



APPENDIX 1

Report to Council Meeting held on 13 December 2011

PLANNING PROPOSAL TO REZONE LAND AT 1 SUAKIN STREET, PYMBLE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

For Council to consider a Planning Proposal to rezone land at 1 Suakin Street Pymble to permit mixed use development.

BACKGROUND:

Council has received a Planning Proposal on behalf of Titanium Holdings Pty Ltd to rezone land at 1 Suakin Street, Pymble to permit the site to be developed for mixed use purposes. The site is currently zoned 5(a) Special Uses "A" (Commonwealth Purposes) under the Ku-ring-gai Planning Scheme Ordinance (KPSO). The long term occupant of the site, the Commonwealth Government National Measurement Institute will soon relocate to new premises. The site is not zoned for use by non-Commonwealth tenants and the building is purpose built and beyond its useful life.

COMMENTS:

The Planning Proposal was reviewed by an independent planning consultant. There is a justifiable planning need to rezone the existing site, however, there is insufficient strategic justification to introduce a mixed use zone. The preferred planning solution is to reinstate the zoning and planning controls for the entire Pymble Business Park consistent with Ku-ring-gai Local Environmental Plan (Town Centres) 2010 (KLEP 2010).

RECOMMENDATION:

That a Planning Proposal be prepared to amend the Ku-ring-gai Planning Scheme Ordinance to zone the Pymble Business Park to B7 Business Park consistent with the provision for the precinct contained in former Ku-ring-gai Local Environmental Plan (Town Centres) 2010 (KLEP 2010). The planning proposal is also to include land to the west of West Street and Ryde Road currently zoned 3(b)-(B1) and not previously included in the KLEP 2010.

PURPOSE OF REPORT

For Council to consider a Planning Proposal to rezone land at 1 Suakin Street Pymble to permit mixed use development.

BACKGROUND

Council has received a Planning Proposal on behalf of Titanium Holdings Pty Ltd to rezone land at 1 Suakin Street, Pymble (known as Lot 22, DP 1053372) to permit the site to be developed for mixed use purposes.

The site is currently zoned 5(a) Special Uses "A" (Commonwealth Purposes) under the Ku-ring-gai Planning Scheme Ordinance 1971 (KPSO). The long term occupant of the site has been the Commonwealth Government National Measurement Institute, who will soon relocate to new premises. The Commonwealth no longer has an interest in this site and disposed of it approximately eight (8) years ago. The building currently on the site is purpose built for the existing Commonwealth activities and beyond its useful life.

Prior to 28 July 2011 the subject site was zoned B7 Business Park under the Ku-ring-gai Local Environmental Plan (Town Centres) 2010 (KLEP 2010) and formed part of the larger Pymble Business Park precinct. This zone provided some redevelopment potential, particularly as it permitted development other than the continuation of existing "Commonwealth Purposes".

On 28 July 2011 the Land and Environment Court declared that the KLEP 2010 had been made contrary to the provisions of the Environmental Planning and Assessment Act 1979 (EP&A Act). The KLEP 2010 was declared void and is therefore of no legal force or effect. This means that the subject site reverted to its previous zoning under the KPSO.

The Planning Proposal submitted by Titanium Holdings Pty Ltd is included as Attachment A1. It seeks to rezone the site to B4 Mixed Use as defined under the Standard Instrument—Principal Local Environmental Plan. The proposed development standards for FSR and height are those that applied to the wider Pymble Business Park under KLEP 2010. These are a maximum building height on the site of 32.5 metres and a maximum Floor Space Ratio (FSR) of 3.5:1. Should the site be rezoned to B4-Mixed use zone, the Planning Proposal puts forward a development concept for the site involving a staged development that would provide for 40,000m² of floor space over 5 buildings, including:

- 10,000m² of commercial floor space;
- 20,000m² of floor space suited to residential and residential business uses (home businesses);
- 8,000m² of hotel floor space; and
- 2,000m² of floor space for ancillary retail.

The Planning Proposal is accompanied by reports and investigations into the suitability of the site for the proposed development.

COMMENTS

Planning consultants BBC Consulting Planners were engaged by Council to undertake a detailed independent review and assessment of the Planning Proposal submitted by Titanium Holdings and to make recommendations to Council on its suitability to be referred to the Department of Planning & Infrastructure (DoPI) for a formal gateway determination under section 56 of the EP&A Act. The consultant's brief required a review the Planning Proposal and supporting information, including, but not limited to, the following aspects:

- the degree to which the Planning Proposal satisfies the requirements of s. 55 of the EP&A Act and complies with the requirements of A guide to preparing a planning proposal (Department of Planning July 2009);
- compliance with relevant Planning Directions under s. 117 of the EP&A Act, LEP Practice Notes and Planning Circulars issued by the Department of Planning;
- consideration as to whether the planning proposal should just cover the single subject site or should address the whole Pymble Business Park precinct;
- the adequacy of the supporting studies and assessments and their consistency with similar studies undertaken by Council as part of preparing the KLEP 2010.
- identify any additional studies or information that should be prepared prior to the planning proposal proceeding to a gateway determination;
- the requirements of a site specific DCP to accompany the planning proposal; and
- preparation of a final report in a format that can be presented to Council with recommendation on whether the planning proposal should proceed to a gateway consideration.

The report from BBC Consulting Planners on the review and assessment of the planning proposal is included as Attachment A2.

Issues

The report acknowledges the restrictive nature of the current zoning of the site. The present situation represents a poor planning outcome and is inconsistent with the objects of the EP&A Act, particularly Section 5(a) (ii) of the Act which seeks the promotion and co-ordination of the orderly and economic use and development of land. On this basis, the report identifies that there is a justifiable need for a planning proposal to rezone the existing site. The issue is whether the proposed zoning and development controls for the site sought by the Planning Proposal from Titanium Holdings are an appropriate strategic planning solution for the site.

The main concern with the Planning Proposal raised by the BBC Consulting Planners report was whether there was sufficient strategic planning justification to proceed with it in its current form. The key implication of what the Planning Proposal seeks is that the site would be within a B4 Mixed Uses zone, while the remainder of the business park remained within a zone that does not permit residential development and has a lower permissible building height and density under the KPSO.

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The B7 Business Park zoning and associated development standards under KLEP 2010 were largely informed the Ku-ring-gai and Hornsby Subregional Employment Study 2008, prepared by SGS Planning and Economics. Through this study, it was demonstrate to DOPi that the KLEP2010 accounted for all employment growth required in Ku-ring-gai to 2031. KLEP 2010 also provided sufficient land zoned for residential purposes to accommodate the dwelling targets as determined by the State Government under the Metropolitan Strategy and the Draft Subregional Plan. The Planning Proposal submitted by Titanium Holdings did not include any additional strategic planning studies to justify a variation to the findings of the earlier studies supporting the B7 Business Park zoning under KLEP 2010.

Another key consideration of the proposal to rezone the land to B4 Mixed Uses is the potential conflict between any residential development and adjoining land uses. Pymble Business Park is developed almost exclusively for employment and related purposes including Council's future Depot which is currently under construction on an adjoining site. Before considering such a proposal, it would be necessary to investigate the issue of residential amenity (including a detailed acoustic assessment) for the future occupants of the proposed dwellings in the development concept for the site having regard to the nature of approved uses in the area.

Findings

The key findings of the BBC Consulting Planners report are:

1. A change of zoning of the site from Zone 5(a) Special Uses "A" (Commonwealth Purposes) to an alternative zoning is justified because of the restrictive and outdated nature of the current zoning and its inconsistency with the objects of the EP&A Act.
2. The potential alternative zoning for the site include:
 - i. A change from the existing zoning to the zoning under the KPSO that the site, in all probability, would be zoned were it not for the Commonwealth ownership of the site which is Zone 3(b) (Business – Commercial Services);
 - ii. a B7 Business Park zone as previously applied to the site pursuant to KLEP 2010;
 - iii. a B4 Mixed use zone as requested in the Planning Proposal.

Of the three options identified, option ii is preferred. There is a valid strategic planning justification to this approach supported by metropolitan and subregional planning strategies and is consistent with Council's current policy direction on centres and residential development. The report also identifies that there would be merit in extending this option to apply to the whole of Pymble Business Park. This could also include the area not previously included in the town centres plans on the western side to West Street and fronting Ryde Road.

Option i is not considered appropriate as it takes a limited view of the current zoning of the site. There has been sufficient studies undertaken to justify and support a B7 Business Park zone within the Pymble Business Park and the 3(b) zone under the KPSO would be inconsistent with the studies that preceded KLEP 2010.

Option iii, the approach sought by the Planning Proposal submitted by Titanium Holdings, is not considered appropriate as it involves the introduction of a new B4 mixed use zone not previously

investigated or contemplated for the Pymble Business Park and the planning proposal had not presented sufficient justification for the need, and cumulative impacts of the proposed zoning. The report notes that the Planning Proposal focuses only on the site and does not consider the wider implications of the application of a B4 mixed use zone to the wider business park environment. There has been no comparable strategic planning direction for a mixed use zone either on the site or on adjoining land within the business park.

A change of the nature of the land use zoning at Pymble Business Park to a mixed use zone would require a reassessment of the centres and employment strategy for Ku-ring-gai to ensure that the roles and functions are clearly determined, based on analysis and a clear policy direction

Recommendations

The recommendations of the BBC Consulting Planners report are as follows:

1. A planning proposal be prepared to rezone the Pymble Business Park site to B7 Business Park by a planning instrument amending the KPSO in a manner similar in form and content to KLEP 2010 (where relevant);
2. Should the Council consider that a mixed use zone for the Pymble Business Park is worthy of further investigation, the following studies should be undertaken in advance of a planning proposal:
 - Investigations into the demand for, and supply of, land for residential and employment uses to determine if a change to current policy direction is warranted;
 - Investigations into the future role and function of the area including considerations of the appropriate mix of residential and non-residential uses and the need to control the amounts of residential and employment uses;
 - Investigations into access and traffic implications of the proposed zoning and any associated density controls and effective means of providing any measures to manage additional traffic;
 - Consideration of the means of managing transition from essentially employment uses to mixed residential and employment uses having regard to existing rights of operation and the potential for incompatible residential and non-residential uses;

Comments on Recommendation 1

On 8 November, 2011 Council resolved a new timetable and process for the development of a new Town Centres LEP to replace the void KLEP 2010. Council's adopted timetable and program would see a formal planning proposal for a new town centres LEP submitted to the Department of Planning and Infrastructure in March 2012 and a draft LEP exhibited and considered by Council by the end of July 2012. The site at 1 Suakin Street would be covered by the new Town Centres LEP.

The recommendation from BBC Consulting Planners proposes that the zoning of the subject site and the rest of Pymble Business Park take place ahead of the Town Centres Planning process via an amendment to the KPSO. It is also recommended that this process include the area on the western side to West and Suakin Streets which would otherwise not be dealt with in the Town Centres LEP.

Recent correspondence from the DOPI stated that "Planning Proposals/spot rezonings may be appropriate for certain sites throughout the town centres so as not to stifle development in the LGA". This proposal can be justified on both economic and planning grounds, given that the existing 5(a) Special Uses zoning of 1 Suakin Street has become redundant and the building on the site is purpose built and beyond its useful life. The timely progression of the planning proposal is considered important to facilitate the development of the redundant site. Consequently, it is considered that pursuing a rezoning for the site and business park precinct ahead of the new Town Centres LEP is likely to be considered favourable by the DOPI.

A standalone planning proposal applying to the whole of the Pymble Business Park, rather than just the site at 1 Suakin Street, would provide a more strategic and timely approach to zoning in the area. It would help stimulate activity in the area, avoiding any potential delays that may be experienced during the preparation of a more complex Town Centres LEP. It also provides an opportunity to include the commercial zoned land in West Street and Ryde Road that has not been covered by the Town Centres plans in the one strategic planning process. The proposed extent of the Planning Proposal is shown on the map included at Attachment A3.

The B7 Business Park zoning applied to the Pymble Business Park under the former KLEP 2010 was subject to a rigorous strategic planning study which demonstrated its consistency to the Metropolitan Plan and the Draft North Subregional plan in allowing a greater intensity of employment uses so as to contribute to meeting the employment targets.

Comments on Recommendation 2

Recommendation 2 identifies a number of matters that should be addressed before Council consider a mixed use zone for the Pymble Business Park.

The report acknowledges the existing high vacancy rates for offices in the Pymble and Gordon precinct which is largely as consequence of the competing markets such as Macquarie Park and Chatswood. The increased demand for office space at competitor centres is likely to continue until there is an adjustment in the current market position. This adjustment should occur without the need for Council to intervene. It also points out that the health of the Gordon and Pymble office precincts is important for the functioning of the LGA as a whole, since they are the only significant areas containing 'strategic' office development. Therefore, if high office vacancy rates persist in these precincts, the Council may need to consider whether planning controls for these precincts could be adjusted to assist in rejuvenating these areas.

At this stage it is not recommended that Council consider pursuing the recommended investigations for a B4 Mixed use zone as part of the Planning Proposal recommended by this report or as part of the new Town Centres LEP.

Should Council choose to further investigate the mixed use zoning option, it is considered unreasonable for the proponent of the planning proposal for 1 Suakin Street to fund the cost of these investigations which involve considerations beyond the site.

GOVERNANCE MATTERS

The site at 1 Suakin Street, Pymble was included in the Ku-ring-gai Local Environmental Plan (Town Centres) 2010 (KLEP 2010). When the KLEP 2010 was declared invalid by the NSW Land & Environment Court on July 28 2011, the planning controls for the site have reverted back to the

provisions of the Ku-ring-gai Planning Scheme Ordinance 1971. The restrictive special uses zoning of the site represents a poor planning outcome and is inconsistent with the objects of the EP&A Act.

It is now in Ku-ring-gai Council's domain to provide new updated and relevant planning controls for the subject site as well as other land in the Ku-ring-gai town centre areas.

The planning process will be governed by the provisions of the Environmental Planning and Assessment Act 1979 and the Local Government Act 1993 (where relevant).

RISK MANAGEMENT

Not proceeding with the planning proposal for the whole of Pymble Business Park will put at risk further investment in the precinct, further eroding the employment base in the Gordon/Pymble area. It could also reinforce the relative competitive disadvantage currently experienced by the precinct with commercial precincts in adjoining local government areas.

Council risks damage to its reputation if it does not undertake strategic land use planning in an effective and timely manner.

FINANCIAL CONSIDERATIONS

The Planning Proposal submitted by Titanium Holdings was subject to the relevant application fee under Council's Schedule of Fees and Charges 2011-12. The cost of the review and assessment of the Planning Proposal was covered by the application fee.

SOCIAL CONSIDERATIONS

The Planning Proposal submitted by Titanium Holdings did not include information relating to the social and economic effects.

Social considerations for the planning proposal relate to the implementation of strategic planning policies and directions that call for the rezoning and increase in density in the Pymble Business Park to generate a viable employment base. This is consistent with the findings of the Hornsby/Ku-ring-gai Employment Lands Study.

ENVIRONMENTAL CONSIDERATIONS

The site is at 1 Suakin Street, Pymble is affected by bushfire, riparian and some biodiversity constraints.

The Planning Proposal submitted by Titanium Holdings included an assessment report prepared by Ecological Australia Pty Ltd. It is considered unlikely that there is an endangered ecological community on the site. The site is also bushfire prone and is affected by a riparian corridor that runs along the rear of the site. All environmental issues will need to be investigated further and addressed during the assessment of any future Development Application on the site.

COMMUNITY CONSULTATION

Should the Planning Proposal receive a favourable gateway determination, it will be exhibited in accordance with the Department's gateway determination requirements. This will involve appropriate notification and receipt of submissions on the draft Plan from the relevant State agencies and the general community.

INTERNAL CONSULTATION

Councillors are to be briefed on the Planning Proposal by representative from Titanium Holdings prior to the Council meeting on 13 December 2011.

Other relevant departments of Council will be consulted in the preparation of the planning proposal for the whole of Pymble Business Park and on submissions received should it proceed to public exhibition.

SUMMARY

Council has received a Planning Proposal on behalf of Titanium Holdings Pty Ltd to rezone land at 1 Suakin Street, Pymble to permit the site to be developed for mixed use purposes. The site is currently zoned 5(a) Special Uses "A" (Commonwealth Purposes) under KPSO. The long term occupant of the site, the Commonwealth Government National Measurement Institute will soon relocate to new premises in Ryde LGA. The site is not zoned for use by non-Commonwealth tenants and the building is purpose built and beyond its useful life.

The Planning Proposal was subject to an independent review by BBC Consulting Planners. There is a justifiable planning need to rezone the existing site. However, there is insufficient strategic justification to introduce a mixed use zone. The preferred planning solution is to reinstate the zoning and planning controls for the entire Pymble Business Park consistent with KLEP 2010.

It is proposed that Council prepare a Planning Proposal to rezone the whole of the Pymble Business Park to B7 Business Park consistent with the provision for the precinct contained in former Ku-ring-gai Local Environmental Plan (Town Centres) 2010, including the commercial zoned land to the west of West Street and on Ryde Road not previously included in the town centres plans LEP but forming part of the business park.

RECOMMENDATION:

- A. That a Planning Proposal be prepared, in accordance with section 55 of the Environmental Planning and Assessment Act, 1979, to amend the Ku-ring-gai Planning Scheme Ordinance 1971 to zone the Pymble Business Park to B7 Business Park consistent with the provision for the precinct contained in former Ku-ring-gai Local Environmental Plan (Town Centres) 2010 (KLEP 2010). The Planning Proposal is also to include land to the west of West Street and Ryde Road currently zoned 3(b)-(B1) and not previously included in KLEP 2010 as shown in Attachment A3 to this report.
- B. That the Planning Proposal be submitted to the Department of Planning and Infrastructure for a gateway determination in accordance with section 56 of the Environmental Planning and Assessment Act, 1979.

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- C. That upon receipt of a Gateway Determination, the exhibition and consultation process is carried out in accordance with the requirements of the Environmental Planning and Assessment Act, 1979 and with the Gateway Determination requirements.
- D. That a report be brought back to Council at the conclusion of the exhibition period.

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Attachments:	A1	Planning Proposal to permit mixed use development of 1 Suakin Street, Pymble - to be circulated under separate cover	
	A2	Assessment of Planning Proposal for 1 Suakin Street, Pymble - BBC Consulting Planners	2011/273116
	A3	Map of Pymble Business Park Planning Proposal Area	2011/273278

