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PLANNING PROPOSAL

Ku-ring-gai Council: Reclassification and Rezoning, South Turramurra

Section 55 Environmental Planning and Assessment Act, 1979

FINAL REPORT PREPARED FOR KU-RING-GAI COUNCIL
FEBRUARY 2010

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INTRODUCTION

Urbanism has been engaged by Ku-ring-gai Council to prepare a planning proposal under Section 55 of the *Environmental Planning and Assessment Act, 1979*. The planning proposal seeks an amendment to the *Ku-ring-gai Planning Scheme Ordinance, 1971*. The amendment will involve the reclassification of six (6) parcels of land including the rezoning of Hall Street (unformed) and Warner Avenue (unformed) at South Turramurra (the subject site) to Residential 2(c). A description of the subject site is provided in **Section 1.2** below.

1.1 BACKGROUND

The subject site once formed part of a proposed B2 road corridor that would link the F2 Freeway with the M2 Motorway. The road was never constructed and the corridor was abandoned by the NSW Government in June 1996.

In 2003, Don Fox Planning was engaged by McKenzie Land Planning Services on behalf of the former Department of Infrastructure, Planning and Natural Resources (DIPNR) and the Roads and Traffic Authority (RTA) to prepare an application to rezone part of the abandoned B2 road corridor.

The report prepared by Don Fox Planning, dated July 2003, recommended that the former B2 road corridor between The Comenarra Parkway and Kissing Point Road be rezoned in part to Recreation Existing 6(a) and Residential 2(c) and Residential 2(b).

In December 2003, Ku-ring-gai Council resolved to prepare a draft Local Environmental Plan (DLEP) to that effect. The DLEP was placed on public exhibition from October 2004 to November 2004 and was adopted by Council in December 2004.

On 13 January 2006, *Ku-ring-gai Local Environmental Plan No 201* was gazetted by the Minister for Planning. The LEP rezoned the corridor part 2(c) Residential and part 6(a) Recreation (refer **Appendix 1**).

The NSW Department of Planning, the owner of Lot 2 DP 746618 which was rezoned to Residential 2(c) by LEP No. 201, approached Ku-ring-gai Council in 2006 regarding potential options for the abandoned B2 road corridor. Council and the Department have discussed options for the subject site and have since entered into a Memorandum of Understanding (MOU) for the redevelopment of the land.

Having entered into a MOU with the Department for the redevelopment of the subject site, Council engaged Scott Carver Pty Ltd to develop subdivision options for the site. Three (3) options were identified. Council subsequently developed a further four (4) subdivision options for the site. Hill PDA was then engaged by Council to undertake economic feasibility studies for all seven (7) options in November 2008. A series of Councilor briefings and planning forums held eventually resulted in Council adopting Option 1, which provided for 29 residential lots with a minimum lot size of 929m².

The Department, in their correspondence to Council dated 11 September 2009 (refer **Appendix 2**), requested that Council proceed with the resolution on the preferred subdivision option and enter into a new MOU to reflect the development stage of the project.

At its meeting of 13 October 2009, Council resolved to prepare a planning proposal to rezone Hall Street (unformed) and Warner Avenue to Residential 2(c) and reclassify six (6) proprietries from Community land to Operational land (refer **Appendix 3**).

1.2 SITE DESCRIPTION

The subject site is bordered by Barwon Avenue (west) and Chisholm Street (east) and is centred around and Hall Street (unformed), at South Turramurra (refer **Appendix 4**) and comprises of the following properties.

- i. Lot 1 DP 746618
- ii. Lot 3 DP 746618
- iii. Lot 1 DP 847214
- iv. Lot 74 DP 216500
- v. Lot 1 DP 840228
- vi. Lot 2 DP 840228
- vii. Hall Street (unformed)
- viii. Warner Street (unformed)

The subject site is 26,913m² in total area. Council owns a total of 19,352m² of the site while the NSW Department of Planning owns 7,561 m² of the site. An illustration of the land ownership pattern is included in **Appendix 5**.

The site is predominately dense remnant vegetation which forms part of the Sandstone Vegetation community. There is a cleared paddock in the centre of the site off Chisholm Avenue. The land falls gently away from Chisholm Avenue to Barwon Avenue.

Surrounding development is characterised by detached residential dwellings on large blocks with deep setbacks from the street frontage.

Photos of the subject site can be found in **Appendix 6**.

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THE PLANNING PROPOSAL

2.1 STATEMENT OF INTENT

Zone the unformed portion of Hall Street and Warner Avenue to Residential 2(c), consistent with the zoning of the adjoining land, and reclassify six (6) lots from Community land to Operational land pursuant to the *Local Government Act, 1993* to enable subdivision and sale of the land for residential housing.

2.2 EXPLANATION OF PROVISIONS

The planning provisions amended by the draft Local Environmental Plan are as follows:

- Amendment of *Ku-ring-gai Planning Scheme Ordinance, 1971 Interpretation* under "Schedule map" to insert the following:
 - o Ku-ring-gai Local Environmental Plan No [insert number]
- Amendment of *Ku-ring-gai Planning Scheme Ordinance, 1971 Land Zoning Map* in to zone the unformed portions of Warner Avenue and Hall Street to Residential 2(c) (see **Appendix 7**); and

- Amendment of *Ku-ring-gai Planning Scheme Ordinance, 1971 Schedule 10 Classification and reclassification of public land as operational* by inserting the following properties into the Schedule:
 - o Chisholm Street Lot 3 DP 746618
 - o Chisholm Street Lot 2 DP 840228
 - o Chisholm Street Lot 1 DP 840228
 - o Barwon Avenue Lot 74 DP 216500
 - o Barwon Avenue Lot 1 DP 847214
 - o Barwon Avenue Lot 1 DP 746618

- Amendment of *Ku-ring-gai Planning Scheme Ordinance, 1971 Planning Scheme Ordinance Amendment Summary* by inserting under Item G - *The Amendment of Schedules*:
 - o The amendment to Schedule 10 by inserting the matter relating to Chisholm Street, Barwon Avenue and Hall Street at South Turramurra

- Amendment of *Ku-ring-gai Planning Scheme Ordinance, 1971 Planning Scheme Ordinance* by inserting a clause to discharge Declaration of Trust 20/4/1960 as it applies to Lot 1 DP 840228.

- Amendment of *Ku-ring-gai Planning Scheme Ordinance, 1971 Planning Scheme Ordinance Amendment Summary* by inserting under Item E - *The addition of Clauses*:
 - o [*Insert Clause No*] extinguishment of Declaration of Trust as it applies to Lot 1 DP 840228 (vide Local Environmental Plan No [*Insert LEP No*])

These amendments will enable Ku-ring-gai Council and the Department of Planning to subdivide the land and sell the lots created to the public for residential housing.

2.3 JUSTIFICATION FOR THE OBJECTIVES, OUTCOMES, PROVISIONS AND IMPLEMENTATION

2.3.1 NEED FOR THE PLANNING PROPOSAL

a) Is the planning proposal a result of any strategic study or report?

Yes.

With the abandonment of the B2 corridor by the State Government in June 1996, the subject lands have been the subject of on-going reviews into their highest and best use.

These reviews included an earlier rezoning submission by Don Fox Planning (July 2003) which included a traffic study, indigenous and non-indigenous heritage study, contamination assessment, flora and fauna assessment and bushfire assessment. Overall, seven (7) precincts all comprising the former B2 road corridor were reviewed.

The subject lands, with the exception of Hall Street (unformed) and Warner Avenue (unformed), were rezoned to Residential 2(c) on 13 January 2006. However, these lands were not reclassified from Community land to Operational land at that time.

Council's Open Space Strategy (2005) and Sport in Ku-ring-gai Strategy (2006) both identified that open space and recreation areas throughout the LGA were under stress. As the road corridor is no longer required, alternative land use options such as the use of the subject lands for additional playing fields with a reduced small-lot residential component have been given consideration. Options for the site were the subject of community consultations undertaken in early 2009 which were generally not supportive of additional playing fields in this location. This was due to concerns over increased parking and traffic congestion and a desire to maintain the character and amenity of the area. These consultations found that there was however support for large lot residential development consistent with surrounding development.

This planning proposal therefore seeks to reclassify certain properties forming the subject site to Operational land and zone Hall Street (unformed) and Warner Avenue (unformed) to Residential 2(c) to enable the redevelopment of the site for residential housing.

b) Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The planning proposal is the best means of achieving the objectives outlined in **Section 2.1**. As discussed, a number of properties forming the subject site are currently classified as Community land and therefore Council is not able to develop and sell, exchange, or dispose of Community land under the provisions of the *Local Government Act*, 1993.

The imminent gazettal of *Ku-ring-gai Local Environmental Plan (Town Centres) 2009* is largely expected to meet the community's long-term housing needs. In addition, Ku-ring-gai Council was advised by the former Minister for Planning on 10 August 2009 that it is not a Standard Instrument LEP priority council.

The redevelopment of the former B2 road corridor would be unnecessarily delayed if the project were deferred pending the preparation of the principal local environmental plan. Such a delay would not ensure the orderly, economically and rational use land considering that the majority of the site is already zoned for residential purposes and is currently not achieving its highest and best use.

For these reasons, this planning proposal which seeks an amendment to the *Ku-ring-gai Planning Scheme Ordinance, 1971*, is considered to be the most appropriate way to achieve the objective stated in **Section 2.1**.

c) Is there a net community benefit?

Yes.

As discussed in greater detail in **Section 2.3.3** of this report, there are a number of positive environmental, social and economic benefits of this proposal which means that there is an overall net community benefit to the planning proposal proceeding.

The community benefits include:

- Reflects the broader community interest in options for the site
- Enables Council to fund a previously un-funded new indoor aquatic and leisure centre facility at West Pymble
- Provides employment opportunities during the development phase
- Contributes to a wider variety of housing choice i.e large lot residential dwellings
- Improves access to; and, viability of local public transport services

- Presents economic benefits to nearby neighbourhood centres, such as South Turramurra on Kissing Point Road

2.3.2 RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

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

Yes, the planning proposal's consistency with these strategies is outlined below:

Metropolitan Strategy (2005)

The NSW Department of Planning released *City of Cities: A Plan for Sydney's Future* (Metropolitan Strategy) in December 2005. The Metropolitan Strategy is a broad framework to secure Sydney's place in the global economy by promoting and managing growth for Sydney over 25 years.

The five broad aims of the Metropolitan Strategy are:

1. Enhance liability
2. Strengthen Economic Competitiveness
3. Ensure Fairness
4. Protect the Environment
5. Improve Governance

In order to achieve these aims, the Metropolitan Strategy comprises seven strategies. These are:

1. Economy and Employment
2. Centres and Corridors
3. Housing
4. Transport
5. Environment and Resources
6. Parks and Public Places
7. Governance and Implementation

The Metropolitan Strategy forecasts Sydney's Population would grow by 1.1 million people by 2031, requiring an additional 640,000 new homes. Of that figure, approximately 420,000 new homes would need to be constructed in existing suburbs.

The Metropolitan Strategy organised the metropolitan area of Sydney into ten subregions that combine local government areas with similar planning issues and challenges. Ku-ring-gai Council is located within the North Subregion along with Hornsby Shire Council.

In order to implement the Metropolitan Strategy, and deliver the required housing supply, each subregion has been assigned a residential housing target. The target for the North Subregion is 20,000 new dwellings by 2031.

This planning proposal is consistent with the aims of the Metropolitan Strategy specifically objective *C1.3 Plan for increased housing targets in existing areas*.

Draft North Subregional Strategy (2007)

The draft North Subregional Strategy (SRS) implements the broad aims of the Metropolitan Strategy at the subregional level. Specifically, the draft SRS allocates the local distribution of housing and employment capacity targets based on the principles of the Metropolitan Strategy.

The draft SRS identifies five key directions for the North Subregion, these are:

1. Better Access to a Variety of Housing Choice
2. Strengthen the Major Centre
3. Enhance the Subregion's Local Centres
4. Improve Public Transport Access to, From and Within the Subregion
5. Managing Rural and Resource Lands

The draft SRS allocates the North Subregion a total residential housing target of 21,000 new dwellings by 2031. The draft SRS apportions this target between Ku-ring-gai Council (10,000) and Hornsby Council (11,000).

The planning proposal will enable the release of the subject site for low-scale residential development similar to that of surrounding development. Having previously considered a number of alternative options for the site, Council has decided that a 29 lot release is most appropriate for the site. The proposal will therefore assist Council in achieving its housing target identified in the draft SRS.

The subject site is located approximately 2.6 kilometres south west of Turramurra, a village, and approximately 5.5 kilometres (travel distance) north of Macquarie Park, a Specialised Centre. The subject site is therefore well located to make use of existing services and employment opportunities in nearby centres and is consistent with the intent of the draft SRS.

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

Yes.

On 13 October 2009, Council adopted the *Community Strategic Plan 2030*. This Strategic Plan is based around the following principle activity areas:

- community development
- urban environment
- natural environment
- planning and development
- civic leadership and corporate services
- financial sustainability

The planning proposal is not inconsistent with this Strategic Plan, specifically the following objectives:

- Progress the redevelopment of an aquatic facility at West Pymble Pool (approximately 3.5 kilometres south east of the subject site)
- Ku-ring-gai is a place striving for healthier lifestyle practices

- Continue to provide quality open space, community and recreational facilities that meet the needs of our community
- Implement water savings and water sensitive urban design projects to improve urban water ways

The development of the subject site has the potential to raise additional funds for investment in new local infrastructure. Council, at its meeting of 13 October 2009 (refer **Appendix 3**) resolved to allocate funds from the sale of the land towards the redevelopment of an aquatic facility at West Pymble Pool. This facility will not only meet the needs of local residents but the broader Ku-ring-gai community.

The development of the subject site for 29 residential lots assists Council in achieving healthier lifestyle practices. The site is located approximately 100 metres west along Auluba Road from Sir David Martin Reserve which is currently undergoing significant upgrades. As such it is anticipated that provision of additional housing in this locality will have good access to open space and recreational areas.

For these reasons, it is considered that the planning proposal is consistent with the local community plan and will assist in delivering upon the objectives contained within the plan.

c) Is the planning proposal consistent with applicable state environmental planning policies?

The table below identifies any applicable SEPPs and whether the planning proposal is consistent with the SEPP:

Table 1: State Environmental Planning Policies

SEPP	COMMENT
State Environmental Planning Policy No 19—Bushland in Urban Areas.	When preparing draft local environmental plans for any land to which this Policy applies, other than rural land, the council shall have regard to the general and specific aims of the Policy, and give priority to retaining bushland, unless it is satisfied that significant environmental, economic or social benefits will arise which outweigh the value of the bushland. As discussed in detail in Section 2.3.3, it is considered that the value bushland on the subject lands is off-set by the positive environmental, social and economic benefits of the planning proposal.
State Environmental Planning Policy No 44—Koala Habitat Protection.	In order to give effect to the aims of this Policy, a council should survey the land within its area so as to identify areas of potential koala habitat and core koala habitat, and make or amend a local environmental plan to include land identified as a core koala habitat within an environmental protection zone, or to identify land that is a core koala habitat and apply special provisions to control the development of that land, and give consideration to preparing an appropriate development control plan for land that is or adjoins a core koala habitat.

SEPP	COMMENT
	Previous vegetation and flora assessments undertaken from 1999 to 2003 for part of the lands subject to this planning proposal did not indentify those lands as being potential koala habitat or core koala habitat or record the presence of koalas. It is not considered that an environmental study will be required.
State Environmental Planning Policy No 55—Remediation of Land.	In preparing a local environmental plan, a council is not to include in a particular zone any land within in an investigation area; where any use on Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out; where the carry out development on that land for residential, educational, recreational or child care purposes, or for the purposes of a hospital is proposed. A preliminary investigation was undertaken by Geotechnique Pty Ltd as part of the rezoning of the former B2 road corridor which includes part of the lands subject to this planning proposal (Lot 2 DP 840228). The findings of that investigation found that the shed (see Figure 4 in Appendix 6) on the cleared paddock (Lot 2 DP 746618) may have been used to store pesticides or other chemicals. The shed may have been constructed of galvanised iron and therefore there is potential zinc contamination in the surface soil surrounding the shed. Pesticides may also be present in surface soils. The preliminary investigation concluded that it was unlikely that topsoils in the cleared horse paddock would pose a significant risk to human health or the environment. The cleared paddock subject to this planning proposal (Lot 3 DP 746618) not included in the earlier preliminary investigation is likely to have potential for contamination similar to that of Lot 2 DP 746618 and therefore further investigation is unwarranted. The other four (4) lots subject to this planning proposal are remnant vegetation and therefore not likely to have been contaminated (see Figures 6, 10, 11 and 12 in Appendix 6). The unformed section of Hall Street which is proposed to be rezoned to 2(c) is an unsealed road and it does not appear that previous bitumen works have been undertaken (see Figures 2, 6 and 12 in Appendix 6).
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.	The SEPP seeks to encourage sustainable residential development through the BASIX Scheme. The SEPP will apply to the site when a development application, complying development certificate or construction certificate is lodged for the development of the site.

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

The following table identifies applicable Section 117 Directions and outlines the planning proposal's consistency with those directions:

Table 2: Section 117 Directions

SECTION 117 DIRECTION	AIM	CONSISTENT	COMMENT
3.1 Residential Zones	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 and ensure that new housing has appropriate access to infrastructure and services, and to minimise the impact of residential development on the environment and resource lands.	Yes	The proposal will broaden the range of housing choices i.e. approximately 29 residential lots of not less than 929m² in area consistent with that of the surrounding locality and will provide ample opportunity for good urban design. The subject lands are located within an established area and local services such as shops and public transport are located in close proximity. The redevelopment of the subject lands represents infill development of an abandoned road corridor and therefore will not increase pressure on the urban fringe.
3.4 Integrating Land Use and Transport	Improving access to housing, jobs and services by walking, cycling and public transport, and increasing the choice of available transport and reducing dependence on cars, and reducing travel demand including the number of trips generated by development and the distances travelled,	Yes	The subject site is located approximately 2.6 kilometres south west of Turramurra, and approximately 5.5 kilometres (travel distance) north of Macquarie Park. The subject site is therefore well located to make use of existing services and employment opportunities in nearby centres. Shorelink operate the 571 bus service during peak periods. This route follows Barwon Avenue, the western side of the subject site and connects to Kissing Point Road and Turramurra Railway Station

SECTION 117 DIRECTION	AIM	CONSISTENT	COMMENT
	especially by car, and supporting the efficient and viable operation of public transport services, and providing for the efficient movement of freight.		(refer Appendix 8). Outside of peak times the 575 route operates along Kissing Point Road and connects Turramurra Railway Station, Wahroonga and Hornsby. Kissing Point Road is approximately 400 metres from the subject lands. As such it is considered that the area is well served for public transport and that development in this location will reduce dependency on motor vehicles and support the efficient and viable operation of local bus and train services.
4.4 Planning for Bushfire Protection	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	The redevelopment of the subject lands for a residential subdivision will result in clearing of vegetation and a reduction in the bushfire risk in the locality. Recently commenced development is also being constructed along Canoon Road to the north of the subject site (see Figures 13, 14, 15 and 16 in Appendix 6) which would have further reduced bushfire risk in the locality. Accordingly, a Bushfire Risk Assessment prepared in accordance with <i>Planning for Bushfire Protection 2006</i>, will be referred to the Commissioner of the NSW Rural Fire Service. Cross hatching on Council's fire evacuation risk map refers to "State Environmental Planning Policy No 5 – housing for Older People or People with a Disability (Amendment No 6) Bush Fire Evacuation Risk Map" deposited within the Department of Planning. This

SECTION 117 DIRECTION	AIM	CONSISTENT	COMMENT
			excludes certain lands within the Ku-ring-gai LGA for use as housing for the aged and disabled under the SEPP.
7.1 Implementation of the Metropolitan Strategy	To give legal effect to the vision, land use strategy, policies, outcomes and actions contained in the Metropolitan Strategy.	Yes	This planning proposal is consistent with the aims of the Metropolitan Strategy specifically objective <i>C1.3 Plan for increased housing targets in existing areas.</i>

2.3.3 ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

a) 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?

Based on information available including previous investigations undertaken, it is unlikely that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal.

None of the properties subject to this planning proposal are known to contain critical habitat or are located within a conservation area.

A Threatened Species Assessment was undertaken by SMEC Pty Ltd in 2003 as part of the initial rezoning of the B2 Corridor. Targeted surveying did not find evidence of threatened flora or fauna species on the lands subject to the initial rezoning.

Notwithstanding earlier work undertaken, vulnerable and endangered species may have since been identified which may be present on the subject lands. As part of the preparation of a draft LEP, a revised threatened species assessment will be undertaken. Once completed, the threatened species assessment will be referred to the Department of Environment, Climate Change and Water (DECCW) as part of formal consultations.

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

The planning proposal will result in clearing of remnant vegetation. This may be perceived as a loss of amenity for existing residents. Having reviewed a range of options, Council has opted to rezone the land 2(c) Residential which is consistent with the surrounding locality. This zoning permits residential housing on lots not less than 929m² which will provide sufficient room for retention of mature plantings, soft soil zones and building separation. This will ensure the development fits the character of the locality.

The planning proposal will result in an increase in local traffic flows however, as discussed in **Table 2** (above), local buses currently service the locality. It should be noted that other options such as part use of the subject site for sport fields was not supported by Council given concerns over traffic impacts during peak times.

The subject site is not known to be flood affected, contain acid sulphate soil or contaminated land, be subject to land slip, contain or be within the vicinity of a heritage item and is not located within the coastal zone.

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

Council's Open Space Strategy and (2005) and Sport in Ku-ring-gai Strategy (2006) both identified that open space and recreation areas throughout the LGA were under stress. Extenuating drought conditions, increased demand on resources for ground maintenance and management coupled with increasing use meant that the viability of recreation assets was diminished. For these reasons Council, in October 2006, resolved to investigate the subject site for possible use as playing fields with reduced residential housing.

Council eventually considered seven (7) different subdivision options and in April and May 2009 engaged in community consultations involving household surveys, web surveys and a community meeting. Key findings were that there was a slight preference for low density residential development than other options which included playing fields. This trend was stronger from the respondents living closer to the site.

Reasons for lack of community support for options which included playing fields related to concerns over increased parking and traffic congestion and desire to maintain the character and amenity of the area.

Sir David Martin Reserve is located only 100 metres east along Auluba Road from the subject site. Planning and preliminary design improvements to Auluba 1 and 2 ovals within Sir David Martin Reserve are underway.

As such, given the upgrades to the existing facilities at Sir David Martin Reserve, it is considered that the reclassification and rezoning of the subject site will not have an adverse social impact through loss of potential open space.

Council has undertaken an economic feasibility investigation of the redevelopment of the subject site. These investigations indicate that the redevelopment of the subject site has the potential to raise additional funds for investment for new local infrastructure.

Council has a number of large capital projects which are currently unfunded, such as the construction of a new indoor aquatic and leisure centre facility at West Pymble. A recent application for a special rate variation to fund the project was not supported by the Minister for Local Government. Therefore, Council intends to allocate any profits from the redevelopment of the former B2 road corridor towards the new aquatic centre. This will represent a positive economic impact on the Ku-ring-gai community.

The preferred option for the redevelopment of the former B2 road corridor provides for the subdivision of the site into 29 residential lots. It is expected that there will be further positive economic impacts of this project, such as increase jobs during the construction stage of the development. There is also likely to be an increase in the use of local

businesses in nearby neighbourhood centres, such as South Turrumurra on Kissing Point Road.

At present the former B2 road corridor lands are not achieving their highest and best use. The site presents on-going management costs for both Council and the NSW Department of Planning (the owners). The redevelopment will enable both Council and the Department to divest themselves of these surplus lands.

The development of the subject site will contribute to providing a wider variety of housing choices within the Ku-ring-gai local government area. The imminent *Ku-ring-gai Local Environmental Plan (Town Centres) 2009*, which is largely expected to meet Council's long-term housing needs, applies to established centres and focuses on meeting Council's housing target through multi-unit housing. This proposal offers increased stock of new low-scale residential housing to meet the needs of the community and provide a range of housing choices.

The redevelopment of the former B2 road corridor at South Turrumurra is considered to provide positive economic benefits to the community and should be supported.

2.3.4 STATE AND COMMONWEALTH INTERESTS

a) Is there adequate public infrastructure for the planning proposal?

The planning proposal will result in the creation of approximately 29 residential lots and will therefore not cause significant additional demand on such as public transport, roads, utilities, waste management and recycling services, essential services such as health, education and emergency services.

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

The NSW Department of Planning, the owner of Lot 2 DP 746618, approached Ku-ring-gai Council in 2006 regarding potential options for the abandoned B2 road corridor. Council and the Department have discussed options for the subject lands and have since entered into an MOU for the redevelopment of the land. The Department recently wrote to Council (refer **Appendix 2**) asking Council to proceed with the resolution on subdivision options and agreed to enter into a new MOU to reflect the development stage of the project.

The views of other public authorities will be not be known until after consultations have commenced. The following public authorities will be formally consulted:

- i. NSW Roads and Traffic Authority
- ii. Department of Environment, Climate Change and Water
- iii. Land and Property Management Authority
- iv. Department of Water and Energy
- v. NSW Rural Fire Service
- vi. Sydney Water Corporation
- vii. Energy Australia

c) Extinguishment of interests in the land and explanation of why the interests are proposed to be extinguished?

Lot 1 DP 840228 is subject to a caveat registered on title which refers to Declaration of Trust 20/4/1960. The Trust was required as a condition of transfer of the land to Council

from The Cumberland County Council. Essentially, the Trust requires Council hold the land pending the requirement for a county road and that the land will not be used for any purpose other than a public park, public reserve or recreation area. The Trust requires that any residue of the land is to be used for the same purpose, and that Council will not erect any building without obtaining consent from the Cumberland County Council and will observe any conditions applied.

It is necessary for the NSW Department of Planning to authorise that the old caveat from Lot 2 DP 840228 be extinguished as part of the process to reclassify the land to operational. Council is liaising with the Department's Office of Strategic Lands to authorise the removal of the caveat.

As outlined in **Section 2.2** of this planning proposal, it is intended that a clause be inserted in the Ku-ring-gai Planning Scheme Ordinance which will have the effect of extinguishing the Declaration of Trust. This Declaration of Trust needs to be discharged in order to enable Council to achieve the intent of this planning proposal.

Lot 1 DP 847214 is subject to a 5.8 wide metre electricity easement. No change to the electricity easement is proposed as Council intends to formally consult with Energy Australia and the easement is not expected to inhibit the progression of the planning proposal.

2.4 CONSULTATION

The planning proposal will be exhibited in accordance with the NSW Department of Planning's LEP Practice Note PN09-003 *Classification and reclassification of public land through a local environmental plan* and; *A guide to preparing local environmental plans* (July 2009).

The public exhibition period will be 28 days.

After the public exhibition period has closed, Council will hold a public hearing for the reclassification of land from Community land to Operational land in pursuant to the provisions of the *Local Government Act, 1993*.

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CONCLUSION

The planning proposal will seek to resolve a legacy issue relating to the abandonment of the B2 road corridor linking F2 Freeway and the M2 Motorway at South Turramurra. LEP No. 201 gazetted in January 2006, zoned the B2 road corridor to Residential 2(c) and Recreation Existing 6(a) consistent with the surrounding locality.

Council and the NSW Department of Planning have been working together since 2006 to ascertain the most appropriate use of these surplus lands and have entered into an MOU to define the roles and expectations in relation to future use of the land.

The outcome of concept designs and feasibility studies has found that the highest and best use of the land would be Residential 2(c) consistent with the surrounding locality.

The planning proposal should proceed independently of the Ku-ring-gai principal LEP given the delayed timeframe for that process and the considerable work already undertaken by Council and the Department of Planning.

The redevelopment of the subject site will enable Council and the Department of Planning to develop a low density 29 lot residential subdivision consistent with the surrounding area.

In addition, revenue raised by Council will assist in the construction of a new indoor aquatic and leisure centre facility at West Pymble.

In general terms, there are no critical issues present which preclude the planning proposal progressing to further investigation matters relating to potential threatened species and bushfire protection or formal consultations with public authorities.

APPENDIX 1



APPENDIX 2



NSW GOVERNMENT
Department of Planning

11 September 2009

The General Manager
Ku-ring-gai Council
Locked Bag 1056
PYMBLE NSW 2073

Contact: Ashley West
Phone: 9895 7650
Fax: 9895 7946
Email: ashley.west@planning.nsw.gov.au
Our ref: P07/00294-4

Attention: Andrew Watson

Dear Mr Watson

Subject: Joint Development Proposal at Chisholm Road, South Turramurra

I refer to the joint development proposal between the Department of Planning and Ku-ring-gai Council for the land at Chisholm Road, South Turramurra.

As you are aware the Department approached Council in 2006 with a proposal to investigate the possibility of both organisations jointly developing vacant land they own at Chisholm Road, South Turramurra. This was with a view of facilitating a better planning outcome by including Council land with the irregular shaped land owned by the Department. The Department has seen this as an ideal opportunity for both organisations to develop and achieve a good planning outcome in the area, as well as maximising revenue returns for both organisations.

To date both organisations have been working collaboratively investigating the site in line with an early resolution of Council from October 2006. Council further supports the development proposal with a resolution in March 2007 endorsing the drafting of a memorandum of understanding (MOU) which Council agreed to in August 2007 and executed in November 2007.

With Council completing the exhibition of a number of subdivision options as part of the community consultation process, the development proposal has now met the actions as outlined by Council in their resolution of October 2006 which was also reflected in the MOU. These actions included the development of a number of subdivision options, provided an indication of the financial feasibility of all development options and sought feedback as part of a community consultation process.

Having addressed the key actions as outlined by Council in their resolution consideration now must be given to the development phase of this site. The Department's preference is for a new MOU to be entered, particularly given the existing MOU will soon terminate on the 2nd anniversary of its execution. This new MOU would need to address:

- selection of a preferred subdivision layout and design,
- development application approval process and assessment,
- closing of unmade roads and reclassification of Council property,
- divestment decision regarding undertaking civil works and selling finished lots versus selling approved subdivision plan and allowing private sector to deliver. And
- administrative processes around funding of works, tendering of contracts and project management responsibilities.

Regional Office: Office of Strategic Lands, Level 4, 10 Valentine Avenue, Parramatta NSW 2150
PO Box 404, Parramatta NSW 2124 Ph: (02) 9895 7626 Fax (02) 9895 7946 www.planning.nsw.gov.au

In selecting an appropriate subdivision option the Department understands that the community consultation process produced an inconclusive result as to the preferred option. It has been the Department's preference for an option that reflects the existing adjoining residential subdivision pattern. Investigations of differing lot size options being the current minimum lot size of 929m² down to a minimum of 750m² has been undertaken and evaluated by Hill PDA. An option including a sporting field has also been investigated but is not favoured by the Department given the early petitioning of Council by adjoining residents opposing a sporting field being located on this site. Furthermore, the Hill PDA Feasibility Report showed significant discounting on the sale price on lots in the vicinity of a sporting field in the vicinity of \$100,000 per lot.

The Hill PDA findings support a subdivision option that meets the current 929m² lot size returning over \$10 million without the need to amend the Ku-ring-gai Planning Ordinance Scheme which the Department supports. Whilst some extra revenue could be obtained by a smaller lot size pattern the advantages of this would be lost by the time delay to amend the zoning to permit this density.

The Department following appropriate legal advice would also be willing to use its compulsory acquisition powers to acquire the unmade Council road to shorten the process of closing the road. Upon acquisition the Department would transfer the parcel to Council for nil consideration to allow its inclusion in the project.

The Department therefore requests Council to firstly proceed with a resolution of a preferred subdivision option and secondly agree to a new MOU to reflect the development stage of the project.

If you have any queries concerning the above, please do not hesitate to contact Stephen Dewick Senior Manager Divestments on 9895 7940 or Ashley West Project Manager on 9895 7650.

Yours sincerely



Stephen Dewick
Senior Manager, Divestments

APPENDIX 3

208 Development Directions for the B2 Lands at South Turramurra

File: S02846

The following members of the public addressed Council:

D Mohr

B Muir

For Council to consider the direction of the future development of the abandoned B2 Road Corridor, South Turramurra.

Councillor Hall departed during discussion

Resolved:

[Moved: Councillors Holland/Malicki]

- A. 1. That the Council and the Department of Planning enter into a Joint Venture with a developer (public or private) to develop the B2 land in South Turramurra as a model Sustainable Village. This is to include design, building and selling of the housing.
2. That to facilitate this venture, a meeting be held as soon as possible between the Department of Planning, Mayor and Ward Councillors, the General Manager and Director of Strategy, to secure the involvement of the Department of Planning in this extended process.
3. That a meeting of the Planning Committee be held as soon as possible to discuss the process to achieve the outcome of developing a Sustainable Village, including best practice in Public Private Partnerships.
- B. That Council ask the Department of Planning to compulsorily acquire the unformed part of Hall Street with a view to closing the road. The agreement for this would be subject to the Department of Planning transferring the land to Council for nil consideration as part of the subdivision of the site.
- C. That Council, in accordance with Division 4 LEPs of the Environmental Planning and Assessment Act, 1979 (as amended) and section 27 of the Local Government Act 1993 initiate a draft local environmental plan to zone the unformed portions of Hall Street and Warner Avenue consistent with the zoning of the adjoining land, and to reclassify the following from Community land to Operational land:
 - Lot 1 DP 746618
 - Lot 3 DP 746618
 - Lot 1 DP 847214
 - Lot 74 DP 216500
 - Lot 1 DP 840228
 - Lot 2 DP 840228
- D. That the General Manager be granted delegation to prepare and submit a planning proposal to the Minister for Planning in accordance with Section 55 of the Environmental Planning and Assessment Act, 1979 (as amended) to zone the unformed portions of Hall Street and Warner Avenue consistent with the zoning of the adjoining land and to reclassify lands referred to in C (above) from Community land to Operational land, such planning proposal is to include the following:

- (i) a statement of the objectives or intended outcomes of the proposed instrument;
- (ii) an explanation of the provisions that are to be included in the proposed instrument;
- (iii) the justification for those objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will comply with relevant directions under section 117);
- (iv) such as maps for proposed land use zones; heritage areas; flood prone land—a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument; and
- (v) details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.

- E. That the planning proposal exhibition process be in accordance with the NSW Department of Planning's LEP practice Note (PN09-003) 12 June 2009 and any relevant parts of LEPs and Council Owned land Best practice guidelines (DUAP 1997).
- F. That Council undertake a public hearing under the provisions of the Local Government Act, 1993 for the proposed reclassification of Council land between Barwon Avenue and Chisholm Street, South Turramurra. The public hearing be held at an appropriate time after the public exhibition of the draft LEP/ planning proposal.
- G. That a new Memorandum of Understanding be developed and entered into with the Department of Planning which reflects the resolution of Council arising from this report.
- H. That the Mayor and General Manager be authorised to execute and affix the Common Seal on all documentation associated with the Memorandum of Understanding.
- I. That a new reserve be created to enable the funding for the next phase of this project and that progress, on expenditure, be reported to Council every three (3) months as part of the quarterly budget report.
- J. That \$80,000 is borrowed from the Infrastructure and Facilities Reserve to fund the next phase of the project in 2009/10. These funds are to be repaid to the Reserve with interest at 6.1% pa on the sale of any land associated with the project.
- K. That all funds taken from the Infrastructure and Facilities Reserve for this project are repaid with interest 6.1% pa on sale of any land associated with the project.
- L. That sufficient surplus revenue from the sale, less that borrowed and interest, be allocated for the purpose of constructing a new indoor aquatic and leisure facility at West Pymble Pool.

CARRIED UNANIMOUSLY

Lands for Reclassification and Rezoning

Lands for Reclassification and Rezoning

SCALE: 1:2000

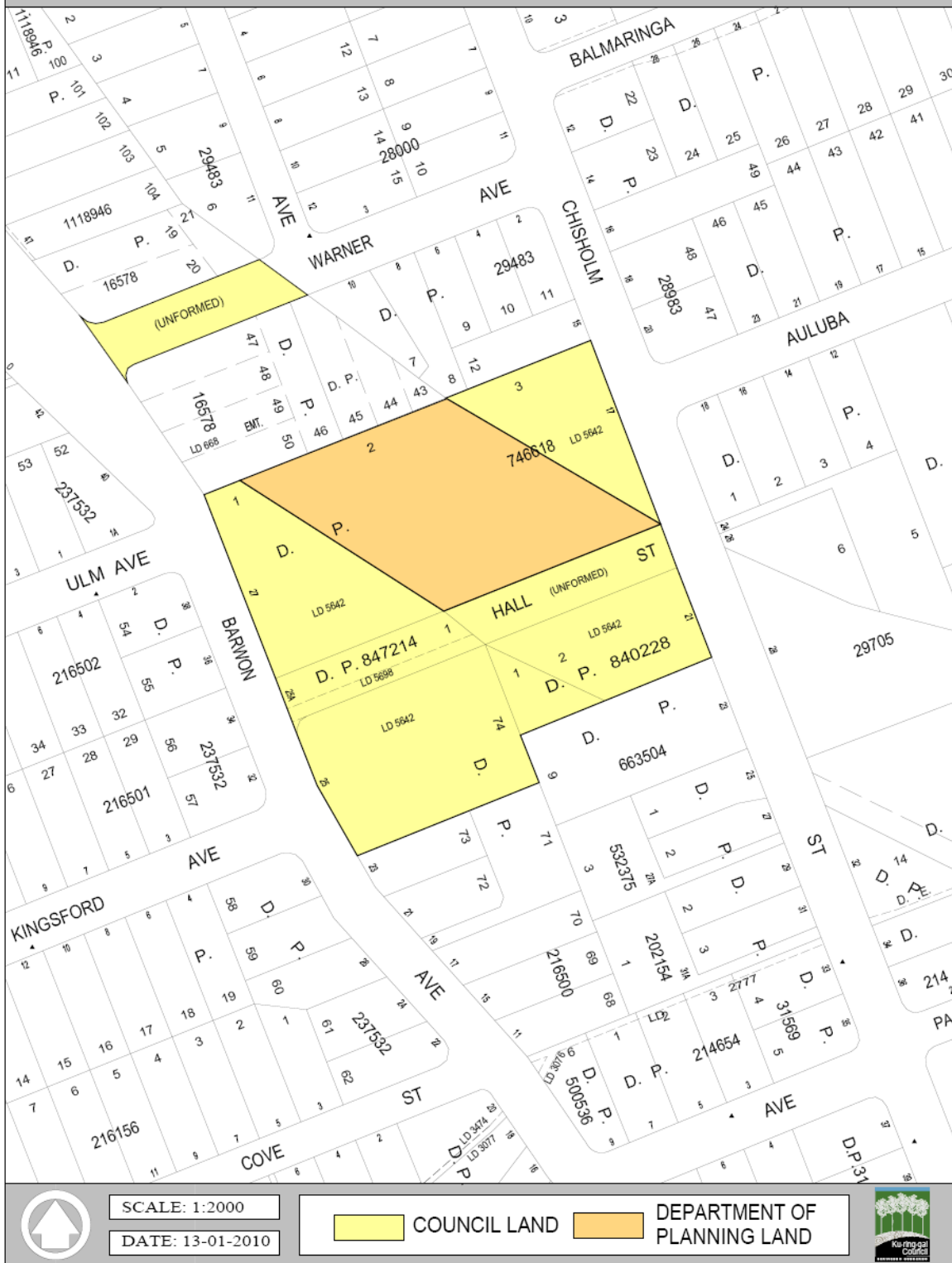
DATE: 13-01-2010

SUBJECT LAND

Kerang Council

APPENDIX 5

Land Ownership of Planning Proposal



APPENDIX 6



Figure 1: Looking north along Chisholm



Figure 2: Hall Street (unformed)



Figure 3: Cleared paddock looking south



Figure 4: Old shed on cleared paddock



Figure 5: Cleared paddock looking east



Figure 6: Looking south from Hall Street



Figure 7: Looking north east from Hall Street



Figure 8: Looking south west from Chisholm



Figure 9: Drainage line Lot 2 DP 746618



Figure 10: Verge looking north on Barwon



Figure 11: Track looking east from Barwon



Figure 12: Hall Street Looking north



Figure 13: New development Canoon Road



Figure 14: Looking south west from Chisholm



Figure 15: Looking south west from Chisholm



Figure 16: South down Barwon towards site



Figure 17: Streetscape character



Figure 18: Streetscape character

APPENDIX 7



APPENDIX 8

