
COUNCIL LAND SOUTH TURRAMURRA - RE- EXHIBITION OF PLANNING PROPOSAL AND PUBLIC HEARING

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To report back on the re-exhibition of the Planning Proposal and Public Hearing to reclassify and rezone Council land at South Turramurra.

BACKGROUND:

On 20 September 2011 Council considered a report that included Department of Planning and Infrastructure (DoPI) advice the planning proposal should be re-exhibited and the public hearing re-held to clarify that Council is seeking to discharge all interests on 21 Chisholm Street, South Turramurra.

COMMENTS:

The planning proposal (DLEP 216) was re-exhibited and the public hearing re-held. Submissions were made by State agencies and the local community relating to the environment, access, and urban design issues. These issues are noted and they can be addressed in the more detailed Development Control Plan and development/subdivision stages of the proposal.

RECOMMENDATION:

That Council forward the Planning Proposal (and DLEP 216) to the Department of Planning and Infrastructure and request that the amendment to the Ku-ring-gai Planning Scheme Ordinance be made.

PURPOSE OF REPORT

To report back on the re-exhibition of the Planning Proposal and Public Hearing to reclassify and rezone Council land at South Turrumurra.

BACKGROUND

The subject site was previously part of a proposed B2 road corridor that would link the F3 Freeway with the M2 Motorway. The B2 road corridor proposal was abandoned by the NSW State Government in 1996.

In January 2006 Ku-ring-gai Local Environmental Plan No 201 was gazetted by the NSW Minister for Planning, this LEP rezoned a significant section of the former road corridor to Residential 2(c) and 6(a) Recreation under the Ku-ring-gai Planning Scheme Ordinance.

In 2007 Council entered into Memorandum of Understanding with the Office of Strategic Lands in the Department of Planning for the joint redevelopment of the Council owned land and the adjoining state government owned land at South Turrumurra for a residential development. The MOU has since lapsed.

On 23 February 2010 Council resolved in part that "a new memorandum of understanding be developed and entered into with the Department of Planning".

On 10 August 2010 Council endorsed a Project Delivery Agreement with the NSW Land & Property Management Authority - Office of Strategic Lands.

Under this agreement both parties propose to develop the land for residential purposes for subdivision and release. The proposed residential development will be a low density urban development, consistent with the character for the locality with a subdivision design that includes sustainable urban design and an economically viable lot yield for residential purposes.

The Council owned land is currently classified as 'community land' under the *Local Government Act, 1993* and needs to be reclassified to 'operational land' to allow the proposed development to take place.

On 16 March 2010 a gateway determination was made by the NSW Department of Planning for a planning proposal to rezone and reclassify Council land at South Turrumurra.

A Planning Proposal was originally exhibited from 11 October to November 2010 under the *Environmental Planning and Assessment Act, 1979*, which sought an amendment to the *Ku-ring-gai Planning Scheme Ordinance, 1971* involving the reclassification of six (6) parcels of land and the rezoning of Hall Street, (unformed) and Warner Avenue (unformed) at South Turrumurra to Residential 2 (c) (see **Attachment A1** Planning Proposal).

On 1 February 2011 Council considered outcomes of the consultation for the Planning Proposal to reclassify and rezone Council land at South Turrumurra and adopted the planning proposal and that the matter be forwarded to the Department of Planning and Infrastructure (DOPI) with a request that the plan be made.

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During 2011 DOPI were processing Council's documentation Planning Proposal (Draft LEP 216) in preparation for gazettal of the Plan.

On 29 August 2011 Council received a reply (**Attachment A2**) from DOPI advising that the discharge of interests under Section 30 of the *Local Government Act, 1993* required clarification on Council's land at 21 Chisholm Street, South Turramurra and recommended re-exhibition of the Planning Proposal (DLEP 216) and to re-hold the public hearing.

On 20 September 2011 Council resolved to re-exhibit the Planning Proposal (DLEP 216) which seeks to reclassify and rezone (in part) Council land at South Turramurra and to clarify that its is formally seeking to discharge all interests under the *Local Government Act, 1993* on Council land (Lots 1 & 2 in DP 840228) 21 Chisholm Street, South Turramurra. In addition a further 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 be held.

The Planning Proposal (and Draft Local Environmental Plan 216) was re- exhibited in accordance with the DOPI advice from 28 August 2011 placed on public exhibition in accordance with the Department's Gateway Determination for a 28 day period to 10 November 2011.

After the public exhibition of the Planning Proposal, Council gave notification of the public hearing for the reclassification of land from Community land to Operational land in accordance with Section 57(6) of the *Environmental Planning & Assessment Act, 1979*.

Notification of the public hearing was provided in the North Shore Times on 11 November 2011, in addition local residents were notified by letter and details of the hearing were placed on Council's website. The notification/exhibition period was for public hearing was 21 days.

On 2 December 2011 the public hearing was re-held in accordance with Section 29 (9) of the *Local Government Act, 1993* and its findings are addressed in this report.

COMMENTS

In accordance with the Gateway Determination, consultation with the State agencies was re-conducted prior to the formal re- exhibition of the Planning Proposal (including Draft Local Environmental Plan 216). It should be noted that whilst some agencies and the public provided comments on original exhibition period, but did not provide a further response to the re- exhibition. These submissions have been provided to the NSW DoPI for their consideration and will be taken into consideration in the next stages of the planning process.

The State Agency submissions from the re-exhibition period are summarised below:

Department of Environment, Climate Change and Water (DECCW)

- Noted the purpose of the re-exhibition and advised their comments from 3 November 2010 remain relevant to assist Council in its consideration of the Planning Proposal.
- Reviewed the flora and fauna constraints study and considers that the fauna surveys are adequate. However, state that it is difficult to determine if the flora surveys are adequate as there is no data provided on the degree of effort applied.

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Comments

The review by DECCW is noted and additional flora and flora assessments will be provided and used during the next stage of the preparation of the Development Control Plan (DCP) and subdivision application. At this stage there will also be opportunity for DECCW review and feedback on the ecological issues.

DECCW notes that more intensive flora and fauna surveys will be undertaken once a subdivision plan is finalised.

DECCW states that *Eucalyptus nicholii* was recorded in the study area, but notes that the ecological report does not mention that this species is listed as vulnerable under the *Threatened Species Conservation Act, 1995*.

NSW Rural Fire Service

- Notes land identified affected by the Ku-ring-gai bushfire prone land map- and any future development will be subject to section 100B of the *Rural Fires Act 1997* and Section 79BA of *Environmental Planning and Assessment Act 1979*. In addition the requirements for *Bushfire Protection 2006* also should be considered in the planning stages.

Comments

The comments by the RFS are noted. As a result of recent residential development within the vicinity of the subject sites, there has been some modification to the local bushfire prone land conditions.

The relevant bushfire legislation and bushfire planning policies will be taken into consideration at the Development Control Plan (DCP) and subdivision application stages.

Sydney Water

- No objection to the rezoning and outlines provides information for a section 73 certificate.

Comments

Sydney Water comments are noted and these will be factored into the next stages of the development process including the requirements for a section 73 Certificate.

Community Submissions

The Planning Proposal was re-exhibited in accordance with the Gateway Determination for a 28 day period from Friday 14 October 2011 to Thursday 10 November 2011 . There were six (6) submissions received during the exhibition period. A summary table of resident submissions is provided below and the resident submissions are **Attachment A4**.

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Key themes of the community submissions:

- Four of the six submissions raised the importance of retaining public access (pathway) from Barwon Avenue to Chisholm Street, South Turrumurra as this provides pedestrian/ cycle access to the local shops and the local bus services. The redevelopment of the site should provide concrete kerb and guttering and local footpaths. A safe footpath linking Barwon Avenue to Chisholm Street should be provided.
- Stormwater management issues to be addressed to minimise potential local flooding issues.
- Biodiversity - need to recognise and protect the local flora and fauna including the riparian zone and implement the recommendations of the Flora and Fauna report by Ambrose Ecological Services Pty Ltd.
- The site has local community value and 21 Chisholm Street should be retained as a community garden.
- There needs to be clarification of the areas that are owned by DOPI and Council as it appears the percentages have changed.
- Do not agree there is a net community benefit - eg no evidence of local employment, no extra housing choice.
- Councils land at 21 Chisholm Street should remain as open space as stipulated by the condition of transfer.
- The existing creek should be categorised as Category 2 under Council's riparian policy.

Comments

The need for pedestrian access linking Chisholm Street and Barwon Avenue is noted and has been previously raised as a key issue by the local residents. There will be various options for pedestrian access that can be considered including a pedestrian walkway through the riparian zone that links Chisholm Street to Barwon Avenue and a link footpath with a new street link across the site. The solutions to pedestrian access will be further considered and implemented in the DCP and subdivision design stage of the next stage of the development planning phase.

In relation to submissions that the site should remain open space/ community garden, the site was originally identified and reserved a part of a regional road corridor. This site has been the subject of numerous reports to Council and community consultation as to the future development options, these have explored various residential densities and the provision of an open space/sportsfield on the site. The adopted position of Council has been for a residential development for the site consistent with the local character of the area.

There is adequate local open space provision with access to passive and active spaces within a local 500m radius of the site, including significant bushland and the parks at Auluba Oval and Sir David Martin Reserve playing fields.

Moreover, under Council's agreement the Office of Strategic Lands must transfer, at no cost, 4420 square metres of land adjacent to Sir David Martin Reserve known as Lot 7 in Deposited Plan 29705 a new open space/ bushland reserve will be transferred to Council.

Redevelopment of the site to residential purposes will also provide passive open space with the public riparian link across the site. Part of this area could be considered for a community garden if warranted, however it would be subject to further environmental and design review.

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The proposed draft riparian zone map has been prepared and this also could be incorporated into the DCP and subdivision design phase of the project. Public access provisions could also be incorporated into the riparian zone as it links Barwon Avenue and Chisholm Streets. Councillors were briefed on these issues at the Councillor Workshop on 25 November 2011.

On 10 August 2010 Council endorsed a Project Delivery Agreement with the NSW Land & Property Management Authority - Office of Strategic Lands, if parts of the site were excised for public open space there could be impacts on the overall feasibility for the project and the options for designs of the subdivision would need to be further reviewed.

Stormwater and the flooding management issues are also noted and will be addressed in the subdivision/ development application stage.

In relation to the ownership of land between Council and the NSW Government, on 10 August 2010 Council endorsed a Project Delivery Agreement with the NSW Land & Property Management Authority- Office of Strategic Lands. Under this agreement both parties propose to develop the land for residential purposes for release and subdivision. The abandoned road corridor comprises land owned Council owns 2 hectares and Office of Strategic Lands owns 1.7 hectares. This now makes the percentages 54% and 46% respectively. It should be noted that these figures have changed since the original planning proposal documentation was prepared as portion of the Barwon Avenue Road Reserve has been included and on lot 2 in D.P 840228 there is a split in revenue between both parties. The Barwon Road reserve land is not subject to reclassification process.

In summary, the feedback from the community relates primarily to the DCP and subdivision design stages of this project and do not necessitate any formal amendments to the exhibited Planning Proposal or Draft Local Environmental Plan No 216.

Map: Local Open Space areas within 500m of subject site



Reclassification Public Hearing

After the public exhibition of the Planning Proposal, Council gave notification of the public hearing for the reclassification of land from Community land to Operational land in accordance with Section 57(6) of the EP&A Act. The notification/exhibition period was for 21 days.

On 2 December 2011 a public hearing was held in accordance with Section 29 (9) of the *Local Government Act, 1993* to reclassify the six parcels of land from community to operational land.

Notification of the hearing was provided in the North Shore Times on 11 November 2011, in addition local residents were notified by letter and details of the hearing were placed on Council's website.

The report on the public hearing to reclassify prepared by Ludvik & Associates December 2011 is **Attachment A5**.

In accordance with the *Local Government Act, 1993* the report on the public hearing was posted on Council's website upon receipt.

The public hearing report recommendation is produced below:

The reclassification of Sites 1 to 6 from "community land" to "operational land" under the terms of the Local Government Act 1993 is appropriate.

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The discharging of the declaration of trust applying to Sites 2 and 3, as proposed in Part 2 of Schedule 10 to be incorporated into the Ku-ring-gai Planning Scheme Ordinance by Ku-ring-gai Local Environmental Plan No.216, is appropriate.

The issues that will need to be addressed in detail in the development control plan and the specific development application to be prepared following the reclassification include:

- *the provision of a satisfactorily designed public accessway between Barwon Avenue and Chisholm Street;*
- *the provision of a satisfactorily designed riparian corridor through the land and the implementation of stormwater measures to prevent downstream flooding;*
- *the recommendations of the Flora and Fauna Survey & Constraints Assessment prepared by Ambrose Ecological Services Pty Ltd.*

A copy of this report should be made available for public inspection as required by Section 47G of the Local Government Act 1993.

People who made submissions concerning the proposed reclassifications should be advised accordingly.

It is recommended that Council support the proposed reclassification of Council land from Community land to Operational land and the recommendations from the Chairperson be incorporated into the next stages of development planning for the precinct.

GOVERNANCE MATTERS

This report has been put to Council following a resolution of Council on 13 October 2009, when Council resolved to prepare the Planning Proposal. The Planning Proposal to rezone and reclassify Council land at South Turramurra is also linked to Council's resolution of 10 August 2010 to enter into a Project Delivery Agreement (PDA) with the NSW Land & Property Management Authority – Office of Strategic Lands to facilitate the joint development of the land for residential purposes. The project is consistent with Council's adopted Council's Delivery Program and Operational Plan 2012-2015 One Year Action "to undertake planning design and costing for proposed new facilities, input into review and update the LTFM to incorporate" in addition it is consistent with Council's *Community Strategic Plan 2030* in providing for new development that can cross fund community development projects such as the aquatic facility at West Pymble Pool.

Further reports on this project will be presented to Council at each step of the planning phase and into the development delivery phases as set out in the Summary section of this report.

An independent public hearing and report on the land reclassification has been completed as part of this project, this matter is also addressed elsewhere in this report.

RISK MANAGEMENT

The Planning Proposal to rezone and reclassify Council land at South Turramurra is linked to Council's Delivery Program and Operational Plan 2012-2015 as it represents the initial key planning phase to facilitate the joint development of the land for residential purposes with the

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NSW Land & Property Management Authority – Office of Strategic Lands. A key risk of inaction relates to financial risks as the approval of this step in the planning process will enable Council to deliver on a key projects identified in the long term financial plan and continue to deliver community services and facilities. Another potential risk of inaction is Council's reputation risk as it has entered into an open and transparent process and formal agreement with NSW Land & Property Management Authority – Office of Strategic Lands to facilitate the joint development of the land for residential purposes.

FINANCIAL CONSIDERATIONS

The Planning Proposal to rezone and reclassify Council land at South Turrumurra is linked to Council's Delivery Program and Operational Plan 2012-2015 as it represents a key planning phase to facilitate the joint development of the land for residential purposes with the NSW Land & Property Management Authority – Office of Strategic Lands. If the project does not proceed, this will have a significant financial impact on the Long term Financial Model and the ability to resource and continue to deliver community services and facilities.

The cost of preparing and processing this report is covered by the Strategy & Environment Department Ku-ring-gai Planning Budget.

SOCIAL CONSIDERATIONS

This project will assist in the delivery of Council's *Community Strategic Plan 2030* in providing for new development that can assist to cross fund community development projects such as the aquatic facility at West Pymble Pool. Options for the reuse of the Council land at South Turrumurra were subject to extensive community surveys and consultation in 2009 to determine the best mix of land uses and an appropriate residential land size for submission. The Planning Proposal has been prepared taking into account this community feedback and Councils resolutions since 2009. The community as part of the exhibition process have requested public access is retained through the site and that the ecological attributes of the site be recognise and retained. This can be achieved via the approach recommended in this report by introducing a riparian corridor through part of the site that protects the local biodiversity, whilst at the same time providing the link between Chisholm Street and Barwon Avenue.

ENVIRONMENTAL CONSIDERATIONS

The Planning Proposal to rezone and reclassify Council land at South Turrumurra has identified the key environmental opportunities and constraints for a residential development on the site. To date Council has been proactive in ensuring that the planning documentation for the site will incorporate the best practice sustainability principles and through the DCP and subdivision process and ensure sustainability measures through a range of sustainable urban design parameters including opportunities of alternative power sources and water re-use.

COMMUNITY CONSULTATION

The Planning Proposal was re-exhibited in accordance with the DOPI advice from 28 August 2011 placed on public exhibition in accordance with the Department's Gateway Determination for a 28 day period to 10 November 2011.

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The community were notified of the exhibition via a notice in the North Shore Times and letters to the residents within the local catchment. Details of the Planning Proposal and supporting material were made available on Council's website, at the Council Chambers and Turramurra Library.

After the public exhibition of the Planning Proposal, Council gave notification of the public hearing for the reclassification of land from Community land to Operational land in accordance with Section 57(6) of the *Environmental Planning & Assessment Act, 1979*.

Notification of the public hearing was provided in the North Shore Times on 11 November 2011, in addition local residents were notified by letter and details of the hearing were placed on Council's website. The notification/exhibition period was for public hearing was 21 days.

On 2 December 2011 the public hearing was re-held in accordance with Section 29 (9) of the *Local Government Act, 1993* to reclassify the six parcels of land from Community land to Operational land.

The public hearing report was made available to Councillors and a copy placed at Council's Customer Service Centre and placed on Council's website.

All persons who made a submission on the planning proposal and the public hearing have been notified of this report going to Council.

INTERNAL CONSULTATION

Consultation with other Departments has been conducted where appropriate in the preparation of this report.

SUMMARY

A Planning Proposal for an amendment to the KPSO 1971 has been re-exhibited. The amendment is for the reclassification of six (6) parcels of Council land from Operational land to Community land and the rezoning of Hall Street (unformed) and Warner Avenue (unformed) at South Turramurra (the subject site) to Residential 2(c).

A public hearing was also re-held for the reclassification component of the Planning Proposal, to clarify that Council is seeking to discharge all interests on its land holding on 21 Chisholm Street, South Turramurra.

Submissions were made by State agencies and the local community relating to environmental, access and urban design issues. The issues raised in relation to the exhibition of the Planning Proposal and the public hearing were similar. The issues relating to environmental, urban design and public access can be addressed in the more detailed DCP and development/ subdivision stages of the proposal.

It is recommended the Council endorse the plans and forward the Planning Proposal (DLEP 216) to the Department of Planning and Infrastructure in the form that it was re-exhibited and request that the amendment to the KPSO be made.

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Next Steps

If supported by Council the Planning Proposal will be referred back to Department of Planning and Infrastructure requesting that the Plan be made. Gazettal of the amendment to the KPSO will rezone part of the site and formally reclassify the six parcels of Council owned land.

The draft DCP exhibition and subdivision application stages will also involve further review by Council and feedback from the State agencies and the community via a formal exhibition period.

RECOMMENDATION:

- A. That Council forward the Planning Proposal to the Department of Planning Director-General and request that a Local Environmental Plan DLEP 216 be made to amend the *Ku-ring-gai Planning Scheme Ordinance* to zone the currently unzoned and unformed portions of Hall Street and Warner Avenue, South Turramurra to Residential 2C and to reclassify six parcels of land (Lot 1 DP 746618, Lot 3 DP 746618, Lot 1 DP 847214, Lot 74 DP 216500, Lot 1 DP 840228 and Lot 2 DP 840228) from Community to Operational land.
- B. That Council discharge all its interests under the *Local Government Act, 1993* on Council land (Lots 1 & 2 in DP 840228) 21 Chisholm Street, South Turramurra.
- C. That the Development Control Plan and subdivision plan for the subject sites take into consideration the requirements of the recommendations of the reclassification report on the public hearing prepared by Ludvik & Associates, December 2011.
- D. That all persons who made a submission be notified of Council's decision.

Antony Fabbro
Manager Urban & Heritage Planning

Andrew Watson
Director Strategy & Environment

Attachments:	A1	Planning Proposal	2011/272435
	A2	Letter from Department of Planning & Infrastructure	2011/190404
	A3	Submissions from State Agencies	2011/272209
	A4	Resident Submissions	2011/272258
	A5	Public Hearing Report	2011/273784