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146-150 Vimiera Road, Marsfield | TG Millner Field Planning Proposal LEP2022/2/1/3 – Response to Request for Additional Information

We refer to the above matter and your letter dated 2 August 2022 and our subsequent meeting on 10 August 2022. The following sets out our response on behalf of Winston Langley (acting for North Ryde RSL and Eastwood Rugby Clubs) to the matters raised by Council and identifies a pathway for the Planning Proposal to proceed to Gateway Determination.

Executive Summary

- TG Millner Field is private land initially purchased on commercial terms by Eastwood Rugby to provide private rugby union facilities. The existing site, now owned by North Ryde RSL, has never been a public facility, with only infrequent hiring of the facility to other users. This Planning Proposal will facilitate the relocation of Eastwood Rugby to new, purpose-built facilities at Fred Caterson Reserve, Castle Hill, which will better meet the existing and future needs of the Club's members. The new facility represents a net increase to playing fields within north-west Sydney.
- Eastwood Rugby and North Ryde RSL are obliged to act in the best interests of their members. Existing planning controls permit the site to be developed for Seniors Housing, with no obligation to deliver any public open space or other public benefits. In light of Council's position regarding this Planning Proposal, the Clubs are obligated to pursue this option and have recently submitted a request to the NSW Department of Planning and Environment for Secretary's Environmental Assessment Requirements to progress a State Significant Development (SSD) Application for development of the site for seniors housing, including relocation within the site of the North Ryde RSL Sports Club. This Planning Proposal remains the preferred option, subject to achieving a satisfactory planning outcome.
- Council's *Open Space Future Provision Strategy* is a policy that guides Council's own actions in the delivery of new open space and playing fields within the City of Ryde LGA. It is not a land use planning policy that should be used to assess this Planning Proposal. It does not rezone or acquire land, or require the dedication of land by private landowners. The proposed 132 dwellings would not generate demand for a full-sized playing field. The Strategy cannot legally be applied in the manner that Council is seeking, for a purpose that is wholly unrelated to the Planning Proposal. Council can meet the identified need for additional playing fields in many more cost-effective and beneficial ways than acquiring TG Millner Field.
- The Proponent has received consistent feedback from the local community that a floodlit public football field used each weekday evening for training and for competition on weekends would not be supported due to the impacts of light spill, noise and traffic on existing residents. The provision of a full-sized field would also adversely impact on the ability of the Clubs to support their financial obligations to their members, including the delivery of new playing fields elsewhere. The proposed public park delivers informal and less impactful active recreational facilities as part of a high-quality new public park that caters to the diverse recreational needs of the local community.
- Public benefits associated with the Planning Proposal, which include a \$1 million financial contribution to facilitate the upgrade by Council of an existing turf field to synthetic to increase playing field capacity elsewhere within the LGA, can be readily secured through the progression of the Draft DCP Amendment (submitted to Council on 6 June 2022) and Draft Public Benefit Offer (submitted to Council on 18 May 2022). The proposed public benefits have a value of \$188,668/lot which is significantly above typical contribution requirements, reflects the unique commitment of the current landowners to deliver benefits for the community. The Proponent has not received any feedback on these from Council to date, but remains willing to progress each item in order to deliver on its commitment to provide significant public benefits as part of the project.

1.0 Background

Representatives of the Proponents first met with Council officers regarding this Planning Proposal on 15 February 2022. In this meeting, Council welcomed the significant public benefits associated with the Planning Proposal and expressed support for the low-scale nature of development proposed. Similar views were expressed in our subsequent meeting with Council officers on 22 March 2022. Council's pre-lodgement correspondence of 31 March 2022 noted that *"Council supports the low-density nature of the development, preservation of the Vimiera Road frontage tree planting, provision of active and passive open space, and open space on primary street frontage"*.

With the exception of the issue of the provision of a playing field, all of the matters raised by Council in its 31 March 2022 letter were incorporated into the Planning Proposal, which was lodged with Council on 18 May 2022.

The Planning Proposal was accompanied by a draft Voluntary Planning Agreement (VPA) for discussion with Council which proposed the following benefits for the community:

Item	Value
Dedication of an embellished public park	\$16,690,000
Roads adjacent to the public park	\$442,000
Affordable housing contribution	\$5,000,000
Section 7.11 contributions	\$1,262,164
Synthetic field contribution	\$1,000,000
Tree canopy – additional trees	\$210,000
Smart Cities initiatives	\$300,000
Total	\$24,904,164

Based on the 132 lots/houses presented for approval in the Planning Proposal, the proposed VPA offer equates to a community contribution of **\$188,668/dwelling**. This is an extraordinary public benefit offer that is only possible because the site remains in the ownership of a community organisation that wishes to leave a positive legacy from the development of the site and contribute positively to the general welfare of the Ryde community. A per-dwelling contribution of this magnitude is unique in the Sydney context, would not be delivered by any other landowner, and could not reasonably be compelled of any other developer.

Following lodgement of the Planning Proposal, Ryde Council has passed a number of resolutions that appear to be specifically aimed at preventing the Marsfield Common Planning Proposal from proceeding.

On 2 August 2022, Council officers responded to the Planning Proposal and we met on 10 August 2022 to discuss Council's response. We welcome the implication of this letter through the absence of any concerns being raised that the overall content and intent of the Planning Proposal, including the proposed building heights, typologies and density of development is supported. This letter seeks to address the remaining matters raised in Council's letter of 2 August 2022 in order to allow the Planning Proposal to proceed to Gateway Determination.

2.0 Open Space Provision

Council's letter of 2 August 2022 states that *"the proposal is considered to be inconsistent with the Council's Open Space Future Provision Strategy in that this strategy identifies that the site should provide capacity for at least one to 1.5 full-sized playing fields"* (the Strategy). The following sections set out our response to Council's request that the Planning Proposal be amended to provide a *"full-sized playing field and surrounding passive open space"*. In summary, this amendment is not supported as it is inconsistent with the open space desired by the local community, imposes a significant additional burden on North Ryde RSL and Eastwood Rugby (together referred to as the Proponent) beyond the generous public benefits already proposed by the Proponent in excess of planning requirements, bears no relationship with the demand for open space generated by the proposed residential uses, and is an inconsistent and inappropriate application of Council's *Open Space Future Provision Strategy*.

2.1 Proposed Open Space

The following sections provide further justification of the planning basis for the proposed provision of public open space within the site under the Planning Proposal.

There is no planning requirement to maintain existing private playing fields at TG Millner.

TG Millner Field is a private landholding initially purchased on behalf of Eastwood Rugby to deliver rugby union facilities for the Club's members. Now owned by North Ryde RSL, it is not publicly accessible land, and the very limited ongoing use by organisations other than Eastwood Rugby is by hire agreement only at the landowner's discretion. As outlined in the Planning Proposal, usage of TG Millner Field by community sporting organisations is already quite limited, and these organisations will all continue to be able to hire the new expanded facilities at Castle Hill if desired.

State Environmental Planning Policy (Housing) 2021 (the Housing SEPP) permits the development of seniors housing on land zoned RE2 Private Recreation where the development is carried out on land used for the purpose of an existing registered club and where the land adjoins land zoned for residential purposes. The site meets these requirements, as the North Ryde RSL Sports Club continues to trade on the site and the surrounding land is zoned R2 Low Density Residential.

Under the Housing SEPP, development for the purpose of seniors housing may be developed on the Site for a range of uses including a residential care facility, hostels or independent living units. The SEPP sets out development standards for seniors housing, which would permit development for the purpose of a residential care facility with a maximum floor space ratio of 1:1 and a maximum building height of 9.5 metres plus rooftop plant. There is no requirement to provide any public benefits as part of a seniors housing development.

Accordingly, the site has an immediately available pathway to planning approval and development should the current Planning Proposal not be supported. As outlined in the Planning Proposal, initial built form analysis indicates that a scheme that is fully compliant with the Housing SEPP can facilitate a residential aged care facility with more than 670 beds (or a mix of residential aged care beds and independent living units), without any requirement to provide public open space on the site or deliver any other public benefits.

Notwithstanding this, the Planning Proposal and associated master plan continues to be the preferred option of the Proponents. The Planning Proposal represents a mutually beneficial and reasonable planning outcome for the site that would deliver a less intensive development outcome plus significant public benefits to the local and broader Ryde community as follows:

- Construction of a 10,000m² public park and dedication of the completed park and associated land to Council.
- Construction of roads, footpaths and associated infrastructure surrounding the new public park by the landowner and dedication to Council.
- Financial contribution of \$1 million towards planned synthetic playing field upgrades by Council in the local area.
- Financial contribution of \$5 million toward the provision of affordable housing in the Ryde LGA.
- Payment of development contributions for community and cultural facilities, transport facilities and plan administration (i.e. excluding open space which is provided for as outlined above) in accordance with the City of Ryde Development Contributions Plan.
- Additional tree canopy cover provided within the site above existing planning requirements.
- \$300,000 financial contribution to implement 'Smart City' initiatives within the site.

Development under the site's existing planning controls would not deliver any of these public benefits.

Provision of a public playing field at the site is not supported by the local community.

The Proponents have undertaken further extensive stakeholder engagement following lodgement of the Planning Proposal with Council on 18 May 2022. This engagement with the local community has confirmed that the local community hold:

- Pre-existing concerns regarding the ongoing use of TG Millner Field by Eastwood Rugby on local amenity, including with respect to noise, traffic and parking.

- A strong preference that if new public open space is provided on the site, that this open space provides a diverse mix of passive and informal active open spaces that better cater to the recreational needs of the local community surrounding the site.
- Concerns regarding potential impacts associated with a new public playing field being provided at the site, including potential increased frequency of usage, light spill from floodlights, and traffic and parking impacts, particularly during weeknight evenings and on weekends.

Specifically, a survey of local residents conducted independently on behalf of the Proponents identified that:

- The level of support for a public park with a mix of passive recreation and informal active recreation was more than double the level of support for a playing field.
- Support was identified for providing a range of spaces that cater to the needs of a wider range of the community, including young people, the elderly and multicultural communities.

Additional detail of the community engagement outcomes and survey findings is provided under separate cover.

The Planning Proposal provides diverse, high-quality passive and informal active public open space.

To provide increased amenity for existing and future residents, and to respond to the site-specific considerations identified in the *TG Millner Field Open Space and Recreation Needs Assessment* submitted to Council with the Planning Proposal, the Planning Proposal and Public Benefit Offer identify the provision of a 10,000m² public park (**Figure 1**) to be delivered by the Proponent at no cost to Council that will include the following facilities:

- Multi-purpose sports court capable of flexible use for sports such as basketball, netball, badminton and futsal;
- 3 x table tennis tables;
- 2 x volleyball courts;
- Open lawns capable of being used for passive recreation capable of accommodating 2 x small-sided football/rugby fields;
- Picnic pavillion and seating grove for BBQs, birthdays and other social gatherings;
- All-abilities nature playground;
- Fitness stations;
- Loop path; and
- Amphitheatre seating.

This approach provides a diversity of different recreational opportunities, none of which are presently well catered for within the local catchment, which will respond to the needs of the existing and future local community. This approach also permits the retention and establishment of significant tree canopy within the site that could not otherwise be retained through the provision of a full-sized playing field.

We refer to the further detailed description of the proposed public park and urban tree canopy within the Landscape Concept and Design Report prepared by Landform Studios (Appendix B to the Planning Proposal) to assist in Council's understanding of the proposed benefits associated with the proposal.



Figure 1 **Indicative renders of proposed public park**

Source: DKO and Landform Studios

Delivering a full-sized playing field would significantly impact on the feasibility of the Planning Proposal.

The Proponents have already offered to embellish and dedicate to Council a 10,000m² public park in addition to the other nominated public benefits. These public benefits would not be required if the site were to be developed for seniors housing, and come at the direct expense of Eastwood Rugby and North Ryde RSL Club and their capacity to meet the needs of their members. These contribution would provide a significant asset to the community in perpetuity, and leave a significant positive legacy of the Club's history at the site.

Council's letter requests that the Planning Proposal be amended to include passive open space and a playing field (including necessary amenities and parking) that would be significantly larger than the 10,000m² park proposed. This would require a significantly larger portion of the Proponent's site to be embellished and dedicated to Council, whilst simultaneously reducing the development potential and revenue from the remaining portion of the site in the order of 10-20%. The loss of amenity arising from the removal of the proposed park, and the additional amenity impacts associated with the use of the playing field, would considerably reduce the commercial viability of the proposal.

The impact of the additional land take requested by Council has no proportionality to the need for open space generated by the proposed development (refer **Section 2.2**) and would significantly impact on the feasibility of the master plan and associated public benefits to an extent that is not acceptable to the Proponents.

Market value of the land precludes the provision of public playing fields.

The TG Millner Field site is private land that is not controlled by Council. The identification of the TG Millner Field site in the Strategy is no different to if Council had identified any other private land opportunities for the delivery of new playing fields.

Council has previously resolved to investigate the acquisition of TG Millner Field and declined to further pursue this option. The Proponents would consider the sale of Council on terms that reflect the current market value of the. However, as with Council's previous investigations it is expected that this is unlikely to be a market value that represents the effective allocation of Council resources considering the development potential of the TG Millner Field site and the availability of other more cost-effective options available to deliver the additional playing fields.

Sale of the land for anything less than current market value would be an abrogation of the Proponent's duties to their respective members. The development of the site is required to directly support Eastwood Rugby's ability to provide new and improved recreational facilities for its members at Fred Caterson Reserve, Castle Hill, and by North Ryde RSL to recoup the significant expenditure required to consolidate the ownership of the site to facilitate the development to recoup its holding costs and significant historical expenditure in maintaining the TG Millner Field.

As set out in the following sections, there is a wide range of options that better meet Council's strategic objectives for the delivery of public playing fields in a more cost-effective manner.

2.2 Nexus between Council's requested open space and Planning Proposal

The following sections set out the absence of any proper planning relationship between the impacts of the Planning Proposal and the playing field requested in Council's letter.

The Planning Proposal already facilitates a net increase in regional sporting infrastructure.

As detailed in Section 1.1. of the Planning Proposal, the sale and development of the Site will facilitate the delivery of modern purpose-built facilities for Eastwood Rugby at Fred Caterson Reserve, Castle Hill in partnership with The Hills Shire Council. The new facilities will include

- 3 x full-sized playing fields (including 2 x synthetic fields);
- Modern player and spectator amenities (including equal facilities for male and female players);
- Adequate car parking within the site boundaries; and
- Broadcast-quality flood lighting.

An indicative render of the proposed facility is shown at **Figure 2**. The revenue obtained from the completion of the sale of the Site is necessary to enable the delivery of these new facilities, which will provide a net increase in the provision of rugby union infrastructure within north-west Sydney.

Council's position that the Planning Proposal should also provide 1-1.5 additional playing fields at the TG Millner Field site fails to recognise the fact that the Proponents are already seeking to achieve a net increase in sporting infrastructure provision, which will continue to meet the limited demand for rugby union infrastructure generated by Ryde LGA residents and have a positive social outcome for the community.

Put simply, the Planning Proposal will enable the creation of three (3) new publicly accessible fields at Castle Hill from the regeneration of three (3) privately-owned fields at TG Millner – one of which has not been used for 20+ years, the second field which is used less than five (5) times/year and the primary field which is used less than 20 times/year by the local community outside of Eastwood Rugby Club.



Figure 2 *Indicative render of new Eastwood Rugby facility at Fred Caterson Reserve, Castle Hill*

Source: Populous

There is no nexus between Council's 'requirement' to provide a full-sized playing field and the Planning Proposal.

Based on projected population growth within the Ryde LGA of 50,379 persons within the Ryde LGA between 2016 and 2036, Council's *Open Space Future Provision Strategy* identifies a need to provide an increase in playing field capacity equivalent to 7 additional playing fields. Based on this rate of demand, the future projected population of the 132 dwellings proposed as part of this Planning Proposal would give rise to demand for less than 5% of a single playing field.

TG Millner Field is a private landholding purchased by the Proponents to deliver rugby union facilities for the members of the Club. It is not publicly accessible, and the very limited ongoing use by organisations other than Eastwood Rugby is by hire agreement only at the landowner's discretion (and Eastwood Rugby will make its new facility available to hire to these organisations). As outlined in the preceding section, the impact of removing the private rugby union facilities from TG Millner Field is more than offset by the establishment of new facilities (funded by the development of the existing site) at Fred Caterson Reserve in Castle Hill, which is more accessible to the current user base.

The Strategy does not place any obligation on the landowners to provide public access to the site, nor does it compel the landowner to provide facilities for or on behalf of Council. The Strategy simply identifies the Site as a parcel of land that Council could possibly seek to acquire as one way of meeting part of the playing field shortfall.

The Public Benefit Offer accompanying the Planning Proposal contributes towards the playing field demand.

Notwithstanding all of the above, the Proponents are both major and active supporters of community sport within the Ryde LGA and acknowledge Council's strategic desire and challenges to support broader population growth by providing additional playing field capacity within the LGA. As a consequence, the Public Benefit Offer accompanying the Planning Proposal includes a \$1 million financial contribution to Council for the purpose of facilitating the conversion of an existing turf playing field elsewhere in the LGA to synthetic by Council. This will contribute directly to an increase in playing field capacity within the Ryde LGA, consistent with the strategic objectives behind Council's current position in relation to this Planning Proposal.

2.3 Open Space Future Provision Strategy

The Open Space Future Provision Strategy does not require the provision of playing fields at TG Millner.

To meet the projected demand for additional playing fields arising from LGA-wide population growth, the Strategy identifies a range of options that Council could deliver by 2036, including:

- Synthetic conversion of existing turf playing fields to significantly increase utilisation capacity of existing assets.
- Develop additional playing fields within specific existing Council-owned open spaces (e.g. Darvall Park, Gannan Park and Waterloo Park).
- Develop additional playing fields on existing State and Commonwealth Government-owned land (e.g. vacant land adjacent Christie Park, CSIRO Marsfield site).
- Provide public access to existing playing fields at local public school grounds (e.g. Epping Boys High School) through agreements with the NSW Department of Education.
- Acquisition of the TG Millner Field site from the existing landowners.

In aggregate these options have the capacity to accommodate more than 7 playing fields, meaning that not all are required to be pursued in order to satisfy the demand identified in the Strategy.

The Strategy simply identified these options as “*potential future projects*”. It is incorrect and misleading to assert that the Strategy requires the provision of playing fields at the TG Millner Field site, but rather it identifies a range of options that Council can pursue. Furthermore, and as set out in the following section, there are a range of better options available to Council to deliver the desired playing fields that would provide greater benefits and value-for-money for the ratepayers of the City of Ryde. In this regard, we note that the CSIRO Marsfield site and Epping Boys High School opportunities ranked more highly than TG Millner Field in the Strategy.

The Open Space Future Provision Strategy fails to consider more cost-effective and beneficial options.

The Strategy fails to address other opportunities to provide the additional playing fields within the LGA that are likely to prove more efficient and beneficial than the TG Millner Field option, including:

- Investigation of additional fields at other vacant or underutilised Council, State or Commonwealth landholdings.
- Development by Council of additional playing fields at local schools with shared-use agreements with the NSW Department of Education at local schools.
- Shared-use arrangements for existing sporting infrastructure at local independent and private educational establishments, including Macquarie University, or delivery of new shared sporting infrastructure at these locations.
- Acquisition of any other private landholdings within the Ryde LGA other than TG Millner Field.

Each of the above options is certainly likely to represent better value for Council and the community compared with acquisition of TG Millner Field.

The Strategy applies a simplistic multi-criteria analysis (MCA) to rank the options that were considered, which identified TG Millner Field as a moderately-ranked option. This MCA included no analysis of the cost of delivering each option (including land acquisition costs) and provided no analysis of value-for-money. When land acquisition costs are factored in, acquisition of private land such as TG Millner Field would not demonstrate value-for-money, and would be the least likely of the options identified to be pursued by Council. Relevantly, p.40 of the *City of Ryde Section 7.11 Development Contributions Plan 2020* states that “*the cost of land is significant in the City [of Ryde] and so simply acquiring more open space to increase the rate of provision is not a viable option. Instead, it is critical for Council to utilise existing sites to achieve service delivery objectives in a sustainable manner*”. It is noted that the Strategy confirms that the acquisition of new land by Council is not necessarily required to achieve the shortfall in capacity for playing fields.

Council's recent *Draft Sports Field Action Plan – Towards 2036* attributes \$0 in Council funding for the delivery of two new public playing fields at the TG Millner Field site, and accordingly it is unclear on what basis Council believes these fields would be delivered. Given that existing planning policies on the site permit the redevelopment of the TG Millner Field site for seniors housing, the assumption that the land and infrastructure would be achieved at no cost to Council is misguided. The failure to account for the cost of private land is a major flaw in Council's analysis that leaves no basis in evidence for recommendations for Council to continue pursuing the provision of public playing field(s) at TG Millner Field.

It is noted that Council previously investigated the purchase of the TG Millner Field site in 2018 and determined that this option did not represent effective value for money. Nothing has changed since this time, except that commencement of *State Environmental Planning Policy (Housing) 2021* (the Housing SEPP) provides greater planning approvals certainty and timeliness for the seniors housing development option.

Having regard to the above, it is clear that the provision by Council of public playing fields at TG Millner Field is not an option that should be pursued by Council, and one that is not realistically likely to be pursued by Council through its normal infrastructure delivery activities.

The Open Space Future Provision Strategy recognises differing considerations for regional sporting infrastructure.

The provision of sporting infrastructure requires a nuanced approach that distinguishes between the needs of local amateur sport and higher-grade and professional sporting competitions. Higher-grade sporting organisations such as Eastwood Rugby generally require specific, purpose-built facilities of a commensurate standard to their competitors, exclusive access to these facilities, and the ability to host sporting activities and matches that attract larger numbers of people than a typical Council sporting field. Shared use of sporting fields between local amateur organisations and higher-grade organisations can result in friction between these differing usage profiles. We note that Council has recently experienced these challenges in its own management of the two synthetic fields at Christie Park, where Council has resolved to diverge from its normal Sportsground Allocation Policy and allow these two fields to be leased through a single head lessee independently from Council which will reduce generally community usage of these fields.

Council's *Open Space and Future Provision Strategy* acknowledges that the Ryde LGA has an over-provision of some sporting infrastructure (specifically baseball and netball) in comparison to demand for these facilities generated solely by residents of the Ryde LGA. The Strategy notes that as a result, Ryde acts as a 'regional centre' for these particular sports, with participants travelling into the LGA to utilise this 'surplus' capacity in a central location. Rather than seeking to reduce this oversupply by repurposing these facilities to meet other local sporting demand (e.g. soccer), the Strategy celebrates this approach of 'regional centres' for specific sports.

This Planning Proposal arises primarily because participation rates for rugby union within the Ryde LGA have persistently declined within the Ryde LGA over a long period of time, whilst participation rates have grown in Sydney's north-west. As a result, members and supporters of Eastwood Rugby are now overwhelmingly located within the north-west region, and travel considerable distances to access the outdated facilities at TG Millner Field.

Rather than investing in new facilities at a location that is increasingly disconnected from its user-base, Eastwood Rugby in partnership with The Hills Shire Council are proposing to develop new facilities at the more strategically-located Fred Caterson Reserve as a 'regional centre' for rugby union. This facility will continue to cater to the limited demand from the Ryde LGA, including other rugby and touch football organisations who currently hire the TG Millner Field. This approach aligns with a sensible and coordinated approach to the provision of regional sporting infrastructure, such as that promoted in the North Sydney Regional Organisation of Council's *Regional Sportsground Strategy Review* (2017).

The Open Space Future Provision Strategy guides Council's infrastructure delivery – not planning for private land.

Council is responsible for the delivery of open space and sporting infrastructure to meet the future needs of the community. The Strategy is a policy that was adopted to guide Council's own actions in delivering new open space and playing fields within the Ryde LGA. Relevantly, the Strategy adopted by Council states that:

*A Strategy has been developed to **guide Council decision-making** around the capacity and accessibility of open space and recreation facilities within the City of Ryde. The Strategy will **help Council plan for new or upgraded open space and sport facilities** in a way that increases the ways and times they can be used, while making them more accessible to more people. **(our emphasis added)***

The Strategy identifies the options by which Council can achieve the provision of additional playing fields, but the Strategy itself is not sufficient to realise the intended outcomes. Council will be required to deliver the additional playing fields through its own capital works and land acquisition processes.

We note that Council is already levying contributions on the new development that will give rise to the demand for new playing fields under the *City of Ryde Section 7.11 Development Contributions Plan 2020* and *City of Ryde Fixed Rate Levy (Section 7.12) Development Contributions Plan 2020* to fund the provision of these facilities. It is therefore clear that Council will continue to have the financial capacity to deliver the required playing fields at other more suitable locations.

The Strategy is not a strategic land use planning policy. The Strategy does not form part of the strategic planning framework that consists of State and local planning policies identified in Figure 1 in the *Local Environmental Plan Making Guideline*. The Strategy is not intended to inform or dictate the development decisions of private landowners. There is no evidence of Council applying the Strategy to other Planning Proposals or development proposals to require other private landowners to deliver playing fields.

3.0 Strategic Consistency

A Draft Site-Specific Development Control Plan Amendment (the Draft DCP) was submitted to Council on 6 June 2022. Whilst no feedback has been received from Council on the Draft DCP, this remains the most appropriate mechanism for addressing matters such as tree canopy cover, sustainability and site infrastructure that are raised in Council's letter.

To provide additional certainty to Council regarding the delivery of these benefits through the finalisation of the DCP, the proponent would not object if the Planning Proposal Authority required the amendment of the site-specific clause already proposed under the Planning Proposal in Schedule 1 of the LEP to permit attached dwellings and semi-detached dwellings, which could readily be re-drafted as follows to require the finalisation of the site-specific DCP prior to the development of the land:

- (1) *This clause applies to land at 146-15 Vimiera Road, Marsfield, being Lot 6, DP 1046532.*
- (2) *Development for the purpose of attached dwellings and semi-detached dwellings is permitted with development consent if a site-specific development control plan that provides for the matters specified in subclause (3) has been prepared for the land.*
- (3) *The development control plan must provide for all of the following:*
 - (a) *subdivision pattern and provision of services,*
 - (b) *dwelling design principles drawn from an analysis of the site and its context,*
 - (c) *phasing of development and how it will provide for the social and recreational needs of a new community,*
 - (d) *distribution of land uses, including open space (its function and landscaping) and environment protection areas,*
 - (e) *building envelopes and built form controls,*
 - (f) *housing mix,*
 - (g) *encouraging sustainable transport, including increased use of public transport, walking and cycling, road access and the circulation network and car parking provision,*
 - (h) *impact on, and improvements to, the public domain,*
 - (i) *environmental constraints, including climate change, acid sulfate soils, flooding, contamination and remediation,*
 - (j) *opportunities to apply integrated natural water-cycle design and integrated renewable energy design.*

The Proponent remains committed to working with Council to deliver the identified benefits through the Draft DCP, and we would welcome any feedback on the contents of this document at your earliest convenience.

The Proponent also made an offer on 18 May 2022 to enter into a Voluntary Planning Agreement with Council in respect of the public benefits proposed to be delivered in conjunction with the Planning Proposal. Again, the Proponent has not received any feedback from Council on the contents of the Offer. If there are specific public benefits that require additional security to ensure their delivery, the Proponent is willing to discuss whether suitable mechanisms can be included in any Planning Agreement to achieve this.

We understand that Council has concerns regarding the potential future application of the Low Rise Housing Diversity Code (the Code) under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* to the site. We understand that Council does not support the Code as a matter of general policy, and that Council has concerns that some of the benefits identified in the master plan would not be secured if proposed dwellings were approved under the Code. The Proponents do not envisage that future development of the site would utilise the Code, however, the Code is a State-wide policy and we do not believe that the NSW Department of Planning and Environment would endorse a site-specific exclusion of the Code from this site. Notwithstanding this, we believe that the imposition of a covenant which prevents application of the Codes SEPP (whether through the requirement in the Draft DCP or by the current landowner required through the final Planning Agreement) would address Council's concerns and is a robust and readily enforceable approach. The Proponents will provide separate legal advice to Council shortly which confirms that this approach can be readily implemented to address Council's concerns.

Council's letter also states that *"the amended LEP provision, under the current proposal, would propose amendments to the Lot Size Map for the site to introduce a minimum and maximum lot size of 200m² and 537m² respectively. Council would not propose lots greater than 537m²".* This statement is not correct, as the Planning Proposal makes clear that a Lot Size development standard in the LEP is not proposed due to the diversity of housing proposed that this matter is best dealt with through the DCP. It is noted that the current master plan comprises 11 lots that are between 190-200m² and 3 lots that are greater than 550m². The Proponent would not object if the Planning Proposal Authority determined to require the amendment of the Planning Proposal to impose a minimum lot size of 190m² and a maximum lot size for lots containing dwellings of 550m². Any such amendment should allow the developable area from the other lots to be redistributed, which may result in more than 132 dwellings on the site.

4.0 Seniors Housing Development Option

The Proponents are obligated to their respective members to pursue a development option for the site that reflects the market value of the asset, in order to allow the Clubs to achieve their respective objectives – the relocation to modern, purpose-built facilities at Castle Hill for Eastwood Rugby, and for North Ryde RSL being the recoupment of monies spent purchasing, maintaining and subsidising the TG Millner Field site over many years.

Noting the resolution of Ryde Council on 28 June 2022, and the nature of Council's letter dated 2 August 2022, it has been determined that a Seniors Housing Development Option is to be pursued to planning approval as a contingency measure should Council continue to oppose the Planning Proposal.

Concurrently with this letter, the Proponent has submitted a request to the NSW Department of Planning and Environment for Secretary's Environmental Assessment Requirements to progress a State Significant Development (SSD) Application for development of the site for seniors housing, including relocation of the North Ryde RSL Sports Club within the site, pursuant to the provisions of the Housing SEPP. The SSD pathway means that the application would be assessed by the NSW Department of Planning and Environment, rather than Council. We reiterate that the Planning Proposal remains the preferred and (in our view) mutually beneficial planning outcome for the site.

5.0 Other matters

Council's letter of 2 July 2022 requests that the Proponent *"provide more certainty as to how and by whom the development will be delivered"*. We understand that the proposed imposition of a covenant on the land by the existing landowner that precludes the application of the Codes SEPP (separate legal advice will be provided to Council imminently that provides further explanation of this approach) satisfactorily addresses this matter. If not, it is unclear what additional information Council requires in respect of this matter given that the Planning Proposal, Draft DCP Amendment and Planning Agreement would run with the land and bind any future landowner.

6.0 Conclusion

We trust that the above satisfactorily addresses the matters raised in Council's correspondence, and will facilitate Council officers' assessment to recommend to the Local Planning Panel and Council that the Planning Proposal proceed to a Gateway Determination. We request that Council reconsider its position in relation to the requested playing field, noting the discussion of Council's *Open Space Future Provision Strategy* outlined in this letter and the clear views of the local community that a public park is to be preferred if the site is redeveloped. As noted above, the Proponent is obliged to pursue the progression of the seniors housing development option, but hope that productive discussions regarding the Planning Proposal will make this option unnecessary.

Should you have any queries, please do not hesitate to contact the undersigned, or David Hynes on 0418 688 844.

Yours sincerely,



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