



PLANNING PROPOSAL

Draft Amendment to Ku-ring-gai Planning Scheme Ordinance

To Rezone land at 35 Water Street, Wahroonga From 5(a) Special Uses – Hospital To E4 – Environmental Living

Submitted by INGHAM PLANNING Pty Ltd for Mr P. Borbilas

Amended by KU-RING-GAI COUNCIL

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This Planning Proposal is for Lot 1 DP 375362, 35 Water Street, Wahroonga. The property is known as Rippon Grange and was previously used by the NSW State Government as a hospital (John Williams Respite Centre). The site has been issued development consent permitting the development of a private hospital, consistent with the current 5(a) Special Uses - Hospital zoning that applies to the land.

The Planning Proposal was brought in front of Council in November 2012 where, following an independent review, it was found inadequate in its content and compliance with legislation. Council resolved (see Council Resolutions at Appendix A) that the Planning Proposal be amended to include information required by the Department and also to remove information that did not form part of the Planning Proposal, in particular references to and diagrams of subdivision location and lots.

The amended Planning Proposal, submitted to Council on 27 February 2013, complied with some of the elements stipulated in Council's Resolution (Appendix A); however, the continued inclusion of items not relevant to the Planning Proposal such as diagrams and references to the subdivision location, lot numbers and sizes made it non-compliant with the Council's Resolution of 13 November 2012. In order to submit this Planning Proposal for the Department's consideration, Council has amended the Planning Proposal to ensure it meets the legislative requirements of such a document and that it is in accordance with Council's Resolutions.

To ensure compliance with Ministerial directions, in particular Direction 6.3, and with Council's Resolutions, Council has amended the resubmitted Planning Proposal to ensure it does not introduce unnecessarily restrictive site specific controls nor drawings or design details of any future development proposal for the land. It is noted that studies conducted to confirm the content for this Planning Proposal do, in fact, contain such details. Should these supporting studies be made available to the Department upon request, or to the public at exhibition, these references, in particular regarding the land subdivision location, size and lot numbers, clearly do NOT form part of this Planning Proposal.

The Planning Proposal seeks amendment of the Ku-ring-gai Planning Scheme Ordinance to change the land use zoning of the site from 5(a) *Special Uses – Hospital* to E4 - *Environmental Living* to enable a future residential subdivision of a limited portion of the land which will facilitate the restoration of the existing heritage building for use again as a grand residence. This building has been vacant for a number of years and is currently in a poor state of repair. Should such residential subdivision be permitted to proceed, the existing private hospital Part 3A Development Consent would be surrendered by the applicant.

This Planning Proposal has been prepared in accordance with the Department of Planning and Infrastructure Guidelines for Preparing Planning Proposals. It considers the planning implications of this draft amendment to the KPSO. Residential subdivision of the land would be addressed in a future development application, after re-zoning.

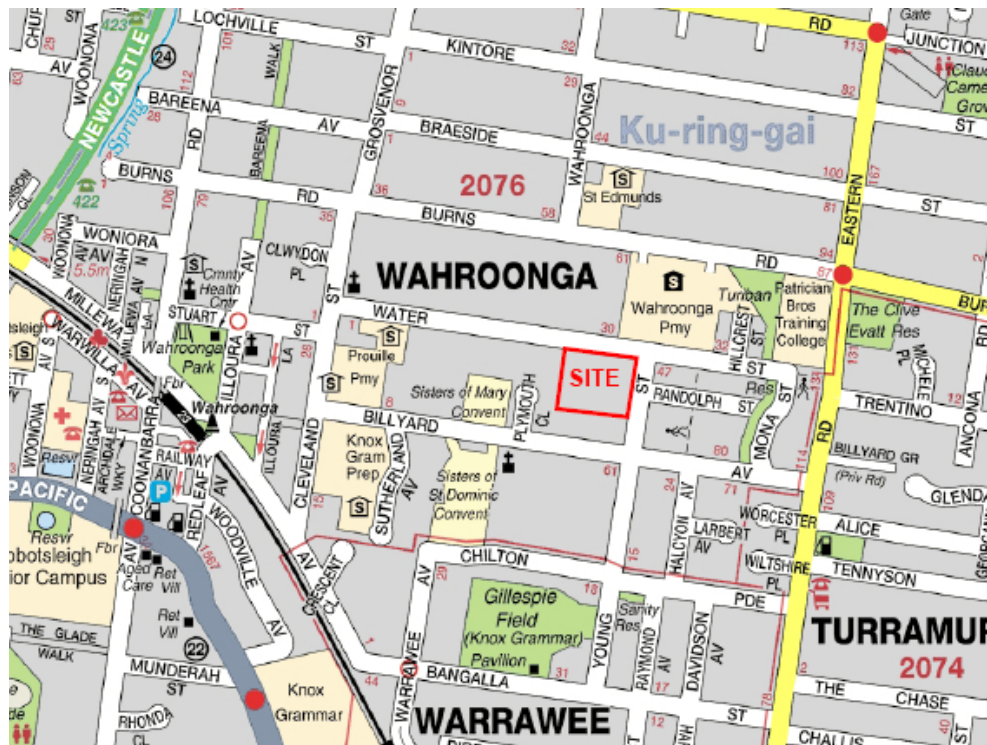
Council is in the process of exhibiting the draft Ku-ring-gai Local Environmental Plan 2013 (KLEP 2013) to replace the KPSO. This draft KLEP 2013 proposes to rezone the subject land part R2 - Low Density Residential and part E4 - Environmental Living. When this proposed draft KLEP 2013 is finalised and gazetted, the proposed E4 - Environmental Living Zone for the subject land would be subsumed into the new KLEP 2013.

The proposed E4 - Environmental Living Zone has a minimum residential subdivision lot area of 1,500sqm. There is sufficient land on the site, outside the primary Blue Gum high Forest (BGHF) and the heritage curtilage of Rippon Grange to enable subdivision of a small number of such residential lots. In comparison to the hospital buildings that have been approved, a limited residential development of the site in this manner has the potential to reduce the heritage, ecological and neighbour impacts on the site.

2.1 The Site and Locality

The development site comprises Lot 1 DP 375262, No. 35 Water Street, Wahroonga and is located near Wahroonga Primary School, approximately 900 metres east of Wahroonga Shopping Centre and railway station (see Figure 1).

Figure 1 Location



The site is a corner allotment, rectangular in shape with an area of 21,318sqm and a frontage of 152 metres to Water Street and 135 metres to Young Street. Existing buildings include the heritage listed Rippon Grange, a Federation Arts and Crafts dwelling constructed in 1898 and converted to a hospital use in the early 1950's. This building has now been vacant for several years and during that time its condition has deteriorated.

The site also contains several outbuildings, such as the original stables, hospital support buildings constructed in the 1950's and extensive areas of gardens, lawn and bushland.

The site is relatively flat in the northwest corner, adjoining Water Street and falls by approximately 17 metres from an RL of 200m AHD in this corner, to RL 183 AHD in the southeast corner, adjoining Young Street. There are no watercourses on or near the site.

Vegetation comprises a mix of landscaped gardens containing lawns, shrubs and planted native and exotic trees, together with an extensive area of remnant native bushland. The site contains more than 370 trees, primarily located to the south and east of the property.

The primary vehicular access to the site is located off Water Street, in the northwest corner of the site. A secondary vehicular access is available off Young Street, in the southeast corner of the site.

The aerial photo below (see Figure 2) illustrates the pattern of development on the site and neighbouring land use. Most existing development on the site is located in the northwest quadrant of the property, which contains the Rippon Grange building, driveways and outbuildings, including the former stables. The balance, comprising approximately two-thirds of the site is primarily remnant bushland, interspersed with areas of lawn. Part of this remnant bushland is identified as (BGHF) which is a critically endangered ecological community under the TSC Act.

Figure 2 Aerial Photo of Site



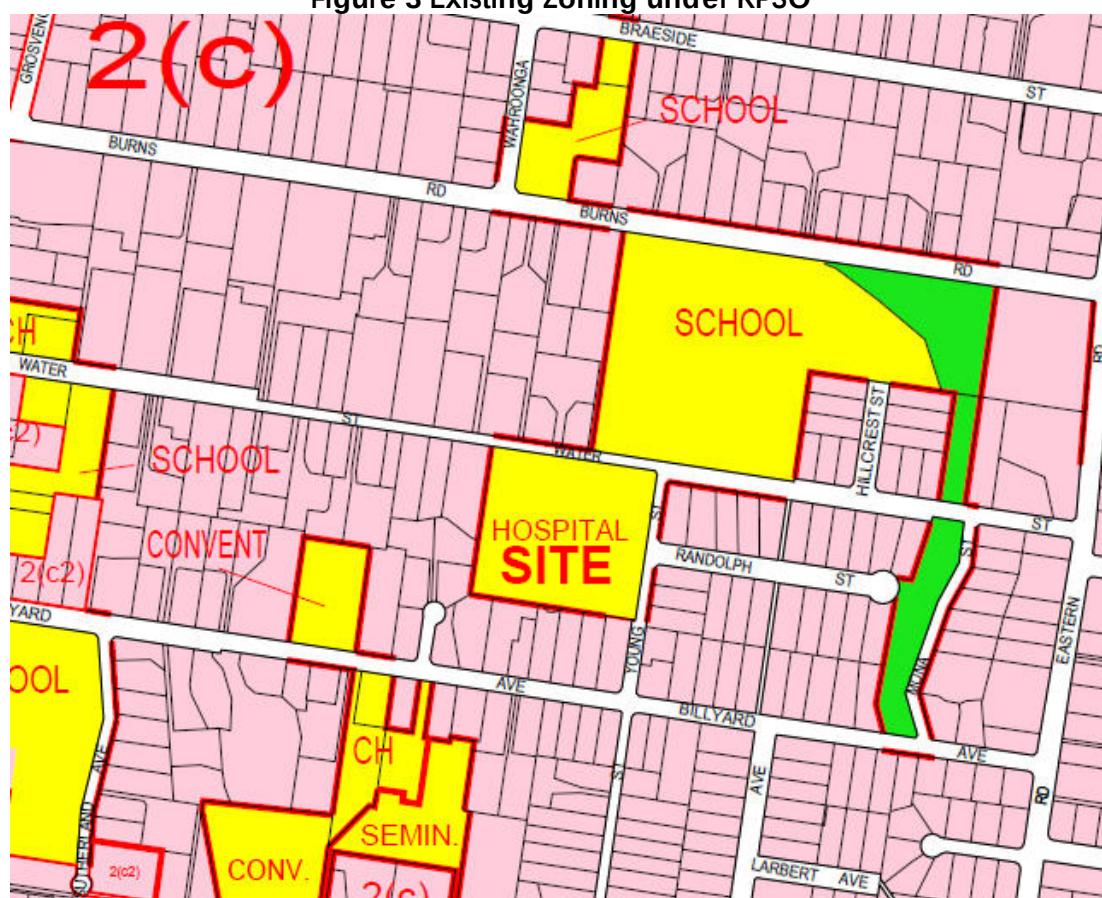
The locality within a kilometre of the site is primarily low density residential in character, interspersed with educational and religious facilities. The site is surrounded on 3 sides, to the west, south and east by low density residential

detached housing comprising mainly one and two storey dwellings within landscaped gardens. Low density detached dwelling residential development is also located opposite the western portion of the site, to the north. The Wahroonga Primary School (the Bush School) and associated playgrounds with a number of substantial trees are located opposite the eastern portion of the site, to the north. Further to the east and northeast is Turiban Reserve

The site is presently zoned 5(a) Special Uses – Hospital under the Ku-ring-gai Planning Scheme Ordinance (see Figure 3). This zone does not allow residential subdivision. The conservation incentives relating to heritage items in the KPSO would allow conversion of the Rippon Grange heritage building back to a residential use, but not subdivision of the land for residential purposes.

This Planning Proposal seeks to change the Special Uses 5(a) Hospital zoning to E4 Environmental Living, an environmental residential zone that suitably recognises the ecological value of much of the site and which is more compatible with the surrounding residential area, compared to the existing 5(a) Special Uses – Hospital zoning. The subject land had a residential use, before being converted to hospital use in the 1950's, prior to gazettal of the KPSO.

Figure 3 Existing Zoning under KPSO



2.2 Site History

The original subdivision creating the Rippon Grange property occurred circa 1879 and comprised a significantly larger parcel of land than currently exists. The Rippon Grange dwelling was constructed in 1898 and shortly thereafter in the early 1900's, portions of the site were subdivided and sold for separate residential allotments. Further subdivision took place in the 1920's. A substantial landscaped curtilage has however, been retained around the original dwelling to the extent of the site boundaries.

Rippon Grange continued in residential use until 1951, when the then owner Ernest Williams donated the property to the NSW State Government for use as a hospital. The site was used as a hospital for more than 50 years from 1952, initially as the John Williams Memorial Hospital and then until April 2004, as the John Williams Respite Centre.

In April 2004 the Respite Centre use of the site ceased and the property became vacant. The property was then sold in June 2005 to a private company, Waterbrook. Waterbrook unsuccessfully sought approval to construct a large medium density development on the land. Waterbrook subsequently obtained consent in 2010 under Part 3A of the *Environmental Planning and Assessment Act*, to develop the site as a private hospital. Construction of the approved private hospital building has not yet commenced although work on the site under the approval has commenced.

3.1 The Planning Proposal (Amendment to Ku-Ring-Gai Planning Scheme Ordinance)

3.1 Intended outcomes

The rezoning to E4 to allow residential development will enable the residential subdivision of part of the site. Studies have been conducted to ensure that any future residential subdivision will have limited impact on heritage, flora and fauna and existing trees.

The site analysis indicates that the south of the site has the potential to accommodate a limited number of residential subdivision and future two storey detached dwellings without unreasonably impacting on the heritage and ecological values of the site as a whole.

To ensure compliance with Ministerial directions, in particular Direction 6.3, and with Council's Resolutions, Council has amended the resubmitted Planning Proposal to ensure it does not contain site specific controls nor drawings nor design details of any future development proposal for the land. It is noted that studies conducted to confirm the content for this Planning Proposal do in fact contain such details. Should these supporting studies be made available to the Department upon request, or to the public at exhibition, these references, in particular regarding the land subdivision location, size and lot numbers, clearly do NOT form part of this Planning Proposal.

Should the Planning Proposal proceed, a subdivision would be considered through a development application to Council which would require further analysis of factors such as curtilage around the Rippon Grange building to maintain its heritage value, retention of significant trees, conservation of the Blue Gum High Forest (BGHF) and suitable interface to neighbouring properties.

3.2 Amendment of the Ku-Ring-Gai Planning Scheme Ordinance

The Planning Proposal involves an amendment to the Ku-Ring-Gai Planning Scheme Ordinance (KPSO) zoning map to change the zoning of the subject land from 5(a) Special Uses – Hospital to E4 Environmental Living. This requires the introduction of a new zone into the Ku-ring-gai Planning Scheme Ordinance.

The E4 zoning will effect a new set of floor space ratio, building height, lot size and heritage conservation controls with the following objectives:

- (a) Provide a zoning of the land that is more appropriate to the site's context, ecological value and the residential zoning of adjoining land;

- (b) Enable subdivision of a limited number of residential allotments of not less than 1,500sqm, designed and located so as to maintain the ecological and heritage values of the site and neighbourhood character and amenity.
- (c) Ensure that any future new residential buildings on the site are in keeping with the maximum building height of 9.5m.
- (d) Ensure the floor space ratios on each subdivided lot is calculated and in keeping with the ratios as detailed in Appendix C.
- (e) Provide a heritage incentives clause to facilitate the conservation of the heritage item Rippon Grange.

It is proposed that the E4 Environmental Living zone be based on the E4 Environmental Living zone used in the Standard Instrument—Principal Local Environmental Plan and as applied in the draft KLEP 2013. The new zone and associated provisions will be incorporated into the KPSO via the insertion of a new Part. It is proposed that the new part will follow the existing Part III of the KPSO which contains the provisions for the other residential zones. The new provisions will include zone objectives and details of permitted and prohibited development within the new zone.

As the proposed new provisions contain terms contained in the Standard Instrument— Principal Local Environmental Plan, it is proposed that the definitions conditioned in the Standard instrument also be adopted for the new section.

The suggested wording of a draft planning instrument to achieve these outcomes is included as Appendix C to this planning proposal.

4

Justification of the Planning Proposal

4.1 Need for the Planning Proposal

4.1.1 Is the planning proposal a result of any Strategic Study or report?

No.

The Planning Proposal arises from Council and community concern in relation to the environmental, heritage and amenity impacts of constructing a large private hospital on the site. Council is exhibiting a Draft Principal LEP to replace the KPSO and this Draft LEP proposes to change the existing 5(a) Special Uses Hospital Zone over the site and zone the subject land part R2 Residential Low Density and part E4 Environmental Living. This Planning Proposal seeking E4 Environmental Living Zone for the site accords with Council's proposed future zoning of the land. It is a zoning more compatible with the existing low density residential character of the locality compared to the current 5(a) Special Uses Hospital zoning.

As part of the preparation of the proposed Draft KLEP 2013 to replace the KPSO, Council has undertaken a number of studies which have informed the E4 zoning in the draft KLEP including a detailed vegetation community mapping and Council's background study "Ku-ring-gai Biodiversity and Riparian Lands Study". The subject land has been found to have heritage and ecological significance. Heritage and flora and fauna assessments have been undertaken to confirm Council's existing studies. These can be made available to the public at exhibition of the Planning Proposal.

4.1.2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes.

The Planning Proposal is the best means of achieving the objectives and intended outcomes. Although the proposal could be implemented by way of inserting an additional site in Schedule 8 of the KPSO, which relates to "Development for Certain Additional Purposes", this would leave the site remaining within a Special Uses Hospital Zone and continue to allow hospital development on this site until such a time that the draft KLEP 2013 is adopted and the rezoning changed according to that document. This would continue to create uncertainty for local residents with regards to the site.

A second option is to await rezoning of the subject land under Council's draft KLEP 2013. Since there is no certainty with respect to the timeframe for the gazettal of this draft KLEP, this option would delay the commencement of any development application for the site.

This Planning Proposal would introduce a new zoning over the site that is consistent with Council's intentions for the site in the draft KLEP 2013, but within a much shorter time frame. Rippon Grange is in urgent need of repair and restoration. Such work is only economically feasible by either proceeding with construction of the approved private hospital under the current planning controls, or utilising income from the sale of a limited number of residential allotments that would be made possible by this Planning Proposal.

4.1.3 Is there a net community benefit?

Yes.

The subject site has been the subject of development proposals for medium density housing and a hospital, both of which would have a significant environmental impact on the site and the locality. These proposals were also the subject of a large number of objections from local residents and Council.

The local community have indicated strong support for a change to the zoning of the site to allow limited residential subdivision that maintains the site's ecological and heritage values and the amenity of neighbours. The Planning Proposal, if approved, would enable residential subdivision, and trigger surrender of the hospital approval. This is a considerable benefit for the local community and the residential character of the area.

4.2 Relationship to strategic planning framework

4.2.1 Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Plan and exhibited draft strategies)?

The Sydney Metropolitan Plan 2036 and the Draft North Subregion Strategy provide direction for future planning and development in the local government areas of Ku-ring-gai and Hornsby.

The vision for Sydney 2036 is a Sydney that will be a more compact, networked city with improved accessibility, capable of supporting more jobs, homes and lifestyle opportunities within the existing urban footprint. Key outcomes relevant to the Planning Proposal include conservation of endangered plant community, improved housing choice, encourage employment and services to be located in centres accessible to public transport and locate at least 70% of new housing within existing urban areas.

The Planning Proposal is consistent with the objectives of the Sydney Metropolitan Plan 2036 by encouraging new housing within an established urban area in a location accessible to public transport and services, on land suitable for residential development.

The private hospital approved for the site would be an anomaly in this low density residential area and introduce traffic flows that would impact the local residential streets. Such a facility would be better located within the Pacific

Highway/Railway Corridor, adjoining an existing Town Centre such as Wahroonga, Turramurra, St Ives, or Gordon where it could benefit from the existing infrastructure and have limited impact on the character and use of the locality.

The Sydney Metropolitan Plan 2036 includes a Strategic Direction to address climate change and protect Sydney's natural environment. A key objective is to protect Sydney's unique diversity of plants and animals in recognition of the biodiversity of the region. This includes minimising clearing or fragmentation of native vegetation and habitats and conserving areas of biodiversity value.

The Planning Proposal, by introducing an E4 Environmental Living Zone over the whole of the site, is consistent with the objective of protecting Sydney's natural environment, protecting the biodiversity of the region and conserving areas of biodiversity value. The subject land contains a significant area of BGHF, the objectives of the E4 residential zone would limit uses on the land thereby protecting the endangered ecological community. This, alongside the E4 1500sqm lot size requirement, will facilitate the conservation and rehabilitation of existing BGHF on the site.

The Draft North Subregion Strategy requires that Ku-ring-gai accommodate an additional 10,000 dwellings by 2031. These additional dwellings are to be primarily located within the Pacific Highway/Railway Corridor and will require replacement of existing detached single dwelling allotments in this Corridor, with medium density housing. The supply of detached single dwellings in Ku-ring-gai may therefore be expected to decline. Due to its environmental qualities, high quality educational facilities and good rail access, Ku-ring-gai is a popular location for families with school age children, many seeking detached housing.

The Draft Subregion Strategy aims to protect the natural environment of the subregion. The Draft Subregion Strategy notes that the region has large areas of bushland and areas of biodiversity value. BGHF is identified as a Critically Endangered Ecological Community in the subregion, with only 4.5% of the original community intact. As noted above in discussion of the Metropolitan Strategy 2036, the proposed E4 zoning will facilitate the conservation and rehabilitation of existing BGHF on the site.

The Planning Proposal will assist in protecting Sydney's cultural heritage by facilitating restoration of the Rippon Grange heritage item and its return to a residential use, essentially in its original form as a grand mansion, surrounded by extensive gardens. This contrasts with the approved private hospital development, which whilst restoring the building, does not provide for a return to the building's original use and significantly reduces the extent of open space within the southern curtilage of the building.

The Planning Proposal is consistent with the Sydney Metropolitan Strategy 2036 and the Draft North Subregion Strategy.

4.2.2 Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Yes.

- *Ku-ring-gai Community Strategic Plan 2030*

In October 2009, Ku-ring-gai Council adopted the Community Strategic Plan 2030. The principal aim of this Strategic Plan is to make Ku-ring-gai a more sustainable place that achieves the vision of Ku-ring-gai as a creative, healthy and liveable place where people respect each other and conserve the environment for the benefit of future generations.

The E4 Environmental Living Zone sought by the Planning Proposal responds to the environmental qualities of the site and is designed to facilitate restoration of the existing heritage item on the site. The Planning Proposal positively contributes to making Ku-ring-gai a more sustainable place and achieving the Community Strategic Plan's vision for Ku-ring-gai.

The Community Strategic Plan 2030 is based on 6 principal activity areas, being community development, urban environment, natural environment, planning and development, civic leadership and corporate services and financial sustainability. The activity areas of most relevance to the Planning Proposal are urban environment, natural environment and planning and development. The Planning Proposal is consistent with the relevant objectives of these activity areas.

The Planning Proposal assists in protecting and enhancing local biodiversity and cultural heritage. Council's exhibited Draft LEP 218 – Biodiversity and Riparian Land and Heritage Conservation Areas is the most recent expression of Council's strategy in relation to areas of heritage or environmental value. The Planning Proposal enables retention and enhancement of a substantial area of BGHF on the site.

The Planning Proposal is generally consistent with Council's draft KLEP 2013 and by removing the existing 5(a) Special Uses Hospital Zone, provides for a future form of development that is more compatible with Council's planning objectives for the land and the environmental and heritage characteristics of the site. The Planning Proposal is considered to be consistent with Community Strategic Plan 2030.

- *Ku-Ring-Gai Planning Scheme Ordinance (KPSO)*

The local planning instrument applicable to the subject land is the Ku-Ring-Gai Planning Scheme Ordinance (KPSO). Detailed controls in relation to residential development are contained in DCP No. 38, which applies to single lot detached dwellings. Council also has a Subdivision Code relating to residential subdivision.

The aims and objectives of the KPSO with respect to residential zones are contained in subclause 1 of Schedule 9 of the KPSO. The primary aims are as follows:

- (a) To maintain and, where appropriate, improve the existing amenity and environmental character of residential zones; and
- (b) To permit new residential development only where it is compatible with the existing environmental character of the locality and has a sympathetic and harmonious relationship with adjoining development.

The Planning Proposal is consistent with the above aims of the KPSO. The proposed E4 Environmental Living Zone and subsequent future limited and sensitively designed residential subdivision of the land will maintain existing amenity and environmental character by minimising built-upon area, conserving the majority of trees and significant vegetation on the site, protecting the heritage values of Rippon Grange and introducing a land use that is more compatible with the character of the area.

Compared to the hospital development approved for the site, the proposal represents an improvement in existing amenity, including increased open space, reduced traffic and future buildings of a scale and use more compatible with neighbouring residential development. The proposal will result in future low density residential development that has a sympathetic and harmonious relationship to adjoining development.

The subject land contains a heritage item listed in the KPSO – Rippon Grange, therefore the heritage provisions of the KPSO are applicable. Limited subdivision can occur in the southern section of the site without unreasonably compromising the heritage values and curtilage of Rippon Grange. A detailed curtilage study would need to be undertaken prior to delineating the plan of subdivision to ensure the protection of the heritage item and its setting.

A future development application for subdivision would be accompanied by heritage impact assessment that would address heritage impacts of the subdivision and potential future dwellings. It should be noted that the approved hospital development includes a large hospital building to the south of and in close proximity to “Rippon Grange.” This Planning Proposal would allow for development more sensitive to the heritage values of the site.

- *Ku-Ring-Gai Development Control Plan (DCP) No. 38 - Residential Design Manual*

Any Development Application for future dwellings on the proposed allotments will be required to comply with the relevant controls of Council’s DCP 38. A sensitively designed subdivision of the land can be achieved, which provides suitable locations for a small number of dwellings that can be designed and constructed in accordance with the requirements of DCP 38 as well as complying with the E4 zone requirements. These matters will be addressed in a development application should the Planning Proposal proceed.

- *Draft Ku-ring-gai Local Environmental Plan 218 – Biodiversity and Riparian Land and Heritage Conservation*

Draft LEP 218 has been exhibited, recently adopted by Council and submitted to the Department of Planning and Infrastructure with a request that it be endorsed by the Minister for Planning for gazettal. It is currently with Parliamentary Counsel for finalisation. This Draft LEP will amend the KPSO and is the most recent expression of Council's strategy in relation to areas of heritage or environmental value.

Draft LEP 218 is based on a number of planning studies examining the natural environment and heritage of Ku-ring-gai. These studies identified and assessed the need for riparian corridors, protection of significant native vegetation and heritage conservation areas.

Draft LEP 218 is designed to incorporate biodiversity and riparian lands provisions and Heritage Conservation Areas into the KPSO. The Draft LEP aims to:

- Protect, maintain and improve biodiversity
- Maintain or improve waterways and riparian lands
- Protect the specific character of Ku-ring-gai: its heritage and natural landscapes, and
- Form the basis for future residential, retail and commercial planning in the LGA.

Draft LEP 218 identifies approximately two thirds of the site as comprising land of biodiversity significance (see Figure 5). The Draft LEP also includes the subject land within the proposed Wahroonga Heritage Conservation Area.

The Planning Proposal is consistent with the objectives and provisions of Draft LEP 218.

- *Draft Ku-ring-gai Local Environmental Plan 2013 (KLEP)*

Ku-ring-gai Council has prepared a new draft KLEP 2013 for the Ku-ring-gai Local Government Area. This draft KLEP 2013 is currently being exhibited. The draft KLEP 2013 will implement the LEP Standard Instrument for the Ku-ring-gai LGA.

The draft KLEP 2013 proposes to zone the subject land part R2 Residential Low Density and part E4 Environmental Living and will apply the same provisions to the subject land in relation to biodiversity and heritage conservation areas as Draft LEP 218.

The Planning Proposal is consistent with the draft KLEP 2013 in that it proposes an E4 Environmental Living Zone over the area of the site that is identified as being of biodiversity significance and does not impact on the proposed designation of the site as part of the Wahroonga Heritage Conservation Area.

The Planning Proposal departs somewhat from the Draft Principal LEP in that it is proposed to zone the western portion of the site, not identified as having biodiversity significance, as E4 Environmental Living, rather than R2 – Residential Low Density. The draft KLEP 2013 also provides for a minimum 1500sqm lot size for E4 sites. The E4 zoning as proposed in the Planning Proposal will provide an enhanced environmental outcome compared to an R2 Zone over the western portion of the site. Should this Planning Proposal proceed, the draft KLEP 2013 could be amended to show the whole site as E4.

4.2.3 Is the planning proposal consistent with applicable state environmental planning policies?

The State Environmental Planning Policies (SEPPs) specifically relevant to this Planning Proposal are identified and assessed for consistency below.

- *SEPP 55 – Remediation of Contaminated Land*

SEPP	Consistency
SEPP 55 – Remediation of Contaminated Land This SEPP aims to promote the remediation of contaminated land for the purposes of reducing risk to human health and/or the environment.	The site was used as a hospital from 1952 until 2004 and therefore potential for existence of contaminated soils needs to be considered. A Stage 1 Contamination Assessment prepared in February 2013 confirmed that the site can be made suitable for residential use. Land contamination is therefore not a significant contamination constraint for future residential development of the site. The assessment advised that there are no potential contamination issues that would preclude rezoning of the site as proposed, and recommend that prior to development taking place, an “intrusive contamination assessment” is undertaken in accordance with NSE Environment Protection Authority guidelines and that a hazardous building materials survey be undertaken for buildings proposed to be refurbished or demolished. Council can require submission of an “intrusive” contamination assessment and hazardous building materials survey with any future Development Application for subdivision or use/demolition of existing buildings.

- *SEPP No. 19 – Urban Bushland*

The subject land contains remnant bushland and the site also adjoins remnant bushland within the Wahroonga Primary School site. SEPP No. 19 – Urban Bushland applies to bushland zoned or reserved for public open space and land adjoining land zoned or reserved for public open space.

The subject land is not zoned or reserved for public open space. The Wahroonga Primary School site is not zoned or reserved for public open space. Therefore the provisions of SEPP 19 – Urban Bushland do not apply to the

subject land. The nearest bushland located on land zoned or reserved for public open space, is in Turiban Reserve, a public reserve located more than 250 metres to the east and separated from the subject site, by land zoned 2(c) Residential and 5(a) Special Uses – School.

- *SREP No 20 – Hawkesbury Nepean River*

The deemed SEPP applying to the site is Sydney SREP No 20 – Hawkesbury Nepean River. The subject land drains into the Council's stormwater drainage system in Young Street and Billyard Avenue, which then drains to the Hawkesbury River via Lovers Jump Creek and Cowan Creek.

SREP 20 aims to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context. The SREP focuses on maintaining and improving water quality within the Hawkesbury-Nepean catchment.

Any future residential subdivision of the land would have to limit the amount of cleared land in order to protect the existing ecological values of the site, and in addition require a suitable drainage easement to facilitate future inter-allotment drainage to Young Street, as well as be provided with rainwater tanks and stormwater detention tanks. The proposed re-zoning and any subsequent future residential development will not adversely impact on the natural environment of the Hawkesbury-Nepean catchment or water quality within this catchment.

4.2.4 Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

This Planning Proposal has been assessed having regard for the Section 117 Directions [issued to Councils under s117(2) of the *Environmental Planning & Assessment Act 1979* (EP&A Act)], relevant to this Planning Proposal. The findings are tabulated below and a checklist is provided at Appendix B.

Direction	Consistency
2.1 Environment Protection Zones The objective of Direction 2.1 is to protect and conserve environmentally sensitive areas.	Approximately two thirds of the site would be described as environmentally sensitive. Changing the zoning of the land to E4 Environmental Living, a zone that places greater emphasis on conservation of natural vegetation is consistent with the conservation objective of Direction 2.1.
2.3 Heritage Conservation The objective of Direction 2.3 is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	The Planning Proposal is consistent with this Direction as the rezoning does not adversely impact on the conservation of the existing heritage item on the site (Rippon Grange and its associated gardens) or on Council's proposed Wahroonga Conservation Area, within which the subject land is included. The heritage impact of the Planning Proposal to permit limited future residential subdivision is less than the

Direction	Consistency
	heritage impact of the private hospital development that has been approved for the site. Heritage assessments on the site conclude that the proposed re-zoning to E4 Environmental Living does not adversely impact on the heritage values of the site. The site is not identified as having any Indigenous heritage significance.
3.1 Residential Zones The objectives of Direction 3.1 are: To encourage a variety and choice of housing types to provide for existing and future housing needs; To make efficient use of existing infrastructure and services. To minimise the impact of residential development on the environment and resource lands.	The Planning Proposal is consistent with this Direction in that the proposal will contribute to housing choice by creating opportunities for additional low density detached dwelling housing lots which will offset some of the reduction in supply of this form of housing, which are highly sought after in this locality by families seeking access to local schools. The subject land is located within an area that is suitably provided with necessary urban services such as roads, reticulated water, sewerage and drainage, electricity and telecommunications services. These services are adequate to accommodate a limited number of additional residential allotments proposed. The proposal will have limited impact on the environment, and will include new landscaping. Flora and fauna studies conducted confirm that the ecological values of the site, including BGHF will be maintained. The site does not contain any natural resources such as minerals and the like.
3.4 Integrating Land Use & Transport The objective of Direction 3.4 is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the nominated planning objectives e.g. improving access to housing, jobs and services, reducing dependence on cars and supporting efficient public transport.	The site has access to bus services and local schools. The site is within 1.4 km of a railway station and shopping centre at Wahroonga. The site is consistent with Direction 3.4.
4.4 Planning for Bushfire Protection The objectives of Direction 4.4 are to protect life, property and the environment from bush fire	The subject land is not identified as being bush fire prone land as confirmed by a bushfire hazard assessment conducted on the site. There is some bushland within the site and nearby to the northeast within the Wahroonga Primary School site and further

Direction	Consistency
hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas and to encourage sound management of bush fire prone areas.	afield in Turiban Reserve. As a consequence there is no bushfire hazard constraint to residential development on this site, nor any need to provide asset protection zones. Council has, however, sought to include part of the site within the Bushfire prone lands Map. This is being considered by the RFS. The proposed residential use of the land is more compatible with the existing bushland setting in terms of bush fire hazard than the private hospital approved for the site. In the unlikely event of a bushfire threat it would be much easier to evacuate a small number of residential dwellings, compared to a large private hospital with many patients that may require assistance to egress the site.
6.3 Site Specific Provisions The objective of this Direction is to discourage unnecessarily restrictive site specific planning controls.	The existing Special Use Hospital Zone is a restrictive zone in that development for the purpose of a hospital is effectively the only permissible economic use of the land. The proposed E4 Zone will allow low density residential use, provided that heritage and ecological conservation objectives are achieved. The Planning Proposal does not introduce unnecessarily restrictive site specific controls nor does it include drawings or design details of any future development proposal for the land. It is noted that studies conducted to confirm the content for this Planning Proposal do contain such details. These references, in particular regarding the land subdivision location, size and lot numbers, do NOT form part of this Planning Proposal and have been deleted.
7.1 Implementation of Regional Strategies The objective of this Direction is to ensure that draft LEPs are consistent with the nominated regional strategies.	The Planning Proposal is considered consistent with the Sydney Metropolitan Strategy 2036 and the Draft North Subregion Strategy, as outlined in Section 4.2.1 of this Planning Proposal Report. The Planning Proposal assists in the implementation of strategies relating to increasing the supply of housing and conserving areas of ecological significance and heritage value.

Department of Planning's Criteria for Spot Rezoning

This Planning Proposal has been assessed having regard for the Department of Planning's *LEP Pro-forma Evaluation Criteria-Category 1: Spot Rezoning LEP*, which provides criteria for consideration for any draft LEP. This LEP Amendment request is assessed against these criteria in the following table.

Criteria	Consistency
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	The proposal will not facilitate a permanent employment generating activity. The existing Special Uses Hospital Zone could be classified as employment land and if the approved private hospital does not proceed and the land is rezoned to residential, there would be a reduction in employment land in the local neighbourhood. There are however, opportunities to provide for increased employment in Town Centres within Ku-Ring-Gai, as envisaged in Council's KLEP (Local centres) 2012. These town centres are more suitably located for employment generating activities. The proposed major expansion of the Seventh Day Adventist Hospital to the west of Wahroonga, will more than compensate for any reduced hospital employment on the subject land, as a result of its rezoning to residential use.
Will the LEP be compatible with agreed State and regional strategic direction for development in the area (e.g. land release, strategic corridors, development within 800m of a transit node)?	As noted in Section 4.2.1 of this Planning Proposal report, the requested re-zoning is compatible with the Sydney Metropolitan Strategy 2036 and the Draft North Subregion Strategy. The subject land is located more than 800 metres from Wahroonga Railway Station and has no impact on any strategic corridors.
Will the LEP implement studies and strategic work consistent with State and regional policies and Ministerial (s.117) directions?	The Planning Proposal will support the objectives of the Sydney Metropolitan Strategy 2036 and the Draft North Subregion Strategy, with respect to housing cultural and environmental objectives in those strategies. It is also consistent with the relevant s117 directions as noted above.
Is the LEP located in a global / regional city, strategic centre or corridor nominated within the metropolitan Strategy or other regional / sub-regional strategy?	No. The site is in a location that is readily accessible from the Pacific Highway/Railway Corridor.
Will the LEP deal with a deferred matter in an existing LEP?	No.
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	Yes. There are no other spot rezoning proposals in the locality that propose conversion of land zoned Special Uses to a residential environmental management use.
Is the LEP likely to create a precedent, or create or change in the expectations of the landowner or other landowners?	No. The circumstances applying to this site are relatively unique within Ku-Ring-Gai, particularly in relation to re-zoning land to facilitate development that is more compatible with the character of the locality, instead of the development currently approved for the site. In particular, the introduction of an E4 Environmental Living Zone over the land is consistent with the objectives and provisions of draft LEP 218 which identifies the site as containing an area of biodiversity

Criteria	Consistency
	significance. An E4 Zone is appropriate for privately owned land of biodiversity significance that is located within a residential context and consistent with Council's proposed zoning for the land, as anticipated in the draft KLEP 2013. The proposal will not create a precedent, or create a change in expectations of the landowner or other landowners. The circumstances are relatively unique, being a site of both heritage and ecological significance, surrounded by residential development and within a Special Uses Zone that permits a development which is not compatible with the site and locality.
Will the LEP be compatible / complementary with surrounding land uses?	Yes. Re-zoning to E4 Environmental Living will allow limited residential subdivision of part of the site, resulting in development more compatible with the surrounding residential land uses as compared to the private hospital approved under the existing Special Uses Hospital zoning. The proposed residential environmental living zoning is more compatible with the surrounding land uses.

4.3 Environmental, Social and Economic Impact

4.3.1 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The eastern and southern sectors of the site contain bushland, most of which has been identified as endangered Blue Gum High Forest (BGHF). The area of BGHF on the site is estimated to be 6,350m², although there is limited BGHF understorey in this area. As part of the preparation of draft LEP 218 and draft KLEP 2013, Council has undertaken a survey to identify land which may have biological diversity significance. Approximately two-thirds of the subject land has been identified by Council as having biodiversity significance. This biodiversity area is illustrated in Figure 4 below, and is located in the east and south of the subject land.

Figure 4 – Extract From Ku-Ring-Gai Council's Biodiversity Map



A flora and fauna survey and ecological assessment of the site confirmed that some two thirds of the site as identified by Council, has biodiversity significance and that the subject land contains remnants of Blue Gum High Forest (BGHF) which is a critically endangered ecological community. The assessment concluded that limited residential subdivision of the land with minimal impact on BGHF was possible with the potential to remove less BGHF than is proposed under the current approved hospital proposal, as well as facilitating restoration of the existing BGHF.

As part of the preparation of any future subdivision proposal, consultant UBM advise it would be necessary to undertake a Seven-part Test of Significance in accordance with Section 5A of the NSW *Environment Planning & Assessment Act 1979*. Any subdivision should meet the test of not having a significant impact on endangered BGHF on the site. UBM note that there is potential for environmental offsets by way of restoration and a management program to rehabilitate the remaining area of BGHF, within the site. UBM advise that a Vegetation Management Plan (VMP) for restoration and management of BGHF habitat at 35 Water Street was prepared in 2007 and has been approved by DECC/OEH and adopted by Ku-ring-gai Council. This VMP can assist in informing subdivision design and can be modified to take account of an alternative residential development scenario. The UBM report can be made available to the public at exhibition of the Planning Proposal.

Compared to the approved hospital, a sensitively designed and located residential subdivision of the land has potential to create a significantly larger area of open space within the site that is outside the primary BGHF area. UBM

recommend that this open space be maintained as closely as possible in a 'near natural' condition.

In relation to fauna, previous surveys have identified 24 native birds, 6 native mammals, 4 reptiles and 2 amphibians within or nearby the subject land. A total of 2 of the identified species, being the Gang-Gang Cockatoo and the Grey-headed Flying-fox are listed under the *TSC* and/or *EPBC Acts* and 1 species, the Powerful Owl is listed as 'vulnerable' under the *TSC Act*, as being present on or near the subject land.

Impacts on flora and fauna primarily relate to loss of BGHF community. The approved hospital development will result in a 4.9% loss (approximately 300m²) of BGHF community. This was determined to be an acceptable impact on fauna habitat and deemed to have no significant impact on any of the identified threatened species. It is possible to design future residential subdivision so that it has a lesser, if any, impact on fauna, compared to the approved hospital proposal.

Having regard to the flora and fauna surveys and ecological assessments on this site, it is considered that the Planning Proposal will have a minimal and acceptable impact on critical habitat or threatened species, populations, or ecological communities or their habitats.

4.3.2 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The following issues have been identified as being relevant to this Planning Proposal.

- *Hazard Issues*

The subject land is free of development hazards such as flooding, acid sulphate soils, land slip, mine subsidence and the like. There is a very minor bushfire risk arising from existing bushland on the site and nearby to the east and northeast. The extent of bushland is relatively small in size and the site is not identified as being bushfire prone.

A bushfire hazard assessment confirms that the subject land is not identified as bushfire prone land and is located more than 100 metres from the nearest land classified as bushfire prone land, within and adjoining Turiban Reserve. The Assessment concludes that future residential development is able to meet the requirements of clause 44 of the *Rural Fires Regulation 2008*. No asset protection zones are required for any residential allotments that could be created.

As noted in Section 4.2.3 the site has previously been used as a hospital from 1952 until 2004 and therefore has potential for some soil contamination. A Preliminary Stage 1 Contamination Assessment was completed in October 2004 for previous development proposals for the land. This assessment did not indicate any significant contamination constraint for future residential or hospital development of the site. An updated contamination assessment confirms that land contamination is not a constraint that would prevent future

residential subdivision of the land. Any residential subdivision proposal would have to be accompanied by a detailed land contamination assessment and requirements for remediating any contamination, prior to any additional residential development occurring on the land. This is a matter that would be dealt with as part of submission of a future development application for subdivision.

There are no potential hazards that the site may be subject to that cannot be suitably addressed in a future Development Application for subdivision.

- *Environmental and Amenity Issues*

Significant Trees

Flora and fauna issues are addressed in Section 4.3.1 of this Planning Proposal Report. Some tree removal will be necessary to accommodate future residential subdivision of the land. It is possible to design a residential subdivision that retains the great majority of significant trees on the site.

An arborist's report would be prepared to identify all significant trees and associated building constraints on future lots. This report would inform subdivision design and dwelling location, with the aim of minimising removal of significant trees and identifying opportunities for replacement tree planting. This is a development issue that would be dealt with as part of the preparation of a development application for subdivision.

Visual Amenity

Any future subdivision and residential development would be required to retain a high proportion of existing trees so that the bushland character of the site, as viewed from the public domain and neighbouring properties, will remain substantially unchanged. Retention of existing perimeter vegetation and provision of new landscaping can also assist in maintaining the visual amenity of the locality. A limited number of sensitively designed and located future 2 storey dwellings would be substantially screened by retained vegetation and new landscaping. Such dwellings would have a significantly reduced visual impact compared to the approved hospital development.

Impacts on surrounding properties

There will be no adverse amenity impacts on surrounding properties. Future dwellings can be designed and sited in accordance with the applicable development controls and maintain reasonable neighbour privacy, solar access and outlook. A limited residential subdivision of the subject land will generate significantly less traffic than the approved hospital development.

- *Heritage Impact*

The subject property 35 Water Street, Wahroonga is identified as a heritage item in Schedule 7 of the KPSO and is classified by the National Trust. The property is not listed in the NSW State Heritage Register or the National Heritage List.

A Conservation Management Plan (CMP) 2008 for this property was prepared by Rod Howard by the then-current owners, the NSW Department of Health when the property was used for palliative care, and endorsed by the Heritage Council in 2008. Since this time, there has been a change of ownership. In light of the current Planning Proposal to rezone the site to a residential E4 zone, enabling a subsequent subdivision and development of part of the site for new housing and restoration of Rippon Grange as a private residence, a revised and updated CMP would be required to guide future works to this site under the new zoning and use. The revised CMP would need to address the current condition of the property and prepare policies to guide the future change of use to residential, and subdivision. Of specific importance is the retention of a sufficient and meaningful curtilage around the main house to protect its heritage significance, and detailed policies for conservation of the building's surviving fabric and interior spaces in any re-conversion to private residential use.

The 2008 CMP for the property identifies Rippon Grange and its grounds as being linked to a number of historically significant figures and since 1952 were in use for over 50 years initially for the treatment of children with poliomyelitis and then subsequently for other treatment of sick and disabled children. An updated CMP would provide policies and requirements, which if adhered to, would ensure that future development of the land occurs in a manner which would not materially impact on the heritage values of the site.

Rippon Grange is a distinctive example of a Federation Arts and Crafts style house that has retained a large amount of internal and external fabric. The house also has rarity value because of physical associations with its remaining grounds. The property also has historical value as an item that demonstrates the life style of successful and wealthy businessmen of the early 20th Century, with a range of outdoor recreation facilities, display gardens and horticultural elements able to generate a degree of self-sufficiency in fresh produce.

The estate reflects continuance into the 20th Century of the generous scale and layout of gentry estates established in the second half of the 19th Century, once the colony of NSW began to prosper. The grounds of Rippon Grange have heritage significance, having satisfied a wide range of assessment criteria and retain substantial integrity of formal garden components.

The proposed re-zoning to E4 – Environmental Living and subsequent subdivision of a limited number of residential allotments, can be designed not to materially impact on the heritage values and curtilage of Rippon Grange. A well designed residential subdivision will likely have a lesser heritage impact compared to the approved private hospital. Returning Rippon Grange to residential use is a positive heritage outcome, as it restores the original use of the building.

With regards to retaining the heritage integrity of the site, a heritage impact study has been conducted and concluded that suitably designed and located residential allotments, containing one or two storey dwellings and suitable landscaping, would not significantly impact on the heritage values or curtilage of Rippon Grange. Residential development would need to comply

with the policies and requirements of an updated final CMP for the site relating to the new residential subdivision and future use of the site. The heritage impact study can be made available to the public at exhibition of the Planning Proposal.

The heritage impact study further notes that residential use of the building is a positive outcome. Funds generated from the sale of residential allotments will contribute to the significant cost of repair and restoration of Rippon Grange and other significant features such as the stables and landscape features.

4.3.3 How has the planning proposal adequately addressed any social and economic effects?

- *Social Issues*

The Planning Proposal will not result in any adverse social impacts. The provision of some additional future detached dwelling housing opportunities in a similar form to neighbouring residential properties will maintain the character and social fabric of the neighbourhood.

Given the local opposition of residents to the approved hospital development, facilitating the development of this land in keeping with the local residential character will engage the community on a more positive footing regarding the development of this site.. Residents currently utilise hospital services located elsewhere within Ku-ring-gai and nearby Local Government Areas and with the expansion of the SAN will not be disadvantaged by the approved private hospital not proceeding. The proposal is considered to have a positive social impact.

- *Economic Issues*

Whilst the Planning Proposal will reduce availability of employment and hospital services in the immediate neighbourhood, the benefits of the proposed residential development will integrate the site development into the local residential fabric in a more sympathetic manner. Given the significant expansion of the SAN Hospital, should demand for a new private hospital in Wahroonga still arise, an alternative site that has limited impact on the local community would be investigated.

Hospital/medical employment in Wahroonga is likely to be significantly increased with the major expansion of the Seventh Day Adventist Hospital. The location of a further private hospital closer to rail services, for example nearer a Town Centre, in the rail corridor of Ku-ring-gai is considered would possibly provide a better economic and environmental outcome, compared to utilising the subject land.

The future development of additional houses on the site and restoration of Rippon Grange will generate economic benefits through employment, construction activity, and material/fittings purchase.

4.4 State and Commonwealth Interests

4.4.1 Is there adequate public infrastructure for the planning proposal?

- *Services (Water, Sewer and Drainage)*

The site is located within an existing developed area that is well catered for in terms of infrastructure. There is capacity within existing service systems for a small number of additional homes, subject to appropriate augmentation as necessary.

- *Roads, Traffic and Transport*

Traffic generation associated with the development of a small number of future additional housing lots would be minimal and well within the carrying capacity of the local road system. Traffic generation will be significantly less than for the approved private hospital.

4.4.2 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Under the Gateway process the views of State and Commonwealth public authorities are not known until after the initial Gateway determination. This section of the Planning Proposal will be completed following consultation with those public authorities nominated by the Gateway Determination.

4.5 Community Consultation

Under the Gateway process the level of community consultation is tailored for each Planning Proposal by the initial Gateway determination. It is anticipated that there will be widespread local community support for the proposed re-zoning to E4 – Environmental Living to enable restoration of Rippon Grange and the provision of a limited number of residential subdivision lots on the southern part of the site.

4.6 Project Timeline

It is anticipated that the Planning Proposal will take effect at the end of October 2013. The timeline for the progression of this Planning Proposal is indicated in the following table:

Stage	Timing
Anticipated commencement date (date of Gateway determination)	31 May 2013
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	28 June 2013 28 days - Run concurrently with exhibition period.
Commencement and completion dates for public exhibition period	28 June 2013 - 14 days exhibition - plus notification and advertisement period
Timeframe for consideration of submissions	26 July 2013 4 weeks for consideration
Timeframe for the consideration of a proposal post exhibition	9 August 2013 2 weeks for reporting
Legal drafting	20 September 2013 6 weeks
Anticipated date RPA will make the plan (if delegated)	By Mid-October 2013
Anticipated date RPA will forward to the department for notification.	By End-October 2013

5

Conclusion

This Planning Proposal seeks amendment of the Ku-ring-gai Planning Scheme Ordinance Map to change the land use zoning of the site from 5(a) Special Uses – Hospital to E4 – Environmental Living, to enable future limited residential subdivision, suitably designed to maintain the ecological and heritage values of the site. Funds generated from the sale of such allotments will facilitate the restoration of existing heritage building for use again as a “grand” residence and restoration and conservation of existing BGHF on the site.

The proposed E4 – Environmental Living Zone is a more appropriate zoning than the existing 5(a) Special Use Hospital Zone, both in terms of the ecological features of the site and the surrounding low density residential context. An E4 Zone is consistent with Council’s recently adopted Draft LEP 218 and generally accords with the future zoning of the subject land, as anticipated in Council’s Draft Principal LEP.

The proposed zoning will allow a sensitively designed residential subdivision within a limited portion of the site, facilitating surrender of the existing private hospital Part 3A Development Consent. An E4 zoning will enable an alternative economic and viable development of the land, more compatible with the heritage, ecological and residential character of the site and locality. The applicant is agreeable to the inclusion in any future subdivision approval, of a deferred commencement condition requiring the surrender of the existing hospital consent.

Development of a limited portion of the site for low density residential purposes, rather than the approved private hospital, results in a reduced building footprint and building scale, increased landscaped open space, the loss of less BGHF and improved compatibility with the low density residential character of the area. Rezoning of the land to E4 – Environmental Living will facilitate the surrender of the existing private hospital consent, an outcome which has widespread support in the local community.

It is recommended that the Planning Proposal proceed through the Gateway Determination process and be placed on public exhibition.

APPENDIX A

Council Resolution - 13 November 2013

COUNCIL RESOLUTION – 13/11/12

Planning Proposal to Rezone Land at 35 Water Street, Wahroonga from Special Uses 5(a) to Residential under the KPSO

To inform Council of the independent consultant's review on a Planning Proposal to rezone 35 Water Street, Wahroonga from 5(a) Special Uses - Hospital to Residential under the *Ku-ring-gai Planning Scheme Ordinance 1971 (KPSO)*.

Resolved:

(Moved: Councillors McDonald/Fornari-Orsmond)

- A. That the Planning Proposal to amend the Ku-ring-gai Planning Scheme Ordinance to rezone the property at 35 Water Street, Wahroonga from Special Uses 5(a) to zone E4 Environmental Living and to incorporate the NSW Standard Instrument LEP Conservation Incentives clause be supported in principle.
- B. That the applicant be advised to amend their Planning Proposal as per the Consultant's Review and this report as follows:
 - i) Amend the planning proposal so as to seek an E4 Environmental Living zone across the site.
 - ii) Stipulate how the KPSO would be amended to include the E4 (Environmental Living) zone and Conservation Incentives clause to align with Council's *Draft LEP 218* and the Planning Proposal for the *Ku-ring-gai Principal LEP*.
 - iii) Review and confirm the objectives or intended outcomes for the planning proposal particularly in relation to permissibility of future health/hospital uses.
 - iv) Revise the justification of the planning proposal to:
 - a) Justify the proposed new zone on its merits without reference to the indicative subdivision layout.
 - b) Include consideration of Draft LEP 218 and the planning proposal for the Ku-ring-gai Principal LEP.
 - v) Include consideration of environmental objectives and actions of the Metropolitan Plan and North Subregion Strategy.
 - vi) Provide updated advice or information about contamination issues affecting the site in response to Clause 6 of SEPP 55.
 - vii) Provide an updated review of relevant Ministerial Directions including consideration of Direction 2.1 (Environment Protection Zones) and Direction 6.3 (Site Specific Provisions) and a checklist of all Ministerial Directions.
 - viii) Amend the section referring to assessment against the Department of Planning's *LEP Pro-forma Evaluation Criteria for Spot Rezoning*s to demonstrate why the planning proposal would not create a precedent in terms of the potential inconsistency with Draft LEP 218 and the planning proposal for the Ku-ring-gai Principal LEP for environmentally sensitive land.
- C. That the amended Planning Proposal be prepared to the satisfaction of the General Manager and then be forwarded to the DoPI for a Gateway Determination in accordance with the provisions of the EP&A Act and Regulations.
- D. 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.
- E. That a report be brought back to Council at the conclusion of the exhibition period.

CARRIED UNANIMOUSLY

APPENDIX B

Checklist - Ministerial Directions for the Preparation of LEP's

SCHEDULE OF SECTION 117 DIRECTIONS

DIRECTION	CONSISTENCY Yes/No or Not Applicable
1. EMPLOYMENT AND RESOURCES	
1.1 Business and Industrial Zones	Not Applicable
1.2 Rural Zones	Not Applicable
1.3 Mining, Petroleum Production and Extractive Industries	Not Applicable
1.4 Oyster Aquaculture	Not Applicable
1.5 Rural Lands	Not Applicable
2. ENVIRONMENT AND HERITAGE	
2.1 Environment Protection Zones The objective of Direction 2.1 is to protect and conserve environmentally sensitive areas.	YES
2.2 Coastal Protection	Not Applicable
2.3 Heritage Conservation The objective of Direction 2.3 is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	YES
2.4 Recreation Vehicle Areas	Not Applicable
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT	
3.1 Residential Zones The objectives of Direction 3.1 are: To encourage a variety and choice of housing types to provide for existing and future housing needs; To make efficient use of existing infrastructure and services. To minimise the impact of residential development on the environment and resource lands.	YES
3.2 Caravan Parks and Manufactured Home Estates	Not Applicable
3.3 Home Occupations The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	YES
3.4 Integrating Land Use & Transport The objective of Direction 3.4 is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the nominated planning objectives e.g. improving access to housing, jobs and services, reducing dependence on cars and supporting efficient public transport.	YES
3.5 Development Near Licensed Aerodromes	Not Applicable
3.6 Shooting Ranges	Not Applicable

DIRECTION	CONSISTENCY Yes/No or Not Applicable
4. HAZARD AND RISK	
4.1 Acid Sulfate Soils	Not Applicable
4.2 Mine Subsidence and Unstable Land	Not Applicable
4.3 Flood Prone Land	Not Applicable
4.4 Planning for Bushfire Protection The objectives of Direction 4.4 are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas and to encourage sound management of bush fire prone areas.	YES
5. REGIONAL PLANNING	
5.1 Implementation of Regional Strategies The objective of this Direction is to ensure that draft LEPs are consistent with the nominated regional strategies.	YES
5.2 Sydney Drinking Water Catchment	Not Applicable
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not Applicable
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not Applicable
	Not Applicable
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked 18 June 2010)	Not Applicable
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	Not Applicable
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	Not Applicable
5.8 Second Sydney Airport: Badgerys Creek	Not Applicable
6. LOCAL PLAN MAKING	
6.1 Approval and Referral Requirements	Not Applicable
6.2 Reserving Land for Public Purposes	Not Applicable
6.3 Site Specific Provisions The objective of this Direction is to discourage unnecessarily restrictive site specific planning controls.	YES
7. METROPOLITAN PLANNING	
7.1 Implementation of the Metropolitan Plan for Sydney 2036 The objective of this direction is to give legal effect to the vision, transport and land use strategy, policies, outcomes and actions contained in the Metropolitan Plan for Sydney 2036	YES

APPENDIX C

**Suggested format of Amendment to KPSO to include E4 zoning
on 35 Water Street, Wahroonga.**

Amendments to the KPSO

to facilitate the incorporation of the E4 Environmental Living Zone on 35 Water Street, Wahroonga.

Insert, at the end of PART III, a new PART IIIE as follows:

PART IIIE - 35 Water Street, Wahroonga Provisions

XX Land to which this Part applies

- 1) This Part applies to the land at 35 Water Street, Wahroonga being Lot 1, DP 375262.

XX Interpretation

- 1) For the purpose of this Part only, a word or expression used in this Part has the same meaning as it has in the *Standard Instrument— Principal Local Environmental Plan*.

XX Zone objectives and Land Use Table

- 1) The Land Use Table under this clause specifies for each zone:
 - a) the objectives for development, and
 - b) development that may be carried out without development consent, and
 - c) development that may be carried out only with development consent, and
 - d) development that is prohibited.
- 2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.
- 3) In the Land Use Table under this clause:
 - a) a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and
 - b) a reference to a type of building or other thing does not include (despite any definition in this Part) a reference to a type of building or other thing referred to separately in the Land Use Table in relation to the same zone.
- 4) This clause is subject to the other provisions of this of the Ordinance.

Land Use Table

Zone E4 Environmental Living

1 Objectives of zone

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.

- To ensure development does not result in further fragmentation of ecological communities, biodiversity corridors or other significant vegetation or habitat.

2 Permitted without consent

Home occupations.

3 Permitted with consent

Bed and breakfast accommodation; Community facilities; Dwelling houses; Environmental protection works; Environmental facilities; Flood mitigation works; Home-based child care; Home business; Home industry; Recreation areas; Roads; Secondary dwellings.

4 Prohibited

Industries; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3.

XX Minimum subdivision lot size

- 1) The objectives of this clause are as follows:
 - a) to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls,
 - b) to ensure that lot sizes and dimensions allow development to be sited to protect natural or cultural features including heritage items, remnant vegetation, habitat and waterways, and provide for generous landscaping to support the amenity of adjoining properties and the desired character of the area.
- 2) This clause applies to a subdivision of any land on 35 Water Street, Wahroonga.
- 3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum of 1500sqm.
- (3A) In addition to subclause (3), development consent must not be granted for the subdivision of land to create a lot on which the erection of a dwelling house is permissible if the subdivision would result in a lot that is less than 18 metres wide at 12 metres from the street frontage of the lot.
- 4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.
- (4A) Despite subclause (3), if a lot is a battleaxe lot, or other lot with an access handle, the area of the access handle is not to be included when calculating the size of the lot for the purpose of this clause.

XX Height of buildings

- 1) The objectives of this clause are as follows:
 - a) to establish a transition in scale between the centres and the adjoining lower density residential and open space zones to protect local amenity,
 - b) to enable development with a built form that is compatible with the size of the land to be developed.

- 2) The height of a building on any land to which this clause applies is not to exceed the maximum height of 9.5m.
- 3) In this clause:
building height (or **height of building**) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

XX Floor space ratio

- 1) The objectives of this clause are as follows:
 - a) to enable development with a built form and density compatible with the size of the land to be developed, its environmental constraints and its contextual relationship,
- 2) The maximum floor space ratio for development on 35 Water Street, Wahroonga in Zone E4 Environmental Living is not to exceed the following floor space ratio formula: $((250 + (0.15 \times \text{site area})) / \text{site area}):1$

XX Conservation incentives

The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:

- a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and
- b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and
- c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and
- d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and
- e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.