and Heathcote sporting ovals from SSLEP2006 Zone 20 – National Parks, Reserves and State Conservation Areas to RE1 Public Recreation, conditional upon the amendment of the *NPWS Act 1974* and the provision of a legal description for the subject lands by the NPWS.
4. Rezone 691 Old Illawarra Road, Illawong (being Lots 7, 8, 9 & 10 of DP 831160) and 697 Old Illawarra Road, Illawong (being Lot 499 of DP 752034) to SP2 Infrastructure (Community Services) to facilitate the relocation of the Menai Men's Shed.
5. Rezone approximately 183m² of Bundeena Reserve (as mapped), located at 75 Loftus Street, Bundeena (Lot 5 DP 663309) for public recreation.
6. Rezone 69-71 Loftus Street, Bundeena (Lot 1 in DP 1077138) for private recreation.

Committee Recommendation

That the Environmental Planning Unit submit a Planning Proposal to Planning and Infrastructure to:

1. Reclassify 34R-36R Caravan Head Road, Oyster Bay (Lot 219 DP25965) from 'community' to 'operational' land in accordance with Section 29 of the *Local Government Act 1993*.

2. Reclassify a drainage reserve pedestrian pathway located at 13R Pinnacle Street, Miranda (Lot 31 in DP 11987) from 'community' to 'operational' land in accordance with Section 29 of the *Local Government Act* 1993. This land is to remain in Council ownership to facilitate better public access to the future high density housing precinct. However, Council supports this land being swapped for land to move the pathway to the east to improved in its function as a pedestrian access way. The adjoining land owners who expressed an interest in buying this land are to be advised of Council's decision and encouraged to seek a larger amalgamation pattern and relocate the access way to the east.
3. Rezone those parts of Lot 356 MP144 (Royal National Park) being the Loftus, Grays Point and Heathcote sporting ovals from SSLEP2006 Zone 20 – National Parks, Reserves and State Conservation Areas to RE1 Public Recreation, conditional upon the amendment of the *NPWS Act 1974* and the provision of a legal description for the subject lands by the NPWS.
4. Rezone 691 Old Illawarra Road, Illawong (being Lots 7, 8, 9 & 10 of DP 831160) and 697 Old Illawarra Road, Illawong (being Lot 499 of DP 752034) to SP2 Infrastructure (Community Services) to facilitate the relocation of the Menai Men's Shed.
5. Rezone approximately 183m² of Bundeena Reserve (as mapped), located at 75 Loftus Street, Bundeena (Lot 5 DP 663309) for public recreation.
6. Rezone 69-71 Loftus Street, Bundeena (Lot 1 in DP 1077138) for private recreation.

(Councillor Scaysbrook / The Mayor, Councillor Simpson)

Resolution

That the Environmental Planning Unit submit a Planning Proposal to Planning and Infrastructure to:

1. Reclassify 34R-36R Caravan Head Road, Oyster Bay (Lot 219 DP25965) from 'community' to 'operational' land in accordance with Section 29 of the *Local Government Act 1993*.
2. Reclassify a drainage reserve pedestrian pathway located at 13R Pinnacle Street, Miranda (Lot 31 in DP 11987) from 'community' to 'operational' land in accordance with Section 29 of the *Local Government Act* 1993. This land is to remain in Council ownership to facilitate better public access to the future high density housing precinct. However, Council supports this land being swapped for land to move the pathway to the east to improved in its function as a pedestrian access way. The adjoining land owners who expressed an interest in buying this land are to be advised of Council's decision and encouraged to seek a larger amalgamation pattern and relocate the access way to the east.
3. Rezone those parts of Lot 356 MP144 (Royal National Park) being the Loftus, Grays Point and Heathcote sporting ovals from SSLEP2006 Zone 20 – National Parks, Reserves and State Conservation Areas to RE1 Public Recreation, conditional upon the amendment of

the *NPWS Act 1974* and the provision of a legal description for the subject lands by the NPWS.

4. Rezone 691 Old Illawarra Road, Illawong (being Lots 7, 8, 9 & 10 of DP 831160) and 697 Old Illawarra Road, Illawong (being Lot 499 of DP 752034) to SP2 Infrastructure (Community Services) to facilitate the relocation of the Menai Men's Shed.
5. Rezone approximately 183m² of Bundeena Reserve (as mapped), located at 75 Loftus Street, Bundeena (Lot 5 DP 663309) for public recreation.
6. Rezone 69-71 Loftus Street, Bundeena (Lot 1 in DP 1077138) for private recreation.
7. That the proposed rezoning of the identified element of Part Lot 5 DP 26325 and Part Lot 4 DP 26325 proceed to Gateway Determination and community consultation. However, the rezoning must not proceed to finalisation without a formal written Agreement being in place to provide a Right of Carriageway for public access over the subject land at a location and compensation price that is agreed between Council and the proprietors. Should this not be in place before this matter is next considered by Council, this matter will be removed from the draft LEP amendment. The land owners are to be advised of this decision and the need to come to an agreement prior to the end of the exhibition period.

(Councillor Schreiber / Councillor Cook)