



# JWP

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24 September 2020

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Via email: [Ryan.Falkenmire@portstephens.nsw.gov.au](mailto:Ryan.Falkenmire@portstephens.nsw.gov.au)

## ATTENTION: RYAN FALKENMIRE

Dear Ryan,

### ADDENDUM TO CONCEPT DA 16-2018-772-1 KINGS HILL DEVELOPMENTS 3221 PACIFIC HIGHWAY, KINGS HILL

I refer to Council's invitation to submit further information in relation to the abovementioned Concept Development Application ('**DA**') lodged by JW Planning Pty Ltd on behalf of Kings Hill Developments Pty Ltd ('**KHD**').

The information **below** and **attached** responds to the matters identified during the Regional Planning Panel briefing between Council and KHD on 12 August 2020 (in ***bold italics***):

#### ***1. What is KHD seeking approval for? What is the extent of external works required to facilitate the Concept Proposal?***

The Kings Hill Urban Release Area ('**KHURA**') was rezoned in 2010 from a rural zoning to permit a mix of urban and conservation outcomes. KHD own some 64% of the land within KHURA, and while the gazetted land-use zones provide an indication of areas capable of development and suitable for conservation, it is ultimately the statutory, strategic and environmental considerations during the Development Application preparations that shape the use of the land (refer to **Section 2.4** of the DA Report/Statement of Environmental Effects).

The DA ('**the Application**') therefore seeks Development Consent for a Concept Proposal permitting *Residential Subdivision and Stage 1 Subdivision Works (Initial Site Preparation Works) & Establishment of an In-Perpetuity Conservation Area ('the Proposal')*. The only works proposed to be permitted by the Application are those proposed under Stage 1, while approval to carry out subdivision of the land consistent with the Concept Proposal and any external works required to facilitate the Concept Proposal will be the subject of subsequent Development Applications.

The Application seeks Development Consent for a Concept Proposal involving the following:

- proposed development precincts and a conservation area relative to the land use zones, but derived from contemporary statutory and environmental considerations (for example, a site specific Species Impact Statement (SIS), a Biodiversity Management Plan (BMP), a Vegetation Management Plan (VMP), and integrated bushfire and stormwater management strategies); and
- proposed Stage 1 Subdivision Works (initial Site Preparation Works) to 'lock in' the SIS, BMP and VMP recommendations as to the Conservation footprint required to be established and maintained in-perpetuity including, and relevantly, the extent and means by which development is to occur on the site to ensure there is no significant impact on threatened species, ecological communities or their habitat that over the life of the development (specifically, the proposed fencing between the conservation, development precincts and neighbouring properties; the proposed tracks and trails for fire protection, recreation and conservation management purposes; and the proposed pre-development clearing practices within the proposed development footprint to ensure the works are in phases that are in sequence with (and not in advance of) the proposed enhancement and improvement works during the establishment of the proposed Conservation area (refer to specific details of proposed Stage 1 Works in **Section 3.2** of DA Report/Statement of Environmental Effects)); and
- a proposed stormwater management strategy (and the location of treatment devices (all of which area outside of the proposed Conservation Area)) that is required to protect, in-perpetuity, the integrity of the proposed Conservation Area, and the riparian and downstream wetland environments. See **Attachment D** to enable an assessment of proposed basin locations; and
- proposed points of access and egress (off Newline Road and Six Mile Road), the proposed alignment of the interconnecting north-south and east-west internal collector roads, and the proposed cycle/pedestrian linkage between Precinct 3 (the proposed town centre) and Precinct 4 (proposed to comprise a district park and a school site) that together, interconnect between the proposed urban precincts in locations assessed to be suitable by the SIS and the proposed stormwater strategy; and
- the proposed locations for both the proposed low level, the alternative low level, and the high level water supply reservoirs and the associated access roads in locations assessed to be suitable by the SIS; and
- external road and drainage works proposed to enable a suitable level of flood free access to the KHURA prior to a direct connection to the Pacific Highway being constructed.

The following **Attachments** illustrate the elements above for which Development Consent is sought:

- A. Scope of Proposed Concept Approval.** This plan illustrates the elements of the Concept Proposal relative to the proposed Conservation Area and the proposed urban precincts. While the proposed location and scale of open space (in the form of a district park and multiple local parks) and other recreation and community facilities is contemplated by the Application, the specification and the locations of such facilities to be delivered by future applications for subdivision is subject to Council's adoption of a Kings Hill specific chapter in the Port Stephens Section 7.11 Contributions Plan and related allowances within that chapter. Consequently, the Concept for which approval is sought excludes such items to avoid the potential for any contradiction to a future s7.11 Contributions Plan and/or inconsistency by future DAs for subdivision with the approved Concept.

- B. Scope of External Works to Support Concept Approval.** This plan set illustrates the preliminary engineering design of road and drainage works anticipated external to the site to enable access in times of flood. The plans have enabled a level of assessment which confirms that the works required are not likely to cause significant environmental impact; do not involve works of a kind that are unlikely to obtain consent or approval; and do involve the acquisition of privately owned land. The SIS *Study Area* includes each of the locations where external works are required, and a supplementary preliminary ecological assessment of the works required at each location confirms there is no significant or adverse environmental impacts likely (see **Attachment E**).
- C. Scope of Proposed Concept Approval Stage 1 - Initial Subdivision Works – Clearing Phases and Development Staging.** Approval is sought under Stage 1 to progressively carry-out initial subdivision works in the form of site preparation works (governed by the proposed VMP). The preliminary works involve the progressive clearing of the proposed urban footprint in phases that are in sequence with (and not in advance of) the establishment of the proposed Conservation Area (governed by the proposed BMP), which involves vegetation enhancement and improvement works required to revert the Conservation Area into long term sustainable habitat. The plan attached illustrates the proposed staging of development relative to the existing cleared land and/or proposed Phases of clearing.

## **2. Clarify Precinct 6 Land Use Zoning and Concept Proposal relative to Existing and Former Landfill Activities**

During the rezoning process, an Acoustic Impact Assessment and an Odour Impact Assessment were carried out in 2003 and 2004 (respectively) to determine suitable buffers to the former EWT Bedminster Facility (then owned by *Newline Resources Pty Ltd* and now owned and operated by *Suez*). The site comprises both composting and landfill operations, and the assessment informed the zoning boundaries applicable to Precinct 6 which consists of URA land in closest proximity to such operations.

### **Acoustic Assessment**

The Acoustic Impact Assessment (by *EMS Pty Ltd*) involved noise monitoring in accordance with the night time noise criteria for residential areas under the NSW Environment Protection Authority (EPA) *Industrial Noise Policy* (2000).

In terms of the composting operations, the findings identified that the south-western corner of the KHURA was likely to be impacted by blower fan noise associated with the co-composting facility, when in direct line of sight and within 750m of the fans. The risk of acoustic impact was considered minimal, however, given that the topography between the facility and the KHURA would help minimise the noise impact, coupled with the fact that the area impacted was proposed to be open space and any acoustic impact would consequently be minimal. The area with potential to be impacted, notwithstanding topography is now zoned E2 Conservation.

Similarly, in terms of the land filling operations, the noise assessment found that the noise generated would not have a significant impact due to the topographical shielding by the elevated ridge that runs between the landfill and the KHURA.

### **Odour Assessment**

A Level 3 (highest level) Odour Impact Assessment (also by *EMS Pty Ltd*) was carried out in accordance with the NSW EPA's *Assessment and Management of Odour from Stationary Sources* in NSW 2001 using AUSPLUME Dispersion modelling.

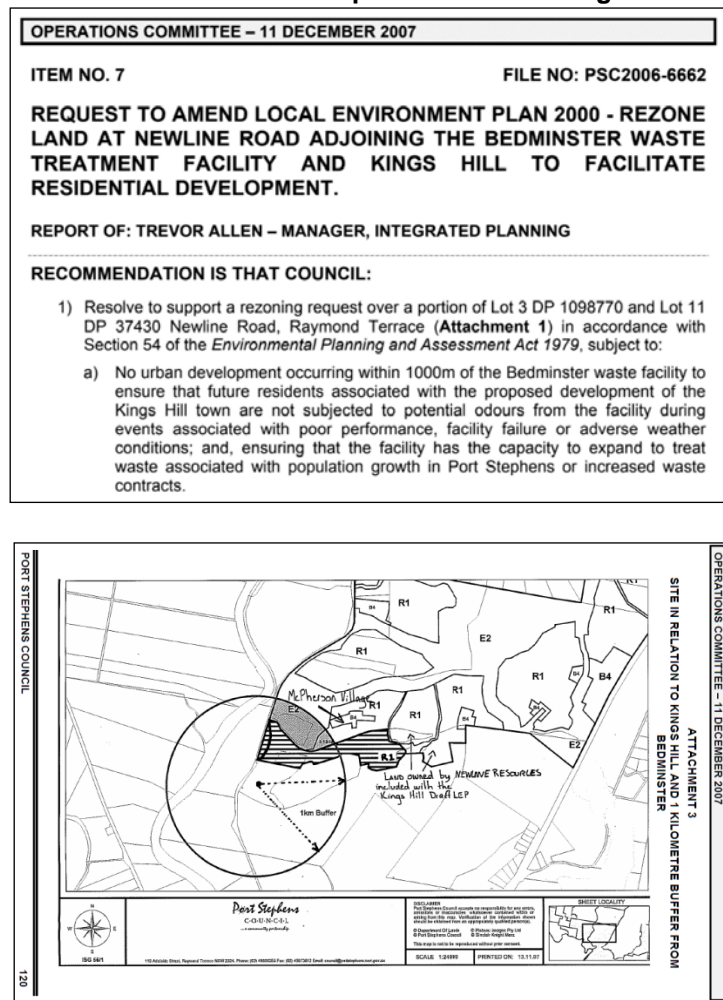
The expected odour levels within 2 kilometres of the waste facility were modelled and compared with the air quality criteria of the NSW EPA. The modelling determined that odour criteria were only exceeded within 400m of the operations, and the topographical elevations between the facility and KHURA would mean that only areas of the site then proposed as open space (former Council landfill) would be subject to katabatic flows (cooling air flows that can carry odour downslope (typically overnight)).

## Buffer Assessment

In 2005 Council commissioned a third party review of both assessments by consultants *Air, Noise Environment Pty Ltd*, who supported the findings and recommendations of *EMS Pty Ltd*. Port Stephens Council subsequently prepared and exhibited the *Kings Hill Local Environmental Study (LES)* which determined that as a precautionary measure, the areas within the KHURA potentially affected by noise and odour should not be zoned for residential purposes. A buffer of 700m was subsequently recommended, regardless of topography.

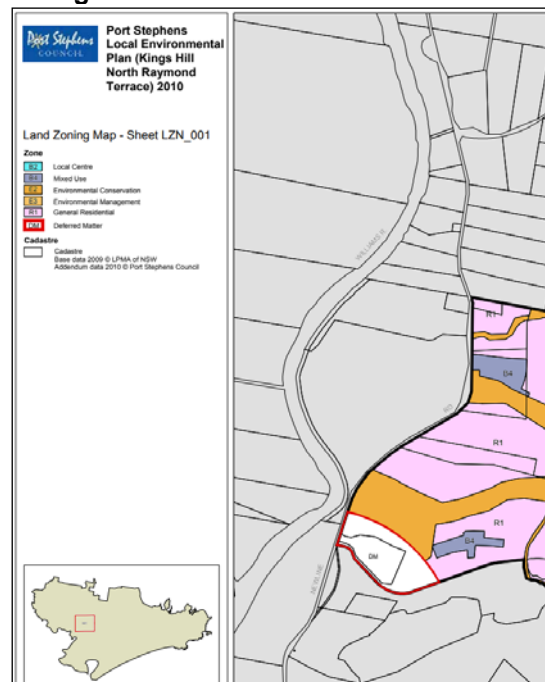
In a Council report dated 11 December 2007, Council resolved to instead adopt a 1000m buffer to the Composting and Landfill facility given the public interest of avoiding land use conflicts and the need not to jeopardise the operation of the facility. The decision was made while considering a proposal by Newline Resources to rezone their own land surrounding the waste facility to enable residential development (a proposal that ultimately failed due to land use conflicts such as aircraft noise and odour) (refer **Figure 1** Council report extracts).

**Figure 1 Extracts of Council Report Recommending 1000m Buffer**



In 2010, the Kings Hill URA was rezoned with the 1000m buffer gazetted as a Deferred Matter pending the outcomes of the Newline Resources rezoning proposal (refer **Figure 2**).

**Figure 2 Kings Hill LEP – Odour Buffer as Deferred Matter**

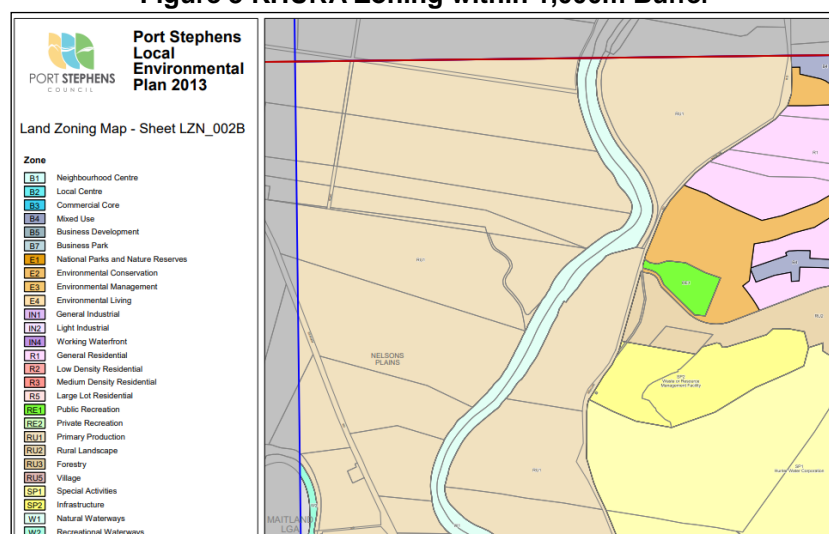


Source: Port Stephens LEP (Kings Hill North Raymond Terrace) 2010

As noted in the Suez submission, a 1000m radial buffer centred on the landfill site was also recommended by the Planning Assessment Commission (PAC) in 2012 during their assessment of the Newline Resources Planning Proposal. The buffer was recommended to control the potential for amenity impacts associated with the landfill operations (in particular, odour, noise, dust and vibration).

In December 2013, the Port Stephens Standard Instrument LEP was gazetted which rezoned the Deferred Matter as E2 Conservation Area, placing Precinct 6 outside of the 1,000m buffer (refer to **Figure 3**).

**Figure 3 KHURA Zoning within 1,000m Buffer**



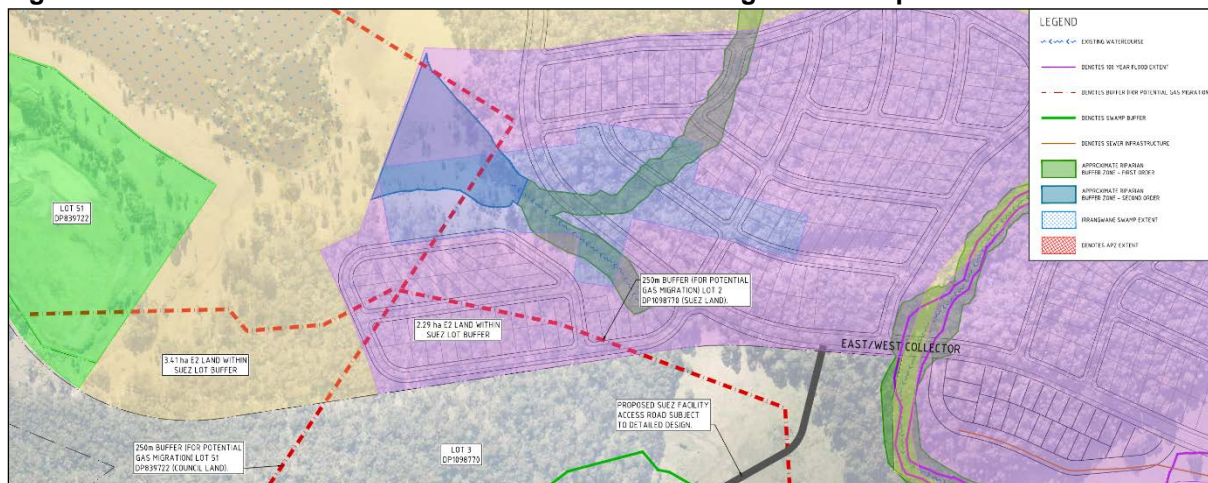
Source: Port Stephens LEP 2013



Suez, the current operator of the Composting and Landfill facility, lodged a submission in April 2020 seeking Council's implementation of suitable measures via conditions of consent having regard to the 'siting restrictions' applicable to land uses such as schools and residential dwellings under the NSW EPA *Environmental Guidelines Solid Waste Landfills* (2016). Suez recognise the buffer incorporated into the existing LEP boundaries, but encourage a risk based approach to planning within the 250m footprint of the boundary of any landfill with particular reference to the potential for landfill gas migration.

To facilitate consideration, KHD has mapped the extent of urban zoned land within 250m of the former Council landfill site and within 250m of the boundary with Suez (albeit EPA guidelines note the buffer to be applied to the landfill cell, not the property boundary) (refer **Figure 4**).

**Figure 4 Extent of Precinct 6 within 250m Potential Gas Migration Footprint**



The Suez submission suggests conditions of consent for Council to apply to any future application for subdivision, in addition to the 12 months of landfill gas monitoring required by the Port Stephens Council DCP prior to applications to subdivide the land within the 250m buffer.

Although only a relatively small area of developable land within Precinct 6 is within the buffer to each landfill, and although that land is not proposed for subdivision until Stage 15 (some 3 to 8 years post commencement (circa 2025 to 2032)), KHD has commissioned Douglas Partners to conduct the monitoring of landfill gas migration in order to provide confidence in the Concept Proposal prior to determination (see **Attachment F**).

Prior to completion of the report, Douglas Partners summarised the findings:

*The readings from the two monitoring events undertaken to date are summarized in the table below, together with an interpretation of the modified Wilson and Card classification from the NSW EPA, Assessment and management of hazardous ground gases, contaminated land guidelines (NSW EPA, 2020).*

First Round – 14 August 2020

Well ID	Depth of Well (m)	Flow Rate Peak	CH <sub>4</sub> Peak %	GSV	CO <sub>2</sub> Peak %	GSV	CS
6001	22.3	0.2	0	0	12.9	0.03	1 to 2
6002	30.2	0.1	0	0	10.1	0.01	1 to 2

Second Round – 11 September 2020

Well ID	Depth of Well (m)	Flow Rate Peak	CH <sub>4</sub> Peak %	GSV	CO <sub>2</sub> Peak %	GSV	CS
6001	22.3	0.1	0	0	17.7	0.02	1 to 2
6001A	2	0.1	0	0	6.7	<0.01	1
6002	30.2	0.1	0	0	15.1	0.02	1 to 2
6002A	2	0.1	0	0	4.5	0.01	1
6003	1.5	0.1	0	0	2	<0.01	1
6004 (background)	2	0.1	0	0	4.8	<0.01	1

DP's initial interpretation of the results to date is as follows:

- Deeper bores (Wells 6001 and 6002) generally CS1 but could be CS2 because of the higher CO<sub>2</sub> peak readings
- Shallow bores (Wells 6001A, 6002A and 6003) all CS1. It is noted that the peak CO<sub>2</sub> goes above 5% for early readings in 6001A (up to 6.7%) but stabilizes at less than 4% after 7 minutes or so
- The "background" well (Well 6004), located on the other side of the wetland has CO<sub>2</sub> peak of 4.8%.
- The minor levels of CO<sub>2</sub> in the shallow wells are considered likely to be attributable to breakdown of naturally occurring organic matter soils and are consistent with the readings encountered within the background well (Well 6004)
- The higher concentrations in the deeper wells (Wells 6001 and 6002) are considered likely to be attributable to both naturally occurring breakdown of organic matter in soils and carbonaceous seams within the rock strata at depth.

The results to date indicate a CS1 classification based on the procedures outlined in NSW EPA (202) which is defined as 'very low risk'.

While continued monitoring of the installed wells is required to ensure the gas concentrations remain consistent over a longer period, especially prior to applications to enable subdivision of the land within Precinct 6, initial results indicate that the landfill gas migration risk is very low and unlikely to preclude development in accordance with the Concept Proposal.

### 3. Local Contribution items/endorsement

Advice taken by KHD is that the Concept DA can be determined and to any extent an approved Concept Proposal is inconsistent with an adopted s7.11 Contributions Plan, the Concept Approval can be modified should the Contribution Plan be inconsistent.

Nonetheless, to minimise the prospect of inconsistency and to save future modifications, the *Scope of Proposed Concept Approval (Attachment A)* excludes parks and community facilities. The desired extent and location for these elements is nonetheless presented in the Application to allow consideration of the proposed development footprint and the proposed access linkages. The ultimate

location of these elements will however be subject to any criteria within an endorsed s7.11 Contributions Plan, and detailed design and assessment in accordance with those criteria within future DAs to carryout subdivision.

#### **4. Does the Concept Proposal displace the use of the B4 land use zones?**

The location, the boundaries, and the extent of the various land use zones within the KHURA, and the B4 zone in particular, were determined based on master planning during the rezoning process. The survey information relied upon for master planning and rezoning purposes was a Digital Terrain Model generated by LIDAR survey derived by aerial fly-over in 2003. The master planning indicated a potential development yield of some 5,000 lots serviced by some 6 village centres (encouraged by B4 zones) across the KHD URA.

Changes in technology and the certainty of land use zoning in 2010 facilitated a full and proper detail survey of the land owned by KHD in 2014. With high resolution details of the topography, gradients and associated drainage lines, considerable areas of urban zoned land have been excluded from the Concept Proposal, reducing the extent of expected developable land and the overall anticipated lot yield.

By way of example, the higher resolution survey has enabled drainage line classification and the extent of riparian zones to be defined, as well as preliminary stormwater management design in sufficient detail to determine the likely sizing and locations of devices such as detention / bio-filtration basins required.

In addition, contemporary biodiversity considerations have led to the avoidance of some 40 ha of urban zoned land.

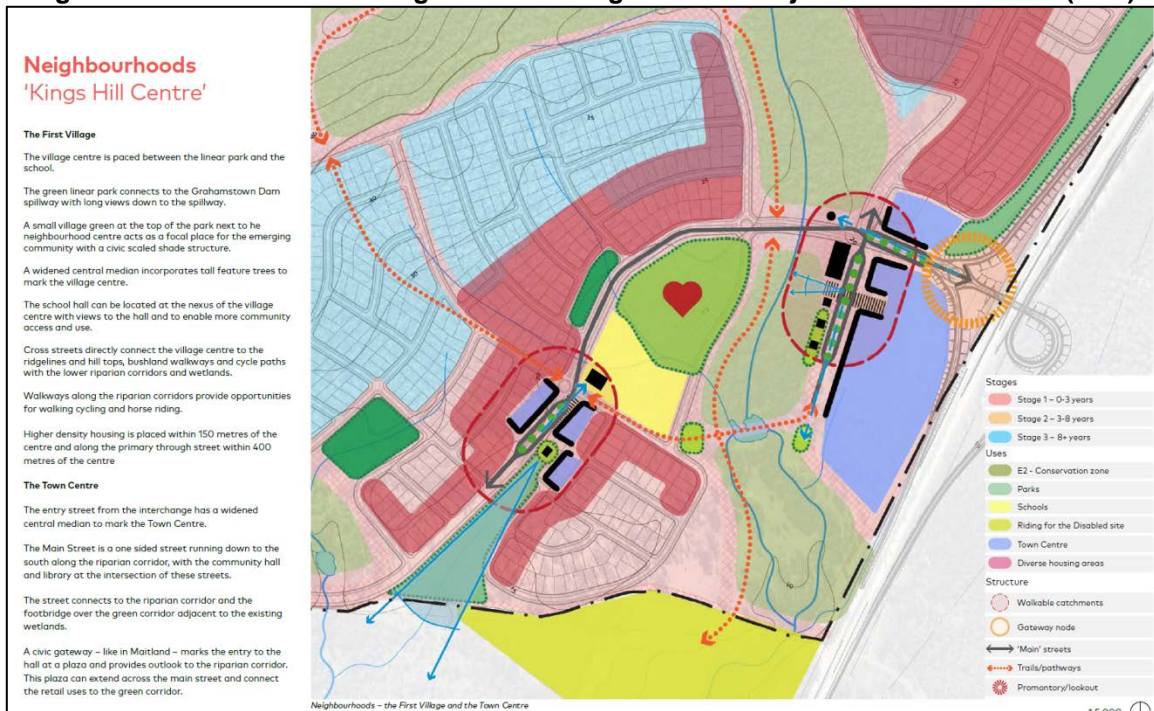
Together, the detail survey and biodiversity avoidance measures reduce the anticipated lot yield (based on the extent of urban zoning) on KHD's land by about 20%, which in turn reduces the demand and the locations suitable for villages centres within B4 zones.

To address this issue, KHD commissioned the original Urban Designer (Peter Richards of Deicke Richards) with a brief to review the former masterplan in the context of the Concept Proposal, and to recalibrate the place-making inherent to the original masterplan and zoning scheme (refer to **Figure 5** and **Figure 6**). This work is progressing alongside Council's development of a s7.11 Contribution Plan for community recreation and facilities, enabling KHD to provide informed input to that Plan when it is exhibited.

**Figure 5** indicates the existing B4 zoned areas in the east remain suitably located, but an adjustment to the zone boundaries with the adjoining R1 zoned land is warranted prior to subdivision in this area to facilitate the place-making opportunities identified. **Figure 6** indicates that a relocation of the existing B4 zoned area to a more elevated area toward the north is appropriate. Other B4 zones on KHD's land (along the southern boundary of the site) are no longer surrounded by a critical mass of developable land to support village centre of the kind encouraged by a B4 zoning (albeit such locations remain suitable as activity nodes (for example, local parks) linked to future B4 zones by the east-west collector road and associated shared cycle and pedestrian path).

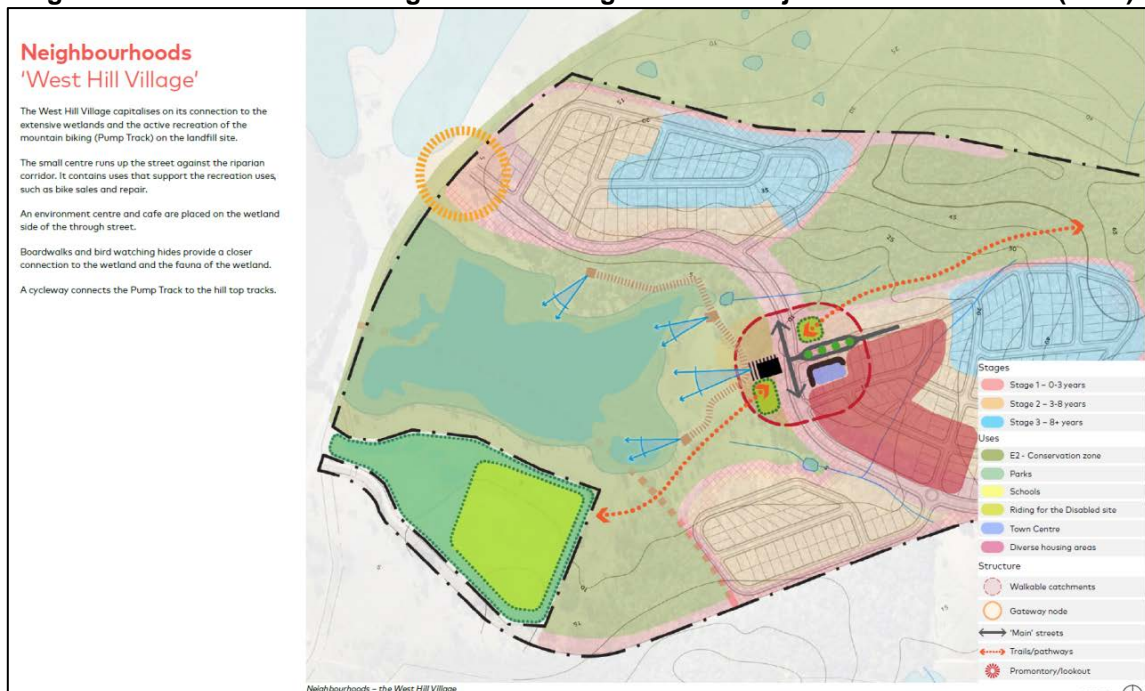


**Figure 5 Extract of Urban Design Place-Making to inform Adjustment to B4 zones (east)**



Source Deicke Richards

**Figure 6 Extract of Urban Design Place-Making to inform Adjustment to B4 zones (west)**



Source Deicke Richards

To ensure that any adjustment of the B4 zoned land via a Planning Proposal is appropriate, approval of the Concept Proposal is first sought to lock in the Conservation and Development footprint. Importantly, however, the Concept Proposal does not preclude the introduction of revised B4 zoned areas and/or the dissolving of existing B4 zoned areas.

**5. Is the Concept Plan inconsistent with the DCP, given Newline Road is proposed in the Concept Proposal as the Flood Free Access instead of the internal North South Collector Road depicted in the DCP?**

The internal north-south flood free access route linking *Precinct 7* with *Precinct 8*, as depicted in *Figure DAC* of the PSC DCP, was found to have limitations upon more detailed investigation of the options, and with the benefit of detailed survey. The key limitations are:

- The internal linkage involves other landowners which is likely to affect the timing and continuity of the flood free route required to service the very initial stages of development. Development by other land owners is unlikely to occur until sewer and water access is feasible, and other connecting roads become available. Newline Road is not affected by servicing, other land owners, or their timing to develop.
- The internal road link involves short lengths of steep terrain on KHDs land that would result in road gradients and intersections that are not conducive to heavy vehicle and public transport vehicles. Newline Road is flat and readily accessed by public transport and other heavy vehicles.
- The internal flood free link would involve some 2km of new road and drainage infrastructure through vacant land (until sewer and water is available) owned for most of that length by various other landowners, whereas Newline Road is an existing road with less than 1km of upgrades required, at far less cost than a new road, with the upgrade providing a broader public benefit to existing users of the road.

KHD determined that with the above factors, it would be more cost effective to invest in the upgrades to Newline Road linking with the east-west collector road as the flood free access, rather than for KHD to invest in only a part of the north-south Collector road (i.e. only that part on KHDs land) with no certainty as to when other landowners will complete the connection).

Notwithstanding the above, the Concept Proposal does not preclude the ultimate delivery of an internal north-south collector road in line with the DCP, progressively as subdivision is approved along the route.

**6. Is referral of the SIS to BCD for concurrence required?**

Referral is not required to seek concurrence if the Consent Authority forms a view that the Proposal is unlikely to have a significant impact upon threatened species, populations or ecological communities. The Consent Authority is however required to ensure the SIS is compliant with the CERs.

By way of background:

- In 2009, Council commissioned EcoBiological Pty Ltd to review the proposed draft zoning of the KHURA and to carry out a Biodiversity Assessment. This was in response to the (then) Department of Environment, Climate Change & Water (DECCW) request for Council to assess the potential environmental impacts of the proposal.
- EcoBiological identified the extent to which development within the KHURA was likely to have a significant impact on threatened species, and the extent to which a Species Impact Assessment would be required.
- DECCW reviewed the EcoBiological reports and informed Council in a letter dated 18 May 2010 that *Council's independent ecological review [by EcoBiological] will provide a useful framework for further biodiversity and offset mitigation measures at the development application stages of the proposal.*

- In response to DECCW's advice to Council, KHD sought Chief Executives Requirements (CERs) in order to carry out field assessment to prepare an SIS and respond to the recommendations of EcoBiological.
- The KHD SIS by RPS has adopted the recommendations of the EcoBiological reports and in addition adopts the avoid, manage and mitigate assessment framework (the mitigation hierarchy which is a requirement of the SIS as per the CERs).
- In adopting these measures, along with others detailed extensively in the SIS, including the funding and delivery of an in-perpetuity conservation outcome, the assessment was able to conclude that the Concept Proposal, derived from contemporary statutory and environmental considerations relative to land use zones, could be delivered with no significant impact likely on threatened species, populations or ecological communities.
- The CERs dated 9 September 2018 state in particular (**bold** for emphasis):  
*"Following completion of the SIS, it is to be submitted to the Port Stephens Council as the consent authority. If the consent authority determines that the proposal is likely to have a significant effect on threatened species, populations or ecological communities (including their habitat), then the concurrence of the Chief Executive of DECCW is required before consent may be granted. **A concurrence application is not required should Council decide to reject the application or if Council determines that the proposal is unlikely to have a significant effect on threatened species, populations or ecological communities. The consent authority must ensure that the SIS is compliant with the CERs.**"*

The SIS was prepared by RPS, which involved obtaining advice with specialists in their respective fields, including:

- Dr Stephen Philips (Biolink) - Koala impact analysis and studies,
- Dr Kara Youngentob, Dr Karen Marsh (Australian National University) & Dr Robert Clark (Australian National University) - eucalypt foliar nutrient investigations to support the Koala impact assessment,
- Ms Olivia Woosnam & Dr Fiona Hogan (OWAD Environment) - Koala scat collection and genetic analysis,
- Dr Mark Clements (CSIRO) - technical advice on threatened orchids,
- Mr Mark Wainwright (Alluvium Consulting) - wetland assessment (hydrobiology), and
- Dr Francis Lemckert (EcoLogical Australia) - technical advice on forest management involving impacts of enrichment planting and thinning.

Council commissioned a third party review of the SIS and associated Biodiversity Management and Vegetation Management Plans. It is understood that the review enables Council and the RPP to form a view that the proposal is unlikely to have a significant impact on threatened species, populations or ecological communities.

KHD's ecologists were specifically instructed to determine development solutions within an *avoid, minimise and mitigate framework* that would achieve a local and long term ecologically sustainable development outcome where local viable populations of affected threatened species would not go extinct. This approach is consistent with the principles of ecological sustainable development.

In adopting this approach, a no significant impact conclusion was reached which in turn, allowed KHD to demonstrate that the following critical outcomes for the environment, community, Council and the Region can be achieved:

- Maintain a continuous area of high-value habitat with high connectivity that preserves the opportunity for a consolidated URA wide biodiversity conservation outcome (rather than the Alternative Feasible Solution in the SIS to subdivide the Conservation Area into 40ha lots to facilitate private ownership and land use management);
- Provide an opportunity for passive and active recreational activities within the Conservation Area (KHD is in consultation with Council to establish mountain biking, equestrian, walking track and trail facilities);
- Investment in the existing land to enhance biodiversity and provide a sustainable ecological environment locally (especially focussed on broader considerations for sustainable habitat for Koala and genetic diversity);
- Establish a long term custodian of the Conservation Area with a vested interest in its preservation and ongoing benefit to the community.

## **7. When is Step 2 Clearing proposed?**

The submitted SIS and VMP propose that clearing occur progressively throughout the urban footprint in Phases, carried out in three (3) sequential Steps:

### **Step 1: At any time – works include:**

- Removal and management of weeds and pests under the Biosecurity Act
- Fencing of proposed Conservation Area
- Maintenance of existing tracks generally and construction of proposed tracks in the proposed Conservation Area
- Targeted and selective thinning of trees in the proposed Conservation Area as part of the koala feed tree enrichment works

### **Step 2: Deferred Commencement - Post EPBC approval and post DA approval for subdivision - works include:**

NB: Step 2 only to commence within catchments where: EPBC approval obtained; Development Consent is granted for Subdivision; a Subdivision Works Certificate has been issued; and after Stormwater management devices constructed to enable the approved works.

- Resource recovery (logs, hollow, rocks) to furnish the Conservation Area
- Thinning of Vegetation to an Outer Protection Area (OPA) standard, to mitigate bushfire threat to the approved areas for subdivision, and surrounding or adjoining developments.

### **Step 3: Deferred Commencement - Within the 6 months of Subdivision Works Commencing**

NB: Step 3 only to commence where Step 2 works are completed, and only to the extent that Subdivision Works are being carried out under a Subdivision Works Certificate.

- Clearing of remaining vegetation to enable subdivision construction, other than trees identified in the approved subdivision plans to be retained for landscape, character, and amenity purposes. Clearing limited to extent of Subdivision Works approved.



**KHD Response to Matters noted in Minutes of RPP**  
**12 August 2020 Briefing**

**Scope of Concept Approval**

**The Panel requested clarity from the applicant on the scope of and works proposed in the concept stage of the application including:**

- **Extent of urban footprint**

**The applicant explained that the concept stages relates to the urban footprint that largely conforms to the zoning of the site. The applicant has proposed to allocate some sensitive areas, which are zoned residential and were previously included in the urban footprint, to conservation.**

**The further investigations that are being undertaken to ascertain the potential impacts from the neighbouring waste management facilities on Precinct 6 will be addressed by the applicant. This may result in the reduction of the urban footprint to ensure the potential impacts are taken into consideration and/or further justification on why concept approval should pre-empt clearing (Stage 1 works) and development in absence of a clear understanding that land use conflicts are capable of being appropriately managed.**

See Item 2

**The applicant also stated that a numerical yield was not a critical part of the application and the number of dwelling sites would be dictated by the future detailed development applications.**

Agreed.

**The infrastructure included in the concept approval largely relates to the collector road and bus route network and shared pedestrian cycle links, generally consistent with adopted DCP structure planning (other than one location as explained by applicant that will be assessed as part of the concept relating to northern connection in western part of site). The applicant explained that local road connections are indicative only and not for approval.**

See Item 1

- **External road upgrade works**

**The applicant explained that the initial stages of the concept can be serviced via Newline Road and Six Mile Road, as provided for by the State VPA. This would require upgrades to provide an intersection to Newline Road and allow for flood free access. Details on the potential impacts of these roadworks have not been provided and the applicant will provide additional information to ensure that these matters can be assessed as part of the concept.**

See Item 1



- **Part 5 Application for infrastructure**

**Part 5 assessments have been prepared for both the Pacific Highway intersection upgrades and the Grahamstown Dam stormwater diversion channel (identified as enabling infrastructure for the URA) and the applicant advised they are in the final stages of assessment by state agencies, as per arrangements in the State VPA.**

**The assessment report for this project will include a detailed discussion of these assessments and any finding that may impact on the future servicing of the URA.**

KHD understands that PSC has access to each REF to enable details to be provided in the assessment report.

- **Stormwater infrastructure**

**The applicant is to confirm if stormwater strategy (incorporating stretch targets for purpose of managing impacts to Irrawang Swamp and Wetland 803) and infrastructure locations forms part of the application. If so, the stormwater strategy is to be supported by a planning assessment justifying the location of basins in terms of land use planning, zoning and also relative to classified watercourses and relevant guidelines.**

See Item 1 and **Attachment D**.

It is confirmed that under Clause 111A of SEPP Infrastructure, Development for the purpose of a stormwater management system may be carried out by any person with consent on any land.

**It was noted by the Panel the location of some basins compromises large portions of B4 zoned land, which may create land use conflicts, and not reflect the desired outcomes of the zone for the URA.**

See item 4

- **Use of B4 land**

**Questions were raised by the Panel in regard to land use planning and design for the B4 mixed use zones. Some areas of B4 land were included in the conservation area and support large stormwater basins. The applicant is to justify how the concept proposal addresses the strategic intent and land use objectives for the B4 zoned land. If B4 land is to be omitted and not developed due to site constraints and/or stormwater strategy, a justification needs to be provided that demonstrates there is sufficient commercially and mixed use zoned land to support the development of the URA.**

See Item 4

**Scope of Stage 1 works**

- **The Panel requested clarity from the applicant on the works proposed. The application must clearly delineate what forms part of the concept proposal - what approval is being sought for.**

See Item 1

- ***The applicant provided details on the vegetation management detailed in the Vegetation Management Plan (VMP) and Biodiversity Management Plan (BMP). This would involve some vegetation clearing within the urban footprint prior to the approval of the detailed development applications.***

See Item 7 – the Concept DA is amended by this addendum to ensure no vegetation clearing (other than weed management, track maintenance/ establishment and selective tree thinning for tree canopy nutrient enrichment works (to benefit the koala) will occur prior to the approval of detailed Development Applications.

While Stage 1 of the Concept DA will permit the progressive and sequential clearing of vegetation within the urban footprint, the carrying out of approved clearing is to occur in Steps. The commencement of clearing under Step 2 and Step 3 is proposed to be deferred until (and carried out only to the extent that):

- approval is granted under the EPBC Act; and
- approval is granted under a Development Consent to carryout subdivision; and
- a Subdivision Works Certificate is in place to enable subdivision works; and
- Stormwater management works are constructed within the catchment where Step 2 and Step 3 clearing works are proposed.
- ***A clear understanding will be provided by the applicant that can be translated into conditions of consent to ensure the responsible / sustainable clearing of land.***

Measures to ensure responsible and sustainable clearing of land include:

- Establishment of a Conservation Area including implementation of mitigation works in accordance with an approved Biodiversity Management Plan (BMP).

The BMP prescribes the mitigation works required including revegetation and enrichment plantings for the benefit of the Koala, fencing and other engineered controls to manage key Koala threats (i.e. dog attack and vehicle strike), weed control, habitat improvement (i.e. hollows and logs) and feral animal control is to occur prior to and during Phase 1 vegetation clearing. The timing, scale and proximity of these mitigation measures have the purpose of delivering local ecological benefit in advance of and during vegetation and habitat clearing. See Appendix C of the SIS for the proposed BMP for regulator approval.

- Progressive (Phased) clearing of vegetation and habitat over an 8+ year period.

Site preparation works will start with Native vegetation clearing is initially aligned to areas of lower biodiversity value adjacent to existing cleared lands (phase 1). It is predicted that the ecological restoration and establishment works pre-emptively implemented in the Conservation Area will provide ecological benefit that can be utilised by fauna retreating from areas of progressive clearing in phases 2 and 3. Ongoing viable populations of affected biodiversity are expected through this approach. See Section 2.2.1.3 of the SIS for details on the proposed progressive clearing works by phase.

- Use of sensitive clearing procedures in accordance with a Vegetation Management Plan (VMP).

A prescribed approach to the clearing of vegetation and habitat is outlined in Section 2.2.1.5 and the VMP in Appendix D. The procedure has the purposes of minimising direct harm to fauna either through habitat loss and/ or interactions with clearing methods. These sensitive clearing procedures are to occur after the implementation of mitigation measures in the Conservation Area.

- Implementation of a Voluntary Planning Agreement (VPA) to provide an in-perpetuity conservation mechanism/ agreement for the protection of biodiversity values within the Conservation Area.

A long term ecologically sustainable development requires an in-perpetuity and local (proximal) commitment to vegetation and habitat conservation. The VPA provides the certainty for a lasting conservation outcome; an important element in securing the ongoing presence of locally viable populations of affected threatened species. The VPA serves to protect the impact avoidance, minimisation and mitigation outcomes achieved through the process of implementing the initial site preparation works.

### **Approach to Biodiversity Issues**

***The applicant outlined that a primary objective of the application is to identify, assess and implement a site-wide conservation framework, and to establish a conservation area. The Panel was informed that the application has been prepared under former planning provisions (Threatened Species Conservation Act 1995) and to demonstrate no significant impact so as to not require concurrence from the now Biodiversity Conservation Division of DPIE (formerly DECCW). The Panel understand that a decision on no significant impact is one for the consent authority to make, and a peer review of the ecological work, commissioned by Council as part of their assessment, has been undertaken – details of which will be included in any assessment report. The applicant advised that impacts and Conservation measures relating to Koalas, and relevant statutory assessments for them specifically, are included in the ecological work.***

See Item 6

### **Contributions**

***The Panel requested clarity from Council on the progress with the s7.11 Contributions Plan applicable to the URA. Council staff stated that negotiations relating to the contributions plan is currently being prepared and will be finalised prior to the lodgement of the detailed development applications. This includes upgrades to regional infrastructure (parks and libraries) and upgrade works to the Raymond Terrace town centre.***

Noted

### **External agency consultation**

***Council staff provided an update on the external agency referrals. All Integrated approvals and other agency comments have been received and will be incorporated into the assessment report.***

Noted

### **Issues associated with neighbouring waste management facilities to be addressed.**

***The applicant provided an update on the ongoing odour and gas migration investigations. Refer also to earlier notes. The Panel requested that details of all relevant approvals be reported and considered in assessment of land use compatibility/conflict.***

See Item 2

### **Voluntary Planning Agreements**

***The Panel noted they are unable to make decisions that impact on Council financially and any VPA is to be endorsed or executed by Council. Details of the VPA will need to be included in the report particularly if it is a mechanism to satisfy ecological/biodiversity considerations. This is relevant to how land is to be held or managed.***

Noted

### **Offsite Infrastructure**

***The Panel will require sufficient information to determine the impacts or otherwise of any offsite infrastructure relied on by the development, refer also above.***

Noted - See Item 1 - Attachment B.

### **Documentation**

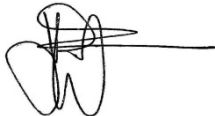
***The Panel requested an overlay of the proposal on the site to assist in understanding of the concept. This should also include clear information to understand what works sit within what zone – particularly E2 Environmental Conservation.***

Refer to Plans with aerial overlays within **Attachment A, B and C.**

Should you require any additional information please do not hesitate to me on 4948 4322 or email [jason@jwplanning.com.au](mailto:jason@jwplanning.com.au).

Yours faithfully,

**JW PLANNING PTY LTD**



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