

JRPP No:	2011SYE064
DA No:	DA11/0478
Local Government Area	Sutherland Shire
Proposed Development:	Subdivision Development - Subdivision of One (1) Lot Into 71 Lots
Street Address	446 Captain Cook Drive, Greenhills Beach Lot 1054 (Future Lot 2) DP 1140838
Applicant/Owner:	S Blount (Australand Pty Ltd)
Number of Submissions:	Nil
Recommendation:	Approval
Report By:	Brad Harris – Environmental Assessment Officer (Planner) Sutherland Shire Council

Assessment Report and Recommendation

1.0 EXECUTIVE SUMMARY

1.1 Reason for Report

Pursuant to the requirements of State Environmental Planning Policy (Major Development) 2005, this application is referred to the Joint Regional Planning Panel (JRPP) as it seeks approval for development referred to in Clause 13C(d) being, “*subdivision for residential purposes of land that is not in the metropolitan coastal zone (unless it is wholly or partly in a sensitive coastal location) into more than 25 lots*”. The subject site is located in a sensitive coastal location and the proposal is a subdivision of land into 71 lots.

1.2 Proposal

The subject application seeks to subdivide an approved “super lot” (proposed Lot 2 under DA10/1060) into seventy one (71) residential lots. Proposed Lot 2 is located immediately to the west of the subdivision previously approved by the JRPP (2010SYE106 - DA10/1253) and is adjacent to Captain Cook Drive.

1.3 The Site

The subject site forms part of 446 Captain Cook Drive Greenhills Beach. The locality was formerly known as Kurnell but was renamed Greenhills Beach by the Geographical Names Board on 22 July 2011. The site is located on the eastern side of Captain Cook Drive, approximately 550m north of its intersection with Elouera Road. The site has an area of 5.25ha.

1.4 The Issues

The main issues identified are as follows:

- Stormwater management.

- Traffic impacts - additional residential traffic and truck movements on Captain Cook Drive associated with subdivision works (importation of fill).
- Filling of land to achieve appropriate flood free levels taking into consideration anticipated sea level rise.
- Lot size and configuration.
- Impact on Towra Point Nature Reserve

It is noted that the above issues, while relevant to the subject application, have been previously addressed to the satisfaction of Council staff during the assessment of DA10/1253, which was approved by the JRPP on 6 April 2011.

1.5 Conclusion

Following detailed assessment, the proposal is considered worthy of support, subject to conditions.

2.0 DESCRIPTION OF PROPOSAL

An application has been received for subdivision of the subject land into seventy one (71) residential lots. The subject site is Lot 2 in a subdivision of Lots 1058 and 1054 in DP 1140838. A four 'super lot' subdivision creating Lot 2 was approved by Council on 16 March 2011 (DA10/1060).

The subject land is located adjacent to Captain Cook Drive and is immediately to the west of the previously approved subdivision (DA10/1253 approved by the JRPP on 6 April 2011 (2010SYE106)).

The proposal does not seek approval for the construction of any dwellings. Future dwellings are intended to be compliant with 'Design Guidelines' to be implemented by a Design Review Panel. That panel will review development applications for dwellings prior to their lodgement with Council.

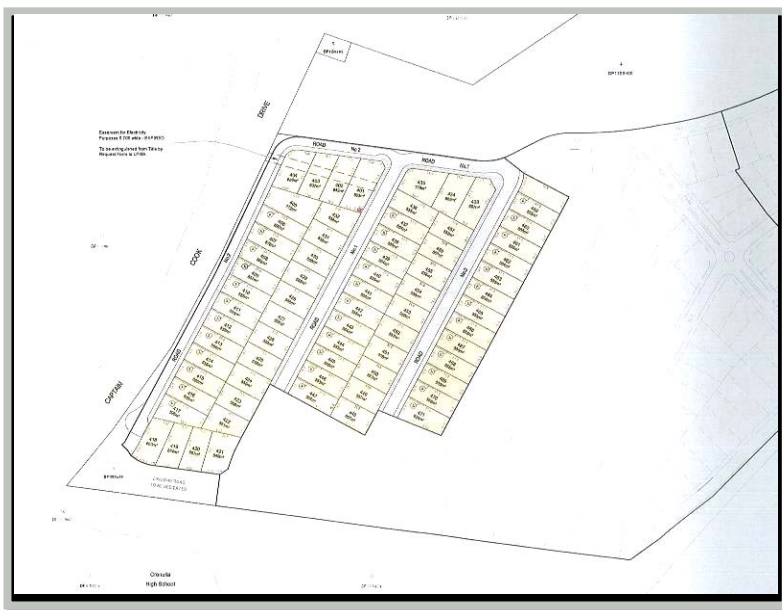


Figure 1: Proposed Subdivision Layout

3.0 SITE DESCRIPTION AND LOCALITY

The subject land is located at 446 Captain Cook Drive, Greenhills Beach. The site is currently vacant, having being filled and levelled in preparation for the previously approved industrial subdivision.

The site has a frontage of 367 metres to Captain Cook Drive and an area of 5.25ha. Frontage works, including retaining walls, landscaping and estate entry signage have been approved under DA10/1060.

Lucas Reserve is located to the east, beyond the approved Stage 1 subdivision (DA10/1253). To the east of Lucas Reserve is a stretch of beach known locally as Green Hills Beach.

The street scene in the immediate vicinity is characterised by a mixture of land uses. To the north-east of the site is a heritage listed sand dune, which forms part of the Cronulla Sand Dune. Wanda Beach Coastal Landscape is to the east and south of the site. To the north is the Cronulla Sewage Treatment Plant and to the west (opposite Captain Cook Drive) is the Towra Point Wetlands, which form part of Woollooware Bay.



Figure 2 - Locality Plan (Subject site edged red)

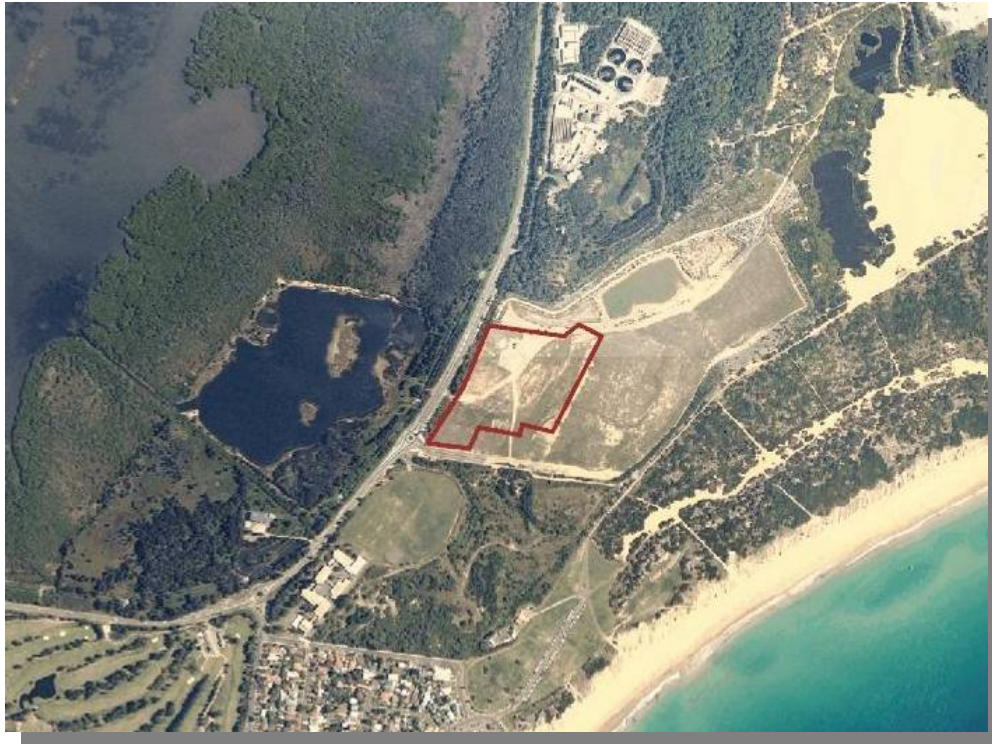


Figure 3 - Aerial Photograph (Subject site edged red)

4.0 BACKGROUND

A history of the site is as follows:

- An industrial subdivision of the subject site was approved by the Land and Environment Court on 23 January 2004. This consent created 25 lots. A further consent granted by Council in December 2005 (DA00/1547) approved a 54 lot Industrial subdivision.
- On 3 June 2010 a Voluntary Planning Agreement (VPA) was entered into between the applicant, Breen Holdings Pty Limited (an adjoining land owner) and Sutherland Shire Council.
- On 27 August 2010 the land was rezoned from 7(b) Special Development Zone to Zone E4 – Environmental Living to facilitate residential development.
- On 16 March 2011 Council granted development consent for the subdivision of the Australand site (Lots 1054 and 1058 DP 1140838) into four (4) 'super lots' and one (1) road lot. That subdivision created future Lot 2, being the lot subject of this application
- On 6 April 2011 the JRPP granted development consent for:

“Staged Development for Residential Subdivision of Two (2) Lots into 166 Lots. Stage 1: Approval and Works for 165 Lots. Stage 2: Pedestrian Access to Lucas Reserve”

A history of the subject application is as follows:

- The current application was submitted on 26 May 2011.
- The application was placed on exhibition, with the last date for public submissions being 24 June 2011. No submissions were received.
- An Information Session was held on 15 June 2011 and two (2) people attended. The issues raised were:
 - Bus access to the site is poor.
 - Access from the site is available at a single point at Captain Cook Drive. While it is understood that future access may be available via the site to the south, this is not yet certain.
 - Cronulla High School is concerned about the traffic conflict in the locality. In particular concern was raised regarding pedestrian/vehicle conflicts associated with the future Breen development to the south of the Australand development.
 - Compacting of fill during previous site works caused vibration at Cronulla High School.

5.0 ADEQUACY OF APPLICANT'S SUBMISSION

In relation to the Statement of Environmental Effects, plans and other documentation submitted with the application or after a request from Council, the applicant has provided adequate information to enable an assessment of this application.

6.0 PUBLIC PARTICIPATION

The application was advertised in accordance with the provisions of Chapter 12 of Sutherland Shire Development Control Plan 2006 (SSDCP 2006).

Sixty four (64) adjoining or affected owners/residents, including Cronulla High School P & C, were notified of the proposal. No submissions were received.

7.0 STATUTORY CONSIDERATIONS

The subject land is located in Zone E4 Environmental Living under the provisions of State Environmental Planning Policy (Kurnell Peninsula) 1989 (SEPP Kurnell Peninsula).

The proposed development, being subdivision, is permissible with development consent.

The following Environmental Planning Instruments (EPI's) and Development Control Plan (DCP) are relevant to this application:

- State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71)
- State Environmental Planning Policy (Major Development) 2005
- State Environmental Planning Policy (Kurnell Peninsula) 1989
- Council's Residential Subdivision Development Control Plan 9.1/01, Edition 10

8.0 STATEMENT OF COMPLIANCE

The statement of compliance below contains a summary of applicable development standard/s and control/s and a compliance checklist relative to these:

Standard/Control	Required	Proposed	Compliance
Minimum Lot Size Zone E4 Lot Size Map SEPP Kurnell Peninsula	550m ²	Lots range from 554m ² to 803m ²	Yes

Council's Residential Subdivision Development Control Plan 9.1/01, Edition 10, applied to all land within the Sutherland Shire prior to gazettal of Sutherland Shire Local Environmental Plan 2006 (SSLEP 2006) and adoption of Sutherland Shire Development Control Plan 2006 (SSDCP 2006).

As the subject land is not zoned under SSLEP 2006, the Subdivision DCP still technically applies to the subject land. The lot size requirement of this DCP (minimum lot area of 900m²) is inconsistent with the minimum lot size contained in the SEPP (550m²). The SEPP is a higher order statutory instrument and is considered to override the DCP.

Therefore the minimum lot area, width and depth controls of the DCP, being 900 m², 18m and 30m respectively, are considered to hold almost no weight in the assessment of the proposal.

The dimensional requirements of the lot layout, including road widths, will be considered on their merits subject to engineering and traffic assessment using controls within SSDCP 2006 as a guide only.

9.0 SPECIALIST COMMENTS AND EXTERNAL REFERRALS

The application was referred to the following internal and external specialists for assessment and the following comments were received:

9.1. Office of Environment & Heritage

The Office of Environment & Heritage wrote to Council on 27 June 2011 making the following observations. Comments in relation to each issue have been provided by Council's Principal Environmental Scientist and Manager of Council's Environmental Science Unit:

Flora and Fauna

A flora and fauna assessment should be undertaken by a qualified and experienced ecological consultant to ascertain whether threatened species, populations or ecological communities are present or are likely to use habitat at the site.

Comment: Extensive flora and fauna surveys of the site were undertaken at the rezoning stage and during previous applications for industrial subdivision on the site. These surveys identified the presence of threatened species and endangered ecological communities on the broader site and surrounds. These areas have been zoned public open space and have been excluded from development.

The remaining areas of the site identified as suitable for firstly industrial, and more recently residential development, have no significant habitat remnants, threatened species or endangered ecological communities present. OEH staff were involved in this assessment during the recent rezoning application where these issues were addressed.

Odour

The proposal is within land currently affected by odour from the Cronulla Sewage Treatment Plant (Cronulla STP). OEH has been working with Sydney Water Corporation (SWC) to ensure that all odour management works within the STP have been completed prior to occupation of dwellings within the new residential subdivision.

Comment: This issue was also examined during the rezoning process. While portions of the original site were within the identified odour zone for the sewage treatment plant, the area identified for residential development fell outside this zone. Sydney Water has recently received approval for odour mitigation works to be undertaken at the sewage treatment plant.

Impact on Towra Point Nature Reserve

OEH seeks to ensure that the proposed development has no adverse effect in natural or cultural values of the Nature Reserve. In this regard OEH has requested Council take into consideration the publication titled *'Guidelines for Developments Adjoining Land and Water Managed by the Department of Environment, Climate Change and Water'*. OEH has requested that Council address OEH requirements in its assessment of the application.

Comment: The impact of the proposed residential development on hydrological regimes and off site impacts to Towra Point have been the subject of extensive studies over the past ten years, initially with the industrial subdivision proposal and more recently with the residential rezoning.

OEH and NSW Office of Water staff have been involved in the assessment of these proposals. Previous studies identified the need for a large treatment and infiltration pond to be provided in order to maintain groundwater flows to Towra Point and avoid impacts to this area. This led to the construction of Pond 6 (immediately to the north of the subject land).

A review of these studies for the residential rezoning proposal confirmed that these measures are adequate (and potentially represent an over-engineered

solution) for the management of stormwater and groundwater so as to minimise impacts on the reserve and adjoining water bodies. The proposed management strategy complies with the requirements of the OEH publication referred to above.

9.2 Rural Fire Service

The Rural Fire Service has provided General Terms of Approval in relation to the provision of a temporary 15m asset protection zone (APZ). An appropriate condition of consent (Condition 3) has been imposed to alert the applicant to this requirement.

9.3 Engineering

Council's development assessment engineer has undertaken an assessment of the application and provided draft conditions of development consent to address civil engineering and site management matters, which are included in the recommendation.

The issues addressed by conditions include:

- The provision of a comprehensive construction and site management plan (a plan was not submitted with the application).
- Carriage forward of the drainage conditions imposed in development consent No. 10/1253 so that development across the total site is consistent.
- Clarification of the drainage of Road 2 adjacent to Lots 401 – 404 and Road 1 adjacent to Lots 433 – 435 relying on drawing No.220838/10 sheet C03-DA1-004/P03 prepared by ARUP.

The latest set of submitted drawings present a number of unresolved issues with the road network layout:

- The road network has no obvious hierarchy. It is considered that Road No. 1 should be a collector road, Road No. 3 a local road and Road No. 2 a minor local road. All road reserves and associated carriageway and footpath areas should be widened to comply with clause 2.b.14 of Chapter 7 of SSDCP 2006.
- As with development consent No. 10/1253, to control parking and ensure passing bays are kept clear, street signage will be required.
- The cul-de-sac bowl must have a minimum kerb return radius of 8m (Chapter 7 Clause 2.b.14 SSDCP 2006). It is noted that the cul-de-sac detailed in the submitted drawings can accommodate the minimum dimensions of Council's "T-Head" standard drawing.
- The bus route should have a 9m wide carriageway. Although not subject to approval through this Consent, the bus route recommended by Colston Budd Hunt & Kafes Pty Ltd (Report of November 2010) should be revisited, for example; any bus stops along the western side of Road No. 1, will have to negotiate parked cars and street trees located in the carriageway.

These matters are addressed by recommended consent conditions.

10.0 ASSESSMENT

Following a detailed assessment of the application having regard to the Heads of Consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979, the following matters are considered important to this application.

10.1 Environmental Planning Instruments

10.1.1 Background

Previous consents granted by the Land and Environment Court enabled the development of the subject site for industrial purposes. Subsequent discussions with Council led to a joint rezoning proposal which included a Voluntary Planning Agreement (VPA) between Australand Kurnell Pty Limited, Breen Holdings Pty Limited and Sutherland Shire Council.

The VPA secured rehabilitation of approximately 124 hectares of land on the Kurnell Peninsula that had previously been subject to sand mining. The VPA was executed on 3 June 2010.

The subject land was rezoned to E4 – Environmental Living on 27 August 2010, enabling the subject site to be developed for residential purposes.

10.1.2 State Environmental Planning Policy (Kurnell Peninsula) 1989

The land is zoned E4 - Environmental Living under the provisions of SEPP (Kurnell Peninsula) 1989. There is no adopted development control plan in force. The specific matters under SEPP (Kurnell Peninsula) that are considered relevant to the proposal are as follows:

Clause 21- Consideration of environmental effect—protection of wetlands

(1) The Council shall not consent to the carrying out of development on any land to which this Policy applies if the development, in the opinion of the Council, is likely to have a significant adverse impact on the long term viability of the wetland areas or any ecosystem or species within the wetland areas.

Comment: Council's Environmental Science & Policy Manager/Principal Environmental Scientist has assessed the proposal and is of the view that the proposal does not represent any change to the approved industrial subdivision in terms of impact on the wetlands.

The environmental issues associated with stormwater treatment were analysed in detail during the Land and Environment Court case that granted consent to the industrial subdivision. This resulted in the establishment of a system of ponds to store and treat stormwater runoff to prevent any disposal of pollutants into the natural ecosystem.

There are no proposed changes to the Court approved stormwater system as part of this application. Accordingly, no concerns are raised in relation to the protection of the wetlands.

Clause 20F - Groundwater vulnerability

(3) In assessing a development application for land to which this clause applies, the Council must consider any potential adverse impact the proposed development is likely to have on the following:

- (a) the characteristics of groundwater present in the locality,*
- (b) the risk of groundwater contamination,*
- (c) groundwater dependent ecosystems.*

(4) Development consent must not be granted to development on land to which this clause applies unless the Council is satisfied that:

- (a) the development is designed, sited and will be managed to avoid any adverse environmental impact, or*
- (b) if that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment: Council's Environmental Science & Policy Manager/Principal Environmental Scientist, in conjunction with relevant staff within Council's Engineering Division, has assessed the proposal and considers that the proposal does not represent any potential impact on groundwater.

10.1.3 State Environmental Planning Policy No. 71 – Coastal Protection
Under Clause 18(1)(a) of State Environmental Planning Policy No. 71 – Coastal Protection a master plan is required prior to granting consent for subdivision within a residential zone if part or all of the land is within a sensitive coastal location.

As the subject application is a 'staged' development application, S83C(2), together with Schedule 6 Clause 98 of the Environmental Planning and Assessment Act 1979, removes the requirement for a separate master plan or waiver from the Minister under Clause 18(2) of SEPP 71 – Coastal Protection.

Notwithstanding the above, the application is subject to the assessment provisions of SEPP 71 and the consent authority must take into consideration certain matters outlined in the SEPP.

The relevant aims of the policy in relation to the subject development proposal are as follows:

- a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and*

- (b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- (c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- (d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and*
- (e) to ensure that the visual amenity of the coast is protected, and*
- (f) to protect and preserve beach environments and beach amenity, and*
- (g) to protect and preserve native coastal vegetation, and*
- (j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991), and*
- (k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and*
- (l) to encourage a strategic approach to coastal management.*

In addition, the following matters for consideration contained within Clause 8 of the SEPP are particularly relevant to the assessment and determination of this application:

- (a) the aims of this Policy set out in clause 2,*
- (b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,*
- (c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,*
- (d) the suitability of development given its type, location and design and its relationship with the surrounding area,*
- (e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,*
- (f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,*
- (g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,*
 - (i) existing wildlife corridors and the impact of development on these corridors,*
 - (l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,*

- (m) likely impacts of development on the water quality of coastal water bodies,*
- (n) the conservation and preservation of items of heritage, archaeological or historic significance,*
- (p) only in cases in which a development application in relation to proposed development is determined:*
 - (i) the cumulative impacts of the proposed development on the environment, and*
 - (ii) measures to ensure that water and energy usage by the proposed development is efficient.*

Comment: The proposal has been assessed against the relevant aims of the Policy and Heads of Consideration contained therein and it is considered that the proposal is not inconsistent with the policy.

10.1.4 State Environmental Planning Policy (Major Projects) 2005

Clause 6 of SEPP (Major Projects) 2005 declares development that, in the opinion of the Minister, is development of a certain specified kind to be a project to which Part 3A of the Act applies. Clause 1 of Schedule 2 of SEPP (Major Projects) 2005 identifies subdivision for residential purposes of land that is not in the metropolitan coastal zone (unless it is wholly or partly in a sensitive coastal location) into more than 100 lots a kind of development to which Part 3A applies.

The subject application will not result in the creation of more than 100 lots wholly or partly within the sensitive coastal location (nor will any future subdivision applications on the Australand site) and therefore the proposal is not a Major Project as defined by the SEPP.

10.2 Visual Impact

Visual impact concerns regarding the treatment of the Captain Cook Drive frontage have been addressed in the approval of DA10/1060.

The raising of site levels has the consequence of raising the platform of future dwellings that are likely to be visible from Captain Cook Drive and adjoining open space areas. However, the visual impact of dwellings is considered less than that of the industrial development that would have been the result if Australand were to have proceeded with the approved industrial subdivision of the land.

Residential development will result in a far greater amount of open space and landscaped area than industrial development of the land and therefore a reduced visual impact will result when viewed from adjacent public spaces.

10.3 Traffic and Roads

10.3.1 Traffic

The proposed subdivision seeks consent for 71 residential lots. Approximately 450 lots in total are expected to be created on the Australand site and the adjacent Breen Holdings site.

The impact of future traffic flows on Captain Cook Drive and the adequacy of the existing roundabout at the entry to the new residential subdivision have been addressed as part of DA10/1253. The traffic report prepared by Colston Budd Hunt and Kafes P/L for the rezoning of the Australand/Breen sites stated in its conclusion that:

- “(i) The proposed development would strengthen demand for existing public transport services;*
-*
- (iii) access would be via the existing roundabout on Captain Cook Drive;*
- ...*
- (v) the proposed residential subdivision would generate some two thirds of the peak hour traffic of the proposed industrial park;*
- (vi) the surrounding road network will be able to cater for the traffic generated by the proposed development;*
- ...*
- viii) the proposed residential subdivision is unlikely to affect emergency evacuation procedures.”*

The traffic report submitted with the current application was also prepared by Colston Budd Hunt and Kafes P/L. The report is similar in its conclusions to those listed above, adding that “the internal road design is considered appropriate” and “the number of trucks using Captain Cook Drive will be reduced when land fill operations cease in the next 7 to 10 years”.

Additional traffic modelling was undertaken by the traffic consultants at the request of Council's Traffic and Transport Manager during the assessment of DA10/1253. This was required to ‘factor in’ additional land uses to ensure that the existing roundabout would operate within acceptable limits, not only when the Australand subdivision was complete, but also when the Breen land was developed and the playing fields and skate park further north along Captain Cook Drive are completed in accordance with the VPA.

Council's Traffic and Transport Manager advised that he was satisfied that no upgrade works were required to the roundabout access to the site.

10.3.2 Road Widths/Parking

Clause 2.b.14 of Chapter 7 of SSDCP 2006 provides that new roads must comply with the following widths:

Public Roads	Minimum Reserve Width (m)	Minimum Carriageway width (m)	Footpath Reserve Width (m)	Max No. Dwellings Served
Minor cul-de-sac (<6 sites)	12.5	5.5	3.5	20
Minor local street	14.5	7.5	3.5	75
Local street	16.0	9.0	3.5	150
Collector and distributor	18.0	11.0	3.5	>150
Perimeter	20m	9.0	Variable	N/A

Whilst it should be acknowledged that SSDCP 2006 does not apply to the subject site it can be used as a reasonable guide as to what standards are consistently applied to residential subdivisions elsewhere within Sutherland Shire.

The DCP does not provide any specific parking requirements for subdivisions as the required road widths are considered to allow for an appropriate level of kerbside parking within the various categories of roads, which are required to have minimum carriageway and footpath widths.

The road reserve widths proposed in the subdivision are generally in accordance with the standards adopted by Council in the DCP.

Some minor relaxation of these standards can be accepted on the basis that the subdivision is relatively self-contained with little through traffic.

The applicant's decision to provide parking on only one side of roads within the subdivision was reviewed during the assessment of DA10/1253 and was considered to have some merit, particularly as the provision of street trees and guide posts within the carriageway will produce a pleasant streetscape and reduce traffic speeds through the subdivision.

In assessing the likely need for parking within the subdivision, it is considered most dwellings will incorporate double garages which, together with a 6m building setback (in accordance with the Kurnell SEPP), will provide for a potential to park three (3), or potentially, four (4) cars on each lot. The indented parking bays provided in roads 1, 2 and 3 effectively provide one additional space for each dwelling fronting those roads. This is considered sufficient to meet the day-to-day parking needs of residents and their visitors.

It is recognised that there will be occasions where residents hold functions and additional visitors will place a strain on street parking, but this is an infrequent occurrence and one which is experienced in many residential subdivision regardless of the availability of street parking.

Council's assessment engineer considered the proposal and despite some identified deficiencies in relation to Council's adopted standards for road

widths, is generally in support of the proposal subject to appropriate conditions of consent.

10.4 Stormwater/Flooding

As indicated by Council's Principal Environmental Scientist in response to the submission from OEH, the method of discharge and treatment of stormwater from the site has essentially been established by the previous development consent for the industrial subdivision (DA00/1547).

This comprises a lake (Pond 6) that will directly recharge the ground water system. The operating level of Pond 6 would be the level of the water table, estimated to be in the range of 1.3m AHD to 1.8m AHD. Pond 6 will have a surface area of approximately 1.5ha and an average volume of approximately 22ML, with an average depth of 1.5m.

Stormwater treatment includes macrophyte zones, sediment basins and stormwater quality improvement devices to capture litter and oils.

The design philosophy for the stormwater system was discussed at length during the assessment of DA10/1253 having regard to the implications of the State Government's Climate Change Policies. Council's Stormwater Manager and Manager Infrastructure Planning & Services Manager accepted the proposed method of stormwater treatment on the basis that:

- There will be no spill from Pond 6 or the weir in a 1 in 100 year event.
- The weir height will be RL 4.5.
- Minimum house finished floor levels (FFL) will be 500mm above the 1:100 year flows in the streets.
- A platform level of RL 4.5 (min) will be provided.

All issues in relation to stormwater design and site filling to ensure flood free lots have been addressed to the satisfaction of Council's Engineering Services Division.

11.0 SECTION 94 CONTRIBUTIONS

Contributions under s.94 of the Environmental Planning and Assessment are not applicable to the proposal having regard to the provisions of the Voluntary Planning Agreement applying to the development of the land. Under the provisions of the VPA, Australand will construct community facilities on other land in its ownership at Kurnell prior to dedicating the land to Council.

12.0 DECLARATION OF AFFILIATION

There was no declaration of affiliation, gifts or political donations noted on the development application form submitted with this application.

13.0 CONCLUSION

The proposed development is for a subdivision creating 71 Torrens Title residential lots. The subject land is located within *Zone E4 - Environmental Living* pursuant to the provisions of State Environmental Planning Policy (Kurnell Peninsula) 1989. The proposed development, being a subdivision, is a permissible land use within the zone, subject to development consent.

No responses were received in response to public exhibition. A submission was received from the Office of Environment and Heritage (OEH). The matters raised by OEH have been previously addressed as part of the rezoning of the land, initially for industrial development and subsequently for residential purposes.

Following detailed assessment it is considered that Development Application No. 11/0478 may be supported for the reasons outlined in this report.

14.0 RECOMMENDATION

That Development Application No. 11/0478 for Subdivision of One (1) Lot Into 71 Lots at Lot 1054 DP 1140838 (No. 446) Captain Cook Drive, Greenhills Beach be approved, subject to the draft conditions of consent detailed in Appendix "A" of the Report.

period and shall require a written and photographic report to be compiled regarding the nature and volume of detritus/refuse/pollutants removed.

END OF CONDITIONS