



**Submission to Sydney East Joint Regional Planning Panel
Shearwater Landing, Greenhills Beach
Staged Residential Subdivision proposed by Breen Property
2012SYE065 - DA12/0476**

This submission to the JRPP has been prepared on behalf of the applicant to address particular issues that have been raised in Sutherland Council's Supplementary Assessment Report and Recommendation and the associated revised Draft Conditions of Consent.

The key issues raised by the report and draft conditions are the proposed landform and the proposed landscaping requirements. Details of some of the conditions are also addressed.

Council states in its Assessment Report that "overall [Council's] revised landform provides some significant environmental benefits over the original landform". This statement is strongly refuted by the proponent, for the reasons provided in this submission.

PROPOSED LANDFORM

Description of Proponent's Proposed Landform

At the meeting of 7 November 2012 the JRPP resolved that its decision be deferred to allow, amongst other things, Council to prepare a contour plan for the site that it considered acceptable. This was because the JRPP believed that the originally proposed ridge was too high and would present an unattractive view.

As detailed in correspondence to the JRPP from Breen Property (dated 17 December 2012), the proponent undertook consultation with Council to discuss an amended landform. In accordance with the priorities established with Council, the following modifications were made, by the proponent, to the proposed landform:

- The extent of the 'ridgeline' was reduced in length by approximately 60 metres, with this portion of the ridge lowered by approximately 1 metre;
- The slope of the land adjacent to the intersection of Bate Bay Road and Sanderson Street was made steeper to reduce potential view impacts on adjacent existing dwellings;
- The lots that front Bate Bay Road between Berry Street and Sanderson Street (Lots 267 – 273) were re-graded to fall away from Bate Bay Road at a steeper rate (1:8), to minimise the visual impact the proposed landform may have on dwellings opposite; and
- The lots that face the Don Lucas Reserve were re-graded in an effort to reduce the slope of the batter adjacent to the existing Council works depot. This also has the effect of slightly reducing the impact of the ridgeline from some view points within the Reserve.

Council has subsequently (22 February 2013) provided an alternate proposed landform, which is described in the officer's Supplementary Assessment Report.

Visual Impact of Proposed Landform

The following examines the visual impact of the landforms proposed by the proponent and Council. This assessment focuses on the visual impact of the ridge, as this is the element of concern identified by the JRPP.

There are two key characteristics of the ridge relevant to these circumstances. The first is the height of the ridge adjacent to Bate Bay Road, which is the highest point of the site. To minimise potential view impacts on the four dwellings addressing Bate Bay Road, the ridge height has been lowered as much as is practical. However, as Council acknowledge in the draft Conditions of Consent, the landform cannot drop away from Bate Bay Road too steeply without compromising internal driveway access to the new residential allotments.

Council has stipulated in draft Condition 11(g)(iii) that the maximum fall across the front setback (6.0 metres) is 0.75 metres, which is equivalent to a slope of 1:8. North of this point (away from Bate Bay Road), Council have proposed a steeper fall than the proponent in an effort to lower the ridge line. This lower ridge line, however, will not provide any benefit to the views of the existing dwellings on Bate Bay Road. With the exception of Lot 266, there is little difference between the proponent's and the Council's scheme in terms of the location of a future building envelope that may impact on existing views, as both proposals rely on the same setback and gradient from Bate Bay Road.

The second key characteristic of the ridge line is its potential visibility from Wanda Beach and the associated reserve. A survey was undertaken to determine the existing levels of the beach, foredune area, Wanda Reserve and the site¹. This survey information was used to prepare a section, as shown in **Figure 1** below.

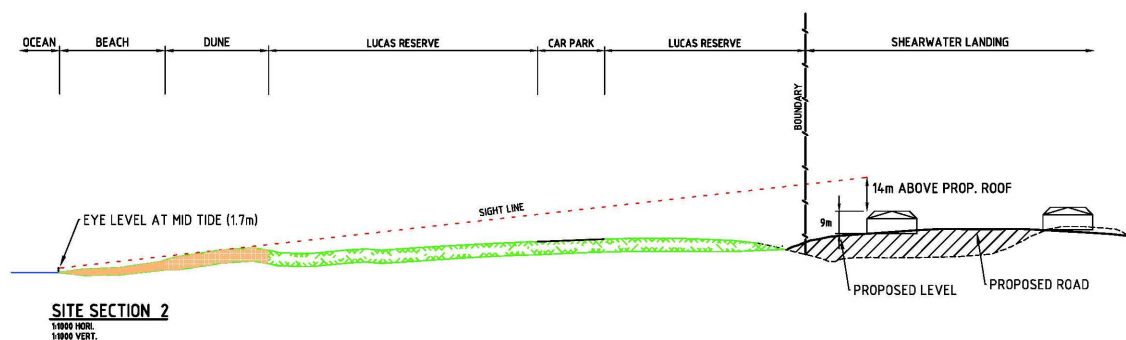


Figure 1 - Section through Wanda Beach and the site showing that future dwellings cannot be seen from the waterline due to the height and location of the foredune.

This section confirms that neither of the landforms proposed by the proponent or Council are visible from the waterline of the beach directly in front of the site, nor from the beach above the waterline. Therefore, further lowering of the ridge as recommended by Council will have no practical effect in terms of views from Wanda Beach.

¹ The survey was undertaken by Cooper & Richards Surveyors on 22 February 2013.

With regard to the proponent's proposed landform and in respect to views from the adjoining reserve, only one row of dwelling houses along the ridge will be visible when viewed from the adjoining Wanda Beach Reserve car parking area². Further lowering of the ridge as proposed by Council will have a minimal impact, with only the first row of houses still remaining visible regardless.

Additional Environmental Impacts of Council's Proposed Landform

The remediation work for the Shearwater Landing site seeks to contain the on-site fill material so as to avoid the environmental impacts associated with its removal. This work is to be undertaken in conjunction with the bulk earthworks to maximise reuse of the suitable existing fill. The remediation strategy for the site has been prepared by experts and signed-off by the accredited independent Site Auditor (Mr Graeme Nyland) and the EPA. It was also subsequently peer reviewed by an additional accredited site auditor (Mr Chris Jewell) because of issues raised by Council staff.

As noted in the resolution of the JRPP at its meeting of 7 November 2012, the panel accepts that the minimum recovery and re-use rate of the existing fill material should be 18%. (The panel acknowledges that this proportion may increase if additional information is provided, however no such information is available to date.)

With the minimum recovery rate established at 18%, the landform proposed by Council can only be accommodated by removing fill from the site. The amount to be removed is 106,000 cubic metres, which is equivalent to 212,000 tonnes³ (rather than the 70,000 tonnes estimated by Council). The removal of this fill has the following impacts:

- 6,500 additional truckloads of material, requiring an additional 13,000 truck movements;
- depending on the waste classification of the material, it may be disposed of as close as Kurnell or Lucas Heights, or as far as Kemps Creek or Eastern Creek (which would require trucks to travel a total of between 260,000 and 650,000 kilometres). The additional environmental impact of such vehicular movement, fuel usage, and disturbance to neighbours and the High School are significant;
- again depending on the waste classification of the material, landfill fees and NSW waste levy, the total cost to the project of removing this material ranges between \$28 million (minimum) to \$49 million⁴; and
- lengthened construction period⁵, impacting on the school and surrounding residents.

All of the above will significantly impact on the viability of the project. Additional costs will flow on to the purchasers of the future residential lots, reducing the affordability of the subdivision for the in-coming community.

Council's ethos of removing additional fill for disposal off-site is inconsistent with Council's own and established best-practice waste management guidelines and policies (including Council's adopted *Local Waste Management Plan* and the NSW EPA Waste Strategy). Disposal is the least

² As detailed in the Visual Impact Assessment prepared by Clouston Associates and submitted with the Statement of Environmental Effects. The revised contour plans prepared by the proponent and Council both lower the visible ridge, but neither alter the general concept of the landform.

³ Assuming a standard compaction density of 2.0t/m³.

⁴ For FY14, the NSW waste levy is legislated to be \$105.20/t, meaning that disposal will attract a levy of more than \$22.3 million. In addition to this, additional landfill fees of \$6-\$27 million will apply depending on the classification of the waste (general solid or special).

⁵ Based on the additional required truck movements and the number of movements per day (30), Council's proposed landform would generate an additional 36 weeks of construction activity.

desirable method on the waste hierarchy (see **Figure 2**), and therefore should be avoided where at all possible.

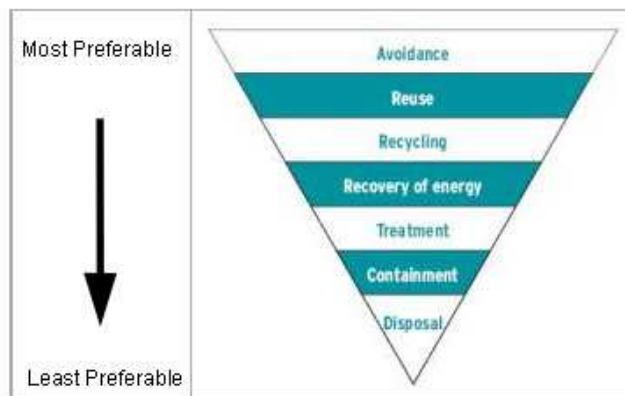


Figure 2 - Waste hierarchy (Source: NSW EPA 2009)

As detailed above, the disposal fill is environmentally and economically inappropriate and inconsistent with adopted NSW Government and Council policies. The proponent submits that the landform proposed by Council does not provide “significant environmental benefits over the original landform” as stated by Council, rather it goes against basic and established waste management and environmental management principles.

Conclusion

The land form proposed by the proponent is acceptable on its merits and in terms of its impacts. The reconstituted dune form, its height, slope and general topography are an ideal response to the site, the best practice remediation strategy, the existing levels at the boundaries, and the broader visual context when viewed from the public domain, particularly from the beach. The proposed development seeks to not only decontaminate the soil, but to remediate the entire landform and restore it as best as reasonably possible to the pre-mining situation. This is consistent with best practice land remediation. These outcomes are clearly demonstrable with examination of the physical model of the proposed development which has been prepared by the proponent.

The proposed topography is gently sloping and non-intrusive in the surrounding landscape. The levels are consistent with, but lower than, the non-mined residential area of North Cronulla immediately to the south on the opposite side of Bate Bay Road. This existing residential development to the south establishes the character, height and scale that the planning controls and the subject proposal have consciously sought to respect and continue.

The proposed landform will blend and complement that of adjoining boundaries to ensure a seamless integration of the Site with its surrounds. The existing dwellings on the corner of Sanderson Street and Bate Bay Road, that are located at a higher ground level, will continue to be more visually prominent on the skyline than any future dwellings on the development site, and some of the small number of properties with views across the currently vacant site will continue to have views over, between or around future houses.

Proposed Amendment to Draft Condition of Consent

The only required alteration to the draft Conditions of Consent to reflect the proponent's preferred landform is the deletion of draft Condition 11(g)(i), which refers to amendments as per Council's hand marked up plan. This change is detailed in the table at **Attachment A**.

LANDSCAPING

The key issue relating to landscape is whether the layout of street trees should be arranged in informal, irregular clumps or in a more formal, evenly spaced arrangement.

The design of the landscaping was undertaken by a highly experienced and respected Landscape Practice, Clouston Associates. The applicant worked extensively with Clouston to realise its vision for the estate as a premium, elegant but relaxed residential development. Key to this vision is an element of formality in the landscaping proposal in the form of more regular spacing of the selected species.

Following review and consideration of the Greenhills Beach DCC and the Kurnell and Urban Tree and Bushland Policy as it applies to the site, Clouston Associates made the following comments in relation to Council's detailed landscaping design conditions:

- The proponent maintains that the proposed landscaping proposal is in fact appropriate to the site's location and future built form. Council has noted that its design requirements will "help create a more relaxed and informal character that is more suitable for a beachside development". The proponent submits that this is not the case and there is no merit based reasoning to justify the requested redesign of the landscaping proposal. In design development, the applicant will amend some of its nominated species to reflect the Council's proposed species list, despite the proponent's strong belief that these are not all suitable given the imported soil profile.
- The proponent maintains that 3 trees per 15 metre lot frontage is excessive, particularly when compared to similar new housing subdivisions and the neighbouring Greenhills Beach development.
- The proponent maintains that 600mm between trees is poor specification and leads to unsatisfactory tree health and reduced life expectancy. Multi stemmed trees may be possible, but these do not generally lend themselves well to street environments.
- Council has suggested screen plantings along the rear of each lot on the perimeter of the site. This design amendment will interfere with drainage lines proposed and has no regard to the proposed layout or landscaping concept of a future residential dwelling. This condition is not practical or appropriate at this stage of development, however these principles may be considered during the preparation and assessment of the future development applications for individual dwellings.

Proposed Condition

The changes required to the draft landscaping condition (Condition 12) to accommodate the above are detailed in the table at **Attachment A**.

COUNCIL'S DRAFT CONDITIONS

Certification of Works

A number of procedural issues have been identified in relation to the certification of the works proposed under this development application. In summary, this development application seeks consent for a 6 super lot subdivision, and for earthworks, remediation, services and roads in Precinct 1. The 6 super lot subdivision is for funding purposes, and is therefore not related to the physical works to be undertaken across the site. The application is not for approval to subdivide the land, at this stage, into single residential lots.

It is therefore requested that where the draft conditions refer to completion of works prior to the issue of a subdivision certificate, it should rather refer to completion prior to the issue of a Compliance Certificate. This Compliance Certificate would certify that all of the stage 1 works required by the consent are completed.

Council will retain its ability in any subsequent development application for the subdivision of the land into residential lots to require that all works be finalised and completed prior to the lodgement of the final subdivision plans with NSW Land and Property Information.

The changes required to the draft conditions to accommodate this certification are identified in the table at **Attachment A** and are as follows:

- Condition 36 Vibration Damage
- Condition 46 Section 73 Compliance Certificate
- Condition 48 Works as Executed Drawings
- Condition 49 Statutory Site Audit Certificate
- Condition 51 General Compliance
- Condition 52 Works in Roadway
- Condition 53 Completion of Landscaping
- Condition 54 Completion of Vegetation Management
- Condition 55 Stormwater Treatment
- Condition 56 Final Site Inspection
- Condition 57 Linen Plan of Subdivision to Conform with Development Consent
- Condition 60 Positive Covenant - Stormwater Infiltration
- Condition 61 Endorsement of Linen Plans of Subdivision by Council

Minor Amendments

The consultant team has identified a number of minor amendments to be made to the draft conditions of consent to ensure that they are appropriate to the proposed development. These are identified in the table at **Attachment A** and relate to the following conditions:

- Condition 1 Approved Plans and Documents
- Condition 4 Requirements of IDA Approval Authorities
- Condition 12 Detailed Landscape Plan
- Condition 14 Site Management Plan
- Condition 15 Vegetation Management Plan

- Condition 17 Detailed Tree Survey
- Condition 18 Arborist Report
- Condition 20 Nomination of Engineering Works Supervisor
- Condition 22 Sydney Water - Notification of Requirements
- Condition 23(e) Stormwater Drainage
- Condition 25 Pre-Commencement Inspection
- Condition 35 Noise Control During Construction and Demolition
- Condition 36 Vibration Damage
- Condition 37 Environment Protection and Management
- Condition 38 Run-Off and Erosion Controls
- Condition 39(k) Construction of Public Frontage Works
- Condition 35 Noise Control During Construction and Demolition
- Condition 48 Works as Executed Drawings
- Condition 49 Statutory Site Audit Statement

CONCLUSION

This site has historically been used for sand mining, sand processing and unconsolidated fill. The proposal aims to remediate the land and restore the original landform. The applicant and its expert consultant team have developed a viable remediation and landform reinstatement solution that is sustainable and meritorious. In particular, the proposed development has the following benefits:

- Remediation of a heavily degraded and contaminated former sand mine, processing operation and landfill site.
- Transformation of the highly altered landscape with an appropriately re-contoured topography that is both naturalistic and elegant in its design.
- A high standard of landscaping of the public domain and open space areas.
- The efficient and economic use of the land for low density housing, consistent with the planning objectives and development standards for the E4 Environmental Living zone.
- A design that encourages integration of the new community with the adjoining residential areas to the south (existing) and north (approved) in a complementary manner.
- A design that takes into account the proximity of Cronulla High School.
- Provision of an integrated stormwater and groundwater management system that will deliver improved water quality outcomes to the wider catchment.
- The safe management of traffic to minimise impacts on residents and the school.
- Replacement of the existing heavily weed-infested vegetation on the site with attractively landscaped streets and vegetated slopes within the affected portion of the Lucas Reserve.
- A significant contribution to the Sutherland Shire Council's housing target with the ultimate addition of 160 high amenity housing allotments.

Council's proposed landform is unacceptable in terms of this additional economic and environmental impacts, namely:

- an additional cost of between \$28-\$49 million;
- 13,000 additional truck movements; and
- an additional 36 weeks of construction related activity which would impact on the neighbouring school and residents.

These impacts do not offset the purported 'gain' of a slightly lower ridgeline which would only result in a negligible visual impact.

Finally, the approval of this 'shovel-ready' project accords with the State Government's expressed policies of cutting through unnecessary red tape and delivery of desperately needed housing in the Sydney Metropolitan area.