



**ORDINARY MEETING OF COUNCIL
TO BE HELD ON TUESDAY, 9 JUNE 2009 AT 7.00PM
LEVEL 3, COUNCIL CHAMBERS**

A G E N D A
**** ** ***

NOTE: For Full Details, See Council's Website –
www.kmc.nsw.gov.au under the link to business papers

APOLOGIES

DECLARATIONS OF INTEREST

CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING

ADDRESS THE COUNCIL

NOTE: Persons who address the Council should be aware that their address will be tape recorded.

DOCUMENTS CIRCULATED TO COUNCILLORS

CONFIRMATION OF MINUTES

Minutes of Ordinary Meeting of Council

File: S02131

Meeting held 12 May 2009

Minutes numbered 78 to 93

MINUTES FROM THE MAYOR

PETITIONS

REPORTS FROM COMMITTEES

Minutes of Ku-ring-gai Traffic Committee

File: S02110

Meeting held 21 May 2009

Minutes numbered KTC4 to KTC6

GENERAL BUSINESS

- i. The Mayor to invite Councillors to nominate any item(s) on the Agenda that they wish to have a site inspection.*
- ii. The Mayor to invite Councillors to nominate any item(s) on the Agenda that they wish to adopt in accordance with the officer's recommendation and without debate.*

GB.1 Draft Ku-ring-gai Development Control Plan (Town Centres) 2009 Timetable 1

File: CY00054

To have Council consider and endorse the timetable for finalisation of the draft Ku-ring-gai Development Control Plan (Town Centres) 2009, henceforth referred to as the draft DCP.

Recommendation:

That Council adopt the timeline for the draft Ku-ring-gai Development Control Plan (Town Centres) 2009 and receive and note the timelines for the aligned projects of the consolidated contributions plan, reclassification, public domain plan and parking management plan.

GB.2 Code of Meeting Practice 10

File: S02211

To recommend the adoption of the Code of Meeting Practice.

Recommendation:

That the Code of Meeting Practice be adopted.

GB.3 **Sponsorship Proposal - North Shore Times & Hornsby Advocate 2009 Business Achiever Awards** 74

.
File: S05650

To advise Council of a sponsorship proposal request from Cumberland Newspapers for the 2009 Business Achiever Awards Program.

Recommendation:

That Council consider the proposal from Cumberland Newspapers to sponsor the 2009 North Shore Times and Hornsby Advocate Business Achiever Awards Program for \$7,200.

GB.4 **Introduction of Library Overdue Fees** 105

.
File: S02130

To obtain Council's approval for the introduction of fees and charges for overdue library materials.

Recommendation:

That Council approve the introduction of fees for overdue library items at 20 cents per day per item, with an upper limit of \$12.00 per item, and that these charges be placed on public exhibition for a period of 28 days.

GB.5 **Council Nominations for Joint Regional Planning Panel** 110

.
File: S04554

To present nominations for council membership of the Sydney Metro West Joint Regional Planning Panel.

Recommendation:

That Council resolve to provide nominations for council membership of the Sydney Metro West Joint Regional Planning Panel.

GB.6 **Sustainability One-Stop-Shop** 125

.
File: S07052

For Council to endorse the combined tender for the One Stop Shop residential sustainability program.

Recommendation:

That Council endorse the One-Stop-Shop program. That a further report be brought to Council detailing the progress of the program.

GB.7 Management Plan 2009 to 2012 132

.
File: FY00019

For Council to adopt the Management Plan 2009-2012, incorporating the Budget, Capital Works Program, Special Rate Variation (Subject to Minister's Approval) and Fees and Charges for 2009-2010.

Recommendation:

That Council adopt the Management Plan 2009-2012, incorporating the Budget, Capital Works Program, Special Rate Variation (Subject to Minister's Approval) and Fees and Charges for 2009-2010.

GB.8 Bushfire Issues in Ku-ring-gai 159

.
File: S06373

To advise Council of the preparedness of agencies to manage a major bushfire in the Ku-ring-gai area.

Recommendation:

That the report be received and noted.

GB.9 Acceptance of Tender T05/2009 - Sir David Martin Reserve & Lofberg Oval Sports Oval Upgrade, Stormwater Harvesting & Associated Works 173

.
File: S07036

To seek Council's approval to appoint a Contractor to carryout the work of refurbishment of Sir David Martin Playing fields and Lofberg Oval, stormwater harvesting and water quality improvement and all associated landscape works at both sites.

Recommendation:

That Statewide Civil Pty Ltd be appointed as the preferred tenderer for the works and that the Mayor and General Manager be delegated authority to sign all contract documentation on Council's behalf and apply the seal of Council.

GB.10 Sydney Adventist Hospital Wahroonga Submission to Part 3A Application

File: S05913

Report by Director Development & Regulation dated 26 May 2009 to be circulated separately.

EXTRA REPORTS CIRCULATED AT MEETING

BUSINESS WITHOUT NOTICE - SUBJECT TO CLAUSE 241 OF GENERAL REGULATIONS

QUESTIONS WITHOUT NOTICE

INSPECTIONS COMMITTEE - SETTING OF TIME, DATE AND RENDEZVOUS

**** ** ** ** ****

MAYORAL MINUTE

COUNCILLOR DUNCAN MCDONALD

I would like to formally welcome Ku-ring-gai's newest Councillor, Duncan McDonald, who joins us tonight for his first meeting.

I also congratulate Councillor McDonald on his comprehensive victory in the Wahroonga Ward By-election on 30 May.

From all reports it was a smoothly-run and problem-free By-election, and I would like to commend the Returning Officer, Trevor Magrath, for his good work in achieving this.

Councillor McDonald joins the Council at a very important time in Ku-ring-gai's history as we deal with large-scale changes to our built environment and planning to re-shape the future of our six town centres.

I would now like to briefly introduce Councillor McDonald and let you know what skills and experience he brings to Council.

A long-term Wahroonga resident, he is married with five children. He holds a degree in food science and a MBA and has been involved in senior business management for over 20 years.

Currently he runs his own business in management, marketing and business development. Councillor McDonald is also a member of the National Trust.

I am sure Councillor McDonald will find his new role both challenging and stimulating. Becoming a Councillor for the first time is undoubtedly a big learning curve but there is always great support from fellow Councillors and Council's Staff.

I am sure we will all enjoy working with Councillor McDonald – and I extend a very warm welcome to him on behalf of everyone at Ku-ring-gai Council.

RECOMMENDATION

That this Mayoral Minute be received and noted.

Councillor Elaine Malicki
Mayor

MAYORAL MINUTE

SECTION 94 EXEMPTION

We received the very welcome news last week that Planning Minister Kristina Keneally has exempted Ku-ring-gai from the Government's limit on Section 94 levies.

This great win for our community will result in up to \$47 million in extra Section 94 revenue over the next 22 years.

One of the positive aspects about the new housing we're being forced to accept is the development levies we will get to help us cater for up to 20,000 new residents over the next 25 to 30 years.

It's only fair that the developments bringing in these new residents pay their proper share of the cost of new facilities.

In effect, the Minister's decision recognises this very important principle.

Just to recap briefly, in December the NSW Government restricted councils' Section 94 levies to a maximum of \$20,000 per dwelling. Councils wanting higher levies needed to get special approval from the Minister.

Ms Keneally's approval of Council's bid means Ku-ring-gai's average Section 94 levy will be around \$28,000 – with the amount varying according to the size and location of each development.

Council sought this approval on a number of grounds including:

- the high cost of acquiring land in Ku-ring-gai for new parks
- the need to expand a number of community facilities such as libraries to cater for additional future users
- the high cost of providing quality upgrades to town centres including pavement improvements and new street furniture

This exemption was hard to obtain and underwent close scrutiny by the Government.

Exemptions are granted only when they're absolutely necessary – so our success indicates we had a very strong and valid case.

Our application was very professional and detailed, so Council staff are to be congratulated on this great result.

Item 2

S06347
9 June 2009

Council is continuing its work consolidating its two existing Section 94 plans into a comprehensive new one.

The first plan covers 2004 to 2009, while the second one, the *Town Centres Contributions Plan*, was approved last year and details \$135 million in capital works over the 22 years.

Around 51 per cent of this plan will be funded from Section 94 levies, with the remainder coming from other sources.

Section 94 levies can only be used to benefit new residents. As many of the planned facilities will also support existing residents, they can't be funded entirely from the levies.

In her decision, Ms Keneally has required Council, as part of its review of the two Section 94 plans, to:

- Assess existing and proposed levels of open space as well as the apportionment of new development
- Review the apportionment of public domain works within the town centres, and
- Develop a business plan to justify continued contributions for additional community infrastructure.

I have written to Ms Keneally thanking her for approving our exemption and also asking her to listen to the concerns of our residents and amend the Ku-ring-gai Planning Panel's Town Centres plan to reduce its negative impacts.

RECOMMENDATION

That this Mayoral Minute be received and noted.

Cr Elaine Malicki
Mayor

MAYORAL MINUTE

QUEEN'S BIRTHDAY HONOURS 2009

I am pleased to inform you that five Ku-ring-gai citizens, through their outstanding achievements and services to the community, have been awarded 2009 Queen's Birthday Honours.

We are very proud to have these dedicated and talented Australians as members of the Ku-ring-gai community.

I would like to read to you the names of these special Ku-ring-gai citizens and, on behalf of Council, congratulate them on their excellent contributions to Australian society.

- Bruce Mansfield of Gordon, for service to education and as an administrator and academic in the fields of theology and history
- Jennifer Thomas of St Ives, for service to the community of North Sydney, particularly through charitable and service groups
- Judith White of Turramurra, for service to the community through the Nepal Reconstructive Surgery Project and the Zonta Club of the Northern Beaches.
- Neil Inall of Roseville, for service to farming and the rural sector, particularly in the field of communication
- David Richards of Roseville, for service to medicine in the field of cardiology, and to the community through the Sydney City to Surf fun run

On behalf of Council, I congratulate all these award winners on their outstanding achievements.

Ku-ring-gai should be proud that it has so many citizens being recognised at the highest levels for their selfless dedication, commitment and contribution to local, national and international communities.

RECOMMENDATION

- A. That Council acknowledge the outstanding contribution made by these recipients of 2009 Queen's Birthday Honours to the Ku-ring-gai community and to the well-being of our society.
- B. That the Mayor, on behalf of Council, write to the recipients to congratulate them.

Cr Elaine Malicki
Mayor

PETITION

HANDLEY AVENUE, TURRAMURRA - PETITION FOR CONSTRUCTION OF FOOTPATH - (ONE HUNDRED & SEVENTY-FOUR [174] SIGNATURES)

The following Petition was presented by Councillor I Cross:

Handley Avenue desperately needs properly constructed footpaths in the street so that children, parents, residents and visitors to Handley Avenue can have safe and easy access along the street. The Council is not supporting this need, so we need your signature to help convince the Council that footpaths are mandatory.

We, the undersigned, request:

'Ku-ring-gai Council, we need your commitment in constructing safe footpaths in Handley Avenue as soon as possible.'

RECOMMENDATION

That the Petition be received and referred to the appropriate officer of Council for attention.

DRAFT KU-RING-GAI DEVELOPMENT CONTROL PLAN (TOWN CENTRES) 2009 TIMETABLE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To have Council consider and endorse the timetable for finalisation of the draft Ku-ring-gai Development Control Plan (Town Centres) 2009, henceforth referred to as the draft DCP.

BACKGROUND:

On 27 May 2009 the Ku-ring-gai Planning Panel adopted the final Ku-ring-gai Local Environmental Plan (Town Centres) 2008. Ku-ring-gai Council is responsible for preparing the draft Ku-ring-gai Development Control Plan (Town Centres) 2009 that is to be in place prior to the gazettal of the Local Environmental Plan.

COMMENTS:

This report puts forward a timeline for the draft DCP to be in place to coincide with the gazettal of the main draft Ku-ring-gai LEP (Town Centres). In addition the timelines for the aligned projects of the consolidated contributions plan, reclassification, public domain plan and parking management plan have also been prepared to coincide with the Town Centres DCP project.

RECOMMENDATION:

That Council adopt the timeline for the draft Ku-ring-gai Development Control Plan (Town Centres) 2009 and receive and note the timelines for the aligned projects of the consolidated contributions plan, reclassification, public domain plan and parking management plan.

PURPOSE OF REPORT

To have Council consider and endorse the timetable for finalisation of the draft Ku-ring-gai Development Control Plan (Town Centres) 2009, henceforth referred to as the draft DCP.

BACKGROUND

On 16 December 2008 Council considered a report that provided an update on the draft Development Control Plan (Town Centres) and Aligned Projects and resolved in Part the following:-

- A. *That Council adopt the structure of the draft Development Control Plan Town Centres as in Attachment 1.*
- B. *That Council receive and note the updates on the Public Domain Plan, Parking Management Plan and the development contributions planning.*

COMMENTS

Ku-ring-gai Council is the responsible entity for the finalisation of a series of projects that will support the draft Local Environmental Plan (LEP) and deliver on the implementation of key local infrastructure, public domain improvements, planning and urban design outcomes.

The Town Centres Development Control Plan (DCP) and aligned projects will need to be in place when the Ku-ring-gai draft Local Environmental Plan (Town Centres) 2008 comes into force, to assist with the orderly delivery and implementation of the town centres plans. At this stage gazettal is anticipated to be September or October 2009.

The Draft Development Control Plan (Town Centres) 2009

The draft DCP provides detailed provisions with respect to development to achieve the stated aims and purpose of Ku-ring-gai draft Local Environmental Plan (Town Centres) 2008.

The draft DCP establishes a framework for future development in the Ku-ring-gai Planning Panel areas by specifying a series of urban strategies to help achieve the community's vision for each respective centre.

The planning framework contained in the draft DCP adopts a place-based planning approach by defining appropriate building types and developing place-specific controls, supported by detailed design and environmental controls aimed at achieving a high quality built environment, landscape setting and community spaces.

The Department of Planning in a letter dated 11 November 2008 have advised Council to ensure that DCP generally conforms with the provisions of the Town Centres LEP and that the DCP is completed to coincide with the finalisation of the Town Centres LEP (see **Attachment 1**) The Department has regularly sought updates on progress of the draft DCP in the intervening six (6)

Item 1

CY00054
29 May 2009

months. The Department have also made it clear in the past the DCP should not limit or reduce development potential within the LEP.

To date there has been a considerable amount of work on the preparation of the draft DCP by staff as well as a series of Councillor briefings on the draft DCP:

- 19 December 2008 Council meeting endorsement of structure.
- 20 January 2009 Councillor Overview of LEPs and DCP and aligned projects.
- 17 February 2009 Council Briefing.
- 21 April 2009 Councillor Briefing.
- 5 May Urban Design Bus Tour key site in Metropolitan Sydney.
- 2 June 2009 briefing on Part 2 of the DCP.

On 27 May 2009 the Ku-ring-gai Planning Panel adopted the revised Ku-ring-gai Local Environmental Plan (Town Centres) 2008.

Attachment 2 shows the recommended timeline for the completion of the DCP and indicates consideration of the draft DCP at a Council Committee meeting on 28 July 2009, with an expected exhibition period in August 2009 and adoption post exhibition in October 2009.

ALIGNED PROJECTS

Ku-ring-gai Town Centres Development Contribution Plan (consolidated)

Ku-ring-gai Council Section 94 Contributions Plan 2004-2009 Residential Development (Amendment 2) was developed as a five year contributions plan in 2004. It is due to expire during 2009. This is now imminent.

Ku-ring-gai Town Centres Development Contributions Plan 2008 is built upon development and population projections based on the development which would have been permitted by Council's draft LEP 2007 for the Town Centres plus development currently permitted under the gazetted LEP 194 and LEP 200. Review is required as a result of draft Town Centres LEP 2009 adopted by the Ku-ring-gai Planning Panel on 27 May 2009.

The consolidation of the two Contributions Plans currently applying to the Ku-ring-gai Local Government Area is an integral platform of the financial strategy underpinning the infrastructure which supports new development. It is intended that this document will be reported for exhibition concurrent with the draft Town Centres Development Control Plan 2009; however, the Contributions Plan is subject to some uncertainty due to the current investigation of Ku-ring-gai's application to exceed the \$20,000 threshold for its current plans. The current Section 94E Direction limiting contributions to \$20,000 per residential dwelling would preclude Council adopting a new Contributions Plan exceeding this threshold and staff are currently seeking advice on how to formally proceed. It is important that these documents are exhibited in tandem and are in force before the Town Centres LEP comes into force. The draft Ku-ring-gai Contributions Plan 2009 is expected to be reported to Council as per the attached timeline (see **Attachment 2**). There will be a further briefing on this project.

Item 1

CY00054
29 May 2009

Reclassification of Council Lands

Council owns a number of strategic sites within all centres that have been rezoned under the Ku-ring-gai draft Local Environmental Plan (Town Centres) 2008. The majority of these sites are classified as community land under the provisions of the *Local Government Act, 1993*.

To date the process to have the Council owned lands reclassified to operational land has not been completed due to a range of factors including legal issue; the complexity of the process of land reclassification being held under two sets of legislation the *Environmental Planning and Assessment Act 1979* and the *Local Government Act 1993*; and finally a change in the responsible authority for finalising the town centres planning from Ku-ring-gai Council to the Ku-ring-gai Planning Panel.

Moreover, there has been an ad hoc approach to reclassification over the past year with several key Council owned sites being excluded from the draft LEPs for reclassification, although these sites have recently rezoned under the Ku-ring-gai draft Local Environmental Plan (Town Centres) 2008.

The process forward will be to prepare the necessary information for the draft LEP and exhibition for all Council owned sites within the Ku-ring-gai Planning Panel boundaries and have this information ready for exhibition immediately after the formal gazettal of the Ku-ring-gai draft Local Environmental Plan (Town Centres) 2008.

The process will be in two stages; firstly Council will consider and endorse the sites for reclassification; and secondly a request will be made to the Ku-ring-gai Planning Panel to formally exhibit the draft LEP as amendment No .1 to the Ku-ring-gai draft Local Environmental Plan (Town Centres) 2008 if the Panel is still in place at this time.

A further briefing will be provided to Councillors prior to the matter of reclassification being formally considered by Council.

Public Domain Plan (PDP)

To date a Council has appointed specialist consultant team, to work closely with a Project Reference Group (PRG) established by Council, to prepare and deliver the Plan.

A significant amount of work has been undertaken to date to develop principles and criteria for the selection of furniture and materials. A preferred furniture range has been selected by the PRG and two paving options have been identified and have been reviewed. It is proposed to exhibit both options (granite unit paving and concrete unit paving). A preferred paving type will be selected after exhibition and public comment has been received.

Changes to the draft DCP and the anticipated timing for gazettal of draft LEP 2008 have prompted a revised structure for the PDP and a revised program to ensure the PDP is consistent with the draft DCP and is finished as close as possible to the time of draft LEP (Town Centres) 2008 gazettal. **Attachment 2** includes the timeline for this project for Council's information.

Parking Management Plan

The Parking Management Plan is being prepared for each town centre for reporting to Council prior to gazettal of the draft LEP (Town Centres). The objective of the Parking Management Plan is

Item 1

CY00054
29 May 2009

to develop a comprehensive plan for the long term management and provision of car parking within the main commercial centres of Ku-ring-gai Local Government Area (LGA). In particular, it seeks to address existing Council resolutions in relation to parking within the town centres; provide strategies for to maintaining current levels of public off-street car parking (both time restricted and unrestricted); as well as developing strategies to manage and compensate for any parking shortfalls that may arise.

To date, parking surveys, literature review, data collection, calculation of parking demands shortfalls and/or oversupplies have been undertaken. The base information prepared by ARUP indicates that future parking provision in the centres should be generally adequate. Precinct by precinct analysis of the 6 centres has been completed by staff and a Working Party was formed to provide community input at key stages and met over 2 sessions, in early December 2007 and February 2008. In early 2008, Council resolved to prepare a Parking Study for the Wahroonga Centre, and ARUP was also engaged to analyse the traffic and parking situation, in a similar fashion to the other 6 centres. The results of this work are being finalised in a Parking Management Plan for the 6 town centres and Wahroonga, which will soon be placed on public exhibition for further feedback. **Attachment 2** includes the timeline for this project for Council's information.

Aligned Projects – the next steps

There will be a series of further briefings for Councillors prior to these projects being put to Council for formal exhibition over the next few months. For the aligned projects of the consolidated contributions plan, reclassification, public domain plan and parking management plan.

CONSULTATION

Consultation for the draft Development Control Plan will be undertaken during the exhibition of the document.

FINANCIAL CONSIDERATIONS

The costs of preparing the draft DCP, Parking Management Plan and reclassification projects are covered by the Urban Planning, Strategy and Environment Department Budget. The Contributions Plan and Public Domain are funded via Council's Development Contribution Plan.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

An integrated planning approach has been adopted for this project and where appropriate other Departments of Council have been consulted in the project including the Development and Regulation Department.

SUMMARY

Ku-ring-gai Council is responsible for the finalisation of a series of key programs associated with Ku-ring-gai draft Local Environmental Plan (Town Centres) 2008 including the Town Centres

Item 1

CY00054
29 May 2009

Development Control Plan, Public Domain Plan, Parking Management Plan, Reclassification and Consolidated Contributions Plan all of which will need to be in place when draft Ku-ring-gai Local Environmental Plan (Town Centres) 2008 comes into force.

RECOMMENDATION

- A. That Council adopt the timeline for the draft Ku-ring-gai Development Control Plan (Town Centres) 2009.
- B. That Council receive and note the timelines for the consolidated contributions plan, reclassification, public domain plan and parking management plan.
- C. That the Department of Planning be notified of Council's decision.

Antony Fabbro
Manager Urban & Heritage Planning

Andrew Watson
Director Strategy & Environment

Attachments:

- 1. Letter from Department of Planning of 11 November 2008 regarding progress of the Development Control Plan - 2009/079384**
- 2. Timelines for draft DCP and Aligned Projects - 2009/079391**



NSW GOVERNMENT
Department of Planning

Mr John McKee
General Manager
Ku-ring-gai Council
818 Pacific Highway
GORDON NSW 2073



Y08/2863

Dear Mr McKee

I note the recent decision by the Ku-ring-gai Planning Panel to endorse exhibition of the draft Ku-ring-gai Local Environmental Plan (Town Centres) 2008. This achievement is the culmination of many months of hard work and dedication and I would like to acknowledge the professional approach of Council staff.

I note that the draft plan is scheduled to be placed on public exhibition from 17 November 2008 to 19 December 2008 and written comments will be invited from the local community, interested organisations and individuals.

The plan, when made, will be instrumental in assisting the Ku-ring-gai local government area in delivering the Metropolitan Strategy and Subregional Strategy and making its contribution to accommodate population growth in the Sydney region.

I understand Council is currently comprehensively reviewing its current development control plan in order to set appropriate design parameters for residential and commercial development within the respective town centres, in light of the draft Town Centres LEP. It will be important that the development control plan generally conforms to the provisions of the Town Centres LEP.

Following on from the exhibition of the plan the Department requests the Council to publicly exhibit the draft development control plan as soon as possible. As the Panel is working towards submitting the draft Town Centre LEP to the Minister in March 2009 I would encourage the Council to aim to complete its work on the DCP within a similar time frame.

I would also encourage Council to liaise on a regular basis with the Department's regional team to ensure the completion of the development control plan to coincide as nearly as practical with the completion of the Town Centres LEP. The Department's team will assist Council in resolving any planning or design issues in the development control plan's preparation.

In particular I would appreciate your advice if at any time if you come to believe the draft development control plan will be significantly delayed, or will not generally conform to the draft Town Centre LEP.

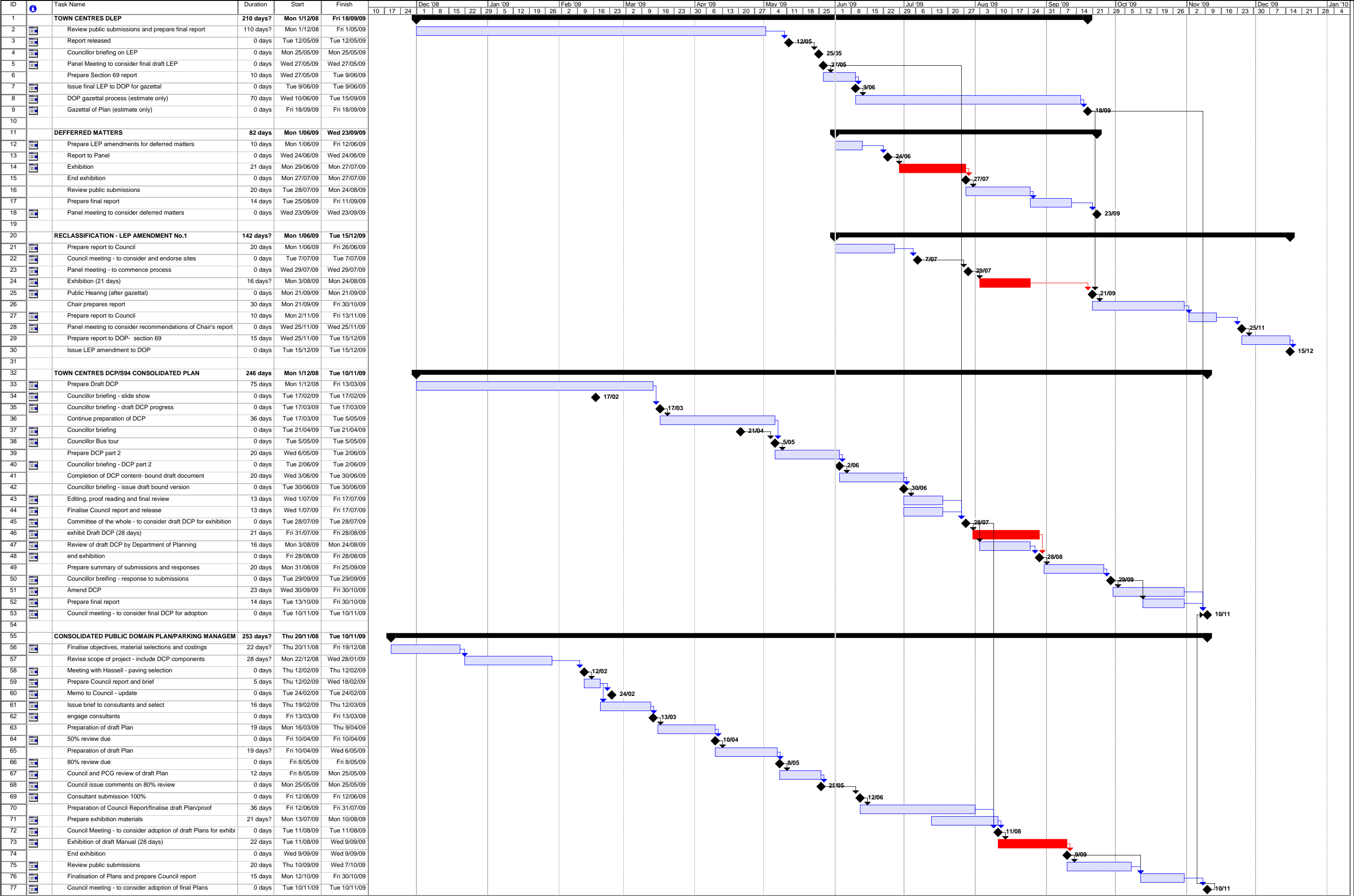
Should you require further information please contact Mr Derryn John, Team Leader Sydney West Region on 9873-8543.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Marcus Ray', with a long horizontal flourish extending to the right.

Marcus Ray
A/Executive Director
Metropolitan Planning

11/11/08



CODE OF MEETING PRACTICE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To recommend the adoption of the Code of Meeting Practice.
BACKGROUND:	On 7 April 2009 Council resolved that the draft Code of Meeting Practice be placed on public exhibition.
COMMENTS:	The draft Code was exhibited in the period 17 April to 29 May 2009.
RECOMMENDATION:	That the Code of Meeting Practice be adopted.

PURPOSE OF REPORT

To recommend the adoption of the Code of Meeting Practice.

BACKGROUND

On 7 April 2009 Council resolved that the draft Code of Meeting Practice be placed on public exhibition.

COMMENTS

The draft Code was exhibited in the period 17 April to 29 May 2009.

The draft Code is **attached**.

The draft Code has been under consideration by Council since 31 March 2008 during which time a number of revisions were made following input from Councillors.

CONSULTATION

Section 361 of the Local Government Act 1993 requires that the Code be placed on public exhibition For not less than 28 days with a submission period of not less than 42 days.

An advertisement was placed in the North Shore Times on 17 April 2009 and the Code was publicly available from Council, with a copy provided on Council's website, during the period of 17 April to 29 May 2009.

No submissions were received.

FINANCIAL CONSIDERATIONS

There are no financial considerations.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

The General Manager was involved in the preparation of the draft Code.

SUMMARY

The draft Code of Meeting Practice has been exhibited and no submissions were received. The Code may now be adopted.

RECOMMENDATION

That the Code of Meeting Practice be adopted.

John Clark
Director Corporate

John McKee
General Manager

Attachments: **Draft Code of Meeting Practice May 2009 - 2009/039448(v3)**



Ku-ring-gai Council

Code of Meeting Practice

May 2009

Code of Meeting Practice

Cross references between the Act or Regulation and this Code

Section in Act	Clause in Code	Clause in Regulation	Clause in Code
9	3.6, 7.1	232	7.1
10	4.2, 4.3, 4.5, 7.2, 8.4	233	2.5
10A	3.6, 4.5, 7.3 - 7.7, 8.1	234	2.6
10B	7.4	235	2.6
10C	7.5	235A	2.6
10D	7.6	236	3.1, 3.7
11	7.7	237	3.2
12	7.7, 8.1, 8.3	238	3.3
12A	7.7, 8.3	239	3.5
12B	7.7	240	3.6
231	3.1	241	3.7, 3.24
234	2.6	242	3.8
360	1.4	243	3.6, 3.7, 3.9, 3.12
365	2.1	244	3.10
366	2.2	245	3.11
367	2.3, 3.7	246	3.12
368	2.4	247	3.13
369	1.3, 3.1	248	3.14
370	3.20	249	3.16
371	3.21	250	3.5, 3.7, 3.8, 3.12,
372	3.24		3.14, 3.18
373	5.1	251	3.20
374	8.5	252	7.3
375	3.4	253	3.22
376	8.6	254	3.4
377	5.3	255	4.1
433	3.10	256	4.2
440F	4.6	257	4.3
440G	4.6	258	4.4
442	6.1	259	5.1
443	6.3	260	1.3, 5.2
448	6.1, 6.4	261	5.3
451	6.5, 8.5	262	5.4
453	6.7	263	5.5
454	6.5	264	7.3
456	6.5, 6.6	265	5.6
457	6.5, 6.6	266	5.9
458	6.5	267	1.3, 5.7
664	8.1	268	5.8
		269	5.10
		270	4.1, 4.2, 4.3, 4.4
		271	4.5
		272	8.2
		273	8.4
		412	8.1

Doc distribution	Internal/external	Doc status	For adoption following public exhibition	File No	S02211
Document owner	Dir Corporate	Contact officer/s	Director Corporate, Senior Governance Officer		
Approval date	07/04/09	Approved by	Council Minute # 70 – draft for public exhibition		
Effective date		Review period	3 years	Review date	April 2012
History of approved versions					
Version	Effective date	Summary of changes			
1.0		Original			
2.0	10 May 2005	Review and update			
3.0		Review and update, Regulation changes, Code of Conduct changes			
4.0	10 June 2009	No changes following public exhibition April/May 2009			

CONTENTS

PART 1 – INTRODUCTION

Page 6

- 1.1 Purpose
- 1.2 Objectives
- 1.3 Definitions
- 1.4 Legislation
- 1.5 Notes and Attachments

PART 2 - CONVENING OF, AND ATTENDANCE AT, COUNCIL MEETINGS

Page 8

- 2.1 Frequency of meetings of the Council
- 2.2 Extraordinary meetings
- 2.3 Notice of meetings
- 2.4 Quorum
- 2.5 What happens when a quorum is not present?
- 2.6 Absence from Council meetings

PART 3 - CONDUCT OF COUNCIL MEETINGS

Page 11

- 3.1 Chairperson of Council meetings
- 3.2 Chairperson to have precedence
- 3.3 Chairperson's duty with respect to motions
- 3.4 Minutes
- 3.5 Order of business
- 3.6 Agenda and Business Papers for Council meetings
- 3.7 Notice of business and Notices of Motion
- 3.8 Business paper for extraordinary meetings
- 3.9 Mayoral minutes
- 3.10 Report of a Departmental representative
- 3.11 Notice of motion - absence of mover
- 3.12 Motions to be seconded
- 3.13 How subsequent amendments may be moved
- 3.14 Motions of dissent
- 3.15 Petitions
- 3.16 Questions may be put to councillors and employees
- 3.17 Mode of address
- 3.18 Limitation as to number of speeches
- 3.19 Relevance in debate
- 3.20 Voting at Council meetings
- 3.21 Decisions of the Council
- 3.22 Resolutions passed at closed meetings
- 3.23 Recommittal of items

- 3.24 Rescinding or altering resolutions
- 3.25 Conclusion of meetings and motions of adjournment
- 3.26 Unfinished business
- 3.27 Reports of councillors and presentations
- 3.28 Annual elections

PART 4 - KEEPING ORDER AT MEETINGS

Page 27

- 4.1 Questions of order
- 4.2 Acts of disorder by councillors
- 4.3 Dealing with disorder
- 4.4 Power to remove persons from meeting after expulsion resolution
- 4.5 Expulsion from committee meetings
- 4.6 Misbehaviour

PART 5 - COUNCIL COMMITTEES

Page 32

- 5.1 Committee of the whole
- 5.2 Establishment of committees
- 5.3 Charters, functions and powers of committees
- 5.4 Notice of committee meetings
- 5.5 Non-members entitled to attend committee meetings
- 5.6 Procedure in committees
- 5.7 Chairperson and deputy chairperson of committees
- 5.8 Absence from committee meetings
- 5.9 Committee minutes
- 5.10 Reports of committees
- 5.11 Inspections by committee

PART 6 - CONFLICT OF INTERESTS

Page 37

- 6.1 Pecuniary Interest
- 6.2 Non-Pecuniary interest
- 6.3 Persons who have a pecuniary interest
- 6.4 Interests that do not have to be disclosed
- 6.5 Disclosure and participation in meetings
- 6.6 Disclosure by adviser
- 6.7 Disclosures to be recorded

PART 7 - OPEN MEETINGS

Page 42

- 7.1 Public notice of meetings
- 7.2 Attendance at meetings of the council and committees
- 7.3 Parts of a meeting closed to the public

- 7.4 Further limitations to closure of parts of meetings
- 7.5 Notice of closure not required in urgent cases
- 7.6 Specification of grounds for closing part of a meeting
- 7.7 Public access to correspondence and reports
- 7.8 Addressing council and committee meetings

PART 8 – MISCELLANEOUS

Page 49

- 8.1 Disclosure and misuse of information
- 8.2 Inspection of minutes
- 8.3 Access to information and records by councillors
- 8.4 Recording of meetings
- 8.5 Certain circumstances do not invalidate council decisions
- 8.6 Attendance of general manager at meetings
- 8.7 Mobile telephones
- 8.8 Other matters
- 8.9 Amendment of Code

PART 9 – ASSOCIATED DOCUMENTS

Page 53

- 9.1 Codes and policies
- 9.2 External references

ATTACHMENT A - Order of business for Council Meetings

Page 54

ATTACHMENT B - Closed Meetings – Summary of Legislation

ATTACHMENT C - Procedures for Addressing a Meeting

ATTACHMENT D – General Committee

PART 1 - INTRODUCTION

1.1 Purpose

The purpose of this Code is to set out the manner in which meetings of Ku-ring-gai Council and formal committees are to be convened and conducted.

1.2 Objectives

The objectives of this Code are to:

- provide a summary of the statutory provisions relating to the conduct of council and formal committee meetings supplemented by additional provisions
- ensure that council and committee meetings are held in a manner that is orderly and efficient and earns the respect of the Ku-ring-gai community
- ensure that council and committee meetings display open government and maximise access and participation by the community
- ensure that councillors conduct themselves with high standards of behaviour, making a positive contribution to all debates and decisions
- ensure that meetings comply with the basic principle of the *Local Government Act 1993* that councillors not involve themselves in day-to-day administration and meetings are restricted to matters of policy, direction, resource allocation and statutory decisions.

1.3 Definitions

In this Code:

Act means the *Local Government Act 1993*

chairperson means, in relation to a meeting of the council, the person presiding at the meeting as provided by section 369 of the Act, and, in relation to a meeting of a committee, the person presiding at the meeting as provided by clause 267 of the Regulation

committee means a committee established under clause 260 of the Regulation or the council when it has resolved itself into a committee of the whole

employee means an employee of Ku-ring-gai Council and includes the General Manager

Regulation means the *Local Government (General) Regulation 2005*

relative¹ means, in relation to a person, any of the following:

- (a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse
- (b) the spouse or de facto partner of the person or of a person referred to in paragraph (a).

1.4 Legislation

The principle legislation governing council and committee meetings is the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*.

This Code is made pursuant to section 360(2) of the Act which provides that a council may adopt a Code of Meeting Practice that incorporates the relevant legislation supplemented with further provisions that are not inconsistent with the legislation. Under section 361 a draft Code must be publicly exhibited for 28 days and submissions must be invited for 42 days. Under section 362 council must consider all submissions received before adoption of the Code which can be with amendments or in original draft form.

Pursuant to section 360(3) of the Act, the council and a committee of which all members are councillors must conduct its meetings in accordance with this Code.

This Code incorporates relevant provisions of the Act and the Regulation.

Words appearing in *italics* are a direct quote from the Act or the Regulation.

In the event of any inconsistency between this Code and the Act or the Regulation, the Act or the Regulation (as the case may be) prevails to the extent of the inconsistency. Any ruling or interpretation not covered by this code or legislation shall be determined by resolution of council.

Except as otherwise provided, expressions used in this Code which are defined in the dictionary at the end of the Act, have the meanings set out in the dictionary.

1.5 Notes and Attachments

Footnotes in this Code are explanatory notes and together with the Attachments do not form part of the Code. They are provided to assist understanding.

¹ see dictionary (section 3) of the Act.

PART 2 - CONVENING OF AND ATTENDANCE AT COUNCIL MEETINGS

2.1 Frequency of meetings of the Council

2.1.1 Section 365 of the Act

The council is required to meet at least 10 times each year, each time in a different month.

- 2.1.2 Ordinary council meetings shall be held on the second and fourth Tuesdays of each month commencing at 7.00pm in the Council Chambers, 818 Pacific Highway, Gordon unless the council by resolution determines otherwise or an extraordinary meeting is called.

2.2 Extraordinary meetings

2.2.1 Section 366 of the Act

If the mayor receives a request in writing signed by at least 2 councillors, the mayor must call an extraordinary meeting of the council to be held as soon as practicable but in any event within 14 days after receipt of the request.

- 2.2.2 The mayor or general manager may call an extraordinary meeting of the council on any matter or matters considered necessary.

- 2.2.3 The mayor, in consultation with the general manager, shall determine the time and place of an extraordinary meeting.

- 2.2.4 If the mayor refuses or delays in calling an extraordinary meeting after receiving a request, signed by at least 2 councillors, those councillors may, in writing, request the general manager to call the meeting. The general manager shall call the meeting as soon as practicable.

2.3 Notice of meetings

2.3.1 Section 367 of the Act

(1) The general manager of a council must send to each councillor, at least 3 days before each meeting of the council, a notice specifying the time and place at which and the date on which the meeting is to be held and the business proposed to be transacted at the meeting.

(2) Notice of less than 3 days may be given of an extraordinary meeting called in an emergency.

(3) A notice under this section and the agenda for, and the business papers relating to, the meeting may be given to a councillor in electronic form but only if all councillors have facilities to access the notice, agenda and the business papers in that form.

2.3.2 Notice of ordinary or extraordinary council meetings shall be given to each councillor by electronic means or by delivery to a nominated address within the Ku-ring-gai local government area at least three (3) days before the meeting date for ordinary meetings and at least 24 hours before the meeting date for extraordinary meetings.

2.4 Quorum

2.4.1 Section 368 of the Act

The quorum for a meeting of the council is a majority of the councillors of the council who hold office for the time being and are not suspended from office.

2.5 What happens when a quorum is not present?

2.5.1 Clause 233 of the Regulation

(1) A meeting of a council must be adjourned if a quorum is not present:

- (a) within half an hour after the time designated for the holding of the meeting, or*
- (b) at any time during the meeting.*

(2) In either case, the meeting must be adjourned to a time, date and place fixed:

- (a) by the chairperson, or*
- (b) in his or her absence - by the majority of the councillors present, or*
- (c) failing that, by the general manager.*

(3) The general manager must record in the council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the council, together with the names of the councillors present.

2.6 Absence from Council meetings

2.6.1 Clause 235 of the Regulation

A councillor cannot participate in a meeting of a council unless personally present at the meeting.

2.6.2 A councillor shall not be deemed to be present at a council meeting unless present within the council chamber. For the purposes of this clause, the council chamber excludes the public gallery.

2.6.3 Clause 235A of the Regulation

(1) A councillor's application for leave of absence from council meetings should, if practicable, identify (by date) the meetings from which the councillor intends to be absent.

(2) A councillor who intends to attend a council meeting despite having been granted leave of absence should, if practicable, give the general manager at least 2 days' notice of his or her intention to attend.

2.6.4 Section 234(2) of the Act

For the purposes of subsection (1)(d)² a councillor applying for a leave of absence from a meeting of a council does not need to make the application in person and the council may grant such leave in the absence of that councillor.

² section 234(1)(d) of the Act provides that a civic office becomes vacant if the holder is absent from 3 consecutive ordinary meetings of the council (unless the holder is absent because he or she has been suspended from office under section 482) without: (i) prior leave of the council, or (ii) leave granted by the council at any of the meetings concerned.

PART 3 - CONDUCT OF COUNCIL MEETINGS

3.1 Chairperson of Council meetings

3.1.1 Section 369 of the Act³

(1) The mayor or, at the request of or in the absence of the mayor, the deputy mayor (if any) presides at meetings of the council.

(2) If the mayor and the deputy mayor (if any) are absent, a councillor elected to chair the meeting by the councillors present presides at a meeting of the council.

3.1.2 Clause 236 of the Regulation

(1) If no chairperson is present at a meeting of a council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a chairperson to preside at the meeting.

(2) The election must be conducted:

- (a) by the general manager or, in his or her absence, an employee of the council designated by the general manager to conduct the election, or*
- (b) if neither of them is present at the meeting or there is no general manager or designated employee - by the person who called the meeting or a person acting on his or her behalf.*

(3) If, at an election of a chairperson, 2 or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot.

(4) For the purposes of subclause (3), the person conducting the election must:

- (a) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and*
- (b) then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.*

³ under section 231(3) of the Act, the deputy mayor may exercise any function of the mayor at the request of the mayor or if the mayor is prevented by illness, absence or otherwise from exercising the function, or if there is a casual vacancy in the office of Mayor.

- (5) The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.*

3.2 Chairperson to have precedence

3.2.1 Clause 237 of the Regulation

When the chairperson rises during a meeting of a council:

- (a) any councillor then speaking or seeking to speak must, if standing, immediately resume his or her seat, and*
- (b) every councillor present must be silent to enable the chairperson to be heard without interruption.*

3.3 Chairperson's duty with respect to motions

3.3.1 Clause 238 of the Regulation

- (1) It is the duty of the chairperson at a meeting of a council to receive and put to the meeting any lawful motion that is brought before the meeting.*
- (2) The chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful.*
- (3) Any motion, amendment or other matter that the chairperson has ruled out of order is taken to have been rejected.*

3.4 Minutes

3.4.1 Section 375 of the Act

- (1) The council must ensure that full and accurate minutes are kept of the proceedings of a meeting of the council.*
- (2) The minutes must, when they have been confirmed at a subsequent meeting of the council, be signed by the person presiding at that subsequent meeting.*

3.4.2 Clause 254 of the Regulation

The general manager must ensure that the following matters are recorded in the council's minutes:

- (a) details of each motion moved at a council meeting and of any amendments moved to it,*

- (b) the names of the mover and seconder of the motion or amendment,*
- (c) whether the motion or amendment is passed or lost.*

3.4.3 The correctness of the minutes of every preceding meeting, including any extraordinary meeting, not previously confirmed must be dealt with at a meeting of the council, in order that such minutes may be confirmed.

3.4.4 A motion or discussion with respect to such minutes shall not be in order except with regard to their accuracy as a true record of the proceedings.

3.5 Order of business⁴

3.5.1 Clause 239 of the Regulation

- (1) At a meeting of a council (other than an extraordinary meeting), the general order of business is (except as provided by this Regulation) as fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix the general order of business) as fixed by resolution of the council.*
- (2) The order of business fixed under subclause (1) may be altered if a motion to that effect is passed. Such a motion can be moved without notice.*
- (3) Despite clause 250, only the mover of a motion referred to in subclause (2) may speak to the motion before it is put.*

3.5.2 The order of business may be altered by a resolution. Only the mover of a motion to alter the order of business may speak to the motion.

3.5.3 The order of business for an extraordinary meeting shall be determined by the general manager having regard to the order of business for ordinary meetings and the business to be transacted at the extraordinary meeting.

⁴ the current order of business at a council meeting is set out in Attachment A.

3.6 Agenda and Business Papers for Council meetings

3.6.1 Clause 240 of the Regulation

- (1) The general manager must ensure that the agenda for a meeting of the council states:
 - (a) all matters to be dealt with arising out of the proceedings of former meetings of the council, and*
 - (b) if the mayor is the chairperson - any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and*
 - (c) subject to subclause (2), any business of which due notice has been given.**
- (2) The general manager must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the general manager, the business is (or the implementation of the business would be) unlawful. The general manager must report (without giving details of the item of business) any such exclusion to the next meeting of the council.*
- (3) The general manager must cause the agenda for a meeting of the council or a committee of the council to be prepared as soon as practicable before the meeting.*
- (4) The general manager must ensure that the details of any item of business to which section 9(2A) of the Act applies are included in a business paper for the meeting concerned.*
- (5) Nothing in this clause limits the powers of the chairperson under clause 243.*

3.6.2 Items of correspondence relating to agenda items shall be circulated as “Additional Agenda Information”.

3.6.3 Items of correspondence of a general nature shall be circulated as “Councillor Information” separate from the business paper with confidential items headed “Confidential Information”.

3.6.4 Confidential items shall be circulated as “Confidential Agenda Information”.

3.6.5 Confidential business papers shall be distributed only to councillors and such employees as the general manager determines.

- 3.6.6 Where a councillor is, or in the opinion of the general manager is likely to be, the subject of proceedings by or against the council, any legal advice, reports or correspondence dealing with those proceedings or likely proceedings shall, if the matter is a kind of business referred to in section 10A of the Act, be withheld from the business paper of that councillor and shall not be made available to that councillor by any person.
- 3.6.7 As circumstances necessitate, reports not listed for consideration on a business paper shall be made available at a meeting and shall be dealt with at the conclusion of General Business so as to enable councillors to be able to read the report.
- 3.6.8 Correspondence shall not be presented or read by councillors at a council meeting without the approval of the council.

3.7 Notice of business and Notices of Motion

3.7.1 Clause 241 of the Regulation

- (1) A council must not transact business at a meeting of the council:*
- (a) unless a councillor has given notice of the business in writing within such time before the meeting as is fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix that time) as is fixed by resolution of the council, and*
 - (b) unless notice of the business has been sent to the councillors in accordance with section 367 of the Act.*
- (2) Subclause (1) does not apply to the consideration of business at a meeting if the business:*
- (a) is already before, or directly relates to a matter that is already before, the council, or*
 - (b) is the election of a chairperson to preside at the meeting as provided by clause 236(1), or*
 - (c) is a matter or topic put to the meeting by the chairperson in accordance with clause 243, or*
 - (d) is a motion for the adoption of recommendations of a committee of the council.*
- (3) Despite subclause (1), business may be transacted at a meeting of a council even though due notice of the business has not been given to the councillors. However, this can happen only if:*
- (a) a motion is passed to have the business transacted at the meeting, and*

*(b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency.
Such a motion can be moved without notice.*

(4) Despite clause 250, only the mover of a motion referred to in subclause (3) can speak to the motion before it is put.

- 3.7.2 A Notice of Motion signed and in writing must be provided to the general manager no later than 2.00 pm on the Monday eight (8) days prior to a meeting.
- 3.7.3 Only the actual wording of the Notice of Motion will appear on the business paper. Any background notes will be circulated as an attachment to the business paper.
- 3.7.4 A councillor may not submit more than two (2) Notices of Motion to a meeting.
- 3.7.5 The chairperson shall consider a matter to be of great urgency when it requires a resolution in the first instance to action and only if consideration could not be deferred until the next meeting of council.

3.8 Business paper for extraordinary meetings

3.8.1 Clause 242 of the Regulation

(1) The general manager must ensure that the agenda for an extraordinary meeting of the council deals only with the matters stated in the notice of the meeting.

(2) Despite subclause (1), business may be transacted at an extraordinary meeting of a council even though due notice of the business has not been given to the councillors. However, this can happen only if:

(a) a motion is passed to have the business transacted at the meeting, and

(b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency.

Such a motion can be moved without notice but only after the business notified in the agenda for the meeting has been disposed of.

(3) Despite clause 250, only the mover of a motion referred to in subclause (2) can speak to the motion before it is put.

3.9 Mayoral minutes

3.9.1 Clause 243 of the Regulation

- (1) If the mayor is the chairperson at a meeting of a council, the chairperson is, by minute signed by the chairperson, entitled to put to the meeting without notice any matter or topic that is within the jurisdiction of the council or of which the council has official knowledge.*
- (2) Such a minute, when put to the meeting, takes precedence over all business on the council's agenda for the meeting. The chairperson (but only if the chairperson is the mayor) may move the adoption of the minute without the motion being seconded.*
- (3) A recommendation made in a minute of the chairperson (being the mayor) or in a report made by a council employee is, so far as adopted by the council, a resolution of the council.*

- 3.9.2 Mayoral minutes shall always be in writing and be signed by the mayor.

3.10 Report of a Departmental representative

3.10.1 Clause 244 of the Regulation

- When a report of a Departmental representative has been presented to a meeting of a council in accordance with section 433 of the Act, the council must ensure that the report:*
- (a) is laid on the table at that meeting, and*
 - (b) is subsequently available for the information of councillors and members of the public at all reasonable times.*

3.11 Notice of motion - absence of mover

3.11.1 Clause 245 of the Regulation

- In the absence of a councillor who has placed a notice of motion on the agenda for a meeting of a council:*
- (a) any other councillor may move the motion at the meeting, or*
 - (b) the chairperson may defer the motion until the next meeting of the council at which the motion can be considered.*

- 3.11.2 Where there is no objection to a Notice of Motion being taken as a formal motion, then the chairperson shall put the motion to the vote without debate.

3.12 Motions to be seconded

3.12.1 Clause 246 of the Regulation

A motion or an amendment cannot be debated unless or until it has been seconded. This clause is subject to clauses 243(2) and 250(5).⁵

- 3.12.2 The seconder of a motion or of an amendment may reserve the right to speak later in the debate.

- 3.12.3 It is permissible to debate the motion and an amendment concurrently.

3.13 How subsequent amendments may be moved

3.13.1 Clause 247 of the Regulation

If an amendment has been rejected, a further amendment can be moved to the motion to which the rejected amendment was moved, and so on, but no more than one motion and one proposed amendment can be before the council at any one time.

- 3.13.2 It is permissible during the debate on an amendment for a further amendment to be foreshadowed. However, any such foreshadowed amendment shall not be moved and debated until the amendment is dealt with.

3.14 Motions of dissent

3.14.1 Clause 248 of the Regulation

(1) A councillor can, without notice, move to dissent from the ruling of the chairperson on a point of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.

⁵ clause 243(2) deals with Mayoral Minutes (see 3.9.1) and clause 250(5) deals with limitation as to the number of speeches (see 3.18.1).

(2) If a motion of dissent is passed, the chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the chairperson must restore the motion or business to the agenda and proceed with it in due course.

(3) Despite clause 250, only the mover of a motion of dissent and the chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

3.15 Petitions

3.15.1 Where a petition has already been placed on an agenda, the councillor presenting the petition is to briefly refer to the subject matter and move a motion as to how the matter is to be determined by council. The usual motion would be along the lines of:

"That the petition be received and referred to the appropriate officer of council for attention."

3.15.2 Where a petition has not been placed on an agenda the councillor presenting the petition is to refer briefly to the subject matter of the petition without necessarily reading the petition and then hand it to the mayor for subsequent reading by the general manager (if necessary) and the councillor may move a motion as set out in 3.15.1 above.

3.15.3 Only when a petition is urgent or refers to business already placed on the agenda for that meeting is a councillor to recommend that action be taken on the basis of the petition.

3.15.4 No address to the council shall be allowed in relation to petitions when initially presented to council.

3.16 Questions may be put to councillors and employees

3.16.1 Clause 249 of the Regulation

(1) A councillor:

(a) may, through the chairperson, put a question to another councillor, and

(b) may, through the general manager, put a question to a council employee.

(2) However, a councillor or council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents.

(3) The councillor must put every such question directly, succinctly, and without argument.

(4) The chairperson must not permit discussion on any reply or refusal to reply to a question put to a councillor or employee under this clause.

3.16.2 Questions without Notice shall always be in writing so as to remove any doubt as to whether the minutes have recorded the question correctly.

3.16.3 Questions shall not be so formed as to be an avoidance of a Notice of Motion.

3.16.4 Questions without Notice are limited to two (2) questions per Councillor per meeting.

3.16.5 No debate shall be taken on Questions without Notice.

3.17 Mode of address

3.17.1 Councillors shall on all occasions address their remarks through the chairperson and shall refer to other councillors and employees by their official designation.

3.17.2 Councillors, with the exception of the chairperson, or any person prevented by physical infirmity, shall stand when speaking.

3.17.3 The requirement to stand when speaking shall not include any part of the meeting where the council is in committee of the whole.

3.18 Limitation as to number of speeches

3.18.1 Clause 250 of the Regulation

(1) A councillor who, during a debate at a meeting of a council, moves an original motion has the right of general reply to all observations that are made by another councillor during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any such amendment.

- (2) A councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.*
 - (3) A councillor must not, without the consent of the council, speak more than once on a motion or an amendment, or for longer than 5 minutes at any one time. However, the chairperson may permit a councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than 5 minutes on that motion or amendment to enable the councillor to make a statement limited to explaining the misrepresentation or misunderstanding.*
 - (4) Despite subclauses (1) and (2), a councillor may move that a motion or an amendment be now put:*
 - (a) if the mover of the motion or amendment has spoken in favour of it and no councillor expresses an intention to speak against it, or*
 - (b) if at least 2 councillors have spoken in favour of the motion or amendment and at least 2 councillors have spoken against it.*
 - (5) The chairperson must immediately put to the vote, without debate, a motion moved under subclause (4). A seconder is not required for such a motion.*
 - (6) If a motion that the original motion or an amendment be now put is passed, the chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised his or her right of reply under subclause (1).*
 - (7) If a motion that the original motion or an amendment be now put is rejected, the chairperson must allow the debate on the original motion or the amendment to be resumed.*
- 3.18.2 Each councillor shall be granted a maximum of five (5) minutes to speak on an item. A warning signal shall be given at 4 minutes and 30 seconds. No extensions of time shall be granted other than that permitted by 13.18.1.
- 3.18.3 The mayor is bound by the provisions of 3.18.1 above except when clarifying issues or statements during an address by a councillor so as to facilitate the progress of the meeting.

3.19 Relevance in debate

- 3.19.1 In the course of debate a councillor shall not introduce material that is irrelevant to the item under discussion. If a councillor is called to order for second time in a single speech for introducing irrelevant material, the councillor shall immediately cease speaking and resume their seat. Failure to do so shall constitute an act of disorder.

3.20 Voting at Council meetings

3.20.1 Section 370 of the Act

- (1) Each councillor is entitled to one vote.*
- (2) However, the person presiding at a meeting of the council has, in the event of an equality of votes, a second or casting vote.*

- 3.20.2 If a motion, when put to the vote, results in a tied vote and a casting vote is not used, then the motion is unsuccessful.

3.20.3 Clause 251 of the Regulation

- (1) A councillor who is present at a meeting of a council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.*
- (2) If a councillor who has voted against a motion put at a council meeting so requests, the general manager must ensure that the councillor's dissenting vote is recorded in the council's minutes.*
- (3) The decision of the chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than 2 councillors rise and demand a division.*
- (4) When a division on a motion is demanded, the chairperson must ensure that the division takes place immediately. The general manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the council's minutes.*

(5) Voting at a council meeting, including voting in an election at such a meeting, is to be by open means (such as on the voices or by show of hands). However, the council may resolve that the voting in any election by councillors for mayor or deputy mayor is to be by secret ballot.⁶

3.20.4 In those circumstances where a decision is unanimous, the words “CARRIED UNANIMOUSLY” shall be recorded in the minutes.

3.20.5 In those circumstances where a decision is not carried unanimously, the chairperson shall announce the names of the councillors who voted against a motion or amendment and the names shall be recorded in the minutes.

3.21 Decisions of the Council

3.21.1 Section 371 of the Act

A decision supported by a majority of the votes at a meeting of the council at which a quorum is present is a decision of the council.

3.22 Resolutions passed at closed meetings

3.22.1 Clause 253 of the Regulation

If a council passes a resolution during a meeting, or a part of a meeting, that is closed to the public, the chairperson must make the resolution public as soon as practicable after the meeting or part of the meeting has ended.

3.23 Recommittal of items

3.23.1 If, prior to the completion of a meeting, a councillor or group of councillors consider that a decision made earlier is lacking in judgement or precision a formal written Notice of Rescission shall be completed and brought to the immediate attention of the Council.

3.23.2 Such Notice of Rescission shall be dealt with as Business without Notice (see 3.7 and 3.24 of this Code).

⁶ part II of the Regulation provides that a council is to resolve whether an election by the councillors for mayor or deputy mayor is to be by preferential ballot, ordinary ballot or open voting (clause 394 and clause 3 of Schedule 7). Clause 3 of Schedule 7 also makes it clear that “ballot” has its normal meaning of secret ballot.

3.24 Rescinding or altering resolutions

3.24.1 Section 372 of the Act

- (1) A resolution passed by a council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in accordance with regulations made under section 360 and, if applicable, the council's code of meeting practice.*
- (2) If notice of motion to rescind a resolution is given at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with.*
- (3) If a motion has been negatived by a council, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with council's code of meeting practice.*
- (4) A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been negatived by the council, must be signed by at least 3 councillors if less than 3 months has elapsed since the resolution was passed, or the motion was negatived, as the case may be.*
- (5) If a motion to alter or rescind a resolution has been negatived, or if a motion which has the same effect as a previously negatived motion, is negatived, no similar motion may be brought forward within 3 months. This subclause may not be evaded by substituting a motion differently worded, but in principle the same.*
- (6) A motion to which this section applies may be moved on the report of a committee of the council and any such report must be recorded in the minutes of the meeting of the council.*
- (7) The provisions of this section concerning negatived motions do not apply to motions of adjournment.*

- 3.24.2 A notice of rescission must be placed on a council meeting agenda, or it can be brought forward as a matter of great urgency in accordance with clause 241(3) of the Regulation (see 3.7) if council so resolves.**

- 3.24.3 A mayoral minute cannot be used as a device to bring forward a rescission motion, although if a mayoral minute is also signed by two other councillors, it can be regarded as a notice of rescission, and by virtue of one of the signatories being the mayor can receive prominence on the agenda.
- 3.24.4 If need be an extraordinary meeting may be called to consider a notice of rescission.
- 3.24.5 A rescission motion presented to council prior to the close of a meeting has the effect of stopping all action on the decision.
- 3.24.6 The mayor or any councillors have absolutely no authority to prevent implementation of a resolution of council where a notice rescission is presented at some time after closure of a meeting.
- 3.24.7 Where a resolution of council involves the granting or refusal of consent or any other formal statutory licence giving rise to legal rights, and such decision has been communicated in writing to the applicant, council's decision is incapable of being revoked even if a notice of rescission is lodged at some future time.
- 3.24.8 If a notice of rescission is lodged in relation to a matter that involves a development approval, the notice of rescission should not be dealt with by council until the applicant and any objectors who have addressed council on the matter are informed in writing of the notice of rescission and the date of the meeting at which the notice of rescission is to be considered.
- 3.24.9 For the purposes of section 372(6), council sitting as a committee of the whole, is a committee of council.

3.25 Conclusion of meetings and motions of adjournment

- 3.25.1 The continuation of a meeting after 12.00 midnight shall be dependent upon a motion for extension being carried by at least two thirds of the members of the council being present at the meeting (e.g. if 10 councillors are present it will require a vote of at least 7 for the motion; if 9 are present, it will require a vote of at least 6).
- 3.25.2 Discussion shall not be permitted on any motions for adjournment of a Council meeting. If a motion for adjournment, when put to the vote, is lost, then the meeting shall continue and no further motion for adjournment may be put for a period of not less than half an hour.

3.26 Unfinished business

- 3.26.1 If at the conclusion of a meeting there is unfinished business, then the matters remaining to be dealt with on the business paper shall be brought forward to be dealt with at the next meeting of the council, such business to be dealt with at the next meeting as priority items of business and listed on the business paper accordingly.

3.27 Reports of councillors and presentations

- 3.27.1 Councillors may provide a written report to council on proceedings of meetings attended on behalf of council. Such reports are to be received by the general manager no later than 12.00 noon on the Monday eight (8) days prior to a council meeting. Such reports shall be reported in documents attached to the business paper as councillor information.
- 3.27.2 Councillors should present plaques, certificates, awards and other ceremonial items received on behalf of council at a council meeting.

3.28 Annual elections

- 3.28 Council shall determine the date of the meeting in September each year at which the election for mayor, deputy mayor, committee members and delegates is to be held.

PART 4 - KEEPING ORDER AT MEETINGS

4.1 Questions of order

4.1.1 Clause 255 of the Regulation

- (1) The chairperson, without the intervention of any other councillor, may call any councillor to order whenever, in the opinion of the chairperson, it is necessary to do so.*
- (2) A councillor who claims that another councillor has committed an act of disorder, or is out of order, may call the attention of the chairperson to the matter.*
- (3) The chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the council.*
- (4) The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.*

4.1.2 In accordance with clause 270 of the Regulation, the provisions of this clause apply to meetings of committees of the council in the same way as they apply to meetings of the council.

4.2 Acts of disorder by councillors

4.2.1 Clause 256 of the Regulation

- (1) A councillor commits an act of disorder if the councillor, at a meeting of a council or a committee of a council:*
 - (a) contravenes the Act or any regulation in force under the Act, or*
 - (b) assaults or threatens to assault another councillor or person present at the meeting, or*
 - (c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the council or committee, or addresses or attempts to address the council or committee on such a motion, amendment or matter, or*
 - (d) insults or makes personal reflections on or imputes improper motives to any other councillor, or*
 - (e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the council or committee into contempt.*

- (2) The chairperson may require a councillor:*
- (a) to apologise without reservation for an act of disorder referred to in subclause (1) (a) or (b), or*
 - (b) to withdraw a motion or an amendment referred to in subclause (1) (c) and, where appropriate, to apologise without reservation, or*
 - (c) to retract and apologise without reservation for an act of disorder referred to in subclause (1) (d) or (e).*
- (3) A councillor may, as provided by section 10(2)(a) or (b) of the Act be expelled from a meeting of a council for having failed to comply with a requirement under subclause (2). The expulsion of a councillor from the meeting for that reason does not prevent any other action from being taken against the councillor for the act of disorder concerned.*

- 4.2.2 A councillor may seek a ruling from the chairperson on whether another councillor is out of order or has committed an act of disorder, whereupon the chairperson shall make a ruling.
- 4.2.3 If a councillor, after having been called to order by the chairperson on three (3) occasions at the same meeting, refuses to come to order, the councillor shall have committed an act of disorder.
- 4.2.4 If a councillor, having been called on by the meeting chairperson to withdraw a disorderly or improper remark and apologise unreservedly, fails to do so, the councillor shall have committed an act of disorder.
- 4.2.5 When, through a ruling of the meeting a councillor has committed an act of disorder, the chairperson may immediately, without debate, put to the meeting a motion that the councillor be excluded from the remainder of the meeting. If the motion is carried the councillor shall leave the chamber immediately and not participate further in the meeting.
- 4.2.6 In accordance with clause 270 of the Regulation, the provisions of this clause apply to meetings of committees of the council in the same way as they apply to meetings of the council.

4.3 Dealing with disorder

4.3.1 Clause 257 of the Regulation

- (1) *If disorder occurs at a meeting of a council, the chairperson may adjourn the meeting for a period of not more than 15 minutes and leave the chair. The council, on reassembling, must, on a question put from the chair, decide without debate whether the business is to be proceeded with or not. This subclause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of councillors.*
- (2) *A member of the public may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of a council for engaging in or having engaged in disorderly conduct at the meeting.*

4.3.2 In accordance with clause 270 of the Regulation, the provisions of this clause apply to meetings of committees of the council in the same way as they apply to meetings of the council.

4.3.3 Members of the public present in the gallery of a meeting shall not engage in any disruptive or inappropriate behaviour or pass any note or document to a councillor during the course of the meeting without the consent of the chairperson.

4.3.4 A councillor shall not pass any note or document to a member of the public during a meeting without the consent of the chairperson.

4.4 Power to remove persons from meeting after expulsion resolution

4.4.1 Clause 258 of the Regulation

If a councillor or a member of the public fails to leave the place where a meeting of a council is being held:

- (a) immediately after the council has passed a resolution expelling the councillor or member from the meeting, or*
- (b) where the council has authorised the person presiding at the meeting to exercise the power of expulsion, immediately after being directed by the person presiding to leave the meeting,*

a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the councillor or member from that place and, if necessary, restrain the councillor or member from re-entering that place.

- 4.4.2 For the purposes of this clause, the general manager or, in the absence of the general manager, an employee designated by the general manager, shall be deemed to be the person authorised by council for the removal of a person from a meeting.
- 4.4.3 In accordance with clause 270 of the Regulation, the provisions of this clause apply to meetings of committees of the council in the same way as they apply to meetings of the council.

4.5 Expulsion from committee meetings

4.5.1 Clause 271 of the Regulation

- (1) If a meeting or part of a meeting of a committee of a council is closed to the public in accordance with section 10A of the Act any person who is not a councillor may be expelled from the meeting as provided by section 10(2)(a) or (b) of the Act.*
- (2) If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council, committee or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place.*

- 4.5.2 For the purposes of this clause, the general manager or, in the absence of the general manager, an employee designated by the general manager, shall be deemed to be the person authorised by council for the removal of a person from a meeting.

4.6 Misbehaviour⁷

4.6.1 Section 440F of the Act

- (1) In this Division:*
misbehaviour of a councillor means any of the following:
- (a) a contravention by the councillor of this Act or the regulations,*

⁷ the process for the suspension of a councillor for misbehaviour is set out in sections 440H to 440Q of the Act.

- (b) a failure by the councillor to comply with an applicable requirement of a code of conduct as required under section 440(5),*
 - (c) an act of disorder committed by the councillor at a meeting of the council or a committee of the council but does not include a contravention of the disclosure requirements of Part 2.*
- (2) A reference in this Division to **misbehaviour** or **an incident of misbehaviour** includes a reference to misbehaviour that consists of an omission or failure to do something.*

4.6.2 Section 440G of the Act

- (1) A council may by resolution at a meeting formally censure a councillor for misbehaviour.*
- (2) A formal censure resolution may not be passed except by a motion to that effect of which notice has been duly given in accordance with regulations made under section 360 and, if applicable, the council's code of meeting practice.*
- (3) A council may pass a formal censure resolution only if it is satisfied that the councillor has misbehaved on one or more occasions.*
- (4) The council must specify in the formal censure resolution the grounds on which it is satisfied that the councillor should be censured.*
- (5) A motion for a formal censure resolution may, without limitation, be moved on the report of a committee of the council and any such report must be recorded in the minutes of the meeting of the council.*

PART 5 - COUNCIL COMMITTEES

5.1 Committee of the whole

5.1.1 Section 373 of the Act

A council may resolve itself into a committee to consider any matter before the council.

5.1.2 Clause 259 of the Regulation

- (1) All the provisions of this Regulation relating to meetings of a council, so far as they are applicable, extend to and govern the proceedings of the council when in committee of the whole, except the provision limiting the number and duration of speeches⁸.*
- (2) The general manager or, in the absence of the general manager, an employee of the council designated by the general manager is responsible for reporting to the council proceedings in committee of the whole. It is not necessary to report the proceedings in full but any recommendations of the committee must be reported.*
- (3) The council must ensure that a report of the proceedings (including any recommendations of the committee) is recorded in the council's minutes. However, the council is not taken to have adopted the report until a motion for adoption has been made and passed.*

5.2 Establishment of committees⁹

5.2.1 Clause 260 of the Regulation

- (1) A council may, by resolution, establish such committees as it considers necessary.*
- (2) A committee is to consist of the mayor and such other councillors as are elected by the councillors or appointed by the council.*

⁸ in accordance with 3.17.3 there is also no requirement to stand when speaking at a committee of the whole meeting.

⁹ see Attachment D for information about existing committees.

- (3) The quorum for a meeting of a committee is to be:*
(a) such number of members as the council decides, or
(b) if the council has not decided a number - a majority of the members of the committee.

5.2.2 A quorum for a committee shall be specified in the charter of that committee.

5.2.3 Where the majority of members of a committee are not present, those members who are present at the meeting shall constitute the quorum for that meeting, and those members present may make recommendations on the items listed in the agenda for consideration at a subsequent council meeting.

5.3 Charters, functions and powers of committees

5.3.1 Clause 261 of the Regulation

A council must specify the functions of each of its committees when the committee is established, but may from time to time amend those functions.

5.3.2 Only committees with specific delegations granted in accordance with section 377 of the Act to carry out functions on behalf of council may resolve matters. Other committees may only make recommendations for council's consideration.

5.4 Notice of committee meetings

5.4.1 Clause 262 of the Regulation

- (1) The general manager of a council must send to each councillor, at least 3 days before each meeting of the committee, a notice specifying:*
(a) the time and place at which and the date on which the meeting is to be held, and
(b) the business proposed to be transacted at the meeting.

(2) However, notice of less than 3 days may be given of a committee meeting called in an emergency.

5.5 Non-members entitled to attend committee meetings

5.5.1 Clause 263 of the Regulation

- (1) A councillor who is not a member of a committee of a council is entitled to attend, and to speak at, a meeting of the committee.*
- (2) However, the councillor is not entitled:
 - (a) to give notice of business for inclusion in the agenda for the meeting, or*
 - (b) to move or second a motion at the meeting, or*
 - (c) to vote at the meeting.**

5.5.2 All councillors are permitted to attend any committee meeting as an observer unless specifically excluded by resolution of council.

5.6 Procedure in committees

5.6.1 Clause 265 of the Regulation

- (1) Subject to subclause (3), each committee of a council may regulate its own procedure.*
- (2) Without limiting subclause (1), a committee of a council may decide that, whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee is to have a casting vote as well as an original vote.*
- (3) Voting at a committee meeting is to be by open means (such as on the voices or by show of hands)*

5.7 Chairperson and deputy chairperson of committees

5.7.1 Clause 267 of the Regulation

- (1) The chairperson of each committee of the council must be:
 - (a) the mayor, or*
 - (b) if the mayor does not wish to be the chairperson of a committee - a member of the committee elected by the council, or*
 - (c) if the council does not elect such a member - a member of the committee elected by the committee.**
- (2) A council may elect a member of a committee of the council as deputy chairperson of the committee. If the council does not*

elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson.

- (3) If neither the chairperson nor the deputy chairperson of a committee of a council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting chairperson of the committee.*
- (4) The chairperson is to preside at a meeting of a committee of a council. If the chairperson is unable or unwilling to preside, the deputy chairperson (if any) is to preside at the meeting, but if neither the chairperson nor the deputy chairperson is able or willing to preside, the acting chairperson is to preside at the meeting.*

5.8 Absence from committee meetings

5.8.1 Clause 268 of the Regulation

- (1) A member (other than the mayor) ceases to be a member of a committee if the member:
 - (a) has been absent from 3 consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences, or*
 - (b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.**
- (2) Subclause (1) does not apply if all of the members of the council are members of the committee.*

5.9 Committee minutes

5.9.1 Clause 266 of the Regulation

- (1) Each committee of a council must ensure that full and accurate minutes of the proceedings of its meetings are kept. In particular, a committee must ensure that the following matters are recorded in the committee's minutes:
 - (a) details of each motion moved at a meeting and of any amendments moved to it,*
 - (b) the names of the mover and seconder of the motion or amendment,*
 - (c) whether the motion or amendment is passed or lost.**

- (2) As soon as the minutes of an earlier meeting of a committee of the council have been confirmed at a later meeting of the committee, the person presiding at the later meeting must sign the minutes of the earlier meeting.*

5.10 Reports of committees

5.10.1 Clause 269 of the Regulation

- (1) If in a report of a committee of the council distinct recommendations are made, the decision of the council may be made separately on each recommendation.*
- (2) The recommendations of a committee of the council are, so far as adopted by the council, resolutions of the council.*
- (3) If a committee of a council passes a resolution, or makes a recommendation, during a meeting, or a part of a meeting, that is closed to the public, the chairperson must:*
- (a) make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended, and*
 - (b) report the resolution or recommendation to the next meeting of the council.*

5.11 Inspections by committee

- 5.11.1 Site inspections may be held only for the purpose of enabling councillors to familiarise themselves with the impact of a proposed development. All Councillors are entitled to attend such inspections.
- 5.11.2 Site inspections shall be held at a time determined by council or a committee. Councillors should wear their councillor name badge and be introduced to the applicant when attending site inspections. Minutes shall be kept recording the sites attended and the names of attendees.
- 5.11.3 An inspections committee has no delegated authority to make decisions or recommendations.

PART 6 - CONFLICT OF INTERESTS¹⁰

6.1 Pecuniary interest

6.1.1 Section 442 of the Act

- (1) For the purposes of this Chapter, a “pecuniary interest” is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person.*
- (2) A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter or if the interest is of a kind specified in section 448.*

6.2 Non-Pecuniary interest¹¹

6.2.1

Non-pecuniary interests are private or personal interests that do not amount to a pecuniary interest as defined in the Act. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.

6.3 Persons who have a pecuniary interest

6.3.1 Section 443 of the Act

- (1) For the purposes of this Chapter, a person has a pecuniary interest in a matter if the pecuniary interest is the interest of:*
- (a) the person, or*
 - (b) the person’s spouse or de facto partner or a relative of the person, or a partner or employer of the person, or*
 - (c) a company or other body of which the person, or a nominee, partner or employer of the person, is a member.*
- (2) (Repealed)*

¹⁰ for additional information regarding conflict of interests, see the *Code of Conduct* and the *Conflict of Interests Policy*.

¹¹ clause 7.10 *Code of Conduct*.

(3) However, a person is not taken to have a pecuniary interest in a matter as referred to in subsection (1) (b) or (c):

- (a) if the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, partner, employer or company or other body, or*
- (b) just because the person is a member of, or is employed by, a council or a statutory body or is employed by the Crown, or*
- (c) just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.*

6.3.2 The general manager has no role in determining whether or not a councillor has a pecuniary interest in a matter. The onus is on individual councillors to make such determinations. Given the complexities involved in the matter, where doubt exists individuals should seek their own legal advice. Such advice shall not be provided by staff or council's legal advisors.

6.3.3 Complaints regarding a failure of a councillor or staff member to disclose a pecuniary interest should be made to the Director-General of the Department of Local Government in accordance with section 460 of the Act.

6.4 Interests that do not have to be disclosed

6.4.1 Section 448 of the Act

The following interests do not have to be disclosed for the purposes of this Chapter:

- (a) an interest as an elector,*
- (b) an interest as a ratepayer or a person liable to pay a charge,*
- (c) an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public generally, or to a section of the public that includes persons who are not subject to this Part,*
- (d) an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to a relative of the person by the council in the same manner and subject to the same conditions as apply to persons who are not subject to this Part,*
- (e) an interest as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not),*

- (f) an interest of a member of a council committee as a person chosen to represent the community or as a member of a non-profit organisation or other community or special interest group if the committee member has been appointed to represent the organisation or group on the committee,*
- (g) an interest in a proposal relating to the making, amending, altering or repeal of an environmental planning instrument other than an instrument that effects a change of the permissible uses of:*
 - (i) land in which the person or a person, company or body referred to in section 443 (1) (b) or (c) has a proprietary interest (which, for the purposes of this paragraph, includes any entitlement to the land at law or in equity and any other interest or potential interest in the land arising out of any mortgage, lease, trust, option or contract, or otherwise), or*
 - (ii) land adjoining, or adjacent to, or in proximity to land referred to in subparagraph (i) if the person or the person, company or body referred to in section 443 (1) (b) or (c) would by reason of the proprietary interest have a pecuniary interest in the proposal,*
- (h) an interest relating to a contract, proposed contract or other matter if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company,*
- (i) an interest of a person arising from the proposed making by the council of an agreement between the council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because a relative of the person is a shareholder (but not a director) of the corporation or is a member (but not a member of the committee) of the association or is a partner of the partnership,*
- (j) an interest of a person arising from the making by the council of a contract or agreement with a relative of the person for or in relation to any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the council in respect of similar matters with other residents of the area:*
 - (i) the performance by the council at the expense of the relative of any work or service in connection with roads or sanitation,*
 - (ii) security for damage to footpaths or roads,*

- (iii) any other service to be rendered, or act to be done, by the council by or under any Act conferring functions on the council or by or under any contract,*
- (k) an interest relating to the payment of fees to councillors (including the mayor and deputy mayor),*
- (l) an interest relating to the payment of expenses and the provision of facilities to councillors (including the mayor and deputy mayor) in accordance with a policy under section 252,*
- (m) an interest relating to an election to the office of mayor arising from the fact that a fee for the following 12 months has been determined for the office of mayor,*
- (n) an interest of a person arising from the passing for payment of a regular account for wages or salary of an employee who is a relative of the person,*
- (o) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a councillor or member of a council committee,*
- (p) an interest arising from appointment of a councillor to a body as representative or delegate of the council, whether or not a fee or other recompense is payable to the representative or delegate.*

6.5 Disclosure and participation in meetings¹²

6.5.1 Section 451 of the Act

- (1) A councillor or a member of a council committee who has a pecuniary interest in any matter with which the council is concerned and who is present at a meeting of the council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.*¹³
- (2) The councillor or member must not be present at, or in the sight of, the meeting of the council or committee:*
 - (a) at any time during which the matter is being considered or discussed by the council or committee, or*
 - (b) at any time during which the council or committee is voting on any question in relation to the matter.*

¹² section 458 of the Act provides that the Minister may in certain circumstances allow a councillor or a member of a committee who has a pecuniary interest to take part in the consideration or discussion of a matter or vote on a matter.

¹³ a general notice of disclosure can be made in some circumstances pursuant to section 454 of the Act which will fulfil the requirement of this subclause.

(3) For the removal of doubt, a councillor or a member of a council committee is not prevented by this section from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the councillor or member has an interest in the matter of a kind referred to in section 448.

6.5.2 Section 457 of the Act

A person does not breach section 451 or 456 if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

6.5.3 A councillor or a member of a council committee who has a non-pecuniary interest in any matter with which the council is concerned and who is present at a meeting of the council or committee at which the matter is being considered must disclose the interest to the meeting as soon as practicable. In accordance with clause 7.17 of Council's *Code of Conduct*, if the non-pecuniary interest is significant and the source of the conflict cannot be removed, the councillor or committee member must have no involvement in the matter, by absenting and not taking part in any debate or voting on the issue as if the provisions in section 451(2) of the Act apply.

6.6 Disclosure by adviser

6.6.1 Section 456 of the Act

(1) A person who, at the request or with the consent of the council or a council committee, gives advice on any matter at any meeting of the council or committee must disclose the nature of any pecuniary interest the person has in the matter to the meeting at the time the advice is given.

(2) The person is not required to disclose the person's interest as an adviser.

6.6.2 Section 457 of the Act

A person does not breach section 451 or 456 if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

6.7 Disclosures to be recorded

6.7.1 Section 453 of the Act

A disclosure made at a meeting of a council or council committee must be recorded in the minutes of the meeting.

DRAFT

PART 7 - OPEN MEETINGS

7.1 Public notice of meetings

7.1.1 Section 9 of the Act

- (1) A council must give notice to the public of the times and places of its meetings and meetings of those of its committees of which all the members are councillors.*
- (2) A council and each such committee must have available for the public at its offices and at each meeting copies (for inspection or taking away by any person) of the agenda and the associated business papers (such as correspondence and reports) for the meeting.*
- (2A) In the case of a meeting whose agenda includes the receipt of information or discussion of other matters that, in the opinion of the general manager, is likely to take place when the meeting is closed to the public:
 - (a) the agenda for the meeting must indicate that the relevant item of business is of such a nature (but must not give details of that item), and*
 - (b) the requirements of subsection (2) with respect to the availability of business papers do not apply to the business papers for that item of business.**
- (3) The copies are to be available to the public as nearly as possible to the time they are available to councillors.*
- (4) The copies are to be available free of charge.*
- (5) A notice given under this section or a copy of an agenda or of a business paper made available under this section may in addition be given or made available in electronic form.*

7.1.2 Clause 232 of the Regulation:

- (1) This clause prescribes the manner in which the requirements outlined in section 9(1) of the Act are to be complied with.*
- (2) A notice of a meeting of a council or of a committee must be published in a newspaper circulating in the area before the meeting takes place.*
- (3) The notice must specify the time and place of the meeting.*

(4) Notice of more than one meeting may be given in the same notice.

(5) This clause does not apply to an extraordinary meeting of a council or committee.

7.1.3 Copies of business papers and reports (excluding any confidential items) shall be made available to the public on council's website and during normal opening hours at the council chambers and libraries prior to each council meeting, where practicable, the day after the business papers are available to the councillors.

7.1.4 To assist members of the public at a council meeting, a summary of council meeting procedures shall be provided in the gallery with the business papers.

7.2 Attendance at meetings of the council and committees

7.2.1 Section 10 of the Act

(1) Except as provided by this Part:

(a) everyone is entitled to attend a meeting of the council and those of its committees of which all the members are councillors, and

(b) a council must ensure that all meetings of the council and of such committees are open to the public.

(2) However, a person (whether a councillor or another person) is not entitled to be present at a meeting of the council or of such committee if expelled from the meeting:

(a) by a resolution of the meeting, or

(b) by the person presiding at the meeting, if the council has, by resolution, authorised the person presiding to exercise the power of expulsion.

(3) A person may be expelled from a meeting only on the grounds specified in, or in the circumstances prescribed by, the regulations.

7.3 Parts of a meeting closed to the public¹⁴

7.3.1 Section 10A of the Act

- (1) A council, or a committee of the council of which all the members are councillors, may close to the public so much of its meeting as comprises:
 - (a) the discussion of any of the matters listed in subclause (2),*
or
 - (b) the receipt or discussion of any of the information so listed.**
- (2) The matters and information are the following:
 - (a) personnel matters concerning particular individuals (other than councillors),*
 - (b) the personal hardship of any resident or ratepayer,*
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,*
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or*
 - (ii) confer a commercial advantage on a competitor of the council, or*
 - (iii) reveal a trade secret,**
 - (e) information that would, if disclosed, prejudice the maintenance of law,*
 - (f) matters affecting the security of the council, councillors, council staff or council property,*
 - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,*
 - (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.**
- (3) A council, or a committee of the council of which all the members are councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.*
- (4) A council, or a committee of a council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.*

¹⁴ the provisions of sections 10A and 10B of the Act are summarised in Attachment B.

7.3.2 Clause 252 of the Regulation

- (1) A representation at a council meeting by a member of the public as to whether a part of the meeting should be closed to the public can only be made for a fixed period immediately after the motion to close the part of the meeting is moved and seconded.*
- (2) That period is as fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix that period) as fixed by resolution of the council. Different periods can be fixed according to the different types of matters to be discussed or received and discussed at closed parts of meetings.*

7.3.3 Clause 264 of the Regulation

- (1) A representation at a committee meeting by a member of the public as to whether a part of the meeting should be closed to the public can only be made for a fixed period immediately after the motion to close the part of the meeting is moved and seconded.*
- (2) That period is as fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix that period) as fixed by resolution of the council. Different periods can be fixed according to the different types of matters to be discussed or received and discussed at closed parts of meetings.*

7.3.4 Members of the public wishing to make representations in accordance with section 10A(4) of the Act, may make such representations to the council or committee meeting in writing or verbally. Each person wishing to make verbal representations may speak do so in accordance with the procedures set out in 7.8 and Attachment C of this Code.

7.4 Further limitations to closure of parts of meetings

7.4.1 Section 10B of the Act

- (1) A meeting is not to remain closed during the discussion of anything referred to in section 10A(2):*
 - (a) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security,*
 - and*

- (b) if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret - unless the council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.*
- (2) A meeting is not to be closed during the receipt and consideration of information or advice referred to in section 10A(2)(g) unless the advice concerns legal matters that:*
 - (a) are substantial issues relating to a matter in which the council or committee is involved, and*
 - (b) are clearly identified in the advice, and*
 - (c) are fully discussed in that advice.*
- (3) If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in section 10A(3)), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting (other than consideration of whether the matter concerned is a matter referred to in section 10A(2)).*
- (4) For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:*
 - (a) a person may misinterpret or misunderstand the discussion, or*
 - (b) the discussion of the matter may:*
 - (i) cause embarrassment to the council or committee concerned, or to councillors or to employees of the council, or*
 - (ii) cause a loss of confidence in the council or committee.*
- (5) In deciding whether part of a meeting is to be closed to the public, the council or committee concerned must have regard to any relevant guidelines issued by the Director-General.*

7.5 Notice of closure not required in urgent cases

7.5.1 Section 10C of the Act

Part of a meeting of a council, or of a committee of the council of which all the members are councillors, may be closed to the public while the council or committee considers a matter that has not been identified in the agenda for the meeting as a matter that is likely to be considered when the meeting is closed, but only if:

- (a) it becomes apparent during the discussion of a particular matter that the matter is a matter referred to in section 10A(2), and*
- (b) the council or committee, after considering any representations made under section 10A(4), resolves that further discussion of the matter:*
 - (i) should not be deferred (because of the urgency of the matter), and*
 - (iii) should take place in a part of the meeting that is closed to the public.*

7.6 Specification of grounds for closing part of a meeting

7.6.1 Section 10D of the Act

- (1) The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting.*
- (2) The grounds must specify the following:*
 - (a) the relevant provision of section 10A(2),*
 - (b) the matter that is to be discussed during the closed part of the meeting,*
 - (c) the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest.*

7.7 Public access to correspondence and reports¹⁵

7.7.1 Section 11 of the Act

- (1) A council and a committee of which all the members are councillors must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.*
- (2) This section does not apply if the correspondence or reports:*
 - (a) relate to a matter that was received or discussed, or*

¹⁵ for access to publicly available documents generally see sections 12, 12A and 12B of the Act. For inspection of minutes of meetings see also 8.2 of this Code.

(b) were laid on the table at, or submitted to, the meeting, when the meeting was closed to the public.

(3) This section does not apply if the council or committee resolves at the meeting, when open to the public, that the correspondence or reports, because they relate to a matter specified in section 10A(2) are to be treated as confidential.

7.8 Addressing council and committee meetings

7.8.1 Members of the public shall have the opportunity to address a meeting on any matter of a general nature or interest to council and the community as well as any item on the business paper, with the exception of petitions, business without notice and questions without notice. This right to address includes representations by members of the public as to whether any part of the meeting should be closed to the public.

7.8.2 The number of speakers shall generally be limited to a maximum of two (2) for and two (2) against a matter before the meeting. On occasions where there are more than two (2) speakers both for and against a matter, the number of speakers shall be limited to equal numbers for and against the matter. On occasions where there is more than one (1) speaker for or against an item, new speakers shall be requested to limit their address to new material. The chairperson shall have the right to so limit their addresses. The number of speakers is limited to a maximum of three (3), on any one topic in general address to Council.

7.8.3 Council shall have procedures for addresses to meetings¹⁶. A summary of the procedures shall be provided to persons at the time of submitting their name to address the meeting.

¹⁶ the current procedures for addressing a meeting are set out in Attachment C.

PART 8 - MISCELLANEOUS

8.1 Disclosure and misuse of information

8.1.1 Section 664 of the Act

- (1) A person must not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made:*
- (a) with the consent of the person from whom the information was obtained, or*
 - (b) in connection with the administration or execution of this Act, or*
 - (c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings, or*
 - (d) in accordance with a requirement imposed under the Ombudsman Act 1974 or the Freedom of Information Act 1989, or*
 - (e) with other lawful excuse.*
- (1A) In particular, if part of a meeting of a council or a committee of a council is closed to the public in accordance with section 10A(1), a person must not, without the authority of the council or the committee, disclose, (otherwise than to the council or a councillor of the council), information with respect to the discussion at, or the business of, the meeting.*
- (1B) Subsection (1A) does not apply to:*
- (a) the report of a committee of a council after it has been presented to the council, or*
 - (b) disclosure made in any of the circumstances referred to in (1)(a)-(e), or*
 - (c) disclosure made in circumstances prescribed by the regulations, or*
 - (d) any agenda, resolution or recommendation of a meeting that a person is entitled to inspect in accordance with section 12.*
- (2) A person acting in the administration or execution of this Act must not use, either directly or indirectly, information acquired by the person in that capacity, being information that is not generally known, for the purpose of gaining either directly or indirectly a financial advantage for the person, the person's spouse or de facto partner or a relative of the person.*

(3) A person acting in the administration or execution of this Act, and being in a position to do so, must not, for the purpose of gaining either directly or indirectly an advantage for the person, the person's spouse or de facto partner or a relative of the person, influence:

- (a) the determination of an application for an approval, or*
- (b) the giving of an order.*

Maximum penalty: 50 penalty units.

8.1.2 Clause 412 of the Regulation

For the purposes of section 664(1B)(c) of the Act, any disclosure made with the intention of enabling the Minister or the Director-General to properly exercise the functions conferred or imposed on them by or under the Act is a prescribed circumstance.

8.2 Inspection of minutes

8.2.1 Clause 272 of the Regulation

(1) An inspection of the minutes of a council or committee of a council is to be carried out under the supervision of the general manager or an employee of the council designated by the general manager to supervise inspections of those minutes.

(2) The general manager must ensure that the minutes of the council and any minutes of a committee of the council are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them.

8.3 Access to information and records by councillors

8.3.1 Councillors shall have access to council documents in accordance with sections 12 and 12A of the Act and the *Councillor Access to Information and Interaction with Staff Policy*. However, nothing in this Code derogates from the common law right of councillors to generally inspect any record of the council relating to any business before the council, except where the councillor requesting inspection has, in the opinion of the general manager, a pecuniary interest in the matter.

8.4 Recording of meetings

8.4.1 Clause 273 of the Regulation

- (1) A person may use a tape recorder to record the proceedings of a meeting of the council or a committee of a council only with the authority of the council or committee.*
- (2) A person may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of a council or a committee for using or having used a tape recorder in contravention of this clause.*
- (3) If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place.*
- (4) In this clause, **tape recorder** includes a video camera and any electronic device capable of recording speech, whether a magnetic tape is used to record or not.*

8.4.2 As an aid to the preparation of the minutes of a meeting, a recording of all ordinary and extraordinary council meetings shall be made with the exception of any matters dealt with in confidential session. Prior notice shall be given to anyone addressing the meeting that they are being recorded.

8.5 Certain circumstances do not invalidate council decisions

8.5.1 Section 374 of the Act

Proceedings at a meeting of a council or a council committee are not invalidated because of:

- (a) a vacancy in a civic office, or*
- (b) a failure to give notice of the meeting to any councillor or committee member, or*
- (c) any defect in the election or appointment of a councillor or committee member, or*
- (d) a failure of a councillor or a committee member to disclose a pecuniary interest, or to refrain from the consideration or discussion of, or vote on, the relevant matter, at a council or a committee meeting in accordance with section 451, or*
- (e) a failure to comply with the code of meeting practice.*

8.6 Attendance of general manager at meetings

8.6.1 Section 376 of the Act

- (1) The general manager is entitled to attend, but not to vote at, a meeting of the council or a meeting of a committee of the council of which all the members are councillors.*
- (2) The general manager is entitled to attend a meeting of any other committee of the council and may, if a member of the committee, exercise a vote.*
- (3) However, the general manager may be excluded from a meeting of the council or a committee while the council or committee deals with a matter relating to the standard of performance of the general manager or the terms of the employment of the general manager.*

8.7 Mobile telephones

- 8.7.1 No person shall answer or otherwise use a mobile telephone during a council or committee meeting, unless permission is granted by the chairperson.
- 8.7.2 All mobile telephones shall be switched off or put on silent mode during every council and committee meeting, unless permission is otherwise granted by the chairperson.

8.8 Other matters

- 8.8.1 A ruling or interpretation not covered by the Act, the Regulation or this Code shall be determined by resolution of the council.

8.9 Amendment of Code

- 8.9.1 This Code may be amended in accordance with the provisions of the Act. However, any amendments to the Act or the Regulation will immediately apply and override this Code to the extent of any inconsistency. Such amendments will be inserted into this Code without the need for further public notification.

PART 9 – ASSOCIATED DOCUMENTS

9.1 Codes and policies

Code of Conduct

Conflict of Interests Policy

Councillor Access to Information and Interaction with Staff Policy

9.2 External references

Department of Local Government, Closed Council Meetings, Circular no. 07-08, 11 April 2007

Department of Local Government, Guidelines for the Model Code of Conduct for Local Councils in NSW, October 2008

Department of Local Government, Meetings Practice Note, Practice Note no. 16, November 2005

Department of Local Government, Open Meetings Guidelines, July 1998

ATTACHMENT A

Order of business for Council Meetings

1. Prayer and the following acknowledgement
“On behalf of Council I recognise the traditional custodians of the land,
the Guringai people, on whose land we stand”
2. Apologies
3. Declaration of interests
4. Reports to be considered in closed meeting
5. Addresses to Council
6. Documents circulated to Councillors
7. Confirmation of minutes
8. Minutes from the Mayor
9. Petitions
10. Reports from Standing Committees
11. General Business
Mayor to invite Councillors to nominate any items on the Agenda that
they wish to have a site inspection.
Mayor to invite Councillors to nominate any items on the Agenda that
they wish to adopt in accordance with the officer’s recommendation
allowing for minor changes without debate.
12. Extra reports circulated at meeting
13. Motions of which due notice has been given
14. Business without notice – matters of great urgency
15. Questions without Notice
16. Inspections Committee – setting of date, time and rendezvous
17. Confidential business – to be dealt with in closed session

ATTACHMENT B

Closed Meetings – Summary of Legislation

A meeting may go into closed session for receipt or discussion of any of the following matters, **for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security:**

Matter - Section 10A	Restrictions - Section 10B
(2)(a) personnel matters concerning particular individuals (other than Councillors)	
(2)(b) personal hardship of any resident or ratepayer	
(2)(c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business	(1)(b) must be satisfied that discussion in open meeting would, on balance, be contrary to the public interest
(2)(d) commercial information of a confidential nature that would, if disclosed: (i) prejudice the commercial position of the person who supplied it, or (ii) confer a commercial advantage on a competitor of council, or (iii) reveal a trade secret	(1)(b) must be satisfied that discussion in open meeting would, on balance, be contrary to the public interest (except for trade secrets)
(2)(e) information that would, if disclosed, prejudice the maintenance of law	(1)(b) must be satisfied that discussion in open meeting would, on balance, be contrary to the public interest
(2)(f) matters affecting the security of the council, councillors, council staff or council property	(1)(b) must be satisfied that discussion in open meeting would, on balance, be contrary to the public interest
(2)(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege	(1)(b) must be satisfied that discussion in open meeting would, on balance, be contrary to the public interest (2) advice must concern legal matters that: (a) are substantial issues relating to a matter in which the council is involved (b) are clearly identified in the advice, and (c) are fully discussed in that advice
(2)(h) information concerning the nature and location of a place or an item of Aboriginal significance on community land	(1)(b) must be satisfied that discussion in open meeting would, on balance, be contrary to the public interest
(3) so much of its meeting as comprises a motion to close another part of the meeting to the public	(3) must not include any consideration of the matter or information to be discussed

ATTACHMENT C

Procedures for Addressing a Meeting

1. Speakers name, address and subject must be registered with staff prior to the meeting. People who have not registered prior to the commencement of the meeting will not be permitted to address. No matter will be delayed due to a speaker not being present, nor will Council inhibit its right to alter the order of dealing with the agenda items.
2. A list of speakers is given to the Mayor/Chairperson as soon as possible following commencement of the meeting.
3. Members of public whose names do not appear on the list will not be allowed to address Council / Committee.
4. Speakers are limited to three minutes each, with a warning bell at 2 minutes 30 seconds. All addresses to be taped and no extensions of time will be granted.
5. Where the matter is of general interest or not included in the Business Paper, the speakers address the Council at the commencement of the meeting.
6. Where the matter is included in the Business Paper, speakers to address the Council immediately prior to discussion of that item.
7. If the matter under discussion is listed on the Committee Business Paper, the speaker should address the Committee immediately prior to the item under discussion.
8. Speakers are encouraged to leave notes of their speech for follow-up or review action.
9. Speakers on Mayoral Minutes shall address Council after the Mayor has presented and spoken on his/her Minute.
10. Speakers on Notices of Motion shall address Council after the Councillor concerned has moved and had seconded his/her Notice of Motion.
11. Questions of speakers who address Council be permitted, with the consent of the Chairperson, for the purpose of points of clarification only. Under no circumstances will the matter be debated with the speaker.

ATTACHMENT D



GENERAL COMMITTEE

Charter of Responsibility

Adopted 24 February 2009, Minute 48

Purpose

To address issues relating to the management of Council's financial, human and physical resources through the adoption and monitoring of strategies, policies, budgets and procedures that will enable Council to achieve its visions for Ku-ring-gai.

Functions

The Committee exercises its functions under clause 260 of the *Local Government (General) Regulation 2005*. The functions of the Committee are to consider all matters referred to the Committee, including but not limited to:

Finance

Consider funding strategies and revenue raising opportunities and adopt funding strategies for long and short term budgets that will ensure Council's financial security.

Budget

Monitor and review the adopted Management Plan.

Organisational Issues

Review organisation and management structures and issues and adopt policies.

Initiatives

Examine, review and adopt business plans and strategies for the funding of major capital purchases, entrepreneurial activities and development proposals.

Major Issues

Address and determine any other issues of a significant nature impacting on Ku-ring-gai or the Council.

Referrals

Deal with matters referred from other Committees including the Community, Planning & Heritage, Open Space and Sustainability Reference Committees.

Notices of Motion

Deal with any Notice of Motion submitted by a Councillor for consideration by the Committee

Powers

The Committee shall have delegated authority under section 377 of the Local Government Act 1993 to determine all matters dealt with by the Committee.

Regular Meeting Time

4th Tuesday of the months February to November, commencing at 7.00pm. Meetings to be held only if there are sufficient items to warrant the calling of a meeting.

Additional meetings to be held if the Council so resolves or meetings are considered necessary by the Mayor and General Manager.

Membership

All Councillors

The Chairperson shall be the Mayor

The Deputy Chairperson shall be the Deputy Mayor

Quorum

Six (6) Councillors

Voting

Each Councillor present is entitled to one vote for each motion and amendment put to a meeting.

The Committee shall decide in accordance with clause 265 of the *Local Government (General) Regulation 2005* whether, in the event of an equality of voting at a Committee Meeting, the Chairperson of the meeting shall have a casting vote in addition to an original vote.

Meeting procedures

The provisions of the Local Government Act 1993, the *Local Government (General) Regulation 2005* and the Council's Code of Meeting Practice apply to the Committee.

The Committee may, as provided by clause 265 of the *Local Government (General) Regulation 2005*, regulate its own procedure.

* * * * *



GENERAL COMMITTEE

Procedures

Adopted by the General Committee 24 March 2009

The provisions of the *Local Government Act 1993*, the *Local Government (General) Regulation 2005*, and the Council's *Code of Meeting Practice* as they apply to Council Meetings shall apply to the conduct of meetings of the General Committee as amended by the following:

1. Agendas

The General Manager, after consultation with the Mayor, shall, when preparing each Committee Agenda, allocate approximate time periods for the consideration of the items on each Agenda. These allocated time periods shall take into account the likelihood of there being discussion and questioning of members of the public and staff as permitted in 4. and 5. below.

2. Speeches

There shall be no limitation on the number of, or time allowed for, speeches that may be made by any Committee member. However all Committee members, under the guidance of the Chairperson, shall strive to ensure that the consideration of Agenda items does not exceed the times allocated in 1. above.

3. Standing

There is no requirement for anyone to stand during a meeting of the Committee.

4. Addresses by members of the public

The procedures (including time limits) that apply to addresses made by members of the public at Council Meetings shall also apply to addresses made by members of the public at Committee meetings. However, in addition to the time utilised for any such addresses, members of the Committee may engage in subsequent discussion and questioning of any members of the public who have addressed the Committee.

5. Presentations by staff

Presentations may be made to a Committee meeting by staff on any item and Committee members may engage in subsequent discussion and questioning of staff.

6. Casting vote

The Chairperson shall have a casting vote as well as an original vote.

7. Mayoral Minutes

- a. If the Mayor is the Chairperson at a meeting of the General Committee, the Chairperson is, by minute signed by the Chairperson, entitled to put to the meeting without notice any matter or topic that is within the jurisdiction of the General Committee.

- b. Such a minute, when put to the meeting, takes precedence over all business on the General Committee's Agenda for the meeting. The Chairperson (but only if the Chairperson is the Mayor) may move the adoption of the minute without the motion being seconded.
- c. A recommendation made in a minute of the Chairperson (being the Mayor) or in a report made by a Council employee is, so far as adopted by the General Committee, a resolution of the General Committee.

DRAFT

SPONSORSHIP PROPOSAL - NORTH SHORE TIMES AND HORNSBY ADVOCATE 2009 BUSINESS ACHIEVER AWARDS

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To advise Council of a sponsorship proposal request from Cumberland Newspapers for the 2009 Business Achiever Awards Program.

BACKGROUND:

Council has provided sponsorship for business awards programs since 2004. The most recent being the Business Achiever Awards in 2007 and 2008.

COMMENTS:

As a sponsor, Council receives promotional and editorial coverage throughout the awards period according to the level of sponsorship provided.

RECOMMENDATION:

That Council consider the proposal from Cumberland Newspapers to sponsor the 2009 North Shore Times and Hornsby Advocate Business Achiever Awards Program for \$7,200.

PURPOSE OF REPORT

To advise Council of a sponsorship proposal request from Cumberland Newspapers for the 2009 Business Achiever Awards Program.

BACKGROUND

The Small Business Awards program has been running on the North Shore for 20 years. Council has been a supporter of the Business Awards, in various forms, since 2004. The most recent being sponsorship of the Business Achiever Awards in 2007 and 2008.

COMMENTS

A proposal has been received from Cumberland Newspapers to sponsor The North Shore Times and Hornsby Advocate 2009 Business Awards. The 2 options in the proposal are:

- \$3,600 - North Shore Times 2009 Business Achiever Awards
- \$3,600 - Hornsby Advocate 2009 Business Achiever Awards

Small business awards acknowledge local businesses, facilitate networking opportunities and bring together businesses in a diverse range of industries. As a sponsor, Council will receive promotional and editorial coverage including in-paper branding coverage with editorial recognition as a sponsor, logo inclusion, on-line exposure, marketing and public relations initiatives and participation opportunities.

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

There are no funds remaining in the 2008/2009 budget for Sponsorship. Sponsorship provided throughout 2008/09 from this budget is as follows:

- \$5,000 - North Shore Times Business Awards
- \$2,500 - National Trust (September 2008)
- \$1,000 - Ku-ring-gai Garden Festival
- \$2,500 - National Trust Heritage Festival - 2009 (December 2008)

Should Council decide to provide funding for this additional sponsorship, funding will need to be determined at the end of year review.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

Council has been approached by Cumberland Newspapers to sponsor The North Shore Times and Hornsby Advocate 2009 Business Achiever Awards. The sponsorship package is \$3,600 for each newspaper with a total request for \$7,200.

There are no funds remaining in the 2008/09 sponsorship budget.

RECOMMENDATION

That Council consider the proposal from Cumberland Newspapers to sponsor the North Shore Times 2009 Business Achiever Awards program and the Hornsby Advocate 2009 Business Achiever Awards program for \$3,600 each, total \$7,200.

Tiffany Kellar
Acting Communications Coordinator

Janice Bevan
Director Community

Attachments: **2009 North Shore Times and Hornsby Advocate Business Achiever Awards Sponsorship Proposal - 2009/077300**

2009

BUSINESS ACHIEVER AWARDS

North Shore Times



Local Supporter Sponsorship Proposal presented by North Shore Times

For Discussion

About the Program

- Consumer Engagement
- Small & Medium Enterprise (SME) Engagement
- Program Growth
- Strategic Marketing opportunities

Partnership Opportunities And Benefits

- Delivering value to partners

Contact Details

Appendices



Program Reach: Consumer Engagement

Program reach:

- 114,000* weekly
- Targeting the local area: Artarmon, Castle Cove, Castlecrag, Chatswood, Chatswood West, Crows Nest, east Killara, East Lindfield, East Wahroonga, Gordon, Gore Hill, Greenwich, Killara, Lane Cove, Lane Cove North, Lane Cove West, Lindfield, Linley Point, Longueville, Middle Cove, Naremburn, North St Ives, North Turramurra, North Wahroonga, North Willoughby, Northbridge, Northwood, Osborne Park, Pymble, Riverview, Roseville, Roseville Chase, South Turramurra, St Ives, St Ives Chase, St Leonards, Turramurra, Wahroonga, Warrawee, West Killara, West Lindfield, West Pymble, Willoughby, Willoughby East, Wollstonecraft.

The program engages consumers in-paper via editorial, special features, & voting coupons as well as radio, online, direct mail, point of sale and the awards events.

(see appendix for marketing communications samples)



Consumer Engagement

114,000 weekly*

9,648 nominations received#

4,771 registered voters^

258 awards night attendees^

*Source: Roy Morgan Readership Survey, September 2008. Filter: Cumberland Courier Newspapers running the business awards program over a 17 week period

See appendix 2 for results by masthead

^ 2008 figures

Program Reach: SME Engagement

The Business Achiever Awards program engages with SME through:

- **Their local newspaper**
Cumberland-Courier Newspapers running this program puts us in a unique position to fully support the program.
- **Direct mail**
DM campaign to over 6,500 small and medium businesses across 25-30 categories.
- **Online**
Thousands of SME's can go online to register their business, vote, buy tickets, download their e-handbook and find useful hints and tips to help them market their business through the program.
- **Radio**
Interviews and ads are broadcast throughout the entire nomination period to thousands of engaged listeners, drawing their attention to the in paper voting coupon and website.
- **Partnership Opportunities**
The program reaches major government officials, representatives and decision makers including the NSW Minister for Small Business, local Chambers of Commerce and Local Council Members.



SME Engagement

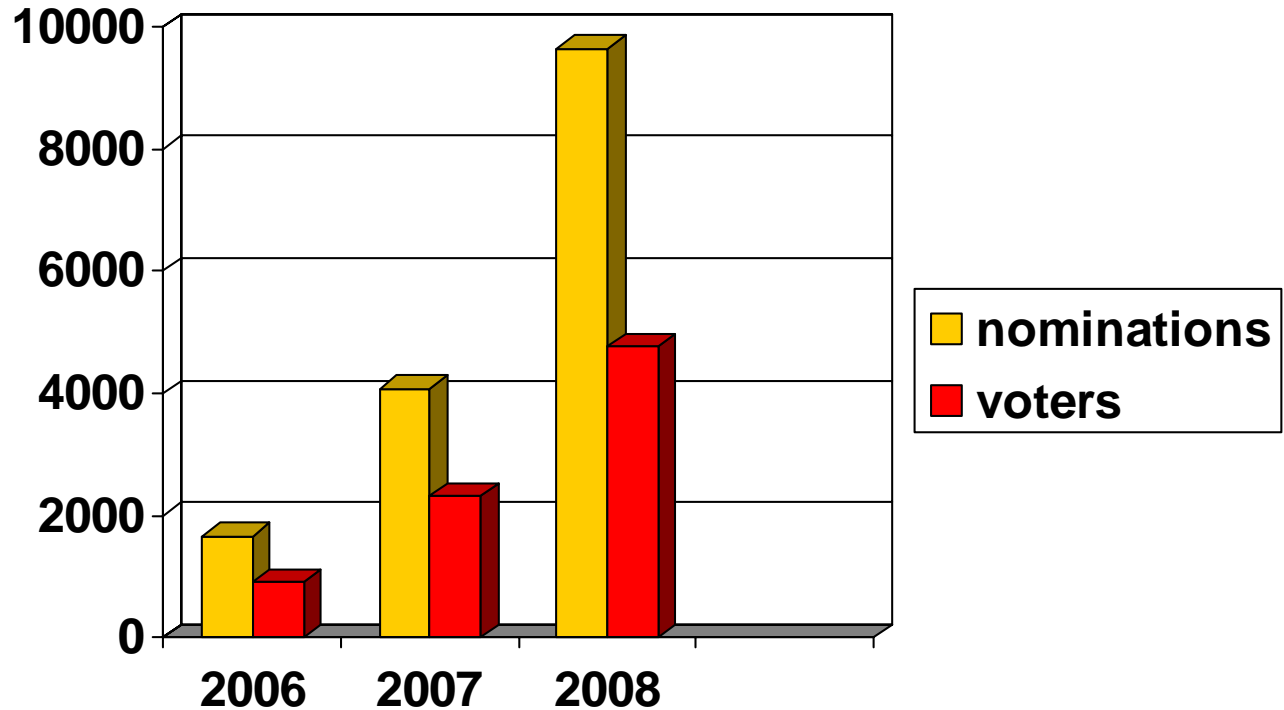
739 registered businesses

179 Finalists

33 Winners



Program Growth



- The program has seen exponential growth in the past few years, jumping from **916 registered voters** registered voters making **1,655 nominations** nominations in 2006, to over **4,771 registered voters** voters making more than **9,648 nominations** public nominations in 2008.
- This represents an **421% increase** in the number of voters and a **483% increase** in the number of nominations across the program in just two years. We are looking forward to the successes 2009 will take us.

Strategic Marketing Opportunity

As a Local sponsor of the North Shore Times 2009 Business Achiever Awards, your business has a fantastic opportunity to connect with thousands of businesses and their customers, through a strategic marketing program.

The Business Achiever Awards is a fantastic promotional vehicle for your business. The key benefits to sponsors are:

- **Brand** - building brand awareness, engagement and equity
- **Publicity** - extensive newspaper coverage over four months, including front pages, editorial and advertising features, distributed free to over 114,000+ every week. Apart from our in-depth newspaper coverage, online, direct mail, email blasts, media releases, and point of sale material are all utilised to promote the program.
- **Product and people** – opportunity for your representatives to attend awards presentation evenings, presenting awards and engaging with attendees.



Strategic Value Addition

Your involvement with the North Shore Times 2009 Business Achiever Awards program gives you the opportunity to:

- Participate in a business recognition program that goes beyond business to business marketing
- Increase brand awareness through interacting with North Shore Times readers and the local SME market.
- Build direct links between your business and more than 114,000* readers across North Shore each week
- Demonstrate your commitment and connection with the local community and SME businesses to strengthen loyalty in a highly competitive market.
- Celebrate the determination, effort and success of local businesses in their own community.
- Increase customer acquisition and retention through strong product positioning.



* Roy Morgan Readership Survey, September 2008. Filter: North Shore Times distribution area.

Summary of Supporter Benefits

Return on Investment and Value Add

Measurable ROI

In Paper Coverage	
Nomination coupons (1 module x 4wks)	\$1,539.88
Advertising component (2 x 2 module)	\$1,539.88
Editorial recognition*	\$2540.80
Branding	
Acknowledgement on Direct Mail	\$1,375.00
Website Coverage	
Website exposure (Branding on masthead pages, dedicated page space with links as well as online voting and ticketing pages)	\$3,762.50
Event	
Awards Dinner Tickets (2 in total)	\$190.00
Total Measurable Benefit	\$10,948.06
Commitment from Supporter Sponsor	\$5,000.00



Value-add benefits:

Value-add benefits to drive deliverable outcomes of promoting your business' community positioning and brand awareness:

- Branding exposure via PR and marketing activity (including POS, direct mail and e-campaigns)
- High profile engagement with captive audience at Awards dinner event

SEE ATTACHMENT FOR FULL DETAIL OF BENEFITS

* Editorial Benefits are deemed priceless, however can be valued based on opportunity lost. For the sake of assigning a value, they are valued at the casual rate + 10%

Contacts



Richard Oakley
Advertising Sales Manager

p: 02 9414 1350

e: oakleyr@cumberlandnewspapers.com.au

Jarrah Petzold
Marketing Coordinator

p: 02 9689 5260

e: petzoldj@cumberlandnewspapers.com.au

Appendix

2008 Marketing Collateral Samples

200 posters distributed



57,000 hits on the True Local Business Awards site
18,000 unique browsers



6,500 Direct Mail flyers distributed



285,376 papers distributed with coupon
9,648 Nominations received
4,771 Registered voters



179 Finalists



298 attendees at the Awards Presentation Dinner



33 Winners



Appendix

2008 Website Samples

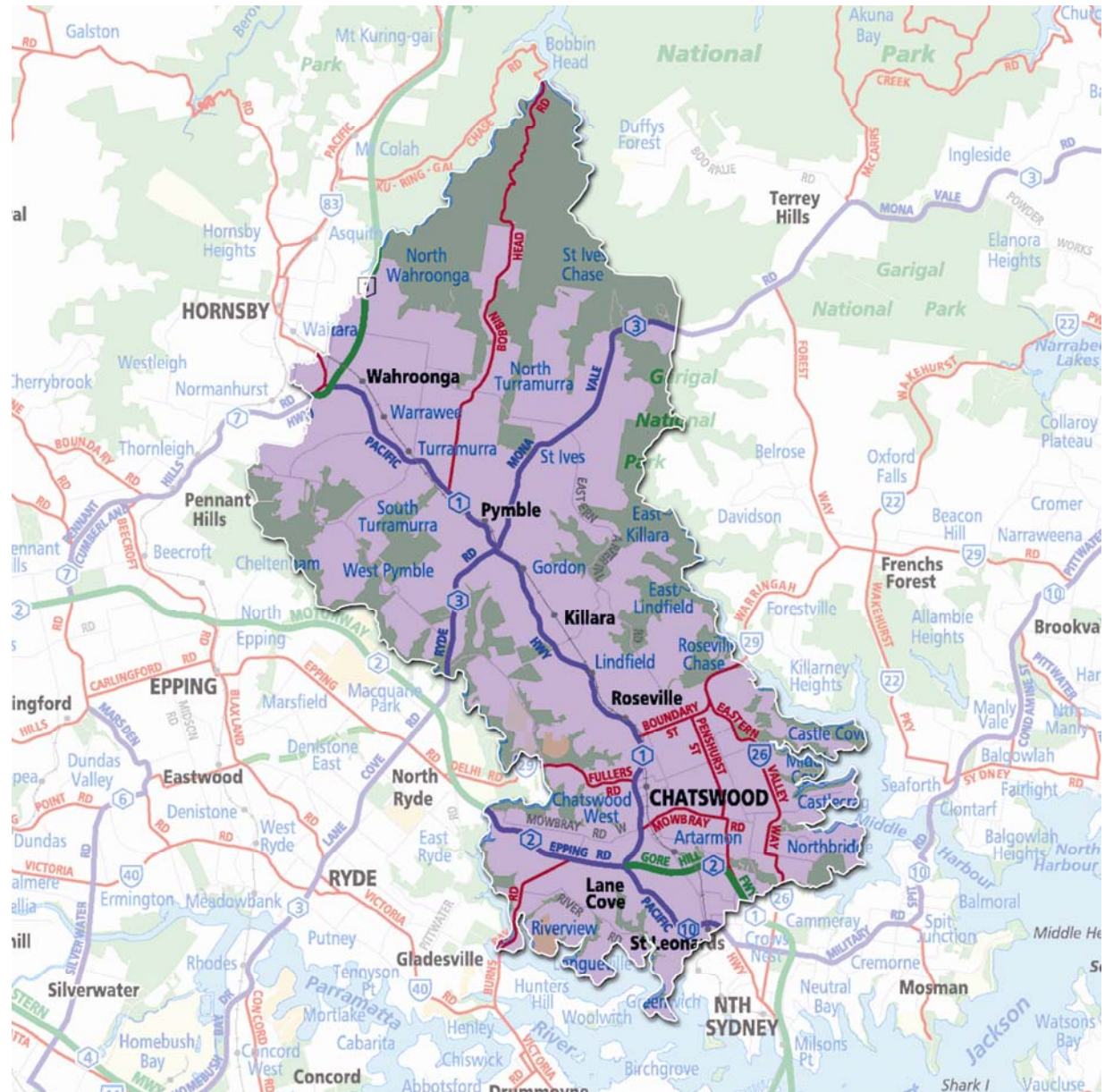


Appendix

In Paper Samples



2008 Market Coverage Map



Thank You!

Thank you for the opportunity to present the Business Achiever Awards sponsorship proposal

North Shore Times looks forward to working with you as a Business Awards Sponsor Partner in 2009 to continue the success of the awards program.

With your valued support, the awards will continue to grow in stature and credibility, and small businesses across the Hornsby region will continue to receive the recognition they deserve. We will also ensure you receive a significant return on your investment.



2009

BUSINESS ACHIEVER AWARDS

HORNSBY AND UPPER NORTH SHORE
Advocate



Local Supporter Sponsorship Proposal presented by Hornsby and Upper North Shore Advocate

For Discussion

About the Program

- Consumer Engagement
- Small & Medium Enterprise (SME) Engagement
- Program Growth
- Strategic Marketing opportunities

Partnership Opportunities And Benefits

- Delivering value to partners

Contact Details

Appendices



Program Reach: Consumer Engagement

Program reach:

- 76,000* weekly
- Targeting the local area: Asquith, Berowra, Berowra heights, Brooklyn, Cherrybrook, Cowan, Dangar island, East Wahroonga, Hornsby, Hornsby Heights, Mooney Mooney, Mount Colah, Mount Kur-ing-gai, Normanhurst, North Turramurra, North Wahroonga, Pennant Hills, South Turramurra, Turramurra, Thornleigh, Wahroonga, Waitara, Warrawee, Westleigh.

The program engages consumers in-paper via editorial, special features, & voting coupons as well as radio, online, direct mail, point of sale and the awards events.

(see appendix for marketing communications samples)



Consumer Engagement

76,000*

2,713 nominations received#

1,364 registered voters^

291 awards night attendees^

*Source: Roy Morgan Readership Survey, September 2008. Filter: Cumberland Courier Newspapers running the business awards program over a 17 week period

See appendix 2 for results by masthead

^ 2008 figures

Program Reach: SME Engagement

The Business Achiever Awards program engages with SME through:

- **Their local newspaper**
Cumberland-Courier Newspapers running this program puts us in a unique position to fully support the program.
- **Direct mail**
DM campaign to over 2,600 small and medium businesses across 25-30 categories.
- **Online**
Thousands of SME's can go online to register their business, vote, buy tickets, download their e-handbook and find useful hints and tips to help them market their business through the program.
- **Radio**
Interviews and ads are broadcast throughout the entire nomination period to thousands of engaged listeners, drawing their attention to the in paper voting coupon and website.
- **Partnership Opportunities**
The program reaches major government officials, representatives and decision makers including the NSW Minister for Small Business, local Chambers of Commerce and Local Council Members.



SME Engagement

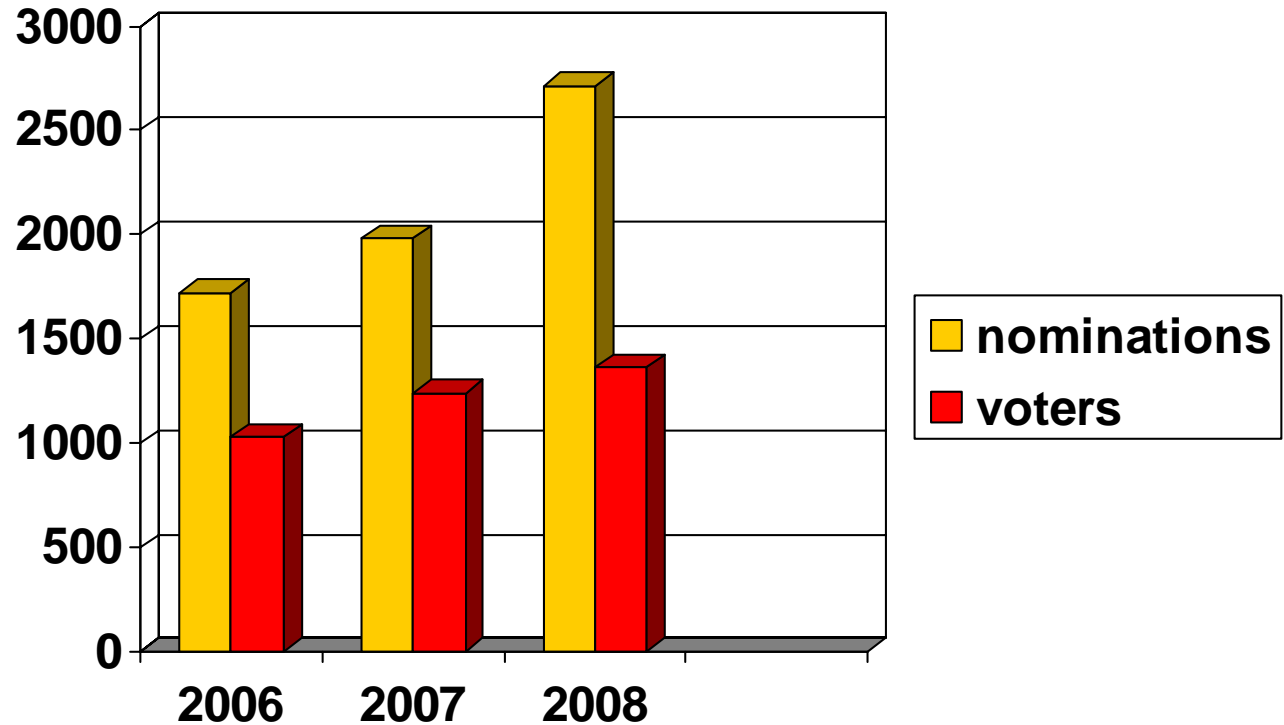
815 registered businesses

152 Finalists

28 Winners



Program Growth



- The program has seen exponential growth in the past few years, jumping from **1,030** registered voters making **1,723** nominations in 2006, to over **1,364** voters making more than **2,713** public nominations in 2008.
- This represents an **32% increase** in the number of voters and a **57% increase** in the number of nominations across the program in just two years. We are looking forward to the successes 2009 will take us.

Strategic Marketing Opportunity

As a Local sponsor of the Hornsby and Upper North Shore Advocate 2009 Business Achiever Awards, your business has a fantastic opportunity to connect with thousands of businesses and their customers, through a strategic marketing program.

The Business Achiever Awards is a fantastic promotional vehicle for your business. The key benefits to sponsors are:

- **Brand** - building brand awareness, engagement and equity
- **Publicity** - extensive newspaper coverage over four months, including front pages, editorial and advertising features, distributed free to over 51,958* every week. Apart from our in-depth newspaper coverage, online, direct mail, email blasts, media releases, and point of sale material are all utilised to promote the program.
- **Product and people** – opportunity for your representatives to attend awards presentation evenings, presenting awards and engaging with attendees.



Strategic Value Addition

Your involvement with the Hornsby and Upper North Shore 2009 Business Achiever Awards program gives you the opportunity to:

- Participate in a business recognition program that goes beyond business to business marketing
- Increase brand awareness through interacting with Hornsby and Upper North Shore readers and the local SME market.
- Build direct links between your business and more than 76,000 readers across Hornsby Region each week
- Demonstrate your commitment and connection with the local community and SME businesses to strengthen loyalty in a highly competitive market.
- Celebrate the determination, effort and success of local businesses in their own community.
- Increase customer acquisition and retention through strong product positioning.



Summary of Partner Benefits

Return on Investment and Value Add

Measurable ROI

In Paper Coverage	
Nomination coupons (1 module x 4wks)	\$941.72
Advertising component (2 x 2 module)	\$941.72
Editorial recognition*	\$1,553.84
Branding	
Acknowledgement on Direct Mail	\$715.00
Website Coverage	
Website exposure (Branding on masthead pages, dedicated page space with links as well as online voting and ticketing pages)	\$3,762.50
Event	
Awards Dinner Tickets (2 in total)	\$170.00
Total Measurable Benefit	\$8,084.78
Commitment from Supporter Sponsor	\$4,500.00



Value-add benefits:

Value-add benefits to drive deliverable outcomes of promoting your business' community positioning and brand awareness:

- Branding exposure via PR and marketing activity (including POS, direct mail and e-campaigns)
- High profile engagement with captive audience at Awards dinner event

SEE ATTACHMENT FOR FULL DETAIL OF BENEFITS

* Editorial Benefits are deemed priceless, however can be valued based on opportunity lost. For the sake of assigning a value, they are valued at the casual rate + 10%

Contacts



Alex Quinn
Advertising Sales Manager

p: 02 9479 1604

e: quinna@cumberlandnewspapers.com.au

Kristen O'Donnell
Marketing Coordinator

p: 02 9689 5425

e: odonnellkr@cumberlandnewspapers.com.au

Appendix

2008 Marketing Collateral Samples

200 posters distributed



57,000 hits on the True Local Business Awards site
18,000 unique browsers



2,600 Direct Mail flyers distributed



206,488 papers distributed with coupon
2,713 nominations received
1,364 registered voters



144 Finalists



28 Winners



291 attendees at the Awards Presentation Dinner



Appendix

2008 Website Samples

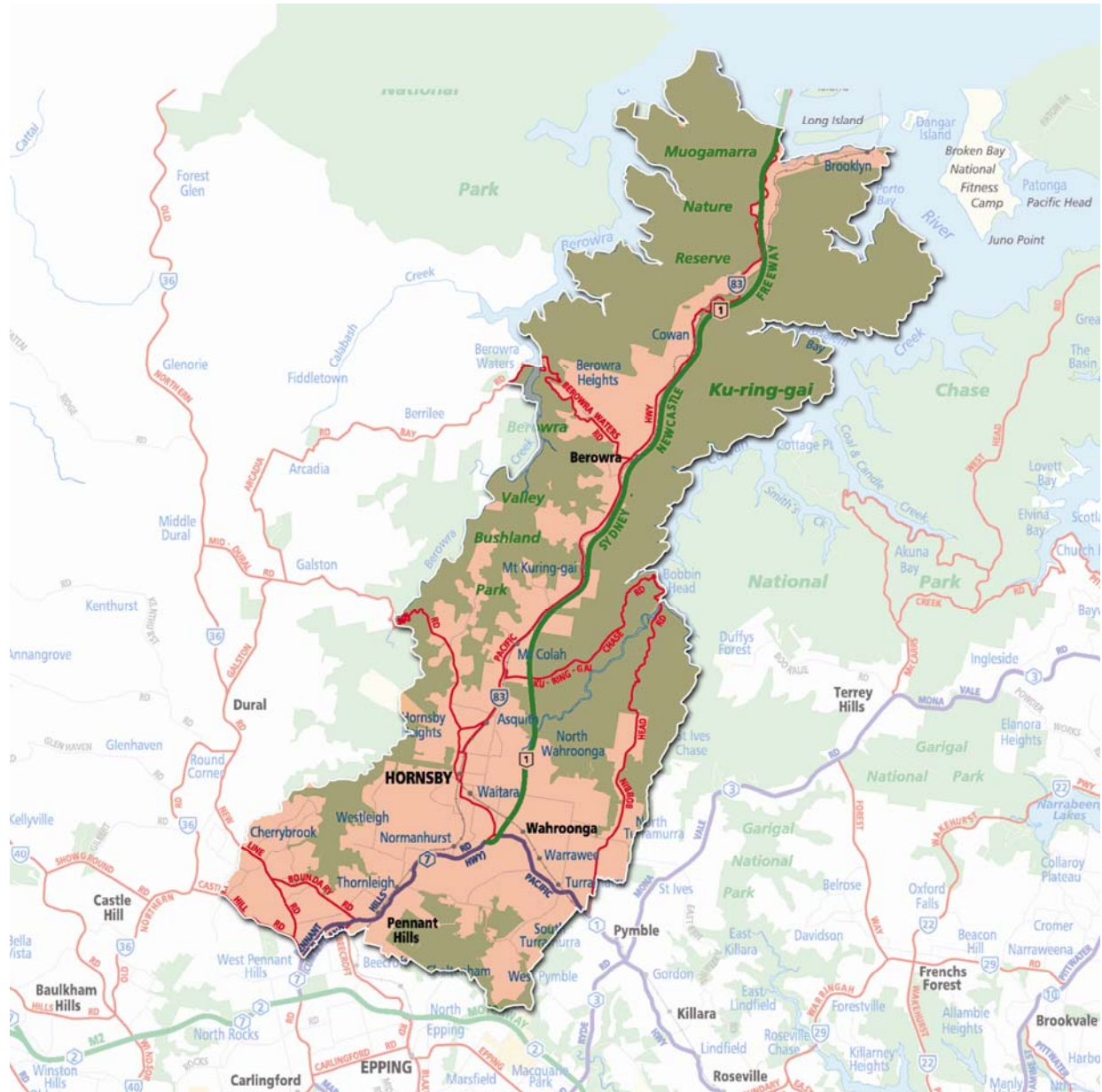


Appendix

In Paper Samples



2008 Market Coverage Map



**2009
BUSINESS
ACHIEVER
AWARDS**



Thank You!

Thank you for the opportunity to present the Business Achiever Awards sponsorship proposal

Hornsby and Upper North Shore Advocate looks forward to working with you as a Business Awards Sponsor Partner in 2009 to continue the success of the awards program.

With your valued support, the awards will continue to grow in stature and credibility, and small businesses across the Hornsby region will continue to receive the recognition they deserve. We will also ensure you receive a significant return on your investment.



INTRODUCTION OF LIBRARY OVERDUE FEES

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To obtain Council's approval for the introduction of fees and charges for overdue library materials.

BACKGROUND:

Overdue fees have not been introduced to date, at Ku-ring-gai libraries, as in past years library materials have generally been returned on time. Over the last 4 to 5 years however, there has been a steady rise in the number of outstanding library materials – currently there are 10,447 items overdue from Ku-ring-gai libraries, with an average overdue period of 73 days.

COMMENTS:

The introduction of fees for overdue library materials would result in a more equitable system for the circulation of all materials, as overdue fees would encourage people to return items on time, thus providing greater variety and more choice of materials for all library users. The introduction of fees for overdue materials would also contribute to the reduction of the overall number of materials that are withdrawn by the library annually, due to their non return.

RECOMMENDATION:

That Council approve the introduction of fees for overdue library items at 20 cents per day per item, with an upper limit of \$12.00 per item, and that these charges be placed on public exhibition for a period of 28 days.

PURPOSE OF REPORT

To obtain Council's approval for the introduction of fees and charges for overdue library materials.

BACKGROUND

Overdue fees have not been introduced to date, at Ku-ring-gai libraries, as in past years library materials have generally been returned on time. Over the last 4 to 5 years, however, there has been a steady rise in the number of outstanding library materials – currently there are 10,447 items overdue from the Ku-ring-gai libraries, with an average overdue period of 73 days.

Ku-ring-gai Council is the only local government authority on the North Shore that does not charge overdue fees through its libraries, with Willoughby Council introducing overdue fees in 2006. The majority of the metropolitan and country councils also charge overdue fees.

COMMENTS

It is permissible under the Library Act 1939 and Regulations for Public Libraries, to charge fees for items on loan to the public which are overdue.

The introduction of fees for overdue library materials would result in a more equitable system for the circulation of all materials, as overdue fees would encourage customers to return items on time, thus providing greater variety and more materials for all library users to choose from.

The advantages to the community when library items are returned within the designated time period include:

- A higher turnover of popular materials ensuring more equitable access to items if they are regularly returned
- A greater number and variety of items available to be borrowed at any given time
- Staff are able to exercise quality control over library materials - an item's condition can be assessed on a more regular basis, thus ensuring that items in good condition will continue to be available
- Return on investment - if an item is purchased for say \$60.00, it is not unreasonable that the library would expect a substantial number of people to borrow that item for the prescribed loan period, rather than only one or two people borrow it for an extended, or overdue, period of time.

Additionally, the introduction of overdue fees would also assist library staff to better facilitate the use of materials as:

- Overdue fees will set ground rules for borrowers in the form of a framework for borrowing which also enhances to the 'professional' management profile of the library
- Overdue fees discourage people from borrowing items and not returning them
- Overdue charges are an acceptable and common world wide library practice

Item 4

**S02130
1 June 2009**

There are currently 10,447 items overdue from the Ku-ring-gai libraries, with the average overdue period being 73 days. Without overdue fees, there is no real inducement for customers to return these library items by the due date, other than a general sense of responsibility to abide by the rules of the library.

The introduction of a fee for overdue materials would not only assist in addressing this high incidence of overdue items, it would also help to reduce the total number of library materials that are not returned, and need to be eventually replaced in the collection.

The possible introduction of library overdue charges has been discussed on a number of occasions over the past 10 years, however the comparatively low number of outstanding items alone, did not seem a significant enough reason to proceed with this measure. Recently however, an additional factor, the cost of fees and associated recovery costs for library materials, has also increased. This has prompted a rethink of the introduction of overdue fees.

Currently there is approximately \$9,000 outstanding in library processing and recovery costs, and processing and recovery fees to the value of approximately \$28,000, have been written off this financial year.

The introduction of fees for overdue library items will also result in an additional source of revenue. It is estimated that approximately \$50,000 income is achievable per annum, if overdue fees are introduced.

The current loan period for library materials is 28 days. It is anticipated a 3 day grace period, following this loan period of 28 days, be applied before the commencement of overdue charges occur.

Overdue fees, if introduced, would be calculated automatically through the Library's Computer System, Spydus, which can also be modified to calculate fees and mail out appropriate overdue notices.

It is proposed that Ku-ring-gai libraries adopt an overdue charge of 20c per circulating item per day with a \$12.00 maximum fee per item - the overdue fee most commonly used by adjoining councils. This charge would be one familiar to many existing borrowers who also use neighbouring libraries, the 20c per circulating item per day charge is used by Willoughby, Lane Cove, North Sydney, and Hornsby libraries.

Library services from surrounding councils have provided the following information about their current practices in charging overdue fees and their comments are summarised as follows:

Hornsby Shire Library and Information Service

This library serves 157,000 residents and has charged overdue fees for at least 15 years. Their fees are charged at 20c per day per item up to a maximum of \$16.80 per item. The loan period is 4 weeks which is followed by 2 day's grace with the overdue fine commencing on the 3rd day. The income from overdue fees is amalgamated with other charges such as reserving items so an accurate income is not available. The total income is approximately \$137,000 with an estimated income for overdue fees being in the vicinity of \$100,000

Lane Cove Library

Lane Cove Library serves 32,000 residents and fees have been charged for overdue items for quite some time, at least prior to 2000. The fees are charged at 20c per day per item up to a maximum of \$20.00. Lane Cove's income from overdue fees is amalgamated with charges for reserving items

Item 4

S02130
1 June 2009

so an accurate income is not available. However around \$37,000 is collected in a ratio of 2:1 (overdue fees/reservations), resulting in some \$24,000 collected for overdue fines.

Ryde Hunters Hill Library Service

This library serves 114,000 residents and has charged overdue fees for at least 11 years. Overdue fees are charged after 1 week and include a \$5.00 notification fee, with all overdue items for the borrower included on the first notice irrespective of the number involved. If the item(s) are still overdue, each week thereafter, an overdue fee of \$2.50 per item per week is applicable without a maximum upper limit. There has not been a maximum upper limit for the last 4 years. The library's income from overdue fees is around \$50,000 pa.

Willoughby City Library

Willoughby City Library serves 65,000 residents and Council introduced overdue fines in 2006. The overdue fines are charged at 20c per day per item up to a maximum of \$12 per item. Their income is estimated at \$55,000 for 2009-10.

A recent survey has advised that metropolitan libraries that do not charge overdue fees (3 libraries in total from those that responded), generally have a high migrant population and/or a high level of social disadvantage.

CONSULTATION

It is anticipated that, should Council approve the introduction of overdue fees, an awareness program be conducted prior to fees being introduced. It is suggested that an advertising period of 6 to 8 weeks before the fines are introduced would be appropriate. This would also allow library staff to explain the proposed changes to library borrowers.

FINANCIAL CONSIDERATIONS

The cost to customise the library system, (Spydus) to generate overdue letters and to calculate fees would be approximately \$2,000.

It is difficult to estimate possible income which would be generated from the introduction of overdue fees in Ku-ring-gai, however, based on population, the income from other libraries in the region, plus the number of items currently overdue, an estimate of \$40,000-\$50,000 per annum, could be achieved.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Corporate Department has been consulted during the writing of this report.

SUMMARY

The charging of fees for overdue library items is common practice within the majority of public libraries, and is permissible under the Library Act 1939.

Item 4

**S02130
1 June 2009**

The combination of a steady increase in the number of overdue library materials over a number of years, plus an increase cost to Council in the recovery processes associated with overdue items has prompted the need to examine the introduction of a fee for overdue library materials.

It is anticipated that, by introducing a fee for overdue materials, more items will be returned within the specified loan period, thus ensuring a more equitable system for all library customers. Higher levels of circulation of materials will also allow staff greater opportunity to assess the condition of items, resulting in increased cost benefits to Council, and a more effective use of Council's assets.

The introduction of library overdue fees also represents an additional source of revenue for Council.

RECOMMENDATION

- A. That Council approve the introduction of fees for overdue library items at 20c per day per item with an upper limit of \$12.00 per item.
- B. That the fees and charges for overdue library materials be placed on public exhibition for a period of 28 days.
- C. That if submissions objecting to the fees and charges are received during the exhibition period, a report come to Council including the submissions.
- D. That if no objecting submissions are received during the exhibition period, the abovementioned fees and charges be introduced by 30 September 2009.

Ray Amos
Manager Library Services

Janice Bevan
Director Community

COUNCIL NOMINATIONS FOR JOINT REGIONAL PLANNING PANEL

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To present nominations for council membership of the Sydney Metro West Joint Regional Planning Panel.

BACKGROUND:

Joint Regional Planning Panels are part of the NSW State Governments planning reform agenda introduced in 2008 and will commence operation across NSW on 1 July 2009

COMMENTS:

Pursuant to the request of the Minister for Planning in a letter to all councils, dated 5 May 2009, Council is required to put forward nominations for council membership of the Sydney Metro West Planning Panel, consisting of two members and one alternate.

RECOMMENDATION:

That Council resolve to provide nominations for council membership of the Sydney Metro West Joint Regional Planning Panel.

PURPOSE OF REPORT

To present nominations for council membership of the Sydney Metro West Joint Regional Planning Panel.

BACKGROUND

As part of its broader planning reform agenda, the NSW state government has introduced numerous amendments to the current planning legislation in the form of the Environmental Planning and Assessment Amendment Act 2008. Among these planning reforms is the introduction of Joint Regional Planning Panels (JRPPs) pursuant to Section 23G and Section 118 of the Environmental Planning and Assessment Act (as amended).

Joint Regional Planning Panels are statutory bodies representing the Crown which may undertake certain functions of a council. The Minister for Planning has announced that Joint Regional Planning Panels will be established across New South Wales and will commence operation as of 1 July 2009. **(Attachment A)**.

The core role of the JRPPs will be to exercise consent authority functions in regard to regional development or development deemed to be of regional significance. The JRPPs will also, where requested, provide advice to the Minister for Planning on planning or development matters or environmental planning instruments that relate to the JRPPs' region.

At this stage, development for which JRPPs will be the consent authority includes:

- commercial, residential, retail and tourism development with a capital investment (CIV) value between \$10M and \$100M
- public and private community infrastructure and ecotourism development with a CIV of more than \$5M
- all Designated Development
- certain major coastal developments
- where a council is the proponent or is conflicted regarding a development with a CIV of more than \$5M.

The Department of Planning has advised that the above categories and thresholds are still subject to consideration and clarification. However, it is expected that a definitive list of matters for which the JRPPs will be the consent authority will be finalised by 1 July 2009.

For administrative purposes, New South Wales will be divided into six separate regions, four regional and two metropolitan (Hunter, Northern, Southern, Western, Sydney Metro West and Sydney Metro East) and each will have its own JRPP. Ku-ring-gai would be situated within the northern part of the Sydney Metro West Region.

Item 5

S04554
1 June 2009

Each of the six JRPPs will be comprised of three state members appointed by the Minister for Planning and two council members appointed by each council within a region. However, the functions of the JRPP members appointed by councils will be restricted to their particular local government area.

The development assessment and determination process will be similar to that which presently occurs with the Ku-ring-gai Planning Panel, in that the assessment of the relevant development applications would be undertaken by council officers whilst the determination would be made by the JRPP.

At this stage, it is envisaged that the involvement of councils in JRPP matters will be similar to that of persons making submissions on a particular development application. However, there is a requirement for JRPPs to consult councils prior to making a determination on any application or matter which is likely to have significant financial implications for the council.

Based on the current list of development categories and associated capital investment value thresholds, there would be an overlap between the consent authority jurisdiction of the JRPP and that of the Ku-ring-gai Planning Panel. However, as indicted above, these development categories have not yet been finalised and will likely change by 1 July 2009. Therefore, it is premature at this stage to speculate on the final outcome and implications of this aspect. More information on this aspect and on the operation of JRPPs generally will be provided to Council once known under separate cover.

COMMENTS

In her letter to Council, dated 5 May 2009, the Minister for Planning sought Council's nominations for membership of the JRPP to be submitted by 5 June 2009. Council's General Manager has sought and obtained an extension from the Department Of Planning for Council's nominations until after 9 June 2009, so as to permit this matter to be considered and determined by Council at its meeting of 9 June 2009.

As indicated in the Information Package for Council Nominees (**Attachment B**) prepared by the NSW Department of Planning, each council is required to nominate two Council members for its respective JRPP and may also appoint an alternate member. Once nominated, the two council members automatically become members of the JRPP for matters in that council's local government area for a term of up to three years.

The Department of Planning's selection criteria for council members on a JRPP are:

- senior level experience in dealing with multiple stakeholders
- high level communication skills
- capability to drive high profile outcomes in a credible and authoritative manner
- high level analytical skills
- knowledge of the assessment of complex developments and planning matters

In addition, at least one of the two council nominees is required to have high level expertise in one or more of the following areas:

Item 5

S04554
1 June 2009

- Planning
- Architecture
- Heritage
- The environment
- Urban design
- Land Economics
- Traffic and transport
- Law
- Engineering
- Tourism

As long as the council nominees meet the above criteria, council membership on the JRPP is not necessarily limited to appropriate technical staff, being also open to councillors and members of the community. All members of a JRPP must act independently in reaching their decisions and, in this regard, councils are advised to consider the potential, either real or perceived, for conflicts of interest in putting forward nominations.

The Information Package for Council Nominees (**Attachment B**) states that councils may elect to seek expressions of interest from members of the local community for council membership of the JRPP. However, given that the Minister's letter was only received on 10 May 2009, there was insufficient time to undertake this within the 5 June 2009 deadline for nominations imposed by the Minister. Nevertheless, Council may still resolve to pursue this if so minded, subject to securing a further extension of time from the Minister.

The Minister's letter of 5 May 2009 clearly states that the council members on the JRPP will only participate in JRPP development and planning matters in their particular local government area. This would preclude any development assessment officers from membership of the JRPP due to a conflict of interest. Directors, managers and staff involved in development assessment cannot be members of the JRPP given that they would be directly responsible for the assessment and recommendations on development proposals before the JRPP and therefore cannot both assess and determine such matters.

This means that any council staff to be nominated for council membership of the JRPP would need to be drawn from appropriately skilled and experienced planners within Council's Strategy and Environment Department. In this regard, it is considered that Both the Director Strategy and Environment, Andrew Watson, and the Manager Urban Planning and Heritage, Antony Fabbro possess the appropriate skills and experience to meet the selection criteria for council membership of the JRPP. In terms of an alternate member, Terri Southwell, Urban Planner in Council's Strategy and Environment Department, also has the necessary skills and experience, particularly in development assessment, for JRPP membership.

FINANCIAL CONSIDERATIONS

There are no financial implications in Council advising the Minister of its nominees for membership of the JRPP. However, there would clearly be costs associated with the running and administration of the JRPP which have not yet been quantified. Moreover, is also not clear at this stage as to whether these costs would be met by individual councils or the by the Department of

Item 5

S04554
1 June 2009

Planning. More information will be provided to Council on the likely costs associated with the JRPP once this aspect is clarified.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Relevant officers within the Development and Regulation and Strategy and Environment departments were consulted as part of the consideration of nominations for Council membership of the JRPP.

SUMMARY

Based on the selection criteria specified by the Department of Planning, it is concluded that there are three officers in Council's Strategy and Environment Department that have the appropriate skills and experience to meet the criteria for council membership of the Sydney Metro East JRPP.

RECOMMENDATION

- A. That Council resolve to nominate the following officers for council membership of the Sydney Metro West Joint Regional Planning Panel:

Council member - Antony Fabbro, Manager Urban Planning and Heritage
Council member - Andrew Watson, Director Strategy and Environment
Alternate member - Terri Southwell, Urban Planner

- B. That the Director General NSW Department of Planning be advised of Council's nominations.

Michael Miocic
Director Development & Regulation

John McKee
General Manager

Attachments: A. Letter from Minister for Planning, dated 5 May 2009 - 2009/079925
B. Department of Planning Information Package for Council Nominees - 2009/079928

5 May 2009

Mr John McKee
General Manager
Ku-ring-gai Council
Locked Bag 1056
PYMBLE NSW 2073

Ku-ring-gai Council Records	
Document No:	2009/068289
File Number:	504554
File Location:	

Request for Nominations for the Joint Regional Planning Panels (JRPPs)

Dear Mr McKee

The NSW Government's planning reforms include the establishment of Joint Regional Planning Panels (JRPPs) to determine development proposals of regional significance. The core objective of JRPPs is to provide stronger decision making through greater independence, to supplement Councils' expertise and draw on local and regional knowledge.

Details of the JRPPs, the regions, and their functions are provided in the attached background document. Six regions are proposed to cover metropolitan and regional areas of NSW. It is intended currently to only appoint JRPPs in five of the regions, with the functions of the JRPP in the Western Region being undertaken by the Planning Assessment Commission.

The JRPPs will commence operation on 1 July 2009.

The core functions of JRPPs will be to:

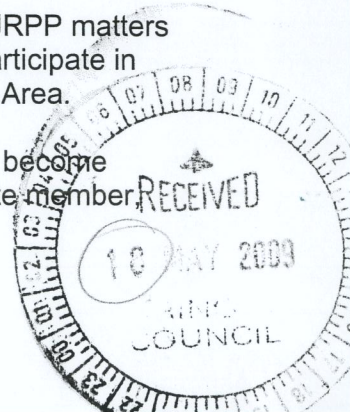
1. Exercise certain consent authority functions in regard to regional development applications; and
2. Where requested, advise the NSW Minister for Planning on planning or development matters or environmental planning instruments in respect to the JRPPs' region.

Development Applications for projects classed as regional development will be assessed by Council officers. The Council officer's assessment and recommendations will then be referred to a JRPP for determination. Last year I announced that regional development will include:

- Commercial, residential, retail and tourism with capital investment value (CIV) between \$10M and \$100M
- Public and private community infrastructure and ecotourism with a CIV of more than \$5M e.g. schools, community halls, libraries etc
- Designated development (Environmental Impact Statement (EIS) required)
- Certain major coastal developments; and
- If council is the proponent or is conflicted in relation to a development with a CIV of more than \$5M.

JRPPs will be comprised of three members appointed by me to participate in JRPP matters across that region, and two members appointed by the relevant councils, to participate in JRPP development and planning matters in their particular Local Government Area.

The NSW Government is now requesting councils to nominate two persons to become members of the relevant JRPP. Each council should also nominate an alternate member who could replace a council nominee if unavailable.



It is important for the JRPP to consist of members with a broad range of skills and experience in development and planning matters. The selection criteria include:

- Senior level experience in dealing with multiple stakeholders
- High level communication skills
- Capability to drive high profile outcomes in a credible and authoritative manner
- High level analytical skills; and
- Knowledge of the assessment of complex developments and planning matters.

In addition, *at least one* of the Council panellists must have a high level of expertise in *one or more* of the following fields: planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering and tourism.

The Department of Planning has prepared the enclosed information package to assist councils to nominate appropriate candidates for this role.

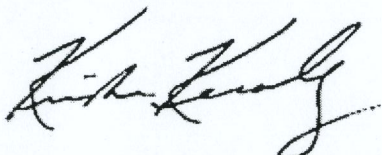
Please consult the information package and return submissions in writing **by Friday 5 June 2009** to:

Director General
NSW Department of Planning
GPO Box 39
Sydney NSW 2001

For further information please contact Sarah McGirr on (02) 9228 6347.

Additional copies of the enclosed information package are available at www.planning.nsw.gov.au or by emailing innovation@planning.nsw.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kristina Keneally', with a stylized flourish at the end.

The Hon Kristina Keneally MP

Enc: Information Package for Council Nominees



NSW GOVERNMENT
Department of Planning

EXPRESSIONS OF INTEREST AND NOMINATIONS FOR THE JOINT REGIONAL PLANNING PANELS

Information Package for Council Nominees

May 2009

1. Joint Regional Planning Panels

1.1. About Joint Regional Planning Panels

The NSW Government's planning reforms, aimed at delivering a more efficient and transparent planning system, include the establishment of Joint Regional Planning Panels (JRPPs).

The NSW Government is now requesting councils to nominate two persons to become members of the relevant JRPP. Each council should also nominate an alternate member, who could replace a council nominee if unavailable.

The NSW Government is also currently seeking Expressions of Interest (EOIs) for candidates interested in being appointed as State members of the JRPPs. This is being done through an advertised EOI processes.

The objective of JRPPs is to create a panel of people with appropriate expertise to determine development proposals of regional significance providing stronger decision making through greater expertise, independence and regional knowledge.

Six regions are proposed to be established covering metropolitan and regional areas of NSW (see figure one). The JRPPs are planned to commence operation on 1 July 2009.

1.2. Functions of JRPPs

The functions of JRPPs are to:

1. Exercise certain consent authority functions for 'regional development'; and
2. Where requested, advise the NSW Minister for Planning on planning or development matters or environmental planning instruments in respect to the JRPPs' region.

JRPPs will also have such other functions as are conferred on them by the *Environmental Planning and Assessment Act 1979* (EP&A Act). For example, JRPPs may have a role in relation to Local Environmental Plans (LEPs). This may include being appointed as the Relevant Planning Authority (RPA) for a LEP or, where requested by the Minister, reviewing or providing advice in respect of a proposed LEP. Where a JRPP is appointed as an RPA for a LEP, the Minister may also delegate plan making powers to the JRPP. JRPPs may also, in limited circumstances, be appointed by the Minister to exercise the functions of planning assessment panels under s.118 of the EP&A Act.

A regional panel is not subject to the direction or control of the Minister, except in relation to the procedures of a regional panel and to the extent provided for in the EP&A Act.

1.3. Commencement of JRPPs

Under the current Planning Reform Implementation Program, JRPPs are targeted to commence operation on 1 July 2009.

1.4. Support and Training

The Department of Planning will provide to Councils a detailed guideline to assist them prepare for the commencement of JRPPs. These guidelines will provide information on how JRPP matters are dealt with.

Prior to the commencement of the JRPPs, the DoP will conduct information sessions throughout the State for council staff, stakeholders and the community.

A Code of Conduct, based on the local government Model Code of Conduct, will be provided to all JRPP members.

Persons appointed as Panel members will be required to attend a training program that will be developed and provided by the DoP.

1.5. Council's role in relation to matters under consideration by the JRPP

The assessment of applications to be determined by the JRPPs is to be undertaken by the relevant council officers in which the proposed development is located. The council officers are to submit their assessment report and recommendations to the JRPP for determination.

Whilst the council will not be the determining body for JRPP matters, the council will have the opportunity to provide its views about any matters that are to be considered by a JRPP. The council's view may be provided to a JRPP by way of a submission in the same way that any other submissions about the matter are provided to a JRPP for its consideration in determining a matter.

The JRPP must consult the council prior to determining a matter which is likely to have significant financial implications for the council.

1.6. Consultation with stakeholders

The DoP is currently engaged in a consultation process regarding aspects of JRPPs. Elements of the policy may be varied as a result of the consultations or further reviews that may be undertaken.

The performance of JRPP will be monitored regarding the number and type of DAs determined by JRPP and timeframes. This information will provide the basis for any reviews or regional boundary adjustments.

2. Membership of JRPPs

The JRPPs are to consist of five members as follows:

State Members: Three State members appointed by the Minister, each having expertise in *one or more* of the following: planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering, tourism or government and public administration.

In appointing the State members, the Minister is required to have regard to the need to have a range of expertise represented among the panel's members. One of the State members will be appointed as the Chairperson of the JRPP. Each panel may elect a State member to be a Vice-Chairperson.

Council Members: Two council members appointed by each council that is situated in a part of the state for which a JRPP is appointed. At least one council nominee is required to have expertise in *one or more* of planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering or tourism. Important additional selection criteria are listed in Section 2. It will be a matter for each council to identify how the nominees are to be selected. Guidance for councils in selecting their nominees is available in Section 3.

The council nominees will automatically become members of the JRPP for matters in that council's local government area.

If a council within the area of a JRPP fails to nominate one or more council nominees, a JRPP may still exercise its functions in relation to the area of the council concerned.

Alternates: A council may, from time to time, appoint a person to be the alternate of a member nominated by the council, and may revoke any such appointment.

3. Administrative and other matters

Administrative and technical support for the operations of the JRPPs will be provided by the PAC Panel Secretariat and through the Regional Branches of the Department of Planning.

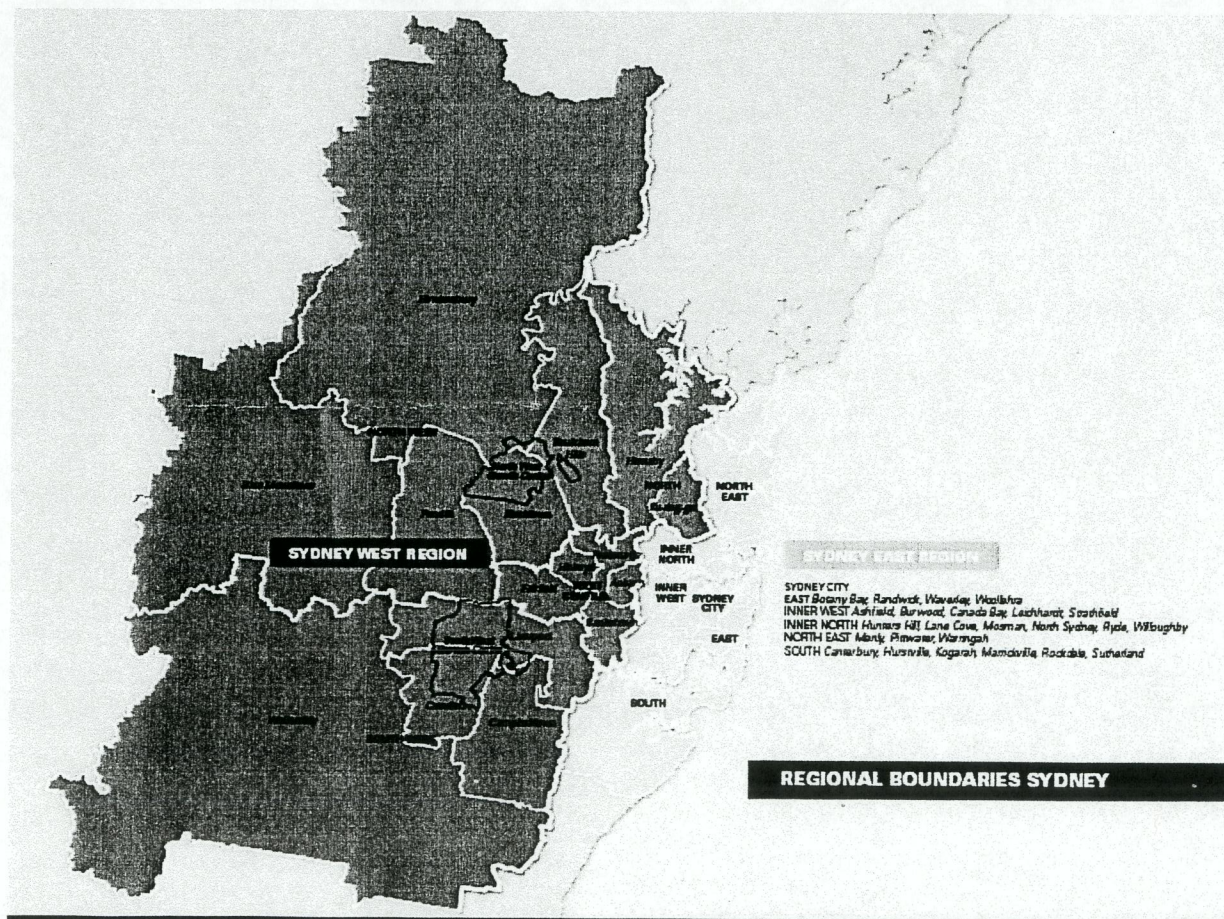
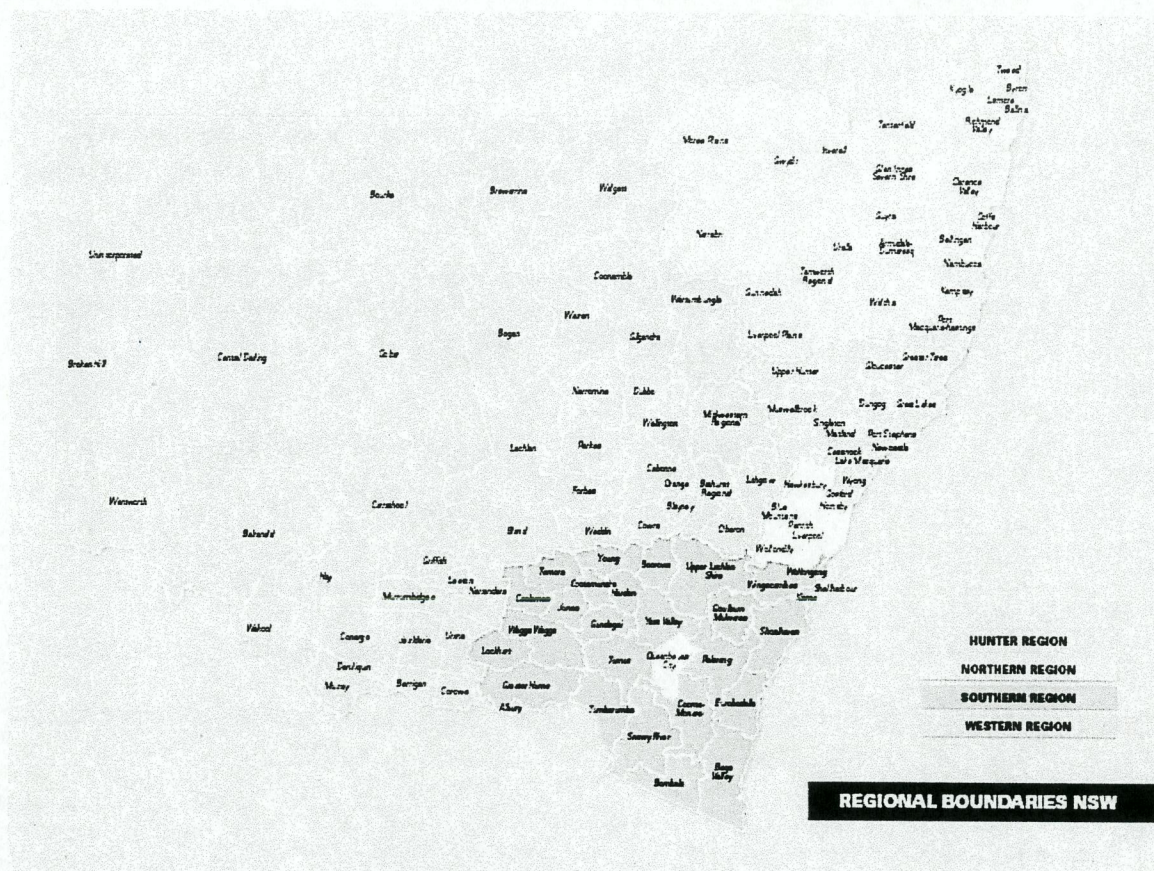
JRPPs are independent bodies, accountable to the Minister, but otherwise not subject to the direction and control of the Minister. JRPP members will be required to act at all times in accordance with best practice probity and accountability requirements and to demonstrate impartiality in the exercise of their functions.

4. Coverage of JRPPs

Six regions are proposed, corresponding with the existing DoP regions. These are:

- Northern Region
- Hunter Region
- Southern Region
- Sydney Metro East Region; and
- Sydney Metro West Region.

Currently, it is proposed that matters in the Western Region will be covered by the existing Planning Assessment Commission (PAC). The JRPP provisions do not apply in the City of Sydney, where the Central Sydney Planning Committee (CSPC) will continue to function.



5. Nominations of Council Members to the JRPP

In preparing nominations, councils should address each of the selection criteria below including an outline of the nominee's qualifications, skills, attributes and experience under each criterion, along with examples of their achievements relevant to the criterion.

The NSW Government is requesting councils to nominate two persons to become members of the relevant JRPP for the council's area. Each council should also nominate an alternate member, who could replace a council nominee if unavailable.

Selection criteria

It is important for the JRPP to consist of members from a diverse background with a broad range of skills and experience. The selection criteria include:

- Senior level experience in dealing with multiple stakeholders
- High level communication skills
- Capability to drive high profile outcomes in a credible and authoritative manner
- High level analytical skills; and
- Knowledge of the assessment of complex developments and planning matters; and

In addition, *at least one* of the two Council nominees must have a high level of expertise in *one or more* of the following fields:

- Planning
- Architecture
- Heritage
- The environment
- Urban design
- Land economics
- Traffic and transport
- Law
- Engineering
- Tourism.

6. Guidance for Councils in Selecting Nominees

All members of JRPPs will be expected to act independently in reaching their decisions. Therefore, in determining nominees, councils should consider the potential for conflicts of interest, either real or perceived.

Councils may choose to undertake a local Expression of Interest (EOI) process to identify members of the community who would make suitable members of the JRPP. This could be undertaken through existing channels such as Council's Mayoral Column in the local media, Council's website or newsletter (where applicable).

Should a council decide to nominate a member of its staff or an elected member of the council, it should do so in full recognition that such persons will be independent members of JRPPs. As such they should not be subject to influence by other council officers or Councillors on matters that are to be determined by a JRPP.

7. Responsibilities of Members

The responsibilities of JRPP members are to:

- Exercise their functions in accordance with statutory requirements as set out in the EP&A Act and associated regulations
- Comply with the approved JRPP Code of Conduct
- Promote a sense of confidence in the JRPPs as independent decision making bodies
- Establish and maintain effective working relationships with the councils in the relevant JRPP region
- Foster a positive working relationship with other JRPP members, the Panel Secretariat and the Department of Planning
- Follow approved JRPP procedures and participate in regular reviews of procedures, to ensure efficient and effective practices are adopted
- Perform their functions with integrity, impartiality, honesty, conscientiousness, care, skill, diligence; and
- Participate in/chair panel meetings or hold public hearings or panel meetings in a timely, efficient and cost-effective manner while having proper regard to the issues.

8. Appointment Terms and Conditions

8.1. Statutory Position

JRPPs are statutory bodies representing the Crown. Each council within a JRPP region is to nominate two members (and an alternate member) to sit on the JRPP with respect to matters that are within that council's area.

8.2. Term of Appointment

The term of appointment for council panellists is up to three years. Councils may nominate a shorter time period if they desire.

8.3. Remuneration

A JRPP member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine.

8.4. Private Interests

As part of the consideration of nomination of members to a JRPP, it is suggested that councils require nominees to declare any private interests that may conflict with the public duties they would be required to perform if nominated to a JRPP.

8.5. Pecuniary Interests

If a member of a JRPP has a pecuniary interest in a matter being considered or about to be considered at a meeting of a JRPP, and the interest appears to raise a conflict with the proper performance of the member's duties in relation to consideration of the matter, the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the JRPP. Unless otherwise determined, the member must not be present during any deliberations by the panel with respect to the matter or take part in any decision of the panel with respect to the matter.

8.6. Other Matters

- Dealing with the Media:** A protocol will be prepared whereby the Chairperson can comment on decisions and respond to questions.

- ii. **Disclosure or misuse of information:** Members are required under the Act not to unlawfully disclose or use any information received in connection with carrying out their duties under the Act.
- iii. **Appropriate use of Secretariat Resources:** The JRPP must use resources provided by the Panel Secretariat and the DoP in an effective and efficient manner; and not use such resources for private purposes.
- iv. **Removal from office:** A council may remove any of its nominees from office at any time. The Minister may remove a State or council member from office if the Independent Commission Against Corruption (ICAC) recommends that consideration be given to the removal of the member because of corrupt conduct by that member.
- v. **Vacancies:** A vacancy in the office of a member occurs if the member:
 - Dies, or
 - Completes a term of office and is not reappointed, or
 - Resigns the office by instrument in writing addressed to the Minister or applicable council, as the case requires, or
 - In the case of a council nominee, is removed from office by an applicable council or by the Minister where ICAC recommends removal, or
 - In the case of a State member is removed from office by the Minister or by the Governor under Chapter 5 of the *Sector Employment and Management Act 2002*, or
 - Is absent from three consecutive meetings of the regional panel of which reasonable notice has been given to the member personally or by post, except on leave granted by the panel or unless the member is excused from the panel for having been absent from those meetings, or
 - Becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - Becomes a mentally incapacitated person, or
 - Is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more and is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- vi. **Regulations:** Regulations may be made in relation to the procedures of regional panels in exercising their functions, the provision of information and reports by regional panels and other matters.

9. Notification of council members

Each council should provide advice of the two persons it has nominated to become members of the relevant JRPP for its area.

Such advice should be should be provided by **Friday 5 June, 2009** in writing to:

Director-General
NSW Department of Planning
GPO Box 39
Sydney NSW 2001

SUSTAINABILITY ONE-STOP-SHOP

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

For Council to endorse the combined tender for the One Stop Shop residential sustainability program.

BACKGROUND:

To assist in achieving Council's Management Plan objective to reduce community greenhouse emissions by 2% and reduce community potable water consumption by 6% *per annum*. Council joined with Northern Sydney Regional Organisation of Councils to develop a residential sustainability program. The program involves providing advice and services for the installation of photovoltaic, heat pumps, solar hot water systems, water tanks and the purchase of Greenpower.

COMMENTS:

An open tender process was coordinated by Willoughby City Council to determine the response from the energy and water market for a range of products. Forty one (41) tenders were received and assessed against a predetermined selection process. This tender has been considered and recommendations were adopted by Willoughby City Council on 11 May 2009. This represents Council's support to provide an enabling mechanism for the recommendation of energy and water sustainable solutions for residents across Ku-ring-gai.

RECOMMENDATION:

That Council endorse the One-Stop-Shop program. That a further report be brought to Council detailing the progress of the program.

PURPOSE OF REPORT

For Council to endorse the combined tender for the One Stop Shop residential sustainability program.

BACKGROUND

The Northern Sydney Regional Organisation of Councils (NSROC) adopted a Regional Sustainability Plan (RSP) on 12 February 2009. This plan includes a shared vision for the region and a set of principles based on the United Nations Environment Program and the Melbourne Principles for Sustainable Cities in 2002. These are listed below:

1. to provide a long term vision for the region based on sustainability, intergenerational, social, economic, and political equity, and individuality;
2. to achieve a long term economic and social security;
3. to recognise the intrinsic value of biodiversity and natural ecosystems and their need for protection and restoration;
4. to enable our communities to minimise their ecological footprint;
5. to build on the characteristics of ecosystems in the development and nurturing of a healthy and sustainable region;
6. to recognise and build on the distinctive characteristics of the region, including our human and cultural values, history and natural systems;
7. to empower people and to foster participation;
8. to expand and enable co-operative networks to work towards a common sustainable future;
9. to promote sustainable production and consumption, through appropriate use of environmentally sound technologies and effective demand management; and
10. to enable continual improvement based on accountability, transparency and good governance.

Source: UNEP, Melbourne Principles for Sustainable Cities, 2002

Support for these various priorities and actions were developed to assist all councils and their communities to become more sustainable. The highest ranked issue, in this plan, was to address energy consumption and the associated impact of climate change. Consistent with this direction, Ku-ring-gai Council has included, within its adopted Management Plan (2008-2012) and the draft Management Plan (2009-2012), a five (5) year objective to reduce *Community greenhouse emissions by 10% based on levels in 1996* and to annually work towards a *2% reduction per year*.

In response to these drivers, officers from Ku-ring-gai, Lane Cove, North Sydney, Willoughby and Hunters Hill Councils have been working collaboratively to develop a program to achieve the following objectives:

1. to reduce the greenhouse gas emissions produced by the residential sector of the Councils' local government areas;
2. to increase the installation of selected energy and water efficient systems in the community by reducing perceived barriers. Actions would include:

Item 6

S07052
27 May 2009

- a) to reduce total capital cost;
 - b) to avoid upfront capital cost through schemes such as green loans;
 - c) to streamline installation; and
 - d) to oversee the rebate/Renewable Energy Certificates ("RECs") process; and
3. to enable the tracking of the uptake of energy and water efficient technology, within each participating Council's local government area, to record and report the ongoing greenhouse gas abatement achieved.

From a community perspective, the program is based on providing a One-Stop-Shop for residents through which preferred suppliers could be nominated. This would provide access for technical on-site advice and quotations, orders for equipment and installation, maintenance, rebate assistance and payment arrangements. This follows research from the Lowy Institute (June 2006) which indicated that the Australian community is aware that financial costs are a part of the decisions for addressing climate change and that their personal actions and decisions do make a difference. Coupled to this, Council's own research, as part of the development of the *Sustainability Vision Report (2008)*, reported that many residents expressed an opinion that they were time poor and looked for the government to provide a single point of contact for independent advice on sustainability technologies for their houses. This included coordination of installation and maintenance.

It is envisaged that the One-Stop-Shop approach will reduce some of the inhibiting factors that limit uptake such as having to work through the process of comparison of similar technologies and prices that is both complicated and time consuming.

This initiative will also complement the current and future sustainability and the climate change action programs being undertaken on an individual and collaborative basis across the northern region. For example, it will link to the Greenstyle program (an initiative by Hornsby, Ku-ring-gai and Willoughby City Councils) by providing a ready resource for project officers to promote energy and water efficient technologies to their specific community sectors and the North Shore Sustainable Business Awards currently in development.

COMMENTS

The tender opened on 3 March 2009, for a period of three weeks, and closed on 25 March 2009. The tenders were advertised in the North Shore Times and Sydney Morning Herald newspapers, by Willoughby City Council on behalf of Ku-ring-gai, North Sydney, Hunters Hill and Lane Cove Councils, seeking response from companies capable of supplying technologies. These technologies will reduce energy and water consumption and increase the use of alternative generation and supply options for water and energy. The specific areas covered by the request for tender submissions included:

- photovoltaic;
- heat pumps;
- solar hot water systems;
- water tanks; and
- Greenpower.

Item 6

S07052
27 May 2009

A tender evaluation panel comprising of representatives from each of the participating Councils, assessed the responses against the following criteria:

- value to the customer;
- capacity to supply, install and streamline;
- type and quality of the product;
- sustainability and quality assurance;
- finance; and
- ability to market.

From the evaluation, three (3) suppliers from each category were selected as shown in Table 1.

Table 1 Results from tender selection process:

Category	Number of Applicants	Preferred Suppliers
Solar hot water systems	12	Endless Solar Operations Pty Ltd Eco living Centre Pty Ltd Rheem Australia Pty Ltd
Rainwater tanks	8	Roseville Plumbing Bluescope Water Pty Ltd Nu-tech Group Pty Ltd (T/A Coastal Water Tanks)
Photovoltaic systems	14	Green Solar Australia Pty Ltd Solar Shop Australia Pty Ltd Australia Wide Solar Pty Ltd
Heat pump systems	7	Eco living Centre Pty Ltd Envirocare and Savers Pty Ltd
Greenpower	Pending	TBA

It was necessary to re-advertise the Greenpower tender as the major company in supplying Greenpower did not provide sufficient information to enable a comprehensive and accurate assessment. This decision to re-tender was based on the recommendation of Willoughby City Council, who agreed that the initial response to the tender did not provide enough opportunity for competition between companies as only one responded. Therefore the tender would not allow residents the opportunity to access the best suppliers of this service.

The next stage of the process is the endorsement of the tender by the respective Councils. Willoughby City Council considered a report on this at their Ordinary Meeting on 11 May 2009 and unanimously resolved that:

Council endorse the recommended Preferred Suppliers and enter into a twelve month Preferred Supplier Agreement with an option to renew with these companies subject to review of the scheme at the end of the 12 month period.

Item 6

S07052
27 May 2009

The scope of the project will be extended to provide advice and preference for certain companies to be available for the residents of Ku-ring-gai, it is therefore, considered appropriate that Ku-ring-gai Council also considers the tender process and its recommendations.

Following this, the next step is to prepare a 'Preferred Supplier Agreement' to the successful suppliers. The Agreement will be in place for one (1) year and will allow for a one (1) year option at the discretion of individual Councils. The price for the respective services shall be fixed for the first twelve months.

Once the preferred supplier agreements are in place, it is intended that the program will be launched in late August 2009. The launch would be followed with a series of community workshops to be held in each Council area. This would advertise and promote this service to the local communities. It is anticipated that the workshops would commence in September 2009 with a roll out to each of the member Councils.

This form of process as group tender has been previously used by Council as part of the Greenstyle project.

CONSULTATION

The development of the project and tender process has involved significant consultation with the five (5) participating Councils. This follows from the development of the Northern Sydney Regional Organisation of Council's (NSROC) Regional Sustainability Plan (RSP) which was adopted by NSROC on 12 February 2009 with ongoing discussions with the NSROC Environmental Management group.

From a Ku-ring-gai Council perspective, the project seeks to deliver on the objectives of the current and draft Management Plan (2009-2012) as well as the directions articulated in the *Sustainability Vision Report 2008*, which was adopted by Council on July 2008, and the draft Sustainability Strategy, as adopted for exhibition on 28 April 2009.

This program will involve ongoing consultation with participating residents to ensure that the quality of service is maintained throughout the duration of the program. A significant marketing program, involving media releases through Council's own electronic mediums, local newspapers and direct mailouts, will occur throughout the duration of the program. This will ensure greater access and awareness of the program.

FINANCIAL CONSIDERATIONS

There is no direct financial cost to Ku-ring-gai Council for involvement in this project. Any costs associated with the installation of climate change mitigation and adaptation measures will be borne by the participating resident.

The prices tendered for the various products shall be fixed for the first twelve (12) months. This will form part of the Preferred Supplier Agreement. Where a Council may wish to exercise an option to extend the tender for an additional twelve (12) months, it will be subject to a separate report. In this case, the preferred supplier is required to submit documentary evidence to justify any changes to prices for an extension.

Item 6

S07052
27 May 2009

It is anticipated that Council will need to meet some of the advertising costs. These will kept to a minimum by using Council website and other regular means of communicating with residents and through dividing these costs between the participating Councils. Advertising in local papers, school newsletters, sports clubs newsletter with DL flyers will be recommended. This cost will be investigated over the next two (2) months but will be discretionary for each Council and will be funded through existing budget allocations.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation has also been undertaken with the Community Department who administer the Greenstyle program. This ensures there would be no duplication or contradictions between the two (2) programs.

SUMMARY

Council's adopted Management Plan (2008-2012) lists the five (5) year objective of *Community greenhouse emissions reduced by 10% based on levels in 1996* and a further one (1) year objective; *to reduce community greenhouse emissions by 2% and to reduce community potable water consumption by 6% per annum*. With these factors in mind, Ku-ring-gai Council is working at a sub-regional level with Lane Cove, North Sydney, Willoughby City and Hunters Hill Councils to promote options which residents can take to address climate change and water security through a program called One-Stop-Shop.

This initiative will complement current and future sustainability and climate change action programs being undertaken on an individual and collaborative basis to:

- reduce the greenhouse gas emissions produced by the residential sector;
- increase the installation of selected energy and water efficient systems; and
- enable the tracking of the uptake of energy and water efficient technology.

In March 2009, a number of Northern Sydney Regional Organisation of Councils (NSROC) including Ku-ring-gai Council, advertised a tender for companies, capable of supplying climate change adaptation and mitigation options, to residents to nominate for this work. The terms of the tender focused specifically to the energy and water sectors and include:

- photovoltaic;
- heat pumps;
- solar hot water systems;
- water tanks; and
- Greenpower.

Forty One (41) tenders were received and were reviewed against the tender. From this process, Willoughby City Council, as lead tenderer, considered a report on 11 May 2009 and unanimously resolved that:

Item 6

S07052
27 May 2009

Council endorse the recommended Preferred Suppliers and enter into a twelve month Preferred Supplier Agreement with an option to renew with these companies subject to review of the scheme at the end of the 12 month period.

Given that the project seeks to provide preference to suppliers to residents' within the Ku-ring-gai local government area, it is considered appropriate that Ku-ring-gai Council make a resolution in relation to this project.

Should Council support the tender process, it is envisaged that the project will be launched in August 2009 and would extend for at least twelve (12) months.

RECOMMENDATION

- A. That Council accept the recommended tenderers for the provision of photovoltaic, heat pumps, solar hot water systems and water tanks as included in the report.
- B. That Council notifies Willoughby City Council of its support and inclusion in the project subject to review of the scheme at the end of the 12 month period.
- C. That a further report be brought to Council dealing with the tender for Greenpower.
- D. That a report be provided to Councillors as to the progress of the program against its aims.

Louise Hayward
Sustainability Officer

Peter Davies
**Manager Corporate Planning
and Sustainability**

Andrew Watson
**Director Strategy and
Environment**

MANAGEMENT PLAN 2009 TO 2012

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

For Council to adopt the Management Plan 2009-2012, incorporating the Budget, Capital Works Program, Special Rate Variation (Subject to Minister's Approval) and Fees and Charges for 2009-2010.

BACKGROUND:

Section 402 of the Local Government Act, 1993 requires Council to produce an annual Management Plan which identifies its principal activities and objectives for the next four years.

Section 405 of the Local Government Act, 1993 requires the draft Management Plan to be placed on public exhibition for a period of twenty eight (28) days to allow for community feedback.

COMMENTS:

The draft Management Plan was placed on exhibition for the period 1 May 2009 - 29 May 2009. 17 submissions were received from the community in relation to Council's draft Management Plan.

RECOMMENDATION:

That Council adopt the Management Plan 2009-2012, incorporating the Budget, Capital Works Program, Special Rate Variation (Subject to Minister's Approval) and Fees and Charges for 2009-2010.

PURPOSE OF REPORT

For Council to adopt the Management Plan 2009-2012, incorporating the Budget, Capital Works Program, Special Rate Variation (Subject to Minister's Approval) and Fees and Charges for 2009-2010.

BACKGROUND

Section 402 of the Local Government Act (1993) (LGA) requires councils to produce an annual Management Plan which outlines its principal activities for at least the next three years and its revenue policy for the next year. The statutory requirements for the Plan are set in sections 403 and 404 of the Act. As part of the preparation of the plan, the draft must be placed on public exhibition for at least twenty eight days and a public notice must be given to invite community submissions. Pursuant to section 406, the Council's Management Plan must be adopted prior to the end of each financial year after it has been prepared and exhibited in accordance with the Act. Further, in deciding to adopt the final plan, Council must take into consideration any submissions that have been made concerning the draft plan.

Council resolved on 28 April 2009 to place the draft Management Plan 2009-2012, incorporating the Budget, Capital Works Program, Special Rate Variation (Subject to Minister's Approval) and Fees and Charges for 2009-2010, on public exhibition for a period of 28 days.

The exhibition period ran between 1 May - 29 May 2009.

Advertisements were placed in the North Shore Times on 1 May advising of the public exhibition details and inviting submissions from interested members of the community.

Copies of the draft Management Plan and information pertaining to the special rate variation were made available for inspection at Council Chambers, each of Council's libraries and on Council's website from 1 May 2009. During this period community feedback was sought.

On 28 April 2009 Council considered the draft Management Plan and resolved:

- A. *That the report on Council's draft Management Plan 2009 to 2012, incorporating the Budget, Capital Works Program, Special Rate Variation (subject to the Minister's approval) and Fees and Charges for 2009 to 2010 be received and noted.*
- B. *That Council gives notice of its intention, should the Minister for Local Government approve Council's application for a special variation for the New Facilities Rate to:*
 - (i) *Make and levy an ordinary rate to comprise a minimum rate and ad valorem rating structure for both Residential and Business categories; make and levy a special rate to comprise an ad valorem with a zero base rate for Environmental and New Facilities categories and, make and levy a special rate to comprise an ad valorem with a \$65 base charge for an infrastructure category.*

Item 7

FY00019
1 June 2009

- (ii) *Increase its rate income by the maximum 8.5% approved by the Minister for Local Government.*
- C. *That Council give notice of its intention, should the Minister for Local Government not approve Council's application for a special variation for the New Facilities Rate to:*
 - (i) *Make and levy an ordinary rate to comprise a minimum rate and ad valorem rating structure for both Residential and Business categories; make and levy a special rate to comprise an ad valorem with a zero base rate for an Environmental category and, make and levy a special rate to comprise an ad valorem with a \$65 base charge for an infrastructure category.*
 - (ii) *Increase its rate income by the maximum 3.5% approved by the Minister for Local Government.*
- D. *That pursuant to Sections 405 and 406 of the Local Government Act, 1993, draft Management Plan 2009 to 2012, incorporating the Budget, Capital Works Program, Special Rate Variation (subject to the Minister's approval) and Fees and Charges for 2009 to 2010, be endorsed and placed on public exhibition for a period of 28 days commencing 1 May 2009.*
- E. *That the voluntary pensioner rebate be granted to all pensioners as a flat percentage of 12.5% should the Minister for Local Government approve Council's application for a special variation for the New Facilities Rate or 9% should the Minister for Local Government NOT approve Council's application for a special variation for the New Facilities Rate.*
- F. *That a copy of resolution to adopt the draft management plan, including the special variation (subject to Minister's approval), be forwarded to the Minister of Local Government.*
- G. *That an advertisement be placed in the 'North Shore Times' advising public exhibition details.*
- H. *That following public exhibition, a further report be submitted to Council on 9 June 2009 for adoption of the Management Plan 2009 to 2012, incorporating the Budget, Capital Works Program, Special Rate Variation (subject to Minister's approval) and Fees and Charges for 2009 to 2010 to enable consideration of -*
 - (i) *any submissions received during the exhibition period referred to D above; and*
 - (ii) *formal adoption of Ku-ring-gai Council's Management Plan 2009 to 2012 and associated policies.*
- I. *That the draft 2009 to 2012 Ku-ring-gai Council Management Plan be amended prior to exhibition to include -*
 - i. *the changes set out in the Memorandum dated 28 April 2009 from the Director Strategy & Environment.*

Item 7

FY00019
1 June 2009

- ii. *A new 1-year objective on page 38 of Attachment A - Management Plan 2009 to 2012 to the report within the table under the Bushland function and adjacent to the wording "management of bush fire risk for extreme to high prioritised areas addresses our need to protect life, property and the local ecology" in the 5-year objective column and under the 1-year objective column, the following words - "Comprehensive review of all Council policies and operations in relation to bushfires to determine possible areas for improvement."*

COMMENTS

The draft Management Plan was exhibited following resolutions A, B, C, D, E, F, G and I.

Capital Works Program

The capital works and major projects for 2009/10 have not changed from the draft Management Plan that was exhibited and a summary of the program is listed below:

Capital Works and Major Projects 2009/10	\$'000
Building Works & Maintenance	250
Community Centres & Halls	514
Depot Relocation	8,216
SES relocation	822
Community Projects	55
Information Technology	250
Library Resources	545
Plant & Vehicles	1,160
Town Centre & Urban Design	271
Fencing & Parking Areas	154
North Turrumurra Recreation Area	3,286
Parks Development	2,229
Playgrounds	171
Sports Courts	256
Sports Fields	2,700
Tree Planting	134
West Pymble Pool Upgrade	9,628
Footpaths	420
Roads Program	5,256
Traffic Facilities	137
Drainage structures	564
Business Centres Program	80
Public Domain	114
Biodiversity	135
Catchment Management & Analysis	275
St Ives Remediation	842
Environmental Levy Works	1,947
Total	40,411

Item 7

FY00019
1 June 2009**Special Rate Variation**

On the 24 February 2009, Council resolved to apply to the Minister for Local Government under *section 508(2)* of the *Local Government Act, 1993*, for a special rate variation to contribute funding to the construction of two (2) major recreation facilities:

- an indoor swimming pool and associated leisure facilities to complement the current West Pymble Swimming Pool; and
- a new recreation area within the site of the existing North Turramurra Recreation Area.

Both projects have been considered and planned for by Council for up to twenty (20) years which acknowledge past, current and future needs within the community for such improved facilities.

The major barrier to the progress of both facilities has been funding. While a number of funding sources have been identified, Council is unable to meet the shortfall. The use of a special variation is the most feasible funding source as previously considered by Council.

A 5% increase for six (6) years from 2009/2010 to 2014/2015 would be levied to fund the West Pymble Indoor Aquatic and Leisure Facility and North Turramurra Recreation Area redevelopment.

Rating Structure 2009/2010

Under *Section 506* of the *Local Government Act, 1993* each year the Minister for Local Government determines the maximum amount by which NSW councils can increase their general rates income. The Minister has determined the maximum increase in rates of 3.5 per cent and this increase is reflected in the 2009/10 budget.

If the above application for a New Facilities special variation to general income under *section 508(2)* of the *Local Government Act, 1993* is approved Council's rates structure would be:

With Special Rate pegging increase of 8.5%				
Rate Type	Category	Rate in \$	Min/Base Amount \$	Yield \$
General	Residential	0.00170770	419	\$35,779,444
General	Business	0.00525710	419	\$2,917,073
Special	Environmental	0.00010346		\$2,182,859
Special	Infrastructure	0.00015755		\$3,324,001
Special	Infrastructure		65	\$2,425,930
Special	New Facilities	0.00010677		\$2,252,695

If the above application for a New Facilities special variation to general income under *section 508(2)* of the *Local Government Act, 1993* is not approved Council's rates structure would be:

Rate pegging increase of 3.5%				
Rate Type	Category	Rate in \$	Min/Base Amount \$	Yield \$
General	Residential	0.00170770	419	\$35,779,444
General	Business	0.00525710	419	\$2,917,073
Special	Environmental	0.00010346		\$2,182,859
Special	Infrastructure	0.00015755		\$3,324,001
Special	Infrastructure		65	\$2,425,930

CONSULTATION

The draft Management Plan was adopted by Council and placed on public exhibition for 28 days from 1 May until 29 May 2009. During this period community feedback was invited on the draft Management Plan.

The development of the vision and values, which underpin this plan, were formed with considerable input from the community and Council during 2008 as part of the preparation of the Sustainability Plan.

Consultation with regard to the special rate variation application was undertaken as a parallel process to the draft Management Plan exhibition. Whilst residents could make a submission for or against the application through the normal public exhibition submission process, the application guidelines indicated that evidence of robust community consultation was required to support the application.

As the results from community consultation are required to be submitted to the Minister soon after the consultation was undertaken it was considered prudent to undertake consultation during the exhibition period.

Council staff balanced consultation opportunities with time and financial resources available in order to undertake robust but manageable activities. The amount of previous and extensive consultation around both projects has also been taken into account.

Consultation Activities

(A) Community Opt-in Survey

A community opt-in survey was designed and made available on Council's website between May 1 and May 29. An identical survey was made available at the Festival on the Green (one of Council's most well attended public events) on May 3 and was available in both the Council Chambers and at all of Council libraries between May 1 and May 29, 2009.

In order to invite residents to complete this survey a number of advertising and notification processes have been employed:

Item 7

FY00019
1 June 2009

- the Special Rate Application details have appeared in Mayoral Columns, editorials in the North Shore Times and on Council's website;
- advertisements in the North Shore Times on 8 May and 22 May inviting residents to participate in an online survey with a direct link to Council's web page;
- a response was prepared in relation to a media enquiry regarding the Special Rate Variation;
- media release was prepared on May 14 and circulated to local press; and
- invitation to complete online notification email advising of the consultation period to organised stakeholder groups.

166 surveys were received by the survey closing date of May 29.

(B) Household Survey

A random household survey was implemented to supplement the community opt-in survey. Households were selected from Council's residential rates database and include owners living in Ku-ring-gai and outside Ku-ring-gai. It did not include commercial ratepayers or those renting. The random selection process was completed using an established Excel formula for random determination. All residential ratepayer households in the GIS database were included. 1,750 households have been invited to complete the survey, this was divided up by Ward to ensure equal invitations were distributed to each Ward.

This survey was not advertised as it was designed to be completed by those households invited to participate. 478 completed surveys were received by the closing date of May 29.

(C) Public Meeting

At the public meeting of June 19, details of the Special Rate Variation and the projects which it would fund were presented to residents along with the invitation to complete the on-line survey prior to May 29.

(D) Submissions – This refers to resolution H.

17 submissions have been received by post, fax and email and are provided in **Attachment A**. One submission dealt with the long term financial plan and a response was provided separately to that. The remainder have been with regard to the Special Rate Variation. Each of these submissions has been acknowledged and residents advised that their submissions would be considered by Council staff and provided to Council by way of this report. The themes of the submissions have been reiterated through comments received from both the opt-in community survey and household survey. A summary of responses has been provided below.

Results

Methodology	Surveys Completed	Support payment	Do not support payment
Community opt-in survey	166	38% or 64 responses	58% or 97 responses
Household Survey	478	30% or 144 responses	64% or 306 responses

Between the close of the draft Management Plan exhibition period at 5pm on Friday May 29 and Tuesday 2 June, Council has received:

Item 7

FY00019
1 June 2009

- two email submissions via Council's website both objecting to proposed Special Rate Application, one is an objection of behalf of 6 people (a family); and
- two completed surveys received via fax.

These submissions are not included in analysis of survey results.

Themes of Resident Comments (received from survey)

Of those residents that indicate **support for the payment** of a Special Rate Variation the comments supplied by residents can be grouped together into themes. The most commonly occurring themes are:

- Community infrastructure is important and has long term benefits
- Will need these facilities with increased population
- Important to have activities and facilities for young people
- Better facilities can increase land/house prices
- Ku-ring-gai has limited facilities like this
- Use the facilities or similar facilities and think the payment is reasonable
- Health benefits/healthy lifestyle

Of those residents that indicated that they **do not support the payment** of a Special Rate Variation the comments supplied by residents can be grouped together into themes. The most commonly occurring themes are:

- Cannot afford additional expenses due to Global Financial Crisis
- Cannot afford additional expenses as pensioner
- Infrastructure such as road repairs and guttering should be a priority rather than these projects
- Will not use the facilities
- Do not support the facility mix at West Pymble Pool
- These projects should be funded in another way
- User pays for these facilities is a better way
- Council is inefficient or cannot be trusted to spend the money properly/deliver the projects
- There are enough Special Levies
- Being selfish and don't want to pay
- Money should come from existing rates

FINANCIAL CONSIDERATIONS

Budget principles

Council's budget for 2009/2010 is based on the following principles:

- developed using the framework of the 20 Year Long Term Financial Plan, adopted by Council on 16 December 2008;

Item 7

FY00019
1 June 2009

- additional funding of \$1.2M for infrastructure renewal in 2009/10 to partially address the asset renewal gap. Future funding increments will be subject to the adoption of an asset management plan identifying required service levels and funding sources;
- maintain existing service levels to the community, i.e. no new services and no services discontinued; and
- financial sustainability:
 - Target a minimum working capital of \$3.8M.
 - Achieve an operating surplus, before capital income items, to fund capital expenditure.
 - Maintain a minimum level of internal discretionary cash reserves (excluding liability cash reserves) of 10% of revenue, as a safeguard for unforeseen increases in expenditure or decreases in revenue.

If the special rate variation application is approved, the 2009/10 budget provides for total operating revenue of \$84.3 million. Operating expenses for 2009/10 are budgeted at \$67.7 million, after allowing for depreciation of \$7.8 million. This results in an operating surplus of \$16.5 million, a decrease of \$0.4 million on the 2008/09 budget of \$16.9 million. Surplus funds from operations are combined with capital income, reserves and loan monies to fund Council's capital works and other projects as follows:

FUNDING STATEMENT	2008/2009		2009/2010	
	\$000's	\$000's	\$000's	\$000's
Operating Revenue	80,209		84,270	
Operating Expense (excluding depreciation)	63,291		67,716	
Operating Surplus		16,918		16,554
Plus: Capital Income (s94, Grants, Asset Sales)		23,776		24,162
Less: Net Loan Repayments		-858		4,446
Funds for Projects & Reserve Transfers		39,836		45,162
Plus: Transfers from Reserves	35,916		30,108	
Less: Transfers to Reserves	-33,430		-33,889	
Net Reserve Funding		2,486		-3,781
Funds for Projects		42,322		41,381
Project Expenditure		-41,782		-40,410
Budget Surplus		540		971

If the special rate variation is approved, the draft budget has a \$971K surplus. A working capital level of \$699K is currently targeted for 2008/09 and this will improve to \$1.67M in 2009/10.

If the special rate variation is not approved, the 2009/10 budget provides for total operating revenue of \$82.1 million. Operating expenses for 2009/10 are budgeted at \$67.7 million after allowing for depreciation of \$7.8 million. This results in an operating surplus of \$14.4 million, a decrease of \$2.5 million on the 2008/09 budget of \$16.9 million. Surplus funds from operations are combined with capital income, reserves and loan monies to fund Council's capital works and other projects as follows:

Item 7

FY00019
1 June 2009

FUNDING STATEMENT	2008/2009		2009/2010	
	\$000's	\$000's	\$000's	\$000's
Operating Revenue	80,209		82,094	
Operating Expense (excluding depreciation)	63,291		67,716	
Operating Surplus		16,918		14,378
Plus: Capital Income (s94, Grants, Asset Sales)		23,776		24,162
Less: Net Loan Repayments		-858		-1,804
Funds for Projects & Reserve Transfers		39,836		36,736
Plus: Transfers from Reserves	35,916		25,369	
Less: Transfers to Reserves	-33,430		-33,956	
Net Reserve Funding		2,486		-8,587
Funds for Projects		42,322		28,149
Project Expenditure		-41,782		-27,495
Budget Surplus		540		654

If the special rate variation is not approved, the draft budget has a \$654K surplus. A working capital level of \$699K is currently targeted for 2008/09 and this will improve to \$1.353M for 2009/10.

Council's external auditors believe that a financially sound level of working capital is \$3.8M and the LTFP has budgeted this to be achieved at the end of 2012/13.

Interest on Investments

The draft Management Plan 2009-2012 report to Council on 28 April 2009, included total interest on investments of \$1,800,900. Current forecasts by Access Economics for 2009/10, revise down the investment return from 3.2% to 2.6%, which equates to decrease in revenue of \$282,100. As this adjustment affects only internally and externally restricted reserves, there will be no impact on Council's budget surplus.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

The development of the Management Plan 2009-2012, incorporating the Budget, Capital Works Program, Special Rate Variation and Fees and Charges for 2009-2010 has been undertaken in full consultation with all departments across Council.

SUMMARY

In the development of the Management Plan, six (6) principal activities have been identified:

Item 7

FY00019
1 June 2009

- Community development;
- Urban environment;
- Natural environment;
- Planning and development;
- Civic leadership and corporate services; and
- Financial sustainability.

As required by the LGA, progress against any Management Plan is to be reported on a quarterly basis with specific emphasis on the achievement or otherwise of the key performance indicators.

RECOMMENDATION

- A. That Council adopt the Management Plan 2009-2012, incorporating the Budget, Capital Works Program, Special Rate Variation (Subject to the Minister's approval) and Fees and Charges for 2009-2010 as amended.
- B. That should the Minister for Local Government approve Council's application for a special variation for the New Facilities Special Rate:
 1. an ordinary rate in the dollar of \$0.00170770 on the unimproved capital value of all rateable land categorised as residential in the Council area be made for the period of 1 July 2009 to 30 June 2010.
 2. an ordinary rate in the dollar of \$0.00525710 on the unimproved capital value of all rateable land categorised as business in the Council area be made for the period of 1 July 2009 to 30 June 2010.
 3. an environmental special rate in the dollar of \$0.00010346 on the unimproved capital value of all rateable land categorised as residential or business in the Council area, with a zero base amount, be made for the period of 1 July 2009 to 30 June 2010.
 4. an infrastructure special rate in the dollar of \$0.00015755 on the unimproved capital value of all rateable land categorised as residential or business in the Council area, with a \$65 base amount for an infrastructure category, be made for the period of 1 July 2009 to 30 June 2010.
 5. a new facilities special rate in the dollar of \$0.00010677 on the unimproved capital value of all rateable land categorised as residential or business in the Council area, with a zero base amount, be made for the period of 1 July 2009 to 30 June 2010.
 6. the minimum rate for both residential and business be set at \$419.00 for the period 1 July 2009 to 30 June 2010.
 7. the voluntary pensioner rebate be granted to all eligible pensioners as a flat percentage of 12.5% of the total pensioner's rates and charges for 2009/10.

Item 7

FY00019
1 June 2009

8. the General Manager and Director Corporate be delegated to negotiate and establish Council's new loan account of \$6,250,000 and the Common Seal be affixed to all required documents.
- C. That should the Minister for Local Government not approve Council's application for a special variation for the New Facilities Special Rate:
 1. an ordinary rate in the dollar of \$0.00170770 on the unimproved capital value of all rateable land categorised as residential in the Council area be made for the period of 1 July 2009 to 30 June 2010.
 2. an ordinary rate in the dollar of \$0.00525710 on the unimproved capital value of all rateable land categorised as business in the Council area be made for the period of 1 July 2009 to 30 June 2010.
 3. an environmental special rate in the dollar of \$0.00010346 on the unimproved capital value of all rateable land categorised as residential or business in the Council area, with a zero base amount, be made for the period of 1 July 2009 to 30 June 2010.
 4. an infrastructure special rate in the dollar of \$0.00015755 on the unimproved capital value of all rateable land categorised as residential or business in the Council area, with a \$65 base amount for an infrastructure category, be made for the period of 1 July 2009 to 30 June 2010.
 5. the minimum rate for both residential and business be set at \$419.00 for the period 1 July 2009 to 30 June 2010.
 6. the voluntary pensioner rebate be granted to all eligible pensioners as a flat percentage of 9% of the total pensioners rates and charges for 2009/10.
- D. That in those cases where, after provision of the combined pensioner rebate to a maximum of \$250.00, the pensioner/owner satisfies Council of an inability to pay the remainder, either in whole or in part, the remainder be allowed to accrue with interest payable on arrears, as a charge against the land until such time as there is a change in either circumstances or ownership, for a period of no greater than twenty (20) years from the date of application.
- E. That the charge for the Domestic Waste Management service be set at \$290.00 per residential property per annum excluding flats and home units.
- F. That the charge for Domestic Waste Management service be set at \$270.00 per residential property per annum for flats and home units.
- G. That the charge for Domestic Waste Management base service without green waste be set at \$205.00 per annum.
- H. That the charge for an additional green waste service be set at \$95.00 per container, per annum.

Item 7

FY00019
1 June 2009

- I. That the charge for a 240 litre waste bin with green waste be set at \$395.00 per annum excluding flats and home units.
- J. That the charge for a 240 litre waste container without green waste be set at \$310.00 per annum, excluding flats and home units.
- K. That the charge for a 240 litre waste container for flats and home units be set at \$395.00 per annum.
- L. That the charge for the provision of an additional 120 litre waste bin, per bin, per annum be set at \$105.00.
- M. That the charge for Domestic Waste Management on vacant land be charged at \$140.00 per annum, per residential property.
- N. That the charge for Non-domestic Waste Management services be set at \$210.00 per unit of occupancy per annum. In the case of a single business occupying the whole of the building with more than one storey, the rate will be applied per storey of the building.
- O. That the Stormwater Management Charge be set as follows:
 - Strata / Company titled residential units: \$12.50 per unit
 - Strata / Company titled business units: \$12.50 per unit
 - Other residential property: \$25.00 per rateable property
 - Business rateable property: \$25.00 per 350 square metres of Land area (a maximum charge of \$1,500 applies to land area greater than 21,000 square metres).
- P. That the total budget for interest on investments, in the Management Plan 2009-2012, be adjusted from \$1,800,900 to \$1,518,800.
- Q. That Council acknowledge the formal submissions made on the Management Plan and respond to the authors with the outcomes.

Greg Piconi
Director Operations

John Clark
Director Corporate

Andrew Watson
Director Strategy & Environment

John McKee
General Manager

Attachments: Submissions received - 2009/079259

From:

Sent: Monday, 18 May 2009 10:08 PM

Cc:

Subject: Ku-ring-gai council draft Budget/Management Plan 2009/10 -public meeting 19 May 2009

Importance: High

Acting General Manager

As a ratepayer and elected Councillor I seek to make comments for submission to the Minister for Local Government, of my views on the draft management plan/ budget for inclusion in the public responses, pursuant to Section 405 of the Local Government Act 1993, as amended (the Act)

My submission is attached for your consideration and attention where, inter alia, the question of "interest rate income" needs urgent revision or at least explanation as it affects the outcome of the assumptions supporting the two infrastructure projects subject of the the Special Rate Variation, applied for under Section 508 of the Act to the Minister.

In the circumstances, I now offer my objection to the Rate increase.

Yours sincerely

cc: Department of Local Government

Councillor report on Ku-ring-gai Council's 20 year financial plan by Cr Tony Hall
General

I shall first refer to the 20 year plan that Ku-ring-gai Council adopted on 16 December 2008 and forms part of its Management plan for consideration at the mandatory Public Meeting on 19 May 1009 and which has been generated on a computer spreadsheet, presumably Microsoft Excel.

As a comment, this allows a "quick and easy" construction, and can lead to supplying meaningless figures which look real.

The General Manager's spreadsheet tabled with his report for the December 16 Council Meeting renders the results arguable, at best, and unrealistic as a probability.

Forecasting for a long period is a very complicated matter. The business cycle, of which we are now near the bottom (hopefully) will move up and down possibly several times over the 20 year period. This will affect interest rates on investments

as one example, and wages costs especially. It is not accurate to attempt to average out these effects over the period. The rate of inflation will affect materials and services costs, and these may be lagged in effect. Property values, which affect rate revenue, may move upwards – and as seen recently, downwards – over the period. These are but a few of the considerations which apply to long term forecasting – and spreadsheet construction.

Methodology of Analysis

In order to test if the above considerations had been taken into account in the 20 year Plan, the data in the spreadsheet was subjected to a number of tests.

1. Rate income. Taking the first year (ending 08) and comparing it with the next year 09. The amounts \$39,529 (08) and \$40,847 (09) represented a 1.033 increase, or 3.33%. Carried then to the next comparison, of 09 with 10, and this stepwise was followed over the 20 year period. The results were year 10, 1.045 (4.5%), yr 11, 4.1%, yr 12, 2.9%. Then from yr 13 to yr 22, a uniform increase of 3.33%. From year 23 to 29, a uniform increase of 3.2%. A broad conclusion on these figures is that some attempt was made to tailor the data for the first five years, but thereafter a constant rate of increase – which is a compound rate– was used of 1.33 or 1.32 (rounding may have caused the slight difference in rates), which is 3.3% pa.
2. Step 1 above, was time consuming, so the next phase was done on totals, that is, a comparison of the start total (08) of each item of income , and expense, and compare it with the 20 year end total (29). The results indicated that there were differing rates of increase involved. Income items were as follows. Rates 1.9956, Interest (income) 9.348, Domestic Waste income 2.684, Environmental Levy 2.067. Expense Items were Employee costs 2.442, Materials and Contracts 1.140. Total Revenue 2.197, Total expense 1.873.
3. This analysis was not continued beyond the first Base spreadsheet. However the methodology could be used on subsequent spreadsheets to obtain critical ratios, and interpreted as follows.

Interpretation

The first detailed analysis on Rate revenue indicates that an annual rate of increase has been used of approximately 3.3% over the 20 year period. The ratio of start (08) to end (29) increase is 1.9956.(could round this to 2.000 for convenience). This gives a rough yardstick to evaluate other start/end ratios. If the start/end ratio is above 1.9956 (or 2) then the annual rate of increase is above 3.3%, if it is below, then it is below 3.3% pa.

Using this yardstick, the Environmental levy is approximately the same, Domestic waste is significantly up, Interest income is way up – looks interesting at 9.348 – which seems to be an unrealistic assumption here– and Total revenues is slightly up, probably by reason of the abnormal interest increase. This needs further explanation.

On the Costs side, Employee costs are up. Materials and contracts are strangely down, and Total Operating Expense is also down. It appears Costs have been made to look good.

The Director of Finance in an email asked me how the interest income no. was arrived at. Apart from the above explanation the figures were checked by another, and the figures were upgraded as follows:

<u>Subject</u>	<u>start/end ratio</u>	<u>Annual</u>
<u>compound rate</u>		
Rates revenue	1.9956	3.3%
Interest Income	9.348	12%
(almost)		
Domestic Waste	2.684	5%
Environ levy	2.067	4% (almost)
<u>Total revenue</u>	<u>2.197</u>	<u>4%</u>
Costs		
Employee costs	2.442	4.5%

Materials and contracts	.1397	-
1%		
<u>Total operating expense</u>	<u>1.873</u>	3.1%

Conclusion

The Council's 20 year plan is numbers for the sake of numbers (e.g., rate revenue increasing 3.3% for 15 years) and seems pointless .

It is noted legal costs are included in "Materials and contracts" . How then can we as Councillors exercise our mandatory responsibility to review the draft budget where legal costs are a significant item drawing considerable criticism from the state Government yet are "hidden' under the budget item "materials and contracts." A resident could draw the conclusion that it is poor accounting, notwithstanding the excuse given in council last meeting on the subject, that Council " has no discretion " –the terms given by the Director of Finance– and at worst, it could be considered negligent and encourage public concern.

From press reports the Minister for Local Government has identified the problems of such long term plans as 20 years and is to legislate for councils to use a maximum 10 year financial plan. This would only work if prepared properly, with research into economic factors which will tend to increase and /or decrease revenue and costs –basically a Best and worse case, including a detailed list of assumptions.

I have not attempted to review the financial analyses of the West Pymble Aquatic Centre proposal provided by the Director of Strategy, because Council resolved on the recommendation of the General Manager, they remain confidential from the residents. For me to do so publicly would invite a sanction against me under the Act. However that resolution should be reconsidered in the light of the suspect errors above found in the 20 year plan spreadsheet presented by staff at Council's meeting of 16 December 2008, and included in the draft Management Plan and Council Budget for 2009/10.

18 may 2009

From:
Sent: Friday, 29 May 2009 9:47 AM
To: KMC
Subject: Special rate variation

I live in Bannockburn Road, Pymble.

Subject to my following comment, the proposed rate variation is strongly opposed.

However, if a dedicated athletics facility was included, either at North Turramurra or in the vicinity of St Ives Showground, I would then support the rate variation. The omission of such a facility in the present proposals is regrettable and should be remedied.

From:
Sent: Thursday, 28 May 2009 8:33 PM
To: KMC
Subject: Development of the West Pymble Pool and North Turramurra Recreation Area.

To whom it may concern

I look forward to the new facilities, they will be a huge asset to our suburb, which I think is rather sport focussed. Encouraging further health and fitness can only benefit the population.
Regards

From:
Sent: Thursday, 28 May 2009 4:58 PM
To: KMC
Subject: Special Rate variation

General Manager
Ku-ring-gai Council
Locked Bag 1056
Pymble NSW 2073

I just wanted to write in support of the proposed special rate variation to support the construction of much needed local sporting infrastructure.

Regards

From:
Sent: Thursday, 28 May 2009 4:40 PM
To: KMC
Subject: KMC Special Rate Variation Feedback

Agree with proposed levy, but would like the North Turramurra Recreation Area to be delivered sooner.

From:
Sent: Friday, 29 May 2009 8:13 AM
To: KMC
Subject: Support special rate variation [SEC=UNCLASSIFIED]

My name is Wei Yue Huang and my son is Nathan Xie. We love to support the " special rate variation " to development of the West Pymble Pool and North Turramurra Recreation Area.

Cheers

From:
Date: Sat, Apr 25, 2009 at 10:20 AM
Subject: Levy to be imposed for SIX years
To:

Dear

I wish to record my objection to the proposed levy (I will have to pay on limited income) of an estimated \$1 per week for 6 years to build a heated indoor swimming pool and develop ovals at North Turramurra. This Council has a sport focus and it should get back to basics and fix our roads, drains, nature strips, weeds and clean off the mould on all the signs in the area. I understand the outdoor pool has been renovated and now contains salt water. We are past users of the pool but our children have grown up. Ku-ring-gai residents have options including using their own (many) pools and visiting the many beaches.

The condition of roads around Wahroonga (railway line) and St Ives shopping Centre are a disgrace. We need maintenance staff on the road 5 days a week to attend to problems. I can give you a weekly list of bad roads if you wish but I understand from past correspondence that staff in Gordon offices think they know better than ratepayers who live in the area.

Ku-ring-gai needs to be cleaned up and we will then be proud of our environment and may be prepared to invest some money (of our own)

Remember it's not Council money, it is residents' money! We pay Council to pay staff and Councillors.

That's where the money come from.

I would appreciate your passing this email on to others who will take action.

From:
Sent: Wednesday, 27 May 2009 4:05 PM
To: 'office@perry.minister.nsw.gov.au'; 'kmc@nsw.gov.au'
Cc: 'office@perry.minister.nsw.gov.au'
Subject: Ku ring gai Councils Special Rate Variation

I am a Resident and Ratepayer of the Ku ring gai Council:

My Name is

I have lived in this Municipality for 28 years.

We suffer from a shortage of playing fields and an indoor aquatic centre with associated health and recreational facilities. This has been the case for many years – and existing facilities can not be sustained to an adequate standard. This is before the effects of the Residential Housing Strategy take effect with their natural increase in population.

As a Ratepayer and Resident I strongly support the payment of the proposed Special Rate Variation to help fund new facilities at West Pymble Pool and North Turramurra Recreation Area to start providing some improved infrastructure for the Municipality.

From:
Sent: Monday, 25 May 2009 11:11 AM
To: KMC
Subject: FW: Ku-ring-gai Council information for sports clubs and associations

Ku-Ring-Gai Council

I support this initiative detailed below

Many thanks

From:
Sent: Friday, 8 May 2009 1:04 PM
To:
Subject: Ku-ring-gai Council information for sports clubs and associations

To all Ku-ring-gai sports clubs and associations

Ku-ring-gai Council has previously invited your club or association to participate in community consultation for either the West Pymble indoor aquatic and leisure centre or the development of 3 new sportsfields, 4 netball training courts, and other recreation facilities at the North Turramurra Recreation Area.

Given your club/association's previous involvement in this process we would like to provide your members with the opportunity to provide feedback to Council with regard to a proposed levy on Ku-

ring-gai ratepayers to help fund these two major recreation projects.

As you may be aware Ku-ring-gai Council recently made a decision to apply to the Minister for Local Government for a special rate variation that would raise enough money to meet the funding shortfall for these projects. The special rate variation of 5% if it is approved will be payable by all rate paying households in Ku-ring-gai over a period of 6 years. This equates to approximately \$62 p.a per household in 2009/2010 and increases to approximately \$73 p.a in 2014/15. The \$13 million raised by the special variation over the six years will be supplemented by monies from other sources including borrowings, compulsory development contributions, government grants, and funds from general revenue.

The Minister for Local Government will be making a decision on whether to approve Council's application after receiving a report from Council detailing the number of ratepayers for and against the proposed rate variation at the end of the survey period (survey closes 29 May 2009).

If the levy is approved it is expected that West Pymble indoor aquatic and leisure centre will be completed by early 2011 and the North Turramurra Recreation Area within six years. Whilst it is recognised that the facilities will be used by future generations, there construction will go a long way towards meeting existing needs and expectations.

Attached below is a link to Council's website where you will find more information regarding the special rate variation and an online survey that your members are invited to complete. Just simply click on the link or copy and paste it into a new web browser to be taken directly to the relevant information.

<http://www.kmc.nsw.gov.au/www/html/3227-management-plan-and-strategic-plan.asp?intSiteID=1>

Alternatively submissions can be emailed to kmc@kmc.nsw.gov.au Emails must contain your name and residential address.

Submissions close at 5pm on Friday 29 May 2009.

Kind Regards

From:

To: KMC

Received-Date: 20090518

Received-Time: 4:51:02 AM

Sent-Date: 20090518

Sent-Time: 4:50:42 AM

Subject: Application to Local Government Minister for a special rate variation to fund special Projects

I write in support of Ku-ring-Gai Councils application for approval of a special rating levy to assist with funding special projects in Ku-Ring-Gal, in particular the development of sports fields at North Turramurra, and the redevelopment of the swimming pool complex at West Pymble.

I support the Council application. These recreation facilities are desperately needed by the local community and Council has limit funds to finance large capital works.

I have been a resident of Ku - Ring-gal for nearly 30 years, and my children would have benefitted significantly from these types of facilities. The expansion of the population base in Ku-Ring-Gai due to the State governments medium density housing policy make the sorts of facilities envisaged a pressing need and developer contributions are insufficient to meet the costs.

I am happy for Council to quote from this email and use it in any way it sees fit in support of its application.

From:
To: aubur@parliament.nsw.gov.au
Cc: KMC
Received-Date: 20090504
Received-Time: 4:56:24 AM
Sent-Date: 20090504
Sent-Time: 4:56:15 AM
Subject: Ku-ring-gai Council special levies
Dear Ms Perry (Minister for Local Government).
\

Dear Ms Perry (Minister for Local Government),

I am contacting you following news that my local council, Ku-ring-gai council, is requesting permission from the state government to impose a \$62 pa special levy on rate payers to help fund 2 recreational projects: North Turramurra recreation area and West Pymble pool.

Can I implore you to reject this proposal.

Already Ku-ring-gai council imposes 2 special levies on rate payers: an environment levy and an infrastructure levy. For me last year, these 2 levies amounted to \$172.91. A further \$62 would take this to the ridiculous level of \$234.91.

To even think about imposing such a levy in these dire economic times shows the council as arrogant, inept, and completely out of touch.

In an article some months back in the North Shore Times, I recall one of the councillors describing how these projects should be considered as our gift to the local community. Again, this simply indicates an outrageous level of arrogance. Simply put, this council is great at spending other people's money.

Whether the projects are good, bad or indifferent, is beside the point. The way they should be funded is out of existing levies. If this cannot be done, then other projects should be abandoned or delayed to free up the funds. If this isn't possible then the special projects probably aren't that special and should be abandoned altogether.

Once again I would implore you to reject this proposal out of hand. I would also be very interested to hear the government's view on these special levies.

Kind regards,

From:
To: KMC,
Received-Date: 20090505
Received-Time: 1:04:14 AM
Sent-Date: 20090505
Sent-Time: 1:04:31 AM
Subject: Infrastructure Improvements West Pymble Pool
As West Pymble residents my family all use the Community Pool during the warmer months. We welcome the proposed improvement of this facility.

While the special levy will obviously hit every ratepayer in the pocket - I applaud Council on investing in local facilities and infrastructure.

It doesn't matter what is proposed, there will always some who oppose change. Some of the critics have made comment on the lack of access to public transport or the loss of the community feel of the new West Pymble Pool Facility.

Obviously these people don't travel by bus as there are bus routes along lane cove road (a short distance away) and the project with a wider range of facilities within will promote greater use i.e. more of the community will benefit.

I would hope however that local contractors are encouraged to participate in the project to enhance the benefits a project like this brings.

West Pymble Resident

From:
Sent: Friday, 29 May 2009 4:14 PM
To:
Subject: Special Rate Variation

Dear Ms Reilly

I am writing in relation to the proposal for a special rate variation to fund various sporting and leisure facilities within the Council area.

I am strongly opposed to the special rate variation as it appears to be limited to a range of sports.

I would support the rate variation if the proposal included a proper athletics oval at North Turramurra or at St Ives.

I have lived in Ku ring-gal for 22 years.

Kind regards

E-mail Message

From;
To: KMC (EX:/O=KMC/OU=FIRST ADMINISTRATIVE
GROUP/CN=RECIPIENTS/CN=KMC)
Cc:
Sent: 22/05/2009 at 2:43 AM
Received: 21/05/2009 at 9:43 AM
Subject: Special Rate Variation - Community Consultation

Council recently sent me a survey form to provide feedback to the council regarding the funding of two major community recreation facilities.

I am concerned that the West Pymble pool development might might jeopardise the wonderful character of the pool and surrounds.

From time to time I have also used the Willoughby Leisure Centre and the Lane Cove Aquatic Centre. I do not like Willoughby but I think that the Lane Cove centre is a reasonable compromise between indoor and outdoor facilities.

I think that the West Pymble pool is unique, in that it is set in a semi-bushland setting. I would not like to see any development that would rob the site of this ambience. I have not been able to find any concept plans on the Council's website (apart from one very rough freehand sketch that was so small that it was illegible).

Before I respond to the survey, I would like to see some more complete plans on which I can base my decision

Could you please direct me to a web page or email the plans?

Regards

Ku-ring-gai Little Athletics Centre Inc

ABN 35 077 812 233

22 Bannockburn Road,
Pymble NSW 2073

21 May 2009

Alison Reilly - Consultation and Community Planner
Ku-ring-gai Council
Locked Bag 1056
Pymble NSW 2073

SUPPORT FOR SPECIAL RATE VARIATION COMMUNITY CONSULTATION

Dear Ms Reilly,

Ku-ring-gai Little Athletics Centre Inc is a community based sporting club, utilising Council facilities at Bannockburn Oval Pymble, for the past 32 years. We have registrations of 730, 96% of whom reside with their families in the Ku-ring-gai Municipality.

Whilst we are currently in discussions with Council and the community to have standard Athletic facilities provided at Bannockburn Oval Pymble, nevertheless if this was not to eventuate we retain a strong interest in the proposed North Turramurra Recreation Area site as an alternative.

Our Centre strongly supports the payment of the proposed special rate variation to help fund these new facilities at West Pymble Pool and North Turramurra Recreation Area. (NTRA). The provision of playing fields at NTRA will considerably assist the outcomes we seek of a regulation size athletics facility in Ku-ring-gai as well as overcome the chronic shortage of playing fields in the Municipality. The need for a year round Community Indoor Pool and Recreation Complex has been long identified as a priority in the Municipality.

As a responsible community sporting organisation, representing many families who are residents and rate payers, we have no hesitation in supporting this Special Rate Variation, to meet existing and long term needs of the community. Provision of both facilities would be of great benefit to sporting clubs, schools, youth, families and the aged within the Ku-ring-gai Municipality.

Yours sincerely

President

CC Minister for Local Government





[REDACTED]

ATTENTION Mayor / General Manager

WE WRITE OUT OF CONCERN THAT AS LONG
TERM RESIDENTS OF KUNINGAI (OVER 40 YEARS)
THAT COUNCIL IS PROPOSING A FURTHER
LONG TERM LEVY ON US ~~FOR~~ NON ESSENTIAL
PROJECTS THAT WOULD PLACE A FURTHER BURDEN
ON OUR FINANCES AT A TIME (IN OUR LATE 70'S)
WHEN TOUGH AND BECOMING TOUGHER
AS LOW INCOME SELF FUNDED RETIREES WE ARE
~~ARE~~ NOT GIVEN COUNCIL EXCLUSIONS MADE AVAILABLE
TO PENSIONERS BUT DO GET SOME SUPPORT
VIA CENTRELINK

I AM SURE THERE ARE HUNDREDS OF KUNINGAI
RESIDENTS THAT WOULD SUPPORT THIS VIEW AND OBJECT
TO FURTHER LEVIES AS WE DO

Thank You.

[REDACTED]

15-5-09

-----Original Message-----

From:

Sent: Friday, 29 May 2009 11:11AM

To: KMC

Subject: Re: West Pymble Pool Development

I am very concerned at the Councils decision to undertake major development works at the West Pymble Pool. West Pymble Pool is such a unique setting that to incorporate an indoor pool and gym facilities would negatively impact on the special qualities of the existing pool and grounds.

I have spoken to many locals and I am given to understand that when questioned last year, many Locals were against major development and changes to this great place, the West Pymble Swimming Pool.

Why, given that many people are against it, is the Council persisting with the idea and suggesting a rates increase to subsidise the venture? For those wishing to use a gym, there are plenty in the area desperate for membership. There is also an indoor pool for winter swimming at Macquarie University.

Please don't spoil the wonderful West Pymble Pool. Go down when the pool re-opens next season, take a swim and feel how wonderful it is exercising in the fresh air with a minimum of buildings around to spoil the effect.

Yours sincerely

BUSHFIRE ISSUES IN KU-RING-GAI

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To advise Council of the preparedness of agencies to manage a major bushfire in the Ku-ring-gai area.

BACKGROUND:

Following the recent major bushfires in Victoria, the Mayor raised a Mayoral Minute regarding the local emergency agencies preparedness to handle a major bushfire similar to the one experienced in Victoria last summer.

COMMENTS:

Following the recent bushfires in Victoria, a Mayoral Minute was prepared seeking questions on how well equipped this Council and the relevant combat agencies would be to cope with a similar major bushfire in the Ku-ring-gai area.

Staff from various departments have provided answers and comments to the questions raised in the Mayoral Minute.

RECOMMENDATION:

That the report be received and noted.

PURPOSE OF REPORT

To advise Council of the preparedness of agencies to manage a major bushfire in the Ku-ring-gai area.

BACKGROUND

Following the recent bushfires in Victoria, a Mayoral Minute was prepared to seek information on how well prepared this Council and the local emergency agencies are equipped to respond to similar bushfires in this area and what improvements can be made: The Mayoral Minute was adopted by Council and staff were requested to report on information relating to the following questions:

1. *How well prepared are emergency services and other agencies for a major bushfire disaster in Ku-ring-gai?*
2. *Could co-ordination for bushfire response between the various agencies including Council be further improved?*
3. *Can advice be sought through the Emergency Management Committee on the effectiveness of current operational plans to evacuate residents in the event of a major bushfire?*
4. *How effective are the current measures for controlled hazard reduction burns? Are there any ways this could be improved?*
5. *What educational material is currently provided to residents on how to reduce bushfire risks and prepare for a bushfire emergency? Could this information be improved, expanded or provided in more effective forms?*
6. *How well do our planning policies incorporate bushfire safety and how could this be further improved? In 2007, Council asked the State Government to expand our gazetted bushfire emergency evacuation zones, but no action has yet been taken. Can Council assess which other parts of Ku-ring-gai need to be included in bushfire emergency evacuation zones with a view to submitting a new proposal to the Government?*

Staff from various sections across Council were requested to provide information relating to each of the questions raised in the Mayoral Minute.

COMMENTS

For each of the questions raised in the Mayoral Minute, below are comments from Council staff and the various controlling bodies relating to bushfire management and operations. As the NSW Rural Fire Service is the lead combat agency for bushfires, comments were sought from the Hornsby Ku-ring-gai District Manager, Mr Angelo Baldo. Mr Baldo's comments are included in italics in the report under the relevant question.

1. *How well prepared are emergency services and other agencies for a major bushfire disaster in Ku-ring-gai?*

If a major bushfire was to occur within or near to the Ku-ring-gai Council local government area, the Commissioner for the NSW Rural Fire Service would assume the statutory responsibility to coordinate all fire fighting and associated responses. As part of the response, Ku-ring-gai Council would be included within the coordination and logistic support through the Hornsby Ku-ring-gai Bush Fire Management Committee, the Hornsby Ku-ring-gai Local Emergency Management Committee and as necessary through operational and technical resources of Council.

The NSW Rural Fire Services (RFS) are the designated combat agency for bushfires, as determined in the Hornsby Ku-ring-gai Local Disaster Plan, required under the State Emergency and Rescue Management Act 1989. In this regard and reflecting their statutory obligations, the Service is well prepared at strategic, operational and logistical levels.

Strategically, bushfire management and prevention is coordinated through the local Hornsby Ku-ring-gai District Bushfire Management Committee. Organisations on this Committee allocate and expend substantial resources to minimise the bushfire risk to property and assets through fire trail and walking track maintenance, fire break maintenance in high fire risk areas and planned controlled burns for hazard reduction.

Bushfire control and mitigation is coordinated by the RFS in conjunction with the NSW Fire Brigades and National Parks & Wildlife Service both at the fire ground and incident control. The co-ordination of a multi agency response to emergencies in terms of traffic management and evacuation is the responsibility of Hornsby Ku-ring-gai Local Emergency Management Committee (LEMC), comprising Police, State Emergency Services, local government, transport and welfare agencies. In 2008 the Local Emergency Management Committee moved to the RFS Fire Control Centre to improve operational efficiencies and communications.

In terms of on-ground resources, the RFS is able to rapidly mobilise and deploy various resources including RFS volunteer fire fighters, NSW Fire Brigade B fire fighters, NPWS personnel and aircraft used for fire suppression. Technology is also playing an important role with the use of infra-red and CCTV that can be viewed at the Fire Control Centre in real time. Logistics is also provided by the RFS and others through coordination and monitoring of fuel use, catering, helicopter landing sites and evacuation areas many of which rely on local government assets.

2. *Could co-ordination for bushfire response between the various agencies including Council be further improved?*

All emergency responses are followed with a debrief in order to continually improve and refine operational, planning, logistic and other responses. This process enables ongoing learning that recognises that each emergency including bushfires present their own unique characteristics and in turn can not be treated the same. In response to this question, there are always areas to improve however on the most part it is necessary to reflect on past or simulated events. In terms of the coordination during an incident all key parties involved in the incident control, including

Item 8

S06373
8 May 2009

NSW National Parks and Wildlife Service, NSW fire brigades and RFS follow and are trained in the same procedure.

Procedurally, the Hornsby Ku-ring-gai Local Disaster Plan details the roles and responsibilities for all agencies as an all hazards approach to emergencies and incidents within the Hornsby and Ku-ring-gai local government areas. This plan has been prepared in accordance with the State Emergency and Rescue Management (SERM) Act 1989. Compliance with the plan is mandatory.

Coordination for bush fire response is dynamic and also involves a process of learning, as no two bushfires are the same. An example of this learning has resulted in an improvement in strategy in response to concerns about delays of 2 to 3 hours being relatively common on the F3 Freeway. The Hornsby Ku-ring-gai LEMC resolved at its meeting on 10 February 2009 to formally request the Roads and Traffic Authority to display messages on its traffic information signs to educate and encourage all motorists travelling along the F3 Freeway to carry bottled water in the potential event of a lengthy road closure due to a Motor Vehicle Accident or associated with bushfires due to smoke or fire. The education campaign will be complemented by local LEMC arrangements whereby bottled water will be kept at various locations including RFS and NPWS and will be distributed to stranded motorists by the most appropriate supporting agency determined at the time.

Coordination at the Hornsby Ku-ring-gai LEMC level is well established and comprises senior representatives of combat agencies (RFS, NSW FB, NPWS, Police) and supporting agencies (Railcorp, RTA, DOCS, Health, Maritime, Ambulance and Council). This LEMC is also well supported by the agencies, and meets three monthly to discuss local and regional issues as well as develop desktop exercises for emergency management.

3. Can advice be sought through the Emergency Management Committee on the effectiveness of current operational plans to evacuate residents in the event of a major bushfire?

Evacuation of residents is addressed in the District Emergency Management Plan (DISPLAN) that has been developed by the Local Emergency Management Committee (LEMC), in accordance with the State Emergency and Rescue Management (SERM) Act. The strategy relating to evacuation is effective, given it is an all hazards approach to emergencies and incidents, and that the DISPLAN details arrangements and procedures, rather than provision of any specific fire management or evacuation plans. In the DISPLAN, these arrangements and procedures include;

- Authority to evacuate,
- Evacuation stages (warning, withdrawal, shelter/welfare/return).

Attached is the Evacuation Guidelines that detail the above arrangements and instructions. These incorporate stages of notification, transport, and recovery issues.

In terms of preparedness, the LEMC maintains a database of 300+ vulnerable communities, and 24 evacuation centres across the LGA's of Hornsby and Ku-ring-gai, in order to determine impacts on the community, and when required, locations to evacuate persons to ensure their safety.

The strategy of "stay and defend" was raised at the District Emergency Management Committee meeting on 11 February 2009 in view of the Victorian fires. The DEMC resolved this strategy was still current.

Item 8

S06373
8 May 2009

4. *How effective are the current measures for controlled hazard reduction burns? Are there any ways this could be improved?*

The effectiveness of the controlled hazard reduction burn program can only really be measured in the event of a significant fire and even then, the intensity of that event, including prevailing weather conditions, will have an impact on the amount of damage or the extent of the fire area. Ku-ring-gai works with the Bush Fire Management Committee (BFMC) to prioritise hazard reduction burns and these lists are reviewed on a regular basis. While we continue to work through these lists on a priority basis, there are a number of factors that can impact on completing controlled hazard reduction burns and these will be discussed below.

Fire Combat Agency response and resourcing

Controlled hazard reduction burns are approved by and undertaken in conjunction with the corresponding fire combat agency dependent on the location.

The Ku-ring-gai Local Government Area is divided into two fire control districts and both have their own BFMC. One district is administered by the NSW Rural Fire Service (RFS) and the other by the NSW Fire Brigade (NSW FB). Generally, the Pacific Highway is the boundary demarcating this north south divide with bushland in the north being the responsibility of the RFS and in the south being that of the NSW FB.

This can present problems when trying to allocate resources to carry out hazard reduction burns. Both agencies are reluctant to burn in another's fire district and will only do so where the land manager has sought permission from the other agency.

Burning with the NSW FB means that burn sites and burn plans have to be prepared by Council's bushfire prevention team. They must also conform to a number of criteria one of which is where burn patch sizes will accommodate four or five pumpers as anything more will deplete resources from their Fire Stations (FS) that must then be covered by other FS. The burn must also fit in with their changes of shift. NSW FB only arrives at a burn site after 9 am and leaves at 4 pm. Burns must be in and mop-up completed within this time frame. This is often quite difficult to achieve especially if ignition patterns are slowed due to weather conditions or erratic fire behaviour thus extending the life of the burn.

Presently, there is no NSW FB representative attending the Hornsby/Ku-ring-gai Fuel Management Sub-Committee meetings. It is at this forum that future burns and resourcing issues can be arranged.

With regard to the RFS sites, as the area covers Hornsby LGA as well as Ku-ring-gai LGA, the priority for completing Ku-ring-gai sites is considered in conjunction with Hornsby sites. A high priority within Ku-ring-gai may not be as high a priority across the whole district and therefore fire combat agency resources may not be allocated.

Internal staff training

At present, the only avenue for ongoing training in Fire Fighting, apart from lengthy TAFE courses, is through the RFS. The RFS only offer training to volunteer members as this is as far as their accreditation allows. Without a ready external training provider available, Council has to rely on

Item 8

S06373
8 May 2009

attracting staff who already have the required qualifications or encourage staff to register as a volunteer with the RFS.

We have been and will continue to negotiate with training providers, including TAFE and RFS to develop a training program that caters for the needs of Local Government.

Weather and Environmental Conditions

The weather and other environmental conditions can have a significant impact on the efficiency of the hazard reduction burn program. Burns are programmed months in advance to allow for all of the necessary fire combat agency resources to be booked in and the appropriate notifications to take place.

Even with this level of organisation, the prevailing weather conditions prior to the allocated date can prevent a burn from happening if fuel moisture levels are too high or low.

On the allocated day, even if fuel moisture levels are appropriate in the lead up, the prevailing wind conditions or rain can prevent the burn from proceeding.

The only alternative to burning would be to undertake further fire break establishment and maintenance however, this would require significant resources and would not provide the additional ecological benefits that fire does.

Benchmarks and Reporting

Hazard reduction burning bench marks are more often than not measured in hectares burnt and not number of burns achieved. This has the effect that the larger the burn the more likely it is to receive resources. Because of the nature of our built environment Ku-ring-gai's burns are usually small and resource intensive and remain on fuel management plans for extended periods while fire combat agencies burn hectares to improve statistics.

With regard to improvements, the following comments are offered:

1. Working within a single fire district would definitely improve co-ordination, planning and execution of our fuel management programs.
2. We will discuss with the RFS that hazard reduction burning bench marks should reflect number of burns as well as hectares burnt in an attempt to improve the priority completion of smaller sites.
3. Council will continue to seek alternative sources for Fire Fighting training for internal staff.
4. We will continue to monitor the fire break maintenance program and look into whether the allocation of additional resources to this area would be beneficial when considering achievements against the controlled hazard reduction burn program.

The Bushfire Risk Management Plan for the Hornsby/Ku-ring-gai District is currently under review. This review process clearly shows that the majority of assets in our area are in the extreme risk category. Current programs do not treat the risk to all of these extreme risk assets. Risks are scheduled to be prioritised through the planning process to ensure that resources are allocated to the most extreme risk asset treatments.

Item 8

S06373
8 May 2009

5. *What educational material is currently provided to residents on how to reduce bushfire risks and prepare for a bushfire emergency? Could this information be improved, expanded or provided in more effective forms?*

The Firewise program is the main communication tool for bushfires. The Firewise program is aimed at educating the community on what to do and involves a co-ordinated approach with the RFS.

Educational Material

A range of educational material is currently available to residents of Ku-ring-gai in regards to reducing bushfire risk and preparing for emergencies. This educational information is targeted at two broad categories within our community:

1. Those residents who live, work, attend educational or medical institutions or frequently use facilities which are located directly along the bushland interface. These residents are at higher risk of experiencing personal injury or property damage as a result of a bushfire emergency.
2. The broader community of Ku-ring-gai who may not be directly affected by bushfire risk, in the sense of incurring personal injury or property damage however still have a significant vested interest in the way that Ku-ring-gai Council manages bushfire risk across our community. This broader community may be impacted in more indirect ways such as impacts of smoke, road closures etc.

The types of materials which are currently available are:

- Firewise Information Kits - These outline ways residents can prepare their property against bushfire and have been distributed to 6000 homes on the bushland interface. Council staff are currently preparing 10,000 more for distribution on designated community information days and through regular Council events
- Online information - a range of information and community contacts are available on Ku-ring-gai Council's website
- A range of bushfire risk brochures which are taken to community events for distribution
- Residential mailouts
- Display material at open days/events
- Community days at request for example Banks Avenue North Turramurra
- Meeting residents on-site in their backyards discussing measures for bushfire preparation.

Plans for immediate future

Ku-ring-gai Council in conjunction with Hornsby Council, the Rural Fire Service, National Parks and Wildlife Service and the NSW Fire Brigade are responsible for the review of the Bushfire Risk Management Plan every five years. These organisations form the Bushfire Risk Management Committees.

The current plan is presently under review and is scheduled for completion by the end of 2009. Public participation is a key element of the planning process and consultation along with education are considered to be significant outcomes from this review. Preliminary discussions by the

Item 8

S06373
8 May 2009

Committee have highlighted three key objectives which will be met through the public participation strategy planned at this stage for the period May - June 2009. These outcomes are:

1. Share information with the broad community and stakeholders, at appropriate steps in the planning process, with regard to what is a Bushfire Risk Management Plan (BFRMP), the reasons why we need a BFRMP and how it is being developed. Other outcomes from this process include: increased community awareness of existing risk, the roles of organisations involved in the development of the plan and bushfire management generally and where to locate more information.
2. Invite comment and feedback on the current draft plan from those most likely to be affected such as (bushland interface residents, special fire protection zones and volunteers).
3. Educate those most likely to be affected about existing bushfire risk and how this can be minimised.

Consultation in the Ku-ring-gai region (as part of the regional approach) will also have a strong educational focus and at this point informal street meetings or BBQ's with bushland interface residents are being proposed as one way of meeting some of the key objectives above. Online information and other processes would of course support this. The BFRMP Committee is also proposing a more formal information day in order to engage Special Fire Protection groups and capture feedback on the proposed plans.

Funds will be made available from the Environmental Levy to support the consultation activities within the Ku-ring-gai Local Government Area and additional resources such as staff time and expertise will also be contributed to the process.

A Mayor and Councillor briefing was held on 12 May 2009 on the planning process.

Opportunities for improvement

Council staff will continue to seek opportunities to engage with residents on the topic of bushfire risk. Council will also continue to work with fire combat agencies such as the RFS in order to maximise exposure of bushfire risk education and awareness campaigns. It is envisaged that through the BFRMP process, residents will become more involved with the planning and development of certain treatment processes that residents that interface with bushland may become more engaged with exiting bushfire risk management and mitigation strategies.

6a. How well do our planning policies incorporate bushfire safety and how could this be further improved?

The *Rural Fires Act (1997)* and the State Government's *Planning for Bushfire Protection (2006)*, control land use planning in regard to bushfire protection on bushfire prone land in NSW. Under these planning regulations, Council updated its Bushfire Prone Lands Map and Bushfire Evacuation Risk Map, which was certified by the RFS in January 2008. Any DA for sites on bushfire prone land must address the requirements of *Planning for Bushfire Protection*, and in the case of certain developments, must obtain a bushfire safety authority from RFS. DAs on bushfire prone land in Ku-ring-gai are referred to the RFS for comment prior to any approval.

Item 8

S06373
8 May 2009

The Bushfire Risk Evacuation Map prohibits development in affected areas for development under *SEPP (Housing for Seniors or People with a Disability) 2004*. For the Evacuation Risk Zones identified by Amendment 5 of the Bushfire Risk Evacuation Map, dual occupancy is also prohibited under SEPP 53. This is not the case for the more recent areas certified in the 2008 map. Council has requested that the Department of Planning amend SEPP 53 to refer to the updated map, however, no formal response has been received. It is intended that the request will be reiterated at the meeting with the Department scheduled for 7 May 2009.

The Bushfire Risk Evacuation Map is limited in that it only considers certain vulnerable developments. While the *Rural Fires Act* considers a number of development types, such as schools, child care centres, hospitals and group homes as development for *Special Fire Protection Purposes* because of their vulnerability to bushfire risk, only the two development types listed previously are prohibited in the Bushfire Evacuation Risk Zone. Ideally, this anomaly should be addressed at State level, however, there may be opportunities to consider this issue in the preparation of the comprehensive LEP.

Council must consider bushfire risk in making an LEP. In general under LEP 194 and the draft Ku-ring-gai (Town Centres) LEP 2008, growth in population has been directed to areas less vulnerable to bushfire risk, as bushfire risk was one of the factors taken into account in allocating land use zones, and site yields. It is expected that the same process will apply in the comprehensive LEP.

Council cannot duplicate or reference other environmental planning instruments in the Principal LEP. The ability to provide provisions in the LEP in relation to bushfire safety is therefore limited, as the Department of Planning considers that they are adequately addressed in the state legislation described above. The draft Ku-ring-gai (Town Centres) LEP includes a provision in relation to the integration of bushfire and vegetation protection, but it is unclear if these provisions will survive gazettal. The outcome for the draft LEP will give some guidance for Council's approach to the comprehensive LEP.

At the moment, Council's Development Control Plan 38 includes provisions in relation to bushfire. These controls predate *Planning for Bushfire Protection*. In future DCPs, Council will most likely need to limit provisions to those not covered by *Planning for Bushfire Protection*, for instance, how bushfire protection can be integrated with biodiversity protection.

One significant area where more work is required to improve planning for bushfire safety is in regard to the potential impacts from climate change on bushfire risk, and the incorporation of measures to allow for adaptation to future risk. Council is currently developing a cost / benefit tool for planning climate mitigation / adaptation responses in conjunction with local universities and other stakeholders. Bushfire risk is a major issue being considered in this process. Strategies that may be considered in the Local Environment Study for the Comprehensive LEP and DCP include the following:

- Assessment of changing bushfire risk including a spatial analysis;
- Considering appropriate development types on bushfire prone lands and in evacuation risk areas. This may include resolution of the anomalies under SEPP 53;
- Integrating access, recreation, water sensitive urban design, biodiversity enhancement and bushfire management in new subdivisions potentially affected by bushfire;
- Considering appropriate setbacks from the hazard to different development types;
- Considering measures that will ensure ongoing maintenance of Asset Protection Zones;

Item 8

S06373
8 May 2009

- Providing for the under-grounding of power lines to reduce risk and maintain power in emergencies;
- Providing appropriate zoning for land suitable for an additional fire station;
- Buy-back of land on urban bushland interface.

6b. *In 2007, Council asked the State Government to expand our gazetted bushfire emergency evacuation zones, but no action has yet been taken. Can Council assess which other parts of Ku-ring-gai need to be included in bushfire emergency evacuation zones with a view to submitting a new proposal to the Government?*

Council carried out extensive work to amend the bushfire prone lands map and the bushfire risk evacuation map. These maps, (shown on one map), were certified by the Commissioner of the NSW Rural Fire Service in January 2008. The map also included additional bushfire risk evacuation zones over and above those sought by Council. Council staff are of the opinion that all significant evacuation risk zones in Ku-ring-gai have now been identified on the Bushfire Risk Evacuation Map.

CONSULTATION

This report was prepared in consultation with the NSW Rural Fire Service and has relied on information from a number of regional emergency and combat committees such as the Hornsby Ku-ring-gai District Bushfire Management Committee and Local Emergency Management Committee and central documents such as the Hornsby Ku-ring-gai Local Disaster Plan and Hornsby Ku-ring-gai District Bushfire Management Plan.

The report also foreshadows upcoming community consultation as part of the review of the Bushfire Risk Management Plan. Details of the public meetings and other mechanisms for community input will be made available on Council's web site shortly.

FINANCIAL CONSIDERATIONS

Not applicable

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Staff from the Operations and Strategy Departments were involved in the preparation of this report.

SUMMARY

Following the recent bushfires in Victoria, a Mayoral Minute was prepared seeking questions on how well equipped this Council and the relevant combat agencies would be to cope with a similar major bushfire in the Ku-ring-gai area.

Staff from the various departments have provided answers and comments to the questions raised in the Mayoral Minute.

Item 8

S06373
8 May 2009

Ku-ring-gai Council has a number of mechanisms through which it manages bushfire risk as its own entity but more importantly in a regional cooperative capacity. As a local government entity it is one of a few councils with bush fire fighting capability and in this respect is able to undertake smaller scale hazard reduction burns providing property and environmental benefits. At a district level, the LGA is divided between two district committees, one largely dealing with the contiguous land to our north coordinated by the NSW Rural Fire Service and the other lands through Lane Cove River Valley and Middle Harbour valley with the NSW Fire Brigade. Each district operates slightly differently influencing the type, scope and extent of bushfire activities. Future management is likely to have a greater focus on partnerships with property owners near or adjacent to bushland. This is currently reflected in the revision of the Hornsby Ku-ring-gai District Risk Management Plan.

RECOMMENDATION

That the report be received and noted.

Ian Taylor
Manager Engineering Services

Matt Drago
Manager Open Space Services

Peter Davies
Manager Corporate Planning & Sustainability

Greg Piconi
Director Operations

Attachments: Evacuation Guidelines - 2009/079386

EVACUATION GUIDELINES

FORWARD

Evacuation of persons or animals from an area of danger or potential danger is a possible strategy in combating any particular hazard.

The decision to evacuate is one which is not taken lightly. A **Decision Tree** is provided to help residents determine whether to **stay** or **relocate**. In some circumstances, it may be more appropriate for people to remain in their homes and to take other measures to ensure their safety:

- In respect to evacuation of private homes during a fire, mass evacuation of local residents from properly prepared homes during a bush fire threat is not favoured.
- Able bodied persons should generally not be evacuated from properly prepared homes likely to be impacted upon by bushfires, but is dependent on circumstances at that time.
- The decision to recommend the evacuation of high risk residents, such as the aged and hospitalised, will be made by the incident Controller.

AUTHORITY TO EVACUATE

The authority to order evacuation and the applicable circumstances is detailed in the DISPLAN. It is dependent on the circumstances and includes individuals/organisations such as:

- Minister for Emergency Services;
- Senior Police officer (ie of or above rank of Sergeant);
- Police officer;
- NSW Fire Brigade officer in charge at a fire or hazardous material incident;
- Director-General SES;
- Commissioner of the NSW Rural Fire Service; or an officer of a rural fire brigade of a rank designated by the Commissioner;
- Fire control officer.

Combat Agencies have the authority under their own Acts to order evacuations when dealing with the impact of their own hazards. They also have the authority to direct other emergency services to carry out evacuations on their behalf, when they are acting in support.

For background on the DISPLAN refer to **Local Emergency Management**.

EVACUATION STAGES

There are four essential stages to any evacuation:

1. Warning
2. Withdrawal
3. Shelter/Welfare
4. Return

WARNING

The Local Emergency Operations Controller (LEOCON) from NSW Police, in consultation with the relevant Agency Controller, will determine the need for evacuation:

- Evacuation warnings to the public, or advice not to evacuate, are authorised and released by the person or agency in control of the emergency.
- Police Media has a 'disseminator' with direct links into major media (print, radio & TV) news rooms in the Metropolitan area. The normal means of disseminating warnings and advice to the public is via the electronic media. In some circumstances, particularly if there is a need for urgent evacuation or other action, warnings will be reinforced by:
 - a. use of public address systems fitted to emergency services vehicles; and
 - b. teams made up from emergency services personnel and others as necessary, to door knock the affected area.
- Warnings to evacuate, whether disseminated by the media or by door knock, should contain:
 - a. instruction to evacuate;
 - b. location of assembly areas for transport to evacuation or welfare centres;
 - c. location of evacuation or welfare centres for those using private transport;
 - d. authorised routes to evacuation or welfare centres;
 - e. arrangements for children in schools, kindergartens, pre-schools and day care centres;
 - f. arrangements for elderly or infirm residents unable to self-evacuate; and
 - g. likely duration of the evacuation.

WITHDRAWAL

The main requirement is always the safety of those being evacuated.

- The Police are responsible for control and co-ordination of the evacuation of victims. As Police may not necessarily be in the best position to determine when an evacuation is required, it is therefore expected that Police will liaise with the incident Controller before undertaking evacuations.
- Agencies may also conduct evacuations provided it is within their capabilities, but must liaise with the Police to ensure security of the evacuated area. Consultation must occur with all necessary supporting agencies.
- If requested by the Combat Agency Controller, Police will control and co-ordinate the evacuation of persons to the chosen evacuation centre, secure the affected area and supervise disaster victim registration.

- Transport resources, where required, will be arranged through, and co-ordinated by, the Transport Functional Area Co-ordinator.
- Buildings which have been evacuated are to be identified as directed by the controlling authority (eg with towel or similar item securely tied to front gate or nearby fixture) so as to be clearly visible from the street.

SHELTER/WELFARE

The place of safety is usually selected to provide shelter, a kitchen and essential amenities and be in a location from which no further evacuation will be required.

When it is agreed that evacuation is necessary:

- A suitable evacuation centre will be selected by the LEOCON in consultation with the Department of Community Services (DOC's). A list of 24 Community Halls / Centres are designated as Evacuation or Welfare Centres in the Hornsby and Ku-ring-gai Local Government Areas.
- Access to these facilities is arranged by the Council Officer (LEM0) or DOC's Officer depending on the facility.
- The DOC's Officer arranges staffing of the evacuation or welfare centres in time to receive evacuees, provide welfare support services and address longer term accommodation (if required).

RETURN

The Combat Agency is responsible for informing Police, supporting agencies and the community of when the evacuated area is safe for re-occupation.

The return of evacuees and arrangement for evacuees to be advised accordingly will be determined by the LEOCON in consultation with:

- the Combat Agency Controller,
- Recovery Co-ordinating Committee (if established), and
- the Co-ordinators of Engineering Services, Health Services and Welfare Services Functional Areas.

Transport is to be arranged by the Transport Services Functional Area Co-ordinator. Department of Community Services and other agencies may facilitate the return.

ACCEPTANCE OF TENDER T05/2009 - SIR DAVID MARTIN RESERVE & LOFBERG OVAL SPORTS OVAL UPGRADE, STORMWATER HARVESTING & ASSOCIATED WORKS

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To seek Council's approval to appoint a Contractor to carryout the work of refurbishment of Sir David Martin Playing fields and Lofberg Oval, stormwater harvesting and water quality improvement and all associated landscape works at both sites.
BACKGROUND:	Council as part of the 2008/2009 Open Space Capital Works Program and Environmental Levy projects approved funding for the reconstruction of Sir David Martin Reserve sports ovals 1, 2 and 3, including youth / practice area, drainage, irrigation and improvement to storm water quality, improved site access and associated landscape works. Also included was the reconstruction of Lofberg Oval incorporating storm water harvesting works, improvement of stormwater quality, irrigation, improvement of the dog off-leash area and associated landscape works.
COMMENTS:	Tender documents were produced combining the work at both sites - Sir David Martin Reserve (Auluba Ovals) and Lofberg Oval in an attempt to gain economy of scale from suitably qualified and experienced contractors. The submissions were assessed on this basis using agreed criteria with the preferred tenderer considered to be providing the best value for money to Council.
RECOMMENDATION:	That Statewide Civil Pty Ltd be appointed as the preferred tenderer for the works and that the Mayor and General Manager be delegated authority to sign all contract documentation on Council's behalf and apply the seal of Council.

PURPOSE OF REPORT

To seek the approval of Council to appoint a Contractor to carryout the work of refurbishment of Sir David Martin Playing Fields and Lofberg Oval, stormwater harvesting and water quality improvement and all associated landscape works at both sites.

BACKGROUND

Council's adopted Capital Works Program 2008/2009 has approved funding for the reconstruction of both Sir David Martin Reserve (Auluba Ovals 1, 2 & 3) and Lofberg Oval including stormwater harvesting and quality improvement, drainage, irrigation, rebound wall, youth area and associated landscape works. Following consultation with user groups design and tender documentation was completed by Storm Consulting, Hydro-Plan Irrigation and Water Resource Consultants, Turf Drain Australia, Living Turf and Council staff.

The approved program provided the following level of funding from the 2008/09 approved budget and other funding sources for these works:

Project Id	Project Description	2008/09 approved funding	2008/09 funding available
PJ101835	Sir David Martin Reserve – District Park Masterplan Implementation	\$1,128,300	\$952,221
PJ101103	Bicentennial Park – Off leash dog area remediation and reconfiguration	\$50,000	\$48,000
PJ100504	Catchment Management	\$63,000	\$63,000
PJ101245	Lofberg Oval – Sportsfield upgrade	\$440,400	\$440,400
PJ101074	Lofberg Oval Stormwater Harvesting	\$270,000	\$249,500
PJ101076	Lofberg Oval – Water Sensitive Design	\$62,000	\$57,037
	Capital Assistance Grant	\$22,000	\$22,000
	Contribution from Kissing Point Sports Club	\$30,000	\$30,000
	TOTAL	\$2,065,700	\$1,862,158

As the works have not yet commenced, the available funding will need to be carried forward to the 2009/10 program year to allow these works to be completed.

Following completion of the design and documentation, tenders were called for the work in March/April 2009 and closed on 14 April 2009.

COMMENTS

At the closing of tenders, eight (8) tenders were received and recorded in accordance with Council's tendering policy.

Tenders were received from the following companies:

M. Collins & Sons (Contractors) Pty Ltd
Statewide Civil Pty Ltd
Ford Civil Contracting Pty Ltd
The Green Horticultural Group Pty Ltd
Casbee Pty Ltd
Universal Landscapes Pty Ltd
Glascott Group Pty Ltd
ESD Landscape Contractors Pty Ltd

A tender evaluation panel consisting of staff from Operations, Strategy and Corporate departments was formed to assess the eight tenders received. The evaluation took into consideration, the lump sum fee, provisional rates, company and staff experience, the ability to provide the full range of services required, work program and the company's financial capacity.

The **attachments** to this report include the list of tenders received, the tender evaluation panel's comments and recommendation and the financial assessment are included as confidential attachments.

The attachments are considered to be confidential in accordance with section 10A (2)(d) (iii) of the Local Government Act 1993 as they are to be considered to contain commercial in confidence information.

Based on the above criteria and evaluation, two companies were short listed, these being; Statewide Civil Pty Ltd and Glascott Group Pty Ltd. The Glascott Group submitted the lowest lump sum tender price however during the evaluation and post tender interview it became clear that the company lacked suitable experience in relation to sports field work and the tender rates provided for the Lofberg Oval elements were low and unrealistic. This was later confirmed by the company during the post tender meeting, that if not awarded all of the work they would require a 5% increase to the rates submitted for the Lofberg Oval elements of the project. Further to this, the evaluation committee felt that at least two (2) of the sub contractors nominated by Glascott Group Pty Ltd were insufficiently qualified to carry out those parts of the work allocated to them.

Ford Civil Contracting Pty Ltd and Casbee Pty Ltd, also submitted lower lump sum costs than Statewide Civil Pty Ltd, however, in both instances these companies were not short listed due to incomplete tender details and lack of relevant experience.

Several tendered prices submitted were greater than the available funds, Statewide Civil Pty Ltd have been evaluated as providing the best value to Council and have also indicated their willingness to negotiate prices should they be appointed as the successful contractor. They also indicated at the post tender meeting that they have identified potential savings should Council be

Item 9

S07036
28 May 2009

willing to accept minor changes to the tender specification. For the above reasons, it is recommended that Council appoint Statewide Civil Pty Ltd as the preferred tenderer.

As Statewide Civil Pty Ltd has not previously carried out work for this Council a financial and performance assessment of the company has been carried out. The financial and performance assessment was carried out by Corporate Scorecard Pty Ltd and a copy of their report is **attached**. Corporate Scorecard Pty Ltd has assessed Statewide Civil Pty Ltd as being satisfactory in relation to there financial capacity to undertake the contract works. Corporate Scorecard has further assessed Statewide Civil Pty Ltd as trading in a profitable manner and that its annual revenue indicates the contract would be within there operating capacity.

Statewide Civil Pty Ltd have carried out work for six (6) major Sydney Councils, much of this work being of a similar nature to the work proposed for Lofberg and Auluba Ovals. Verbal references were taken up with two (2) other councils (Randwick City Council and Parramatta City Council) where Statewide Civil Pty Ltd have previously carried out similar work at a similar value to that required within the tender document. In both instances, the representatives contacted confirmed that Statewide Civil Pty Ltd had carried out work including sports field upgrade and irrigation stormwater harvesting works. They also confirmed that the work had been carried out to a high standard, close to budget and on time. They advised that they would use them again for any future works.

CONSULTATION

The tender and contract documentation was prepared partly by external consultants – Storm Consulting Pty Ltd, Turf Drain Australia, Living Turf and partly by Council's Operations staff. Site users/clubs were consulted during the design process and where possible their requests were incorporated in to the final design and specifications. Council's bookings staff have also been consulted and have made arrangements for clubs to train and hold games at alternative sites during the construction period. Clubs have been advised that access to club houses will be restricted during the construction period, the bookings staff will attempt to provide other facilities although periods may occur where this is not possible due to the limited availability of suitable resources. Local residents have been notified of the pending works although further notifications will be sent. Appropriate signs will be displayed at the site at the commencement of the work.

FINANCIAL CONSIDERATIONS

Funding for the project works is available from various projects in the 2008/09 program as shown above. It is proposed to carry forward any unspent funds for these projects into 2009/10 as the bulk of the work will be carried out after July 2009. While there is a shortfall between the funds available in 2008/09 and the tender amount, it is proposed to adjust other projects in 2009/10 to accommodate the shortfall required. This will be reported to Council in the first quarter budget review of the capital works program.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

The tender and contract documentation was prepared by external consultants in co-ordination with Council staff from Operations, Strategy and Community Departments. The tender opening was

Item 9

S07036
28 May 2009

administered by Governance staff and the evaluation was carried out by a team consisting of representatives from Operations, Strategy and Corporate Departments.

SUMMARY

Council as part of the 2008/2009 Open Space Capital Works Program and Environmental Levy projects approved funding for the reconstruction of Sir David Martin Reserve sports ovals 1, 2 and 3, including youth/practice area, drainage, irrigation and improvement to storm water quality, improved site access and associated landscape works. Also the reconstruction of Lofberg oval including storm water harvesting, improvement of stormwater quality, irrigation, improvement of the dog off-leash area and associated landscape works was included in the tender documents.

Tenders were called in April/May 2009 for the works described above and closed on 14 April 2009. A tender evaluation team was formed to assess the tenders and the preferred tenderer was Statewide Civil Pty Ltd.

In general terms most tenderers demonstrated an understanding of the range of work required. Only four (4) companies provided a cost within Councils budget, following evaluation, interview and independent financial checks it is recommended that Statewide Civil Pty Ltd be appointed on the basis of providing the best value to Council.

RECOMMENDATION

- A. That Council accept the tender from Statewide Civil Pty Ltd to carry out the works of reconstruction of Sir David Martin Reserve sports ovals 1, 2 and 3 and reconstruction of Lofberg Oval including storm water harvesting works.
- B. That Council approves the carry forward of available funding from the 2008/2009 Open Space Capital Works Program and Environmental Levy.
- C. That the Mayor and General Manager be delegated authority to execute all tender documentation on Council's behalf in relation to the contract.
- E. That the Seal of Council be affixed to all necessary documents.
- F. That all tenderers be advised of Council's decision.
- G. That Council formally acknowledges and thanks the Kissing Point Sports Club for their contribution towards the refurbishment and improvement of the Sir David Martin sports facilities.

David Morris
Manager Open Space Projects

Greg Piconi
Director Operations

Attachments: **Confidential Attachments circulated under separate cover:**
 1. List of Tenders Received
 2. Tender Evaluation
 3. Financial Assessment

WAHROONGA ESTATE DEVELOPMENT NOT INCLUDING DEVELOPMENT OF THE SAN HOSPITAL

Ward: Comenarra

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To provide a submission on the proposed development of the Wahroonga Estate not including redevelopment of the Sydney Adventist Hospital (SAN), Fox Valley Road, Wahroonga.

BACKGROUND:

The Minister of Planning declared the proposal to be a Major Project under Part 3A of the Environmental Planning and Assessment Act 1979 on 12 December 2007 and authorised the submission of a Concept Plan and State Significant Site study.

The proponent has prepared a State Significant Site study and Environmental Assessment (EA) to support the Concept Plan and submitted the Major Project application to the Department of Planning.

The proposal has been placed on exhibition from 7 May to 19 June 2009.

COMMENTS:

The proposal seeks Major Project approval under Part 3A of the EP & A Act for the inclusion of the Wahroonga Estate site as a 'State Significant Site' (SSS) and adoption of a Concept Plan detailing rezoning of land to allow new high density residential development, new education facilities, new commercial and retail development and expansion of seniors living housing. The Major Project application excludes redevelopment of the SAN Hospital medical precinct.

RECOMMENDATION:

That Council make a submission to the Department of Planning as outlined in this report.

PURPOSE OF REPORT

To provide a submission on the proposed development of the Wahroonga Estate not including redevelopment of the Sydney Adventist Hospital (SAN), Fox Valley Road, Wahroonga.

BACKGROUND

On 16 October 2006, Johnson Property Group sought approval from the NSW Department of Planning for inclusion of the Sydney Adventist Hospital (SAN) and surrounding land on the Register of State Significant Sites and in Schedule 3 of SEPP (Major Projects) 2005.

In January 2007, Johnson Property Group presented initial concept plans to Council for the redevelopment of the SAN Hospital site, incorporating extensive redevelopment of the hospital site including construction of a school of nursing, new K-12 school, new residential flat development and additional nursing home floor space in the Mount Pleasant precinct, new residential flat development and townhouse development on land to the north-east of the hospital and to the east of Fox Valley Road. The concept plan incorporated between 1483 and 2000 new dwellings, mostly contained within new residential flat development or townhouse development.

The proponent and the Department of Planning were advised that Council had concerns regarding the scale and density of the redevelopment as well as its inconsistency with Council's residential strategy, the Hornsby and Ku-ring-gai Subregional Employment Study and the State Government Metropolitan Strategy, which encourages new residential and commercial development in areas having direct access to transport nodes and town centres.

On 12 December 2007 the former Minister for Planning, Frank Sartor, declared the Wahroonga Estate, incorporating the Sydney Adventist Hospital (SAN) and surrounding land, to be a potential State Significant Site (SSS). The former Minister invited Australasian Conference Association (ACA) and Johnson Property Group (JPG) to prepare a Concept Plan and undertake an Environmental Assessment (EA) for the redevelopment of the site. **(Annexure 1)**

In declaring the site to be a potential State Significant Site, the former Minister raised concerns with regard to the potential for high density development and consequential bulk and scale impacts of residential and other development on the site and surrounding areas. Concerns were also raised in relation to the capacity for public access via both private vehicles and public transport to and from the site. The former Minister directed the NSW Department of Planning Director-General to prepare assessment requirements which required further investigation of these and other significant issues identified by Council and state government agencies.

On 9 April 2008, the Director-General's Requirements were issued and the applicant was advised to undertake a State Significant Site study and Environmental Assessment to support a Concept Plan for redevelopment of the site. **(Annexure 2).**

Council has been invited by the NSW Department of Planning to comment on the proposed State Significant Site study and Major Project for the redevelopment of the Sydney Adventist Hospital, Fox Valley Road Wahroonga.

HOW THIS REPORT IS SET OUT

This report is set out into the following headings:

Part 1 Legislative framework

Part 2 The site

Part 3 The proposal

Part 4 State significant site study

Part 5 Environmental impact assessment and key issues

Part 6 Consultation

Part 7 Financial consideration

Summary & recommendations

PART 1 – LEGISLATIVE FRAMEWORK

A. Part 3A of the Environmental Planning and Assessment Act and State Environmental Planning Policy (Major Projects)

The proposal is to be determined by the Minister of Planning, under Part 3A of the Environmental Planning and Assessment Act 1979, and State Environmental Planning Policy (Major Projects) 2005.

Part 3A of the EP&A Act provides that:

75D Minister's approval required for projects

- (1) A person is not to carry out development that is a project to which this Part applies unless the Minister has approved of the carrying out of the project under this Part.*
- (2) The person is to comply with any conditions to which such an approval is subject.*

and

75B Projects to which Part applies

- (1) General*

This Part applies to the carrying out of development that is declared under this section to be a project to which this Part applies:

- (a) by a State environmental planning policy, or*

Item

S05913
5 June 2009

(b) by order of the Minister published in the Gazette (including by an order that amends such a policy).

The carrying out of particular or a class of development, or development for a program or plan of works or activities, may be so declared.

The Minister has classified the project as a Major Project and is the approval authority. The Minister has authorised the submission of a concept plan proposal for the site, permitted under Section 75F of the Act.

Part 8 of SEPP Major Projects 2005 provides that:

- (1A) The Minister may publish a notice in the Gazette advising of a proposal that Schedule 3 be amended to add a site that the Minister considers to be a State significant site.*
- (1) For the purposes of considering a proposed amendment to Schedule 3, the Minister may initiate an investigation into the proposal by requiring the Director-General to undertake a study or to make arrangements for a study to be undertaken for the purpose of determining:*
- (a) whether any development on the site should be declared to be a project to which Part 3A of the Act applies, and*
 - (b) the appropriate development controls for the site.*
- (2) Any such study is to assess:*
- (a) the State or regional planning significance of the site, and*
 - (b) the suitability of the site for any proposed land use taking into consideration environmental, social and economic factors, the principles of ecologically sustainable development and any State or regional planning strategy, and*
 - (c) the implications of any proposed land use for local and regional land use, infrastructure, service delivery and natural resource planning, and*
 - (d) any other matters required by the Director-General.*

The proponent has submitted a state significant site study in accordance with the Minister's requirement, in conjunction with a concept plan and environmental assessment for concurrent consideration. The Part 3A assessment process is outlined in **Annexure 4**.

The Director-General's Requirements have been issued following consultation with Hornsby and Ku-ring-gai Councils and state agencies. The Director General's assessment requirements include the requirement for the submission of a state significant site study, a concept plan, and an environmental assessment.

The proponent has submitted the concept plan proposal, environmental assessment and state significant site study to the Department. The application for Major Project consideration is

Item

S05913
5 June 2009

currently at the exhibition stage. Submissions will be considered and the proponent required to provide a response to key issues raised during the exhibition process.

The proponent's response to submissions may involve amendment to the project resulting in a Preferred Project Report. A Community Reference Group has also been appointed for this site to provide input at three stages of the process.

This report provides an assessment of the proponent's concept plan, site significant study and Environmental Assessment, as the recommended basis for a submission to the Department of Planning.

B. Federal, state and regional planning framework

The following Federal, State and Regional Policies and legislation apply to the proposed concept plan and future development on the site:

- Commonwealth Environmental Protection and Biodiversity Conservation Act 1999
- Environmental Planning and Assessment Act 1979
- Rural Fires Act 1997
- Threatened Species Conservation Act 1995
- Protection of Environment Operations Act 1997
- State Environmental Planning Policy 10 -Retention of Low-Cost Rental Accommodation
- State Environmental Planning Policy 19 - Bushland in Urban Areas
- State Environmental Planning Policy 32 - Urban Consolidation
- State Environmental Planning Policy 53 - Metropolitan Residential Development
- State Environmental Planning Policy 55 - Remediation of Land
- State Environmental Planning Policy 65 - Residential Flat Building
- State Environmental Planning Policy - Seniors Living 2004
- State Environmental Planning Policy - Building Sustainability Index: BASIX 2004
- State Environmental Planning Policy - Major Projects 2005
- State Environmental Planning Policy - Infrastructure 2007
- Sydney Regional Environmental Plan - Sydney Harbour Catchment 2005
- NSW Rural Fire Service Planning for Bushfire Protection 2006
- Ku-ring-gai Planning Scheme Ordinance (as amended)
- Hornsby Shire Local Environment Plan 1994
- Ku-ring-gai Municipal Council Bushfire Risk Management Plan 2001
- Ku-ring-gai Municipal Council Biodiversity Strategy (2006)
- Ku-ring-gai Municipal Council Riparian Policy (2004)
- Ku-ring-gai Municipal Council Contributions Plan 2004-2009 (as amended)

C. Metropolitan Strategy & Draft North Subregional Strategy (NSS)

The Metropolitan Strategy was released by the State Government in December 2005 and is a key strategic document that outlines a planning vision for Sydney over the next 25 years. The implementation of the Metropolitan Strategy at the local level is via the subregional strategies/plans.

The draft North Subregional Strategy (NSS), which covers Ku-ring-gai and Hornsby, was released by the Department of Planning on 31 October 2007. The subregional strategy translates the

Item

S05913
5 June 2009

objectives of the NSW Government's Metropolitan Strategy and the NSW State Plan to the local level. The subregional strategy provides guidance for such matters as residential and employment growth area as well as policies for integrated transport and infrastructure planning.

The strategic aims relevant to the North subregion are considered in greater detail below. The proposal is considered in context with this strategy as well as Council's strategic planning policies.

PART 2 – THE SITE

A. Regional context

The site is situated approximately 18km north-west of the Sydney CBD, and is 1km south of the F3 Freeway interchange with Pacific Highway and Pennant Hills Road. The majority of the site is situated in the northern-western corner of the Ku-ring-gai LGA, with a small portion being located within the Hornsby LGA.

The site is situated along two main roads that link the site to surrounding town centres and major arterial roads. The Comenarra Parkway links the site with Pennant Hills Road and the Thornleigh Town Centre and train station approximately 2km to the west. Fox Valley Road links the site with the Pacific Highway and the town centres of Wahroonga to the north-east and Turramurra to the south-east which are approximately 2km and 3km away, respectively.

B. Surrounding land uses

The site is situated in an area having a predominantly low density residential character with the fringes of the site and surrounding residential land adjoining bushland and the Lane Cove National Park to the south.

To the north-east and east of the site, development fronting Fox Valley Road is characterised by low density residential development, typically being large detached dwellings in established garden settings.

To the east of the site, development fronting Campbell Drive is also of a low density residential character, however, land to the east falls away sharply and is characterised by a bushland gully setting.

To the north of the site and the existing aged care and retirement accommodation in the Mount Pleasant precinct, development fronting Mount Pleasant Avenue and Osborne Place is situated within the adjoining Hornsby LGA. Development here is also of a low density suburban character. The street also provides access to Loreto College, which contains extensive open areas facing the street and a bushland remnant adjacent to the northern boundary of the site.

To the south of the site is Fox Valley, containing a residential subdivision characterised by low-density residential development and incorporates a small neighbourhood shopping centre located to the immediate south-east of the intersection of Fox Valley Road and The Comenarra Parkway. Access to existing residences in Fox Valley is only via Fox Valley Road and the Comenarra Parkway.

Item

S05913
5 June 2009

The Comenarra Parkway, runs to the south of the site. Bushland reserves and the Lane Cove National Park provide the main character along this road, with interspersed areas of low density detached dwelling houses.

C. Site characteristics

The Wahroonga Estate is an irregularly shaped parcel of land made up of a number of lots, totalling 62.07 hectares. The site extends slightly north of the Ku-ring-gai/Hornsby local government boundary to Mount Pleasant Avenue and Ferndale Road. It is bound to the west by the Lane Cove River, to the south by the Comenarra Parkway and to the east by residential properties in Elizabeth Street and on the eastern side of Fox Valley Rd by the adjoining boundary of properties in Campbell Drive and Georgina Close.

The site is bisected by Fox Valley Road which runs roughly north/south through the site. Fox Valley Road generally follows a ridgeline to where it intersects with the Comenarra Parkway and Fox Valley. To the east of this ridgeline, the site drains to the east to Fox Valley Creek. To the west of this ridgeline, the land drains north-west to Coups Creek which cuts through the site in a north-east to south-west direction.

The existing nursing home and retirement village complex at Mount Pleasant Avenue is on another ridge overlooking the Coups Creek corridor. The site drains both to the south and south-east to Coups Creek and to the west to a small creek line that connects directly to the upper reaches of the Lane Cove River. The site also falls to two tributaries to the south-east.

Vehicular access to the SAN Hospital and the Wahroonga Estate is primarily from Fox Valley Road, with access to the northern part of the site via Mount Pleasant Avenue. Regionally, the site is accessible via the Pacific Highway and Pennant Hills Road.

There is an existing bush walking track which connects the nursing home/retirement village on Mount Pleasant Avenue to the SAN Hospital and church. The track traverses the ridgeline from Mount Pleasant to Coups Creek then to Fox Valley road on the opposite ridge. Pedestrian access through the site from Elizabeth Street is available via another walking track through bushland to the grassed area behind the staff cottages fronting Fox Valley Road. Further walking tracks intersect the north-eastern portion of this area of bushland. Public access to these areas is provided.

The most dominant built element on the site, as seen from Fox Valley Road is the 10 storey SAN hospital building. The hospital itself is surrounded by other support services including the church, community centre, SAN clinic, administration buildings, hostel accommodation other related uses. Aside from the hospital building and SAN clinic, the scale of hospital development generally varies between 2-4 storeys.

The site includes a number of single storey timber, weatherboard and brick cottages on individual lots fronting Fox Valley Road both to the north-west and south-east of Fox Valley Road. To the rear of buildings on the north-west of Fox Valley Road, there is a large open grassed area which falls away to the Coups Creek bushland corridor. Large open air car parking is also provided around the hospital site.

Item**S05913
5 June 2009**

The site to the north of Mount Pleasant Avenue contains mainly single storey brick dwellings on separate lots, believed to provide accommodation for hospital staff. On the southern side of Mount Pleasant Avenue there is, a nursing home and hostel development which, while of a larger scale, is set well back from the street within a landscaped setting. The nursing home is surrounded by a number of single storey villas with a single apartment building set below the hostel, at 5- 7 storeys in height. A loop road forms the boundary between the development and the bushland.

The corridor between the Mount Pleasant Avenue development and the hospital precinct consists of a bushland corridor with a steep gully and rock outcrops diving Mount Pleasant from the hospital. This part of the site is identified as the Coups Creek corridor and represents a significant divide between the Mount Pleasant nursing home and the main hospital grounds. The Coups creek gully creates a low escarpment on the Mount Pleasant, which has a slope that exceeds 18 degrees in places and is generally greater than 10-15 degrees.

The Coups Creek corridor cuts through the site in a north-east to south-west direction. The creek and riparian corridor crosses under the Comenarra Parkway and intersects with Lane Cove River to the south-west.

To the east of Fox Valley Road, land adjacent to the eastern boundary of the subject site, contains a large tract of bushland. This has been partially under-scrubbed directly to the east of building fronting Fox Vallet Road, with areas adjacent to the eastern boundary generally comprising a more dense form of bushland.

The eastern portion of the site also contains the Fox Valley Creek riparian corridor comprising Fox Valley Creek adjacent to the eastern boundary and two creek lines within the site which feed into Fox Valley Creek to the south-east. The eastern side of the site also has a maximum slope which exceeds 18 degrees, with extensive areas the slope between of 10–18 degrees slopes.

D. Site history

The property was purchased in 1899 by the Australasian Medical Missionary and Benevolent Association for the purpose of building a “medical and surgical sanitarium”. The Sydney Sanitarium was opened in 1903.

Between 1911 and 1920, the Seventh-day Adventist administration building, church, maternity cottage, gymnasium and a new hospital wing were constructed. In 1927, the Sydney Sanitarium was registered as a training school. Since that time, a nurses’ residence has been opened, a larger church was constructed, the school was established and many new buildings and building extensions have been constructed.

The Wahroonga Estate and SAN Hospital has been a focus for the Seventh-day Adventist community in the Sydney area. It supports administrative, private health care, education, religious, humanitarian and media/communication activities. The Seventh Day Adventist Hospital is the largest hospital in the LGA and provides a large range of health care services to the region.

In the Fox Valley Road area the developed uses on the site include:

- Sydney Adventist Hospital (342 patient beds, plus 41 day surgery beds, a teaching hospital of the University of Sydney)

Item

**S05913
5 June 2009**

- The San Clinic (including specialist consultation rooms);
- Fox Valley Medical and Dental Centre (GP and dental services);
- Wahroonga Seventh-day Adventist Church;
- Jacaranda Lodge (accommodation for family members of patients);
- The San Centre for Health & Fitness;
- Seventh-day Adventist South Pacific Division Offices;
- Wahroonga Adventist Primary School
- Adventist Media Centre (for church related media and commercial uses);
- Adventist Development & Relief Agency (ADRA) (aid agency);
- Fox Valley Community Centre (includes a large hall, small hall, and three seminar rooms for both casual and long term use)
- Acre Woods Child Care Centre (for children of staff, local families and patients);
- Mission hostel and housing;
- Staff accommodation.

The developed land uses in the Mount Pleasant Avenue area of the site are:

- Normanhurst Adventist Retirement Village (including Esther Somerville Nursing Home, Elizabeth Lodge Seniors Hostel and 59 self supporting villas)- accessed from Mount Pleasant Avenue within the Hornsby LGA;
- A total of 28 detached dwelling houses.

PART 3 – THE PROPOSAL

Under the Provisions of Part 3A (Major Projects) of the Environmental Planning and Assessment Act 1979, approval is sought for the following:

A. State Significant Site listing under SEPP (Major Projects) 2005

Approval is sought for the inclusion of the Wahroonga Estate site as a 'State Significant Site' (SSS) in Schedule 3 of State Environmental Planning Policy (Major Projects) 2005.

The Major Project application incorporates a State Significant Site study which addresses the following criteria:

B. Concept plan

Minister's directions

In accordance with the former Minister's directions Johnson Property Group has developed a concept plan to outline a vision for the future development of site including the development of a concept plan which details the proposed rezoning of land in accordance with the Standard LEP Instrument.

It is apparent from the details provided with the concept plan, that whilst it is the intention of Australasian Conference Association (ACA) to redevelop the SAN Hospital and the accompanying complex of hospital related buildings, the current proposal does not involve redevelopment of the hospital, but rather the land which surrounds the hospital, identified as

Item

S05913
5 June 2009

the Wahroonga Estate. This land is currently largely in the ownership of Australasian Conference Association (ACA); but is otherwise not utilised for the core business of hospital related activities.

The Wahroonga Estate concept plan (Annexure 4)

The Wahroonga Estate is identified as land which surrounds the SAN Hospital that is the ownership of Australasian Conference Association (ACA). Concept plan approval is sought for development of the Wahroonga Estate as follows:

- The adoption of a precinct based zoning map and land use plan which outlines future site development over five precincts which allows the introduction of new permissible forms of development.
- The concept plan involves the development into five precincts as follows:

Table 2: Proposed floor space/dwellings by precinct

Precinct/Land use	Description of works	Height	Proposed floor space/dwellings/beds
Precinct A: Mount Pleasant Seniors housing, nursing home and private residential	Residential flat development: 7 RFBs	3-4 storeys	69 units
	Townhouse development: 20	3 storeys	20 townhouses
	Expanded seniors living and aged care facilities.	4 storeys	195 beds
Precinct B: Central Church Education, private residential and communal open space	Residential flat development: 7 RFBs	6 storeys	302 units
	K-12 school	3 storey	9,000m ² (800 students)
	Expanded church floor space	6 storey	1,600m ²

Item

S05913
5 June 2009

Precinct/Land use	Description of works	Height	Proposed floor space/dwellings/beds
Precinct C: Central Hospital Mixed Use Precinct: education, commercial, retail, student & private residential. (Excludes redevelopment of SAN Hospital to 160,000m ²)	Residential		
	Residential flat development: 2 RFBs	4-6 storeys	91 units
	Student Accommodation	4-6 storeys	301 beds
	Hostel Accommodation	4-6 storeys	42 beds
	Non-residential		
	Commercial floor space	4-6 storeys	1,000m ²
	Retail floor space	4-6 storeys	2,000m ²
	Education (Faculty of Nursing)	4-6 storeys	3,500m ²
Precinct D: Fox Valley Road East Church administration, professional consulting & private residential.	Residential		
	Residential flat development: 5 RFBs	3-4 storeys	88 units
	Dwelling Houses	2 storey	10 dwellings
	Non-residential		
	Administration floor space	3-4 storeys	10,000m ²
	Professional consulting rooms	3-4 storeys	6,000m ²
	Commercial floor space	3-4 storeys	15,000m ²
Precinct E: Residential East	Residential flat development: 4 RFBs	3-4 storeys	72 units
	Townhouse development	2 storey	16 townhouses
	Dwelling houses	2 storey	5 dwellings

Item**S05913
5 June 2009**

The concept plan outlines the gross floor areas and proposed land uses for each precinct as outlined above and includes proposed development controls for maximum building heights, conceptual building footprints, building separation, setbacks and the establishment of bushfire asset protection zones.

The concept plan outlines other site planning requirements, including the development of public open spaces, community facilities, conceptual road design, traffic management requirements, stormwater detention and car parking facilities.

The concept plan incorporates some detail of the future redevelopment of the SAN Hospital including draft zoning of the Hospital Site and the proposed building height and additional hospital floor space.

C. Capital Investment Value (CIV)

The Capital Investment Value (CIV) is taken into consideration by the Minister for Planning when determining Major Project applications.

The proponent has provided a quantity surveyor's reports verifying a capital investment value of \$786.23 million over the life of the development, including redevelopment of the hospital and the accompanying complex of hospital related buildings.

The CIV includes all costs necessary to establish and operate the development, including the design and construction of buildings, structures, associated infrastructure and fixed or mobile plant and equipment (but excludes land costs).

D. Employment

Total existing employment figures for the SAN Hospital vary between the estimates provided in the environmental assessment prepared by Urbis, and those provided in the social and economic impact assessment prepared by Hill PDA.

The social and economic impact assessment includes an analysis of 2001 journey to work data that indicates total existing employment at the site is between 2,000 and 2,500 staff, including staff within health and community services, education, property services, personal services and the retail trade. This is consistent with hospital's status as a major employer within the northern subregion.

Supporting documents submitted with the application indicate that redevelopment of the SAN Hospital and Wahroonga Estate would generate a total of 1000 operational jobs in the short term (over the next five years), an additional 3000 to 5000 operational jobs would be generated over the medium term.

It is stated that the site will result in creation of 11,000 jobs over the course of the construction program.

PART 4 – STATE SIGNIFICANT SITE STUDY

The Minister, in determining whether a site is of state significance, will consider the Guidelines for State Significant Sites which require the Minister to be satisfied that the site meets one or more of the following criteria:

- (a) The site is in an identified strategic location (in a State or regional strategy), is important to a particular industry sector, or employment, infrastructure, service delivery or of redevelopment significance in achieving government policy objectives; or*
- (b) The site is important for environmental conservation or natural resources; or*
- (c) The site is important in terms of amenity, cultural, heritage, or historical significance in achieving State or regional objectives; or*
- (d) The site needs alternative planning or consent arrangements where added transparency is required because of potential conflicting interests or more than one local council is likely to be affected.*

Should the Minister determine that the land constitutes a "State Significant Site" then the Major Projects SEPP can be amended by the inclusion of the identified land in Schedule 3 of the SEPP, along with any proposed zoning and any applicable planning controls which would apply to the site.

The proponent has provided a justification and rationale for the site to be listed as state significant. The proposal has been assessed against these requirements and the following relevant matters are deemed to be of significant concern to Council:

A. CONSIDERATION OF THE WAHROONGA ESTATE AS A STATE SIGNIFICANT SITE FOR INCLUSION IN SCHEDULE 3 OF SEPP (MAJOR PROJECTS) 2005

Whilst it is agreed that the redevelopment of the Seventh Day Adventist site, including the redevelopment of the SAN hospital, meets the criteria for assessment under Part 3A of the Environmental Planning and Assessment Act (1979) and SEPP (Major Projects), the proposal currently before the Department excludes significant details of the proposed hospital redevelopment from the redevelopment of surrounding lands.

The proponent claims that the primary uses of the site relate to public benefits generated by the redevelopment of the hospital complex, however, the proposal provides for a far greater density and variation of land uses than is required in order to achieve the orderly and economic redevelopment of the site as a hospital.

In this respect there is no demonstrated nexus between the proposed hospital redevelopment and the establishment of new commercial and retail facilities and 107,800m² of new residential accommodation. Similarly, there is no demonstrated need for the proposed redevelopment to proceed in order to achieve any identified state or regional planning strategy.

The claims by the proponent in the state significant site study provided by Urbis are not supported. The following significant flaws are highlighted in the proponent's justification:

1. State or regional planning significance of the site

The statement that the hospital site is recognised as an “industry cluster” under the Draft North Subregional Strategy (NSS) and that as a cluster “should be considered for strengthening” (Part 3.1.1 of SSS Point 1) is not supported for the following reasons:

- i. The proposal is inconsistent with Part A1.8 of the NSS which seeks to establish a framework for business parks, including around hospital and education clusters with good access to public transport. The proposal is predominantly residential, not for a business park, nor is it in a location well served by public transport.
- ii. The proposal is inconsistent with A2.2 of the NSS which seeks to strengthen knowledge industry clusters including health and education clusters, and specifically identifies the Seventh Day Adventist Hospital.

The proposal identifies an expansion of the hospital but does not provide a concept plan for this expansion. The development of the Wahroonga Estate, exclusive of the hospital redevelopment would not strengthen this industry cluster. Rather, the concept plan outlines increased density for residential, commercial and school uses, while reducing the area of the site currently zoned for special uses related to the hospital.

In the absence of adequate site planning for the hospital, this proposal has the potential to compromise the development of the hospital and associated uses in the long term as envisaged in the NSS.

- iii. The NSS identifies a number of centres within the centre hierarchy in Hornsby and Kuring-gai. The existing Fox Valley shops to the south of the site are identified as a Neighbourhood Centre. A neighbourhood centre is identified as having one or a small cluster of shops or services with a radius of 150 metres, and between 150 and 900 dwellings. The proposal suggests that the Wahroonga Estate, which is located directly opposite the Fox Valley shops, should be a specialised centre, identified in the NSS as having a radius of one kilometre. Specialised centres are described as areas

“Areas containing major airports, ports, hospitals, universities, research and business activities. These perform a vital economic and employment role which generate metropolitan-wide benefits”.

Whilst the development of the Seventh Day Adventist hospital is of local employment significance, it would not generate metropolitan wide benefits.

While an expansion/strengthening of the hospital is supported, this proposal provides instead for a greater density of uses that are related to residential and retail/commercial that disparate uses to the primary use of the site as a hospital. The proposed concept plan would introduce new commercial and retail uses and high density residential development in an area that is predominantly characterised by low density residential development and a small neighbourhood retail centre. This is inconsistent with this part of the NSS and the Metropolitan Strategy.

Item

S05913
5 June 2009

- iv. Part 3.1.1 of the SSS Point 2 states that the living working community represents an excellent example of planning to reduce car dependency. While the efforts to reduce car dependency within the proposal are acknowledged with the hospital, the proposed increase in density in non-core hospital uses in an area that is not a town centre location and which is a significant distance from existing services and transport nodes in the region will in fact increase car dependency within the LGA as a whole.

Irrespective of the proposed means to restrict car usage across the site, it is unrealistic to expect private car ownership within the new residential developments to rely wholly on car sharing and car pooling to reduce car dependency. This matter is dealt with in greater detail later in this report.

- v. Part 3.1.1 of the SSS Point 3 refers to the number of jobs likely to be generated. It is acknowledged that the hospital itself is a major employer in the region, however, the proposal does not include the concept plan for the hospital and should not seek to justify the introduction of new commercial, retail and high density residential development solely on the prospect of job creation. The estimates for job creation include those created throughout development of the entire hospital precinct.

2. Environmental conservation or natural resource importance

While the proponent's statement recognises the significance of the site for the conservation of Threatened Ecological Communities and species, the proposed environmental strategy for the site will not "*contribute to biodiversity outcomes for this part of Sydney*" as claimed. This has been addressed in greater detail later in this report.

3. Amenity, cultural heritage or historical significance

It is agreed that the site does not contain any item of such significance, under these criteria, to require the proposal to be assessed under Part 3A of the EP & A Act. Heritage issues are discussed in greater detail later in this report.

4. Need for alternate planning arrangements

The proponent claims that the site has been overlooked as a "specialised centre" in the Draft North Subregional Strategy. However, the site, while a significant employer which provides needed health facilities in the region, is not in a location or of a scale that would justify it becoming a "specialised centre". Neither is the area suitable for significant expansion of specialised uses beyond the site, due to ecological, transport and bushfire constraints.

The complexity of crossing two Council boundaries is overstated, with the majority of the hospital and associated works and the higher density residential areas all accessed via Kuring-gai. Only a small portion of the site is located within Hornsby LGA.

The proponent recognises that consideration of regional planning strategies and employment and housing targets is required but claims that this is beyond the scope of Council or, presumably, the Joint Regional Planning Panels imminent under the Department's planning reforms. The Wahroonga Estate proposal is not consistent with these strategies or with the development of housing and employment strategies within the NSS.

The proponent indicates that development for the purpose of large numbers of dwellings of a type and in manner and location that is inconsistent with state and regional planning policies, is justifiable where the sale of these dwellings may be used to fund health facilities. This does not warrant alternate planning arrangements, rather it warrants a more integrated approach to the planning of the site.

5. Suitability of the site

Site characteristics

The subject site is approximately 62 hectares, of which approximately 40.2% is dedicated to uses associated with the hospital, church, community, school and includes aged and staff/student accommodation.

A total of 37.08 hectares is covered by native vegetation dissected by a number of watercourses and topographical constraints. Areas to the north, adjacent to the central hospital precinct and to the east of Fox Valley Road, are dominated by tracts of bushland and a sloping topography which exceeds 18 degrees slope in some areas.

The topography of the site, combined with bushland nature of land adjoining the hospital and proposed residential areas, presents a significant bushfire threat that significantly limits the development potential of the site.

Furthermore, the pattern of surrounding residential areas, combined with the proposed intensification of the hospital use of the site, increased density of residential and education uses and the restrictions imposed by the existing road network, would contribute to an unacceptable threat to existing residents in the locality. Particular concern is raised in relation to emergency evacuation of residents in the Fox Valley area during a bushfire event.

Proximity to transport and services

The site is not located in close proximity to good public transport facilities, and is surrounded by low density development and a neighbourhood centre. While some of the proposed uses and may be suitable for the site, the proposal as it stands would be an overdevelopment of the site, both in terms of the surrounding character and the centre hierarchy in the Metropolitan Strategy and the NSS.

Impact on natural characteristics

The likely impacts of the proposed development on the natural characteristics of the area indicates that the level of development proposed is unreasonable.

The proposed development would result in the modification or clearing of 60% of the native vegetation on the site, including areas that are significant fauna corridors, contain habitat of threatened species and areas of threatened ecological communities. Table 2 outlines the areas of native vegetation that would be cleared or modified by the proposal.

Table 2: Modification/clearing of native vegetation

	Hectares	% of site
Existing native vegetation	37.08	59.8 %
To be cleared	5.7	9.2%
Asset protection zones	15.36	24.8%
Bushfire fuel reduction management zones (FRM)	1.3	2.1%
Native vegetation to be disturbed/ cleared	22.36	36.1%
Native vegetation to be protected	14.72 ¹	23.7%
Total site	62²	100%

¹ While 14.72 hectares are not to be cleared, or included in the APZ/FRM, the documentation indicates that approximately 18 hectares are to be zoned E2 – Environment conservation.

² The proponent's documentation refers to approximately 65 and approximately 66 hectares. Council staff estimate approximately 62 hectares.

The extent of vegetation clearing that would be required for the proposed development to proceed is excessive. The location of new residential development and education development in close proximity to bushland areas would require large tracts of vegetation to be maintained as asset protection zones and/or fuel management zones. This will result in an unreasonable impact to endangered and critically endangered ecological communities.

The development would also have unacceptable impacts on riparian corridors and, as a consequence, would also impact the downstream catchment of Lane Cove River. The location of dwelling houses, extensive areas of fill associated with the construction of the school oval and the location of a number of stormwater detention basins within watercourses and drainage lines will result in an unacceptable impact on these riparian zones.

Ecologically Sustainable Development (ESD)

The proponent provides an analysis of other measures to support ESD. These include potential co-generation on the site, water sensitive urban design, the use of narrow building footprints to improve access to sunlight and ventilation, compliance with BASIX and the potential for non-residential buildings to address Greenstar or NABERS requirements, for example for energy efficiency and internal air quality. However, the principles of ESD would not be satisfactorily achieved due to the following:

- i. The particular environmental constraints of the site have not been satisfactorily identified, particularly with regard to impacts on identified threatened and endangered species and communities and with regard to impacts on the local water cycle;
- ii. The stormwater management system is not consistent with water sensitive urban design. The proposal has not included sufficient detail of swales or stormwater retention and reuse facilities which would be consistent with water sensitive urban design (WSUD) principles;
- iii. The proposed building footprints, whilst narrow in places, are poorly orientated within each precinct, would result in substantial self shadowing and poor public amenity for communal open spaces and would relate poorly to adjoining development;

Item

S05913
5 June 2009

- iv. The statement of commitments does not identify what commitments are to be implemented to achieve Greenstar accreditation or NABERS accreditation requirements for non-residential buildings.

The proposal therefore does not demonstrate how the principles of ecological sustainable development would be employed on the site.

6. Implications for local and regional planning

The draft Northern Subregional Strategy (NSS) provides a framework for retail development and support of centres (and their embodied investment). It includes strategies for centre development, residential density increases, bushfire risk management, employment generation and environmental protection. It outlines a centre hierarchy and targets for housing and employment. It also seeks to improve housing choice and affordability.

In consultation with the NSW Department of Planning and the Ku-ring-gai Planning Panel appointed by the Department of Planning, Council has undertaken extensive strategic planning to achieve the broader regional and subregional strategies identified within the NSS.

In particular, Council's LEP 194 & 200, and recently adopted draft Ku-ring-gai LEP (Town Centres) 2008 have been developed specifically to achieve the employment and housing targets expressed in the Metropolitan Strategy and NSS. Specifically, these strategies encourage new high density residential development and commercial development within the six (6) town centres in the LGA. Each of these town centres is well serviced by frequent public transport and will in future provide substantial commercial and retail development for the residents of the LGA. The future development within each of these town centres would provide better access to services and substantially greater public benefit than the development proposed at the subject site.

The location of high density residential and commercial development outside the town centres stands to compromise the objectives of the Northern Subregional Strategy and would result in a poor planning outcome.

7. Planning for housing choice and affordability

The draft Northern Subregional Strategy (NSS) seeks to improve housing choice and affordability.

The proponent has correctly identified the Ku-ring-gai LGA as predominantly an area of low density residential dwellings. However, it is important to note that, since the implementation of LEP 194/200 in May 2004, this has started to change.

Housing choice and dwelling yield

The net yield for dwellings approved since 1 April 2004 is 4,752 in total (as of January 2009). This figure includes approvals by the Land and Environment Court, Planning Panel, Minister and Council officer delegation. Whilst the full impact on housing choice and affordability is yet to be measured, it is apparent from the increased representation of apartment

Item

S05913
5 June 2009

development (as indicated in Table 3 below), that the diversity of housing and demographic indicators are likely to be broadened in the LGA over the medium term, resulting in improved housing affordability.

Table 3: Ku-ring-gai Council dwelling yield April 2004-Jan 2009

Development type	Dwelling yield
Apartments (approved on LEP 194/200 and Ministers sites)	3,827 dwellings
SEPP Seniors' Living	153 dwellings
Single dwellings	130 dwellings
Dual occupancies	297 dwellings
Part 3A Major Projects – UTS	345 dwellings

The draft Ku-ring-gai Town Centre LEP 2008 includes provisions for additional medium density and high density residential development as well as mixed use development. Further high density and mixed use development is not required at the site to achieve the reasonable housing choice in the LGA.

8. Increased residential density

While the intent of providing residential development for purposes associated with the hospital/church, including measures to ensure affordability, is commendable, the extent of residential development proposed is excessive, both from a local area character perspective and from a regional planning perspective.

The NSS dwelling target is an additional 21,000 dwellings in the subregion, of which Ku-ring-gai has agreed to provide 10,000 and Hornsby 11,000. The draft Ku-ring-gai LEP (Town Centres) 2008 (Draft LEP) combined with previous planning under LEP 194 and LEP 200, provide for increased residential and business density to meet the NSS targets.

4,752 dwellings have been approved in Ku-ring-gai since 1 April 2004 (as of January 2009) indicating that Ku-ring-gai is well on its way to meeting the dwelling targets in the NSS. The Draft Town Centres LEP provides for significant additional residential density within six town centres.

Table 6 outlines the net increase in dwellings, including the total approved dwelling yield (4,752 dwellings) as well as potential dwelling yield from the remaining LEP 194/ 200/ Ministers sites and proposed LEP rezoning. Council is basing its forward planning for contributions and community facilities on the mid range scenario.

Table 6: Ku-ring-gai dwelling yields from 2004 to 2031

Scenario	No of dwellings
Maximum	13,968
Mid range	11,389
Minimum	9,705

An increased dwelling yield is therefore not required for Ku-ring-gai to meet the dwelling targets under the NSS. Further, the extent of the proposed increase in dwellings on the SAN site has the potential to undermine the development of the centres, which are more appropriately located for increased density due to their proximity to services, and major rail

Item

S05913
5 June 2009

and road corridors. Note that the proponent's documentation is inconsistent in its estimates of the number of future residents of the site. The Concept Plan refers to 2103 residents, while the Social and Economic Assessment refers to over 3,080 residents.

The areas identified for high density development within the vicinity of the subject site are shown in **Annexure 5**. The new dwellings will directly compete with high density development within the town centres. The impact will be exacerbated as the proposed residential flat building is stage 1 of the proposal, timed to coincide with initial development of the town centres.

The proponent's submissions suggests that the hospital/health outcomes of the proposal outweigh other planning considerations. The proponent justifies this with the following arguments:

- the health outcomes are described as so significant as to warrant its consideration as a specialised centre
- by implication, the health outcomes should prevail over ecological values to the extent that the significant loss of habitat and threatened ecological communities identified in the Cumberland flora and fauna report should be accepted

By contrast, the impetus for this project is increased residential development in a location that is inconsistent with the Metropolitan Strategy, much of which is likely to be sold privately rather than used to support health outcomes. This view has been reached for the following reasons:

- i. The lack of a comprehensive concept plan for redevelopment of the SAN Hospital. If the hospital uses are to be well integrated into the site as a whole it is important that the concept plan for the hospital be considered at the same time as development for the rest of the site. This omission has made assessment difficult in a number of areas. Further, some consultants' reports (eg bushfire report) appear to have used a hospital concept plan, which does not appear to be consistent with the controls suggested for the SP2 zone.
- ii. The recommendations in the Hill PDA social and economic report found that the floor space for a school required to accommodate 1,120 primary and secondary students was 10,593 m², while Stanton Dahl and Associates (in the Appendix to the Hill PDA report) recommend 2 storey buildings with a floor space of 12,238m². It is assumed that the figure of 1,120 students is the demand identified by the proponent. However, the proposal seeks a school for only 800 students, as the site cannot support a larger school. Even then 3 storey buildings are proposed and the oval/recreation area would result in the clearing of a critically endangered ecological community. Clearly, the school could be better accommodated by extending into the area identified for residential flat buildings. The residential flat buildings appear to take precedence over the needs of the school community and ecological considerations.
- iii. The sensitive ecological areas of the site include a number of areas that are proposed to be developed only for residential development or will be impacted by roads or asset protection zones required to accommodate residential development, rather than health related purposes.

Item

S05913
5 June 2009

It is strongly recommended that the proposal be revised to ensure that the health and community uses remain the primary uses of the site and are detailed in the proposal. The number of dwellings, especially those slated for private sale in close proximity to the Hospital, cannot be justified on local or subregional planning grounds and should be significantly reduced.

9. Planning for employment growth

Hornsby and Ku-ring-gai Councils jointly with the Department of Planning employed SGS to undertake the *Hornsby and Ku-ring-gai Subregional Employment Study*, to guide planning for employment under the town centre plans and the Principal LEP.

The study provides recommended business floor space areas for each centre, with recommendations to reduce floor space in some centres and increase it in others. The study concludes that the employment targets for Ku-ring-gai can easily be met under the Draft LEP. The proposed retail/commercial development exceeds the recommendations of the SGS study. The potential local and regional impacts and recommendations in relation to the proposed commercial/ retail development are discussed elsewhere in this report.

10. Other regional planning issues

Fauna corridors and vegetation mapping of endangered and critically endangered ecological communities

Council is undertaking extensive mapping and assessment of its ecological assets. This work is complete for the town centres and well underway for the wider LGA. The Sydney Metropolitan Catchment Management Authority has identified bushland within the Wahroonga Estate as a significant fauna corridor. The proponent acknowledges the importance of this habitat and linkage. However, it is apparent that the proposal will significantly compromise the ecological function of these bushland areas, compromising the planning for the protection of fauna habitat and connectivity within the region.

Planning for bushfire protection

Planning for bushfire risk management in the region has included the preparation of the maps identifying bushfire prone land and bushfire evacuation risk areas. The proposal involves expansion of a number of existing uses and introduction of new residential development that are and likely to require evacuation in the event of a bushfire. This will present an unacceptable risk to site residents and users as well as to other residents of this area potentially compromising the planning strategies already put in place.

The proposed expanded hospital and school development is supported if these risks can be appropriately managed. However, the overdevelopment of the site for residential uses only increases these risks without providing any public benefit.

B. DEVELOPMENT CONTROLS TO BE INCLUDED IN SCHEDULE 3 OF SEPP (MAJOR PROJECTS)

If it is determined that the proposal be listed under SEPP (Major Projects) it is agreed that the controls in the SEPP should be consistent with the Standard Instrument (LEP) Order 2006.

The controls to be included in Schedule 3 should include standards for height, total floor area and heritage controls. However, it is recommended that these controls should be consistent with Council's Draft (Town Centres) LEP 2008 and which excludes the R1 and B4 zone from low density residential areas.

It is also recommended that public utility undertakings remain subject to the provisions of SEPP (Infrastructure).

Additional clauses (and maps) within the schedule should address biodiversity, riparian zones, and bushfire integration, consistent with the draft Ku-ring-gai (Town Centres) LEP 2008. Council can provide its mapping (on request) to enable this.

It is also suggested that the exempt and complying provisions from the draft Town Centres LEP be adopted instead of LEP 180 and DCP 46 controls, as these are more up-to-date and area consistent with the provisions of the recent SEPP (Exempt and Complying Codes).

In addition, a clause restricting subdivision to ensure that the main Central Hospital Precinct, Mixed Use Precinct and the Central Church Precinct site is retained predominantly under single ownership should also be included, so as to ensure that the uses on these parts of the site remain closely linked to the primary use of the site for health care, education and church related purposes.

A clause should also be included to require that all future development be subject to Ku-ring-gai Council's Development Contributions Plan that is in force at the time of determination of each application.

It is also recommended that, given the lack of clarity in the potential future mix of monetary and in-kind contributions, a clause be included to require the proponent to commence the process of negotiating a voluntary planning agreement prior to the lodgement of their first development application or Major Project application.

Zone objectives & definitions

The draft Ku-ring-gai LEP (Town centres) 2008 has been publicly exhibited and was adopted by the Ku-ring-gai Planning Panel on 27 May 2009. Council seeks that the objectives and land uses that apply to the zones are the same as those in the draft LEP (or the gazetted version, if gazetted occurs prior to any approval of this proposal).

All definitions should be the same as those used in the standard LEP instrument.

C. DEVELOPMENT ASSESSMENT UNDER PART 4 OF THE EP & A ACT 1979 – S.79C EVALUATION

Council recognises that development proposals for major hospital works will be subject to a Part 3A (Major Project) process. However, the proposal to allow new education, commercial and residential uses within the Wahroonga Estate does not justify assessment under Part 3A of the Act.

Given the scale of the development proposal, it is more appropriate that assessment be undertaken pursuant to the requirements of Part 4 of the Act. This is particularly appropriate for proposals which would involve subdivision of land, residential, commercial or retail projects regardless of cost or scale.

Under the recent planning reforms this would mean that subdivision and projects over \$10 million (sought by the proponent to be determined by the Minister) would be subject to the same process as any other development of this scale and nature in the Sydney region, that is; determination by Council for smaller developments, and determination by a Joint Regional Planning Panel for development over \$10 million.

Since the concept plan does not include the redevelopment of hospital premises, all development under this proposal should be considered under Part 4 of the Act.

PART 5 – ENVIRONMENTAL IMPACT ASSESSMENT & KEY ISSUES

The Director-General's requirements have been used as a basis for considering the environmental impacts of the proposed development of the Wahroonga Estate.

The following key issues are identified as being determinative to the proposed concept plan. It is considered that some parts of the proposed development would result in unsatisfactory impacts to the existing natural and built environment. It is recommended that significant modification be undertaken and that, prior to further consideration of a Preferred Project, the Department of Planning seek further advice from Council.

The environmental impacts of the proposed development are identified as follows:

1. Flora & fauna impacts

Council has engaged consultant ecologists Eco Logic to undertake a peer review of the flora & fauna assessment undertaken by Cumberland Ecology on behalf of the proponent. The draft review is included in **Annexure 6** to this report, the final review is to be provided to Council prior to the submission to the Department of Planning.

The following summary from the draft report by Eco Logic identifies significant vegetation mapping inconsistencies with the report by Cumberland Ecology and raises significant concern with regard to the identification and consideration of impacts to vegetation communities. Concern has also been raised in relation to the assessment of impacts on the habitat of the Powerful Owl (*Ninox strenua*), a listed species listed as vulnerable under the *Threatened Species Conservation Act 1995*.

Item

S05913
5 June 2009

The site contains two significant areas of bushland dissected by watercourses – the Coups Creek Corridor and the Fox Valley Creek corridor, which connect through to Lane Cove National Park, across the Comenarra Parkway. These corridors are part of a regional linkage that connects north to a small bushland reserve in Hornsby Shire, and south, via Lane Cove River and the open space lands within the adjacent Hornsby Shire lands, across the Comenarra to extensive areas of bushland reserves and Lane Cove National Park. The Coups Creek corridor also provides canopy linkage to the remnant bushland to the north of the site, on the Loreto site. These corridors are relatively wide and well vegetated, and include numerous hollows, providing important corridors for fauna. At least 64 species have been noted on site, including the Grey Headed Flying Fox, Eastern Pipistrelle and Powerful Owl, listed as a threatened species.

In addition, while the site is bushfire prone, it has not been subject to a bushfire in the last thirty years. On this basis the vegetated corridors also have the potential to be a refuge for fauna in some bushfire events.

The site also contains a number of remnant trees. Some of the bushland and remnant tree areas have been identified as threatened ecological communities, namely, Blue Gum High Forest, remnants listed as a critically endangered ecological community and remnants of Sydney Turpentine Ironbark Forest, listed in both federal and state legislation. In addition, the site contains Coastal Shale Sandstone transition Forest, which is likely to be listed.

The summary of the draft review is provided as follows:

Vegetation communities

- i. The vegetation communities identified as occurring within the subject site as part of Ku-ring-gai Council's internal mapping project have several differences from vegetation communities identified as occurring on the subject site within the flora and fauna assessment. Differences pertaining to the distribution of Critically Endangered Ecological Communities (CEEC) and Endangered Ecological Communities (EEC) are of importance.
- ii. Council's vegetation mapping is considered to better represent the vegetation communities and ecological relationships of the study area. The subject site has been visited on several occasions by at least three ecologists and the boundaries of vegetation communities discussed, refined and justified. In determining vegetation communities, ecologists have taken into consideration the soils, topography and species of the subject site. Furthermore, Council's vegetation mapping is part of a larger project and thus has the benefit of being able to put the subject site within the context of the entire LGA.
- iii. The vegetation mapping in the flora and fauna assessment has relied heavily upon the previous flora and fauna assessment of Conacher Travers (2004)¹ which is considered to inadequately represent the ecological communities of the subject site. This is highlighted by the fact this previous flora and fauna assessment (Conacher Travers 2004) concluded that Sydney Turpentine Ironbark Forest (STIF) did not occur on the subject site, although it has been identified by both Council and the current flora and

¹ Conacher Travers (2004). Flora and Fauna Assessment Report: Proposed Roadway Development "Wahroonga Estate" Fox Valley Road & Comenarra Parkway Wahroonga. Conacher Travers Environmental Consultants, Somersby.
N:\090609-OMC-SR-00525-WAHROONGA ESTATE DEVELOPM.doc/dhoy /24

fauna assessment. The fact that STIF was not recognised on site suggests that the previous flora and fauna assessment (Conacher Travers 2004) does not have an understanding of the distribution and variation that occurs within this community. In addition to relying on previous flawed mapping, the current flora and fauna assessment has incorrectly identified stands of planted Flooded Gums (*Eucalyptus grandis*) and non-native species as threatened ecological communities.

Threatened fauna species

- iv. The impact upon fauna is assessed in relation to threatened fauna species and groups. The flora and fauna assessment concludes that the proposed development would not significantly impact upon Powerful Owls (*Ninox strenua*) despite recognising the potential for the development to cause reduced breeding success and potential abandonment of an identified nest tree (which is described as the only suitable hollow tree in the relevant bushland gully in the flora and fauna assessment). The DECC Guidelines² state that any factor which operates to reduce reproductive success will increase the risk of extinction.
- v. The conclusion that, if disturbed, the owls would concentrate future breeding efforts in a more secluded area of their existing home range, assumes that there are other suitable nest sites within the existing home range of this breeding pair. Without knowledge of other suitable nest sites, which are suitably far from other neighbouring pairs in the Lane Cove Valley, it cannot be concluded that the proposed development will not significantly impact upon this species. Additionally, there are discrepancies regarding the existing buffer of native vegetation around the existing nest site, with the report containing contradicting statements that there is currently residential development within 100m of the nest site and that the nest site is 150m from residential development. As the location of the nest site is not mapped on any figure, the distance between any residential development and the nest tree cannot be ascertained.
- vi. In assessing impacts to arboreal mammals, the flora and fauna assessment states that impacts to this fauna group would arise from the removal of hollow bearing trees but that hollow bearing trees will be retained in preference to non-hollow bearing trees and nest boxes will replace any hollows removed. It is unclear what is meant by retaining hollow bearing trees in preference to non-hollow bearing trees when the flora and fauna assessment suggests that the selection of trees to be retained will be guided by their location rather than attributes of the individual tree.
- vii. In assessing the impact to microchiropteran species, the flora and fauna assessment states that as only single or few records of each species exist for the locality, it is unlikely that the area supports viable or important populations of these species. This assumption is contrary to the DECC guidelines which state that demonstrating that a population is not viable would require considerable effort and therefore any known or presumed local populations should be assumed viable unless the contrary can be conclusively demonstrated. The data presented in the flora and fauna assessment is not adequate to conclusively demonstrate that the records of these species are part of

² DECC (2007) Threatened species assessment guidelines: The assessment of significance. Department of Environment and Climate Change

non-viable populations. Even so, this is unlikely to change the conclusion of the flora and fauna assessment that these species will not be significantly impacted.

Ecological corridors

- viii. The flora and fauna assessment concludes that the corridor east of Fox Valley Road will maintain connection to Mitchell Crescent Reserve and that the vegetation clearing should not greatly alter the current passage of fauna to and from this part of the Subject site. The flora and fauna assessment does not assess the impacts to the connectivity of this corridor to the north-east. It is considered that this corridor extends northeast from the portion of the subject site east of Fox Valley Road and connects to the Coups Creek Corridor and to Mitchell Crescent Reserve and the Lane Cove Valley. This connection to the northeast was mapped by DECC (2008) as part of the rapid fauna habitat assessment. The vegetation clearing and maintenance of APZs which are proposed within the portions of the subject site to the east of Fox Valley Road would sever the connection along this part of the corridor. As such, the conclusions of the flora and fauna assessment that the proposed development would not greatly alter the current passage of fauna to the east of Fox Valley Road is unsupported.
- ix. At the very local scale, connectivity between the bushland east of Fox Valley Road and the adjacent lot to the north-east will be severed. An assessment of any fauna movements between these two lots is warranted.
- x. The increased impact of edge effects and the reduced provision of habitat from the narrowing of such linkages can sever the effective connectivity of habitat for a variety of species. The width of these linkages should be retained or enhanced to protect biodiversity. Such linkages are likely to become even more important with climate change impacts.

The following conclusions arise from the review of the flora and fauna assessment:

- i. The vegetation communities identified as occurring within the subject site as part of Ku-ring-gai Council's internal mapping project have several differences from vegetation communities identified as occurring on the subject site within the flora and fauna assessment. Differences pertaining to the distribution of Critically Endangered Ecological Communities (CEEC) and Endangered Ecological Communities (EEC) are of importance.
- ii. The methodologies are not explained in detail and the results of previous reports have been relied upon without providing details of the survey effort from these previous reports. It is noted that the combined survey effort for microchiropteran bat species is less than recommended by DEC (2004).
- iii. The vegetation mapping of the flora and fauna assessment is coarse and includes areas of plantings of exotic and non-local native species in the distribution of threatened ecological communities. This contributes to an overall under-estimation of the impacts of the proposed development upon Critically Endangered and Endangered Ecological Communities.

Item

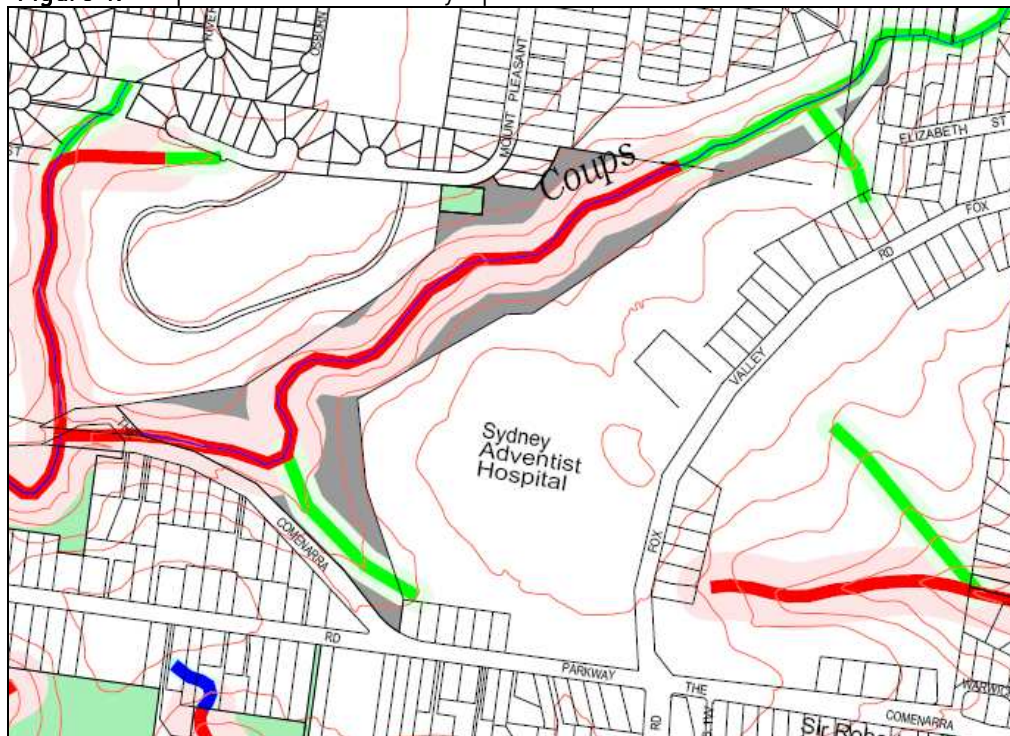
S05913
5 June 2009

- iv. Council's vegetation mapping indicates that there is a reduced area of BGHF within the subject site and that the proposed development will retain only 3% of this vegetation.
- v. Council's vegetation mapping indicates that there is an increased area of vegetation consistent with STIF and that this area satisfies the description of STIF under the *EPBC Act 1999*. Furthermore, the flora and fauna assessment underestimates the impact of the proposed development on this community.
- vi. The findings that the breeding pair of Powerful Owls will not be significantly impacted, despite acknowledging the potential for this pair to abandon the current nest tree and to experience reduced breeding success, is questionable. It is considered that there is potential to significantly impact upon this breeding pair given that Asset Protection Zones will incur to within 50m of the current nest site. The location of vegetation clearing, roads or stormwater detention basin within 50m of the nest site would involve construction works and could give rise to ongoing disturbance in close proximity to the nest site.
- vii. The finding that ecological corridors will be unaffected is questionable. The narrowing and severing of these corridors will have adverse regional impacts on biodiversity.
- viii. The conclusions of the flora and fauna assessment do not clearly indicate the findings discussed in the main body of text, including that the proposed development will significantly impact upon the Critically Endangered Ecological Community (CEEC) 'Blue Gum High Forest' (BGHF), as listed under the *TSC Act*, and the Endangered Ecological Community (EEC) Sydney Turpentine Ironbark Forest (STIF) as listed under the *TSC Act* and the EPBC Act.
- ix. The statement that water courses and riparian vegetation will be unaffected as by the proposed development is incorrect and areas of these ecosystems will be impacted by the proposed development.

2. Impact on riparian corridors

Council's Technical Officer - Water & Catchments has assessed the proposed Concept Plan and has raised concerns in relation to the following matters:

The major concern raised in relation to riparian management is that the concept plan effectively removes two waterways and associated riparian zones from the area or imposes detention systems on them. Site investigations and Ku-ring-gai Council's riparian policy identify seven drainage lines on the site as shown in Figure 4:

Figure 4: Coups Creek and Fox Valley riparian corridors

The concept plan indicates core riparian zones to be established around five of the following riparian corridors:

- Lane Cove River
- Part of Lane Cove Tributary 1
- Coups Creek
- Coups Creek Tributary 1
- Fox Valley Tributary 1

Of major concern, is that two of these riparian zones have not been retained in the plan and one (Lane Cove Tributary 1) is to be substantially altered.

All of the riparian zones, except Coups Tributary 2, have been identified through the vegetation mapping (Figure 3) carried out by Cumberland Ecology. The reason why Coups Tributary 2 has not been identified on any documents should be addressed, with environmental justification provided for omission of this riparian zone in the concept plan.

The concept plan proposes stormwater detention basins to be established in three of these riparian zones. These are:

- Lane Cove Tributary 1
- Fox Valley Creek Tributary 2
- Coups Creek Tributary 2

At the very least, the development around these smaller watercourses should align with DWE requirements for first order watercourse riparian zones (10m CRZ), from *Guidelines for controlled activities: Riparian Corridors* and preferably align with the Ku-ring-gai Council

Item

S05913
5 June 2009

Riparian Policy (2004). The proposal to include detention basins is also against DWE's *Guidelines for controlled activities: In-stream works*.

3. Sustainable water management

Ku-ring-gai Council strongly supports the incorporation of water sensitive urban design features (WSUD) and the plan to go beyond BASIX requirements into the development. However, these features should not be implemented in place of retaining natural watercourses and riparian zones, which appears to be the approach in a few circumstances, as outlined above. In order to avoid this, a stronger emphasis should be placed on implementing WSUD features at the lot-based scale rather than the development as a whole (as it is currently with the large detention basins).

The use of excess harvested stormwater to irrigate gardens and recreational areas is also highly supported.

The pollutant reduction targets used for the Wahroonga Estate Flooding and Stormwater Master Plan have been sourced from Ku-ring-gai Council's DCP 47:

- 70% reduction in the average annual gross pollutants load.
- 80% reduction in the average annual total suspended solids (TSS) load.
- 45% reduction in the average annual total phosphorus (TP) load.
- 45% reduction in the average annual total nitrogen (TN) load.

However, the large scale of this development is in line with the application of the Growth Centre Commission recommended pollutant reduction target³ as outlined by *Managing urban stormwater: environmental targets*⁴:

- 90% reduction in the average annual gross pollutants load.
- 85% reduction in the average annual total suspended solids (TSS) load.
- 65% reduction in the average annual total phosphorus (TP) load.
- 45% reduction in the average annual total nitrogen (TN) load.

It is suggested that these are more appropriate targets for this development, particularly for the areas where bushland vegetation is proposed to be cleared to allow for development.

Given the huge increase in demand that this development will impose on potable water and sewerage systems, it is highly recommended that a sewerage treatment scheme is incorporated within the development to minimise waste and provide water for non potable purposes. This option has been mentioned, however no proposal, commitment or plans have been put forward by the proponent.

In addition, it is acknowledged that upgrade of the water supply and sewerage systems will be required in order to support the development in this area. Consideration should be given to the

³ Environmental Protection Agency (1997) Managing urban stormwater: council Handbook (draft).

⁴ Department of environment and Climate Change, Sydney Metropolitan Catchment Management Authority (2007) Managing urban stormwater: environmental targets, consultation draft October 2007

Item

S05913
5 June 2009

environmental impacts of this upgrade, particularly in regard to the consequences for integrity of riparian areas and impacts to ecological communities.

4. Traffic, transport and access

Parking provision

Hospital

The hospital is the core function of the site and invariably generates most of the parking demand for the Estate. However, no details have been provided of the proposed hospital parking provision (except indicatively, in the environmental assessment and concept plan), despite mention of hospital park occupancy surveys in the traffic management and access plan and a separate report into parking needs by Parking Consultants International. Council has not been provided with a copy of this survey.

Consequently, there is no evidence to demonstrate that the existing provision is adequate to cater for existing demand and, similarly, no evidence has been provided to confirm that future parking provision would be adequate to cater for future demand. It is likely, though, that visitor car park turnover currently is maintained through charges for visitor parking (on a sliding scale for stays longer than 15 minutes).

Observations indicate there is high demand for the unrestricted on-street parking on Fox Valley Road adjacent to the site, however, this generally impacts adjacent land owned by the Wahroonga Estate and would not affect the wider community. The potential for peak period "No Parking" restrictions on Fox Valley Road would impact on parking availability and this would need to be taken into account.

Residential

The proposed residential parking provision, which is lower than that foreshadowed in DCP43 (Car Parking) could be acceptable if more firm commitments are made that the bulk of residential accommodation is dedicated to hospital/nursing staff. This is critical as on-site staff and student accommodation is part of the justification for reduced resident and staff parking provision.

Comments are made in the traffic report that the church has an established car pooling practice and, on that basis, intends to expand the practice by implementing a car sharing scheme for residents, staff and students. However, the claim is not substantiated by evidence, so the effectiveness of a proposed car sharing scheme may be questionable, particularly since the scheme also forms part of the justification for reduced resident and staff parking provision.

The proposal to implement a car share scheme is generally considered positive, provided that the bulk of accommodation is allocated to hospital/nursing staff. Parking spaces for shared vehicles should be accommodated on site. Car parking for shared vehicles should be located in common areas, where access is not impeded by security grilles and the like.

Item

S05913
5 June 2009Commercial/retail development

Reduced commercial and retail parking rates are considered adequate in the context that visits to these uses would be part of larger, multi-purpose trips associated with the hospital.

Educational

A significantly expanded school is proposed on the site, however, there is no consideration of parking provision for this use. As per Council's DCP43 (Car parking) and Traffic and Transport Policy, the proposed school should have (as a minimum) on-site parking for employees and Year 12 students as well as on-site pick up and drop-off facilities.

There are indications of school parking provision in Figure 80 of the TMAP but there is no detailed analysis of how this was derived. Provision would also need to be made for bus stops and indented bus bays on Fox Valley Road near the proposed school.

Traffic generationExisting traffic conditions

The traffic report acknowledges the poor operation of surrounding intersections, such as the intersection of The Comenarra Parkway and Fox Valley Road and the intersection of Pacific Highway and Fox Valley Road. Intensification would place additional pressure on these intersections.

Lucinda Avenue has had a history with traffic speeds and traffic volumes, particularly as an attractive alternative route to the F3 Freeway. This is despite signage at the intersection of Lucinda Avenue and Pacific Highway stating there is no direct access from Lucinda Avenue to the F3 Freeway (motorists should turn left into Pacific Highway then continue left into Pennant Hills Road to access the F3).

Counts undertaken in 2003 show that northbound traffic volumes in Lucinda Avenue approach their peak between 3pm and 4pm, which coincides with the end of the nurse's morning shift. Northbound traffic volumes also approach their secondary peak between 7am and 8am, which coincides with the end of the nurse's evening shift. The traffic generation resulting from departures from the site (TMAP Chart 11) has peaks between 3pm and 5pm, which are also higher than the morning peaks, which is similar to the traffic profile for northbound traffic on Lucinda Avenue. While origin/destination surveys were not undertaken, the counts indicate that Lucinda Avenue is a popular route for hospital staff to access Hornsby or the F3 Freeway.

Council's 2003 traffic counts also recorded 85% speeds of 64km/h (average, two way), contrary to the speed of 48km/h quoted in section 2.4 of the traffic report. Intensification on the site would place additional pressure on Lucinda Avenue and residents in Lucinda Avenue have previously raised issues in relation to the speed of vehicles.

The traffic generation of the existing school has not been measured/quantified.

Item

S05913
5 June 2009Future traffic conditions

The suggested peak hour private residential traffic generation base rate is at the lower end of the RTA's range but public transport (bus services) could not be considered frequent nor is it patronised well. As a result, the private residential traffic generation base rate would be higher, possibly 7% higher than figure provided by the proponent.

The number of dwellings which would be occupied by staff of the hospital was not able to be determined. Therefore, there is no firm commitment that staff working at hospital would occupy a substantial portion of the residential dwellings. This is critical to trip containment and reduced traffic generation. The traffic assessment is overly reliant on staff accommodation and is too optimistic.

The increase in the numbers of school students is significant but there is no information on how many students at the school are currently those of SAN residents and staff, despite the assertion that residents in the new dwellings will send their children to the new school. This information is also critical to support the claim of trip containment and reduced parking provision.

Hospital traffic generation is calculated on forecast average annual increases in hospital activities. However, there is no direct comparison of hospital traffic generation based on RTA guidelines (which is based on number of beds and average staff per weekday shift), to see if this would produce a markedly different result.

Rezoning of the former B2 corridor south of The Comenarra Parkway would result in a relatively small number of single lot dwelling houses, which are unlikely to produce significant traffic impacts.

Intersection analysis of surrounding critical intersections

Clearly, an additional 1000 movements during the morning peak hour and over 600 movements during the afternoon peak hour resulting from the proposal would impact on the immediate road network.

Should the proposal proceed, the identified intersection upgrades at the intersection of Pennant Hills Road with The Comenarra Parkway, The Comenarra Parkway with Fox Valley Road, Pacific Highway with Fox Valley Road, and The Comenarra Parkway/Kissing Point Road would be generally supported. Upgrades are also identified for the roundabouts on Fox Valley Road at its intersection with Ada Avenue and Lucinda Avenue.

The suggested sequencing of road improvements is also supported, although the intersection of Fox Valley Road and The Comenarra Parkway should be a high priority due to its poor level of service and adverse accident history. Council has been aware of the adverse accident history at this intersection but suitable upgrades require additional road widening, which would have resulted in significantly increased project costs. With the proposal, this upgrade appears more feasible, particularly as land on the northern side of The Comenarra Parkway is owned by SAN, which would facilitate any road reserve widening.

Modelling (using INTANAL software) of the future traffic volumes and proposed intersection layout as shown in the traffic report, however, indicates that right turning vehicles from The

Item

S05913
5 June 2009

Comenarra Parkway (westbound) into Fox Valley Road (northbound) would experience excessive delays. Excessive delays would also be experienced by right turning vehicles from Fox Valley Road (southbound) into The Comenarra Parkway (westbound) and the modelling indicates queues on Fox Valley Road could extend to the signals at the hospital entrance.

With regard to the roundabout upgrades in Fox Valley Road to dual lanes, preliminary investigations indicate there is insufficient space in the road reserve to accommodate two south/west bound lanes through the roundabouts at Ada Avenue and Lucinda Avenue. Also, these roundabouts are generally surrounded by land not owned by ACA or Council, so acquisitions would be required. Further investigations would have to be undertaken to determine the feasibility of accommodating the upgrade within the existing road reserve (which may require the existing roundabouts and approaches to be completely reconstructed). Similarly, there is not enough width in The Comenarra Parkway road reserve to accommodate the proposed left turn slip lane to Kissing Point Road, therefore land acquisition would be required.

Preliminary investigations of the intersection of Pacific Highway and Fox Valley Road indicate there is not enough width in the Fox Valley Road reserve to accommodate an additional approach lane. An additional lane would result in a constrained shoulder/nature strip environment on the southern side of Fox Valley Road and acquisition for road widening would be required. The suggested pedestrian overpass across Pacific Highway would improve pedestrian safety and intersection performance but would require ramps or lifts. There could be sufficient space on the western side of Pacific Highway to develop the ramps or accommodate lifts but the eastern side appears constrained by the Warrawee Bowling Club.

Access and circulation in the internal roads on the western side of Fox Valley Road is shown as continuous and seamless, and integrated with the circulation roads directly around the Hospital. Parts of the internal roadways surrounding the hospital currently have restricted access due to paid parking areas on site, so clarification is required on how seamless access to all the land uses would be achieved while maintaining restricted access (paid parking areas). It would be expected that there would be seamless access off Fox Valley Road to the internal roads and unrestricted visitor access to all areas except paid parking areas.

Other considerationsTMAP

Guidelines (prepared by the Ministry of Transport and RTA) for the preparation of a Traffic Management and Access Plan (TMAP) suggest that a package of infrastructure, service and design measures should be identified to address the impacts. Apart from a number of measures proposed in the TMAP to address the impacts, there appears to be no information regarding commitment and costings of the measures.

Proposed school pick up and drop off

The school pick up/drop off point on the site is supported, subject to appropriate length to cater for the expected demand. However, accessing the pick up/drop off point would be difficult due to its location adjacent to the school. This would strictly require vehicles from Fox Valley Road to enter the new road ("Coups Creek Way") and then circulate either use the local residential roads or enter via the main hospital entrance, to correctly access the school pick up/drop off

Item

S05913
5 June 2009

point. Congestion at the school entrance and the roundabout could therefore result if vehicles try to perform excessive manoeuvres and u-turns in close proximity to access the pick up/drop off point.

Bus services

While there are two bus routes servicing the site, the passenger numbers using buses to access the San Hospital are relatively low. The data in the TMAP indicates spare capacity on these buses, so the strategy to increase awareness of the services (both at Hornsby/Thornleigh/ Turramurra railway stations and the SAN Hospital) is supported and should be supplemented with improved timetable information at the bus stops outside the Hospital. The proposal to provide a shelter on the southern side of Fox Valley Road is also supported.

Strategic Bus Corridor 7 (Macquarie to Hornsby) was initially proposed to run between Lane Cove Road and Pennant Hills Road via Yanko Road and The Comenarra Parkway. Following the review of the Shorelink contract region, Strategic Bus Corridor 7 (route 575) has been established, which connects Macquarie with Hornsby (via Turramurra). Therefore, the opportunity for a third service to the hospital no longer exists.

Bus routes and stops would also have to be modified or extended to be able to effectively service the proposed school.

Potential for rat run between Comenarra Parkway and Fox Valley Road via new road ('Ku-ring-gai Way')

This new road would offer an alternative local connection between Fox Valley Road and The Comenarra Parkway. However, such a route may be attractive to motorists wishing to bypass the traffic signals at the intersection of The Comenarra Parkway and Fox Valley Road. Given that there are only two proposed dwellings fronting The Comenarra Parkway (which access directly from The Comenarra Parkway), it would not be necessary for this road to connect to The Comenarra Parkway. Should the new road proceed as exhibited, then traffic calming measures should be implemented along the route to discourage by-pass traffic from using this road.

Conclusions

The main traffic and parking concerns relate to the following themes:

- The suggestion of trip containment and therefore reduced traffic generation and parking requirements of the proposal is critically dependent on the assertion that a significant portion of the proposed residential dwellings would be dedicated to students and staff. However, there is no clarity as to the numbers or firm commitment that this will be achieved. As a result, unless there is a specific statement of commitment requiring that a significant portion of the proposed dwellings would be dedicated to students and staff, there is concern that traffic generation and parking demand could conceivably be higher than estimated, causing additional impacts to the road network.

Item

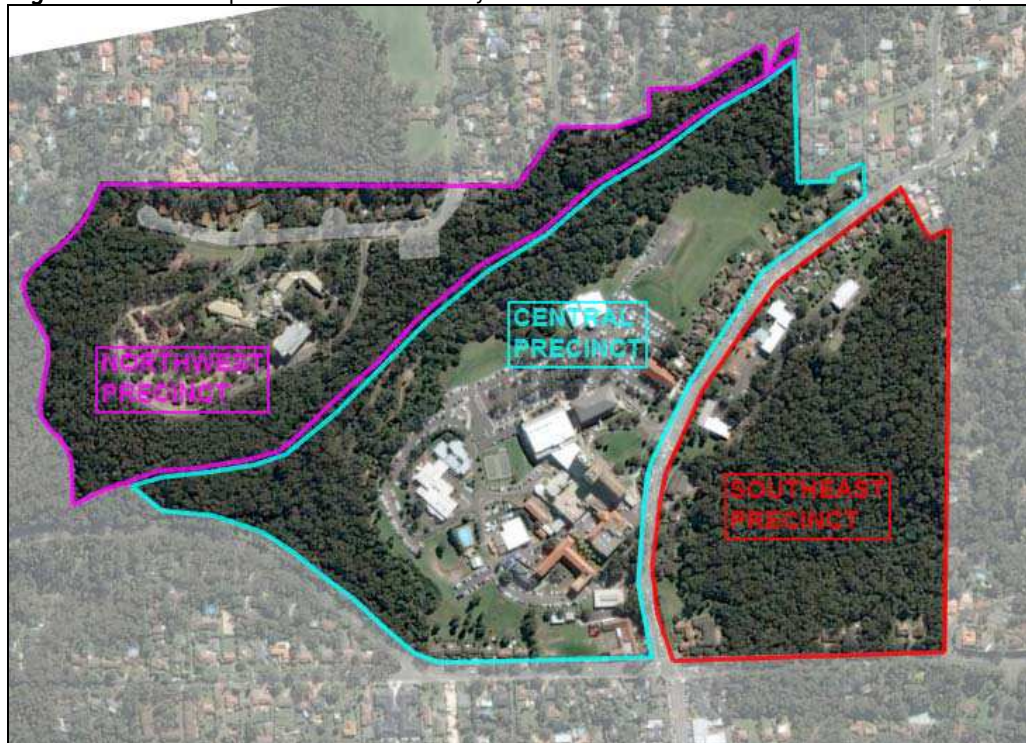
S05913
5 June 2009

- The hospital is a significant traffic and parking generator for the precinct and there is significant missing information on the parking impacts associated with the hospital expansion. The estimated traffic generation for the hospital should also consider the effects due to the number of additional beds and average additional staff per weekday shift, in accordance with RTA guidelines.
- A suite of intersection upgrades, infrastructure and other improvement measures to address the impacts are considered and analysed, however, there appears to be no information regarding commitment and costings of the measures.
- There is concern that the majority of proposed intersection upgrades may not be achievable within the existing road reservations and that acquisitions may be required. There is also concern that the proposed improvements at the intersection of The Comenarra Parkway and Fox Valley Road may not be adequate to cater for the demand.

5. Bushfire

Council's Technical officer – Fire has highlighted the following concerns in relation to the proposal. Except where otherwise identified, for the purposes of bushfire assessment references to “development precinct” relate to the fire precincts identified in the report by Australian Bushfire Protection Planners (ABPP) and in the following diagram:

Figure 5: Bushfire precincts identified by Australian Bushfire Protection Planners (ABPP)



5.1 North-west Fire Precinct: Comprising Precinct A: Mount Pleasant**5.1.1 Retirement village nursing home:**

The report by Australian Bushfire Protection Planners (ABPP) refers to an increase in width of the Asset Protection Zone in this area. Reference is made to a request from the NSW Rural Fire Services (RFS) that the area be managed in accordance with a Fire Management Plan (FMP), however no FMP was provided and no distances have been specified. The Fire Management Plan specified for this area must be provided prior to further consideration.

The slopes that most affect bushfire behaviour in this area are those which are $>18^\circ$ (Refer slope map **Annexure 8**). The Asset Protection Zone (APZ) calculator (RFS Assessment Tool) stipulates an APZ of 57 metres with a 29 metres inner protection area and 28 metres outer area on such slopes. It is unclear what the FMP stipulates for such measures in this area.

5.1.2 Residential development between Mount Pleasant Avenue and the northern estate boundary:

Vegetation within 200 metres of new development on the site includes a 3.8 hectares of unmanaged category 1 bushland at Loreto Ladies College to the north. This area contains bushland on slopes of 5° to 10° . Under the right conditions this amount of bushland can generate an intense bushfire.

Presently, a managed 6 metres wide APZ is maintained on the Loreto College side of the boundary. No mention is made of whether a reciprocal APZ is to be established on the redevelopment site. The RFS APZ Assessment tool specifies a 39 metres APZ is required for redevelopment of this part of the site.

On the southern side of Mount Pleasant Avenue, at its eastern end, is Category 1 bushland resident on slopes of $> 18^\circ$. The report by Australian Bushfire Protection Planners (ABPP) advises that an APZ of 45 metres should be maintained at this point. The RFS APZ Assessment tool specifies a 57 metres setback with level 3 construction standards imposed.

5.1.3 New residential development between Mount Pleasant Avenue and the northern estate boundary – western end:

As mentioned above, development affected by bushland from the Loreto Ladies College requires a setback of 39 metres. The report by Australian Bushfire Protection Planners (ABPP) states that a 15 metres APZ presently applies to the site and also mentions that managed by Loreto College. The APZ should be totally within the development unless an agreement is worked out with the adjoining land owner. No mention is made of such an agreement with Loreto College, however, but even if such an agreement did exist a combined APZ of 15 metres and 6 metres is insufficient to achieve the requirements of the RFS APZ Assessment tool.

The assertion that the riparian corridor measures less than 50 metres is true if you only consider riparian vegetation in the upper reaches of the tributary creek. However, lower down toward where it intersects with Lane Cove River riparian corridor measures 80 metres. If viewed for a distance of 140 metres in all directions then it broadens out and

Item

S05913
5 June 2009

ranges from 80 to 100 metres and becomes progressively wider as the Lane Cove flows south. Therefore, the assertion that the riparian corridor is less than 50 m wide and the vegetation can therefore be treated as Rainforest for the purposes of establishing a 25 m APZ is only true for the upper reaches of the tributary. The APZ to the western edge of the site will therefore be affected by Category 1 vegetation and slope angles of >18°.

5.1.4 New residential precinct to the north-west of existing Adventist retirement village:

As mentioned this new residential precinct occupies vacant land outside the perimeter road and thus directly adjoins bushland. To the west, the Lane Cove River riparian corridor measures 116 metres. To the north, in the tributary creek, the riparian corridor measures 58 metres. All vegetation is thus classified as Category 1 for the purposes of APZ determination and not Rainforest as the report by Australian Bushfire Protection Planners (ABPP) suggests.

5.2 Central fire precinct: comprising Precincts B & C: Central Church & Central Hospital**5.2.1 Village centre/retail development precinct – west of Fox Valley Road & Comenarra Parkway intersection.**

This section of this precinct has adequate separation from flame and radiated heat bushfire attack but is still relatively exposed to ember attack. It is suggested that buildings in this area meet AS 3949 Level 1 Construction standards. This can be conditioned at the development application stage.

5.2.2 Faculty of Nursing and residential development to the north of The Comenarra Parkway – western end.

As mentioned above this section of this precinct has adequate separation from flame and radiated heat bushfire attack but is still relatively exposed to ember attack. It is suggested that buildings in this area meet AS 3949 Level 1 Construction standards.

Another feature that would assist this section of the development would be the addition of smoke scrubbers/filters to the air conditioning system.

5.2.3 Infill residential development of the north of The Comenarra Parkway - western end:

As mentioned above this section of this precinct has adequate separation from flame and radiated heat bushfire attack but is still relatively exposed to ember attack. It is suggested that buildings in this area meet AS 3949 Level 1 Construction standards.

Another feature that would assist this section of the development would be the addition of smoke scrubbers/filters to the air conditioning system.

5.2.4 Hospital precinct:

The report by Australian Bushfire Protection Planners (ABPP) states that indicates that when developing setback widths for the hospital ancillary non special fire protection buildings, they will be located within the 100 metres wide APZ provided to the core hospital

Item

S05913
5 June 2009

buildings. This assessment uses an effective slope of $<15^\circ$ as justification for this. Planning for Bushfire Protection 2006 (PBP) does not recognise effective slope but rather the slope that most affects bushfire behaviour. In this case the slope is $>18^\circ$ which would indicate setback widths of 57 metres and building construction standards to Level 3.

5.2.5 Church/community facilities:

The church and community centre section of this precinct does not have adequate separation from flame contact and radiated heat emission and will also be exposed to ember attack. Occupants of these buildings will be vulnerable during a bushfire event. The report by Australian Bushfire Protection Planners (ABPP) suggests that occupants be relocated during such an event. This may become problematic, especially if children are involved, given the high volume of traffic that will already be evacuating from surrounding residential areas. Sheltering in the buildings themselves will not be an option given that bushfire behaviour will be influenced by the adjacent slope which measures $>18^\circ$ and given that the buildings were built prior to Planning for Bushfire Protection 2006 (PBP) requirements and are without any bushfire protection measures.

5.2.6 New residential flat development:

This section of the proposed development is subject to bushfire attack not only from Coups Creek bushland but, if winds shift from north-west to south-east, will be subject to ember attack from bushland to the south-east of Fox Valley Road. The south-eastern side of these buildings should comply with AS 3959 Level 1 construction standards.

5.2.7 Proposed kindergarten to year 12 school:

The predominant slope below this SFPP development ranges between 10° - 15° , although there are some existing between 15° - 18° and some $>18^\circ$. The predominant slopes (10° - 15°) require an APZ ranging from 86 to 100 metres in width. This will necessitate some clearing of the Sydney Blue Gum High Forest Critically Endangered Ecological Community (CEEC) and clearing and maintenance into the riparian buffer zone. The report by Australian Bushfire Protection Planners (ABPP) offers no consideration to the further erosion of this vegetation community and riparian buffer.

The south-eastern side of these SFPP buildings may be subject to ember attack from wind shifts to the south-east.

5.3 South-east fire precinct: Comprising precincts D & E: Fox Valley Road east and residential east**5.3.1 Infill residential development along The Comenarra Parkway:**

The slopes leading up to this section of the proposed development and that most affects bushfire behaviour, measure $>18^\circ$ which requires an APZ of 57 metres with Level 3 construction standards.

However, as this affects "infill" development such setback distances cannot be achieved. Notwithstanding, any new building must achieve Level 3 construction standards.

5.3.2 Village centre/retail development - east of Fox Valley Road:

This part of the proposed development lies at the apex of the valley to the east of the development where the existing slope is $>18^\circ$. This part of the site is exposed to direct bushfire attack from the east and ember attack from the south-west and south. The site is "infill" and subject to provisions within Planning for Bushfire Protection 2006 (PBP) relating to "infill" developments.

5.3.3 Existing residential accommodation, south-east of Fox Valley Road

This part of the proposed development is also situated at the apex of the to the east of the development site with slopes $>18^\circ$. This part of the site is exposed to direct bushfire attack from the east and ember attack from the south-west and south. The site is "infill" and subject to provisions within Planning for Bushfire Protection 2006 (PBP) relating to "infill" developments.

It is noted that much of the vegetation clearing to the east of Fox Valley required for the establishment of a compliant APZ will further erode the remnant Sydney Turpentine Iron-Bark Forest (STIF) EEC. The report by Australian Bushfire Protection Planners (ABPP) offers no consideration to the further erosion of this vegetation community.

5.3.4 Commercial precinct:

Slopes most affecting bushfire behaviour below the proposed commercial precinct range from 15° to 18° to $>18^\circ$. The extent of vegetation clearing required to establish compliant APZ's in this area will further erode the remnant Sydney Turpentine Iron-Bark Forest (STIF) EEC. The report by Australian Bushfire Protection Planners (ABPP) offers no consideration to the further erosion of these vegetation communities.

5.3.5 New residential development precinct – south-east of EEC corridor:

This section of proposed development occurs above slopes of $>18^\circ$ (Refer slope map in **Annexure 8**). Planning for Bushfire Protection 2006 (PBP) requires an APZ of 57 metres to be maintained in this area. Clearing for development, road networks and APZ will occur predominantly within the STIF EEC.

5.3.6 New residential development precinct – south-east of Fox Valley Road – north-east of commercial precinct:

Development of the section of the precinct will take place predominantly within the remnant STIF EEC. The report considers clearing in this area as foregone and therefore less than 50 metres of vegetation will remain allowing for the establishment of an APZ just 15 metres wide which will also clear the EEC remnant.

5.4 Bushfire evacuation risk area

The Wahroonga Estate Redevelopment site resides wholly within a Bushfire Evacuation Risk area as denoted by the blue cross-hatching on Ku-ring-gai Councils Bush Fire Prone Land Map. These areas have been established using a number of criteria which the

Item

S05913
5 June 2009

Australian Bushfire Protection Planners (ABPP) did not properly evaluate in their assessment:

- Single access/egress into an area
- Bottle-necks
- Potential limited access for emergency services
- Isolated development
- Access ways that pass through or are directly adjacent to identified hazards
- Ridge top developments with steep slopes
- Known fire paths/impact areas
- Existing high density of special fire protection development
- Identified traffic flow problems and
- Identified mains water pressure issues

Of these 10 criteria, the Wahroonga Estate redevelopment site has 9 issues that need to be addressed.

5.4.1 Single access/egress into an area:

Fox Valley Road is a relatively narrow two way road made more so with kerbside parking. It is the only roadway that offers an evacuation escape route and only to the north. To the south Fox Valley road offers no alternative remaining within the Bush Fire Evacuation Risk area. The Comenarra Parkway also, does not offer an alternate escape route as travelling both west and east bottlenecks occur with vegetation coming right up to roadside edges on both sides and which may be involved in fire at the time of evacuation.

5.4.2 Bottle-necks:

Fox Valley Road has one set of traffic lights and one round-about that also act as bottle-necks during peak traffic flows.

Besides the bottle-necks mentioned above another bottle-neck occurs on Mount Pleasant Road with vegetation coming right up to the roadside edge and off slopes > 18°. It is located on a bend in the road at the eastern end of the proposed redevelopment for this particular precinct.

5.4.3 Potential limited access for emergency services:

The only access for a fleet of Ambulances and Fire Tankers will be from the north via Fox Valley road. This incoming traffic will be impeded by evacuating traffic funnelled onto Fox Valley Road from the Wahroonga Estate which itself will join traffic from the surrounding area.

There is also the potential for limited access for emergency services vehicles into the Estate from Fox Valley Road during times of emergency evacuation due to accidents and sheer numbers of exiting traffic

5.4.4 Isolated developments:

The redevelopment site that adjoins Mount Pleasant Road is an isolated development surrounded to north, south, east and west by category 1 bushfire vegetation. The only escape route as mentioned previously has a bottle-neck along part of its length. Evacuating traffic will meet with ambulances and fire tankers trying to access the area.

5.4.5 Access ways that pass through or are directly adjacent to identified hazards:

Ku-ring-gai Councils Bush Fire Prone Land Map (BPLM) accurately identifies the extent of category 1 bushfire vegetation surrounding the redevelopment site. It shows how vegetation forms "pinch points" along roadways creating evacuation hazards. These "pinch points" are located on The Comenarra Parkway near Lisa Valley Close in Wahroonga and also on The Comenarra Parkway near Terrell Avenue Wahroonga. The blue hatched areas on Ku-ring-gai Councils BPLM show the extent of the Bush Fire Evacuation Risk areas.

5.4.6 Ridge top developments with steep slopes:

The Coupes Creek and Lane Cove Valley along with an unnamed tributary creek east of Fox Valley Road together dissect the proposed redevelopment site into steep sided broad ridge top developments. Typical slope angles in these valleys range upwards from 18°.

5.4.7 Known fire paths/impact sites:

In December of 1997 a small spot fire developed in the Coupes Creek valley but was contained to an area of 0.5 hectares. It did not impact on the Hospital or other infrastructure in the area. The fire originated as a spot over from a fire that started in Thornleigh and burnt down to bushland in the Browns Road area just south of The Comenarra Parkway where it adjoins with bushland from Coupes Creek. Two other fires have also occurred in this area of Browns Road once in 1994 and again in 2002 though no spot overs occurred into Coupes Creek as a result of these last two fires.

The 1997 fire though does served to highlight that spotting activity can carry fire outside of known fire paths and could quite easily impact on the Coupes Creek area and on development that stands on the ridge above.

5.4.8 Existing high density of special fire protection development:

The proposed redevelopment site already contains a preponderance of special fire protection (SFPP) infrastructure. The Sydney Adventist Hospital is the largest and is also the largest private hospital in the North Sydney region. It is also a recognised teaching facility with nursing staff accommodation attached. There is also a nursing home, retirement village and primary school in the area.

5.4.9 Identified traffic flow problems:

Traffic flow problems have already been identified as occurring in the area during the morning and afternoon peaks. In particular, the intersection of Fox Valley Road and The Comenarra Parkway is currently operating at capacity and additional pressure caused by an evacuation during peak periods would create additional congestion.

Item

S05913
5 June 2009

There are proposals to upgrade the roundabouts in Fox Valley Road, to provide 2 south/west bound lanes. To cater for the additional traffic that may have to be evacuated during a bushfire event, consideration should be given to modifying the roundabouts to also provide 2 north/east bound lanes (i.e. away from the site). However, given that there could be constraints to providing 2 south/west bound lanes (due to limited road reserve width); it is considered that it would be even more difficult to include 2 north/east bound lanes through these roundabouts. Concerns regarding the feasibility of upgrading the intersection of Pacific Highway and Fox Valley Road would also impact on ease of evacuation particularly during afternoon peak periods.

5.5 Conclusion

With the implementation of the bushfire protection measures as outlined in the Bushfire Protection Assessment Report by ABPP allowing for the above mentioned alterations the proposed redevelopment of the Wahroonga Estate could proceed. However, it would only proceed at great cost to the environment.

Clearing of vegetation on this scale would reduce biodiversity in the area, destroy habitat, some of which is the preserve of threatened fauna and greatly reduce the Endangered Ecological Communities within the area. Clearing on some of the steep slopes would also affect water quality within the Lane Cove Catchment.

The impact of the proposed rezoning and development on bushfire evacuation has also not been adequately addressed by the proponent, both with regard to evacuation from the site and impacts to emergency evacuation of surrounding residential areas. Further consideration must be given to impacts of the proposed development on evacuation requirements during a bushfire event.

The full impacts of the proposed re-zoning and redevelopment needs to be addressed prior to approval of the application as this affects the location and extent of sensitive land uses.

5.6 Summary of bushfire concerns:

The following summary identified concerns raised in relation to the bushfire Hazard presented by the proposed redevelopment of the Wahroonga Estate.

- i. The Bushfire Protection Report prepared by Australian Bushfire Protection Planners (ABPP) is inadequate in the following respects:
 - The reliance of the bushfire assessment on “effective slope” is inconsistent with best practice and would not reflect true bushfire behaviour.
 - The Asset Protections Zones in the Mount Pleasant precinct, Central Church, Central Hospital, Fox Valley Road East and Residential East are generally greater than suggested in the report, consequently
- ii. The proposed concept plan would permit a variety of Special Fire Protection Purpose development types in several locations at the site, such as seniors living, residential aged care, new development for educational purposes. If such developments are to be located nearer the bushfire hazard then proposed APZ’s would have to be increased under the

Item

S05913
5 June 2009

Guidelines Planning for Bushfire Protection 2006. This is likely to have unacceptable ecological consequences in the Mount Pleasant, Central Church and Residential East precincts. It is recommended that provisions be included to ensure that any new development on the site be located to ensure that the proposed APZ in the concept plan will not require extension.

- iii. The conflict between the existing and future expanded hospital use, new educational facilities and existing surrounding residential is likely to result in large numbers of people attempting to evacuate the area via Fox Valley Road. Further consideration must be given to impacts of the proposed development on evacuation requirements during a bushfire event. This needs to be addressed prior to any rezoning, as it will affect the location and extent of sensitive land uses.
- iv. The Bushfire Hazard Assessment refers to a Fire Management Plan (FMP) for the Mount Pleasant precinct however no FMP or plan of management has been provided detailing the proposed management of APZs.

6. Heritage and archaeological issues

Council's Heritage Advisor has considered the proposed concept plan in the context of listed and potential heritage items. Comments in relation to impacts to identified items of heritage significance are as follows:

6.1 Heritage status

The site contains one listed built heritage item, the administration offices at 146 – 148 Fox Valley Road and one identified aboriginal heritage site.

The listing of the built heritage item was identified as lot A of DP 327532. Due to site amalgamation the lot has been incorporated into a larger parcel of land. However, the heritage listing is unaffected and still applies to the land which comprises the former lot. Council has prepared an overlay on the site map to indicate the area subject to the listing.

The aboriginal heritage site is located next to Coups Creek in an undeveloped part of the site. It is recorded in DECC's Aboriginal Heritage Information management system database (registered site 45-6-2040).

The hospital site adjoins a National Trust Urban Conservation Area - UCA 26 "Mahratta". The UCA is primarily a residential area of large single storey 1920s, 1930s and 1940s houses. It appears that the Trust did not include the cottages as they are associated with the hospital and former market garden activities. A National Trust UCA is non-statutory, however consent authorities may consider the values identified by the National Trust in its assessment of an application.

6.2 Aboriginal heritage

The assessment in the report is comprehensive and includes a physical survey of the site undertaken in June 2008. The review did not identify additional items. The known site along Coups Creek was found to be disturbed with evidence of recent broken glass bottles, rubbish,

Item

S05913
5 June 2009

charcoal (from fires) and spray-can graffiti. The physical survey was impeded by the density of vegetation which reduced visibility particularly around creek lines.

The recommendation in the report is that the identified site and undisturbed areas adjacent to Coups Creek should remain undeveloped and undisturbed. Should development in these areas be proposed in the future, an Aboriginal Heritage Impact Statement should be prepared and consultation with the local Aboriginal community should be undertaken.

Mr David Watts of the Aboriginal Heritage Office has commented on the proposed Concept Plan in the context of known aboriginal sites. Comments in relation to impacts to identified items of aboriginal heritage are as follows:

"Reference is made to the proposed development at the above area and Aboriginal heritage as documented in the Wahrenonga Estate Redevelopment Environmental Assessment and Concept Plan (WEAR).

Appendix H – 'Wahrenonga Estate Redevelopment Heritage Impact Assessment' of the WEAR documents previous research over both the immediate area and surrounding district and discusses the approaches and findings of the Aboriginal heritage field surveys, including discussion with the local Aboriginal community, undertaken by AMBS. The Aboriginal Heritage Office considers that this represents a comprehensive survey of known and potential Aboriginal heritage and concurs with the conclusions and recommendations drawn from this research.

In particular, this includes the assessment that the Coups Creek corridor has the highest potential for unrecorded sites and that the area should remain undisturbed.

The Aboriginal Heritage Office recommends that during the clearing and demolition phase of construction attention should be paid even in areas considered heavily disturbed in case Aboriginal sites are uncovered."

In response to the above, it is recommended that measures be put in place to manage construction relates activity and impacts to the Coups Creek corridor, with particular consideration given to minimising disturbance to the corridor required to upgrade the existing sewer main.

6.3 European heritage significance

Wahrenonga Estate redevelopment Heritage Impact Statement (HIS)

The HIS was prepared by Jenna Westin from Australian Museum Business Services. The author is included as a heritage consultant/archaeologist on the list of heritage consultants prepared by the Heritage Branch, Department of Planning.

The HIS was prepared in accordance with assessment guidelines prepared by the Director General. The guidelines are:

Item

S05913
5 June 2009

- *Heritage Impact Statement assessing impacts on the Adventist Administration Building (local heritage item under KPSO), Mahratta Urban Conservation Area, views from distant sites along the ridge tops on either side of Lane Cove River (eg Cheltenham and West Pymble) and timber framed houses north of Fox Valley Road for any significance.*
- *Assess the development against the Department of Environment and Climate Change's draft Guidelines for Aboriginal Cultural Heritage Impact assessment and community consultation.*

In summary, the report is prepared to a satisfactory standard and is helpful in understanding the site. It makes six main recommendations on how to manage heritage on the site as part of the redevelopment. Not all of the heritage recommendations in the report are supported.

Built structures

The report provides a description and brief history of buildings on the site and its development since it was acquired by the Adventists in 1898. No information was provided about land acquisition or disposal since 1898 and there is little information about the rural use of the site.

The HIS correctly identifies the brick and timber cottages along Fox Valley Road as having local significance. Groupings of early cottages are rare in Ku-ring-gai and becoming increasingly rare in the Sydney region. Although not listed as items, collectively they form a distinct precinct.

Demolition of existing buildings.

The concept plan proposes demolition of a large number of buildings, including some of the hospital buildings near the main 10 storey building, the school buildings at the corner of Fox Valley Road and The Comenarra Parkway, accommodation facilities opposite the school, a large number of brick and timber houses along The Comenarra Parkway, Fox Valley Road and Mount Pleasant Avenue. Figure 8.5 in the documentation illustrates the buildings proposed to be demolished and buildings to be retained/refurbished.

The scheme proposes demolishing 18 cottages along Fox Valley Road and retaining nine cottages. The HIS suggests several cottages could be relocated but does not indicate which cottages or where they could be relocated to. It also recommends that a further HIS should be prepared to guide relocation of timber cottages and re-use of salvaged fabric. Heritage conservation practice and principles do not support relocation of buildings because it alters setting, curtilage and historic significance (Article 9 of Burra Charter).

It is recommended that the cottages should be retained and refurbished in any future development. This would retain the historic, aesthetic and social values of the cottages and their scale could provide a transition zone to future medium density development and the adjoining residential development in Fox Valley Road, Strone Avenue, Elizabeth Street and Cyrus Avenue.

Council has identified that the following cottages have local heritage significance and should be conserved:

Nos 128, 130, 132, 136, 138, 140, 142, 144, 149, 151, 153, 175, 177 and 179 Fox Valley Road.

Item

S05913
5 June 2009

Recommendation 4 in the report proposes that certain buildings should be recorded to the NSW Heritage Branch guidelines to ensure the different phases in the historical development of the hospital are not lost. This is an accepted conservation practice, however recording is not a substitute for loss of significance and cannot be used to justify demolition of significant buildings or elements.

Shannon Wing

This building was built in 1920 and is one of the earliest surviving buildings on the site, being built in 1920. It went through a major refurbishment in 1955, balconies on its northern side were removed when the 10 storey hospital building was built and an oncology facility built in 1977 is attached to part of one facade. Otherwise the building appears to be in sound condition and is occupied as offices.

The HIS states the building is becoming increasingly difficult to maintain and is no longer consistent with the requirements of a modern health facility and suggests it would be acceptable to demolish it in the future. This comment appears to be unfounded as it is used as an office facility, not a health facility. There is conflict with this recommendation and the map at 8.5 which indicates that this building will be reused and refurbished.

As this building has historic and aesthetic significance, it should be maintained, refurbished and re-used in any future development of the site.

Maternity Wing

This is a well detailed building, very similar to the administration offices on Fox Valley Road. Although not suggested in the HIS, it is likely to have been designed by the same architect and is a good example of the Georgina Revival architectural style. It has historic and aesthetic values and still retains a setting to Fox Valley Road. It is considered to have potential to be retained and adapted in any redevelopment of the site.

Bethel

This is a small timber building, originally built in 1915 as a maternity room which is now used as a museum. It is described as well maintained and retains much of its original fabric. Its level of heritage significance indicates it should be retained and conserved in its existing location, not demolished or relocated as recommended in the HIS.

Archaeological potential

The HIS indicates that the site has a high potential to provide information about the lives of people who lived and worked at the hospital, school and church and well as those who used the hospital facilities. The assessment is considered satisfactory.

Before development is proposed, archaeological surveys should be undertaken to the subject area to identify the potential for relics. Excavation permits may need to be obtained.

Interpretation strategy

Item

S05913
5 June 2009

Recommendation 6 in the HIS is to prepare a meaningful interpretation of the site including photography and “recovered relics” to be housed in the “Bethel” museum or other appropriate site within the Wahroonga Estate. Interpretation is generally supported as a conservation process, however, there is a basic conflict with this recommendation as the concept plan proposes demolition of “Bethel”. Interpretative displays should generally be accessible to the public.

6.4 Potential heritage items

Council undertook a preliminary heritage investigation into the site in 2000 to inform a previous Ku-ring-gai Residential Development Strategy. The study did not assess the hospital site separately but reviewed it as part of the wider Fox Valley area within 400m of the shopping centre. Due to site amalgamation, the study incorrectly identified the whole of the eastern side of the hospital site (including the administration building) as a heritage item. It recommended the late 1950s church is a potential heritage item and has landmark significance. The hospital site was identified as having a high potential for archaeology including aboriginal items and relics associated with former rural activity. The following is a brief description from the study:

“The area is characterised by a village of two-storey buildings with twelve-storey hospital buildings set within open and cultivated landscape. Some buildings are articulated to address Fox Valley Road however the prevailing theme is for buildings to address the private service roads and car parks that snake around within the precinct. East of Fox Valley Road, the height of the general hospital building creates a regional visual marker within the skyline.”

It should be noted that the timber and brick cottages owned by the hospital were not reviewed because they were outside the study area.

6.5 Conclusions and recommendations

The redevelopment proposal includes a HIS prepared by a known heritage consultant. It provides some historical background to the site, an aboriginal heritage survey and comments on the archaeological potential of the site.

The HIS notes some potential for aboriginal relics in inaccessible areas of the site. The aboriginal survey should be referred to the Aboriginal Heritage Office (partly funded by Ku-ring-gai Council) for comment.

The HIS notes a high archaeological potential on the site for evidence of former use and occupation by the hospital. Prior to any future development, more detailed archaeological surveys should be prepared and, if necessary, applications for excavation permits made.

There are several inconsistencies in the HIS, particularly recommendations about demolition of early hospital buildings and relocation of cottages.

The timber and brick cottages on the site are assessed as being of local significance. The proposal to demolish 18 cottages along Fox Valley Road and “Bethel” would remove that significance and is not supported on heritage grounds. The cottages make an important contribution to the hospital precinct. They have the potential to be incorporated in a

Item

S05913
5 June 2009

redevelopment of the site without relocation and could provide a suitable buffer, scale transition to new residential development and be complimentary to the National Trust UCA.

The HIS also recommends that several cottages could be relocated and salvaged materials re-used in maintenance works. Possible sites for relocation are not indicated. Relocation of significant buildings is generally not acceptable and is not a conservation principle supported by the Burra Charter. Significant buildings should be conserved in their existing location.

The heritage assessment has not fully considered options for retentions and re-use of early hospital building including "Shannon Wing" and the 1933 Maternity Wing. Both of these buildings appear to reach the threshold for heritage listing and more complete assessment is warranted at this stage. Other buildings on the site, such as the Church, also appear to have heritage significance but no assessment has been provided.

The proposed redevelopment should be referred to the NSW Heritage Branch and other heritage authorities such as the National Trust for comment. Significant buildings and groups of buildings on the site should be nominated and considered for heritage listing.

7. Urban water management

Council's Development Engineer has provided the following comments in relation to the proposal:

The report by Hyder Consulting is sufficient to address the stormwater issues and access to utilities.

8. Infrastructure issues

Council's Development Engineer has provided the following comments in relation to the proposal:

The report by Hyder Consulting has identified the key infrastructure requirements for the development including electricity, sewer, water and gas requirements. However, the following comments are made in relation to the proposed sewer upgrade.

8.1 Sewer upgrade

The Civil Engineering & Utilities report by Hyder Consulting indicates that the wastewater system does not have sufficient capacity to cater for the proposed development. The proponent would need to upgrade/duplicate two sewer mains to ensure that there is sufficient capacity in the system. The report indicates that there are two existing sewer mains which require upgrade, one situated in Coups Creek and another in the Fox Valley tributary to the east of the site.

It is unclear from the proponent's statement what works are required to achieve the necessary upgrade to the sewer mains or the impact of such works on EECs which exist in these areas.

Item

S05913
5 June 2009

The report by Cumberland has not referred to this as a potential impact or consideration to flora and Fauna. The impact of such works must be addressed prior to determination of the Major Project application and mitigation measures to be put in place must be identified.

8.2 Waste collection

Council's Development Engineer advised that all roads including internal roads will need to be of suitable cross-section and have adequate kerb return radii to allow access for large waste collection vehicles, including sufficient space for side arms to pick up bins without hitting buildings, fences etc. A minimum clearance of 2.5 metres from the side of the vehicle is required.

The proposed development types must be accessible for waste collection as follows:

- ***Detached dwellings and villas:*** must be able to be serviced at the kerb-side by the large waste collection vehicle.
- ***New residential flat development:*** Waste collection is to be via basement areas which are accessible by the small waste collection vehicle.
- ***Commercial & Education buildings:*** must have arrangements as required by Council's Manager Waste Services.

9. Contaminated land

Council's Sustainability Officer has provided the following comments in relation to the proposal:

A search of Council's contaminated lands records for the SAN Hospital and surrounding lands did not reveal any specific record relating to contaminated land incidents. However, this does not preclude the site from contamination.

Historical activities at the site indicate the potential for contamination. A list of potentially contaminating activities are scheduled in Council's Contaminated Land Policy 2004. These include agricultural and horticultural activities, service stations (underground and above ground storage tanks) and hospital activities. In light of this, there is a strong indication that the site has the potential to be contaminated land based on its current use as a hospital and previous uses which includes agricultural activities.

The Phase 1 contamination study prepared by Douglas Partners Pty Ltd, dated November 2008, has been reviewed in the context of the proposed redevelopment of the Wahroonga Estate (Sydney Adventist Hospital site) having regard for the proposed future land uses.

The study prepared by Douglas Partners Pty Ltd, identifies numerous potential contaminants throughout the site, including the following Areas of Environmental Concern (AEC):

- footprints of buildings to be demolished, particularly timber or timber framed buildings
- areas of fill
- sewer lines
- underground fuel storage tanks

Item

**S05913
5 June 2009**

- above-ground fuel storage tanks
- pesticide store
- small areas of waste disposal on the bushland fringe.

The contaminants of concern associated with the AEC are;

- total petroleum hydrocarbons
- polycyclic aromatic hydrocarbons
- aromatic hydrocarbons (benzene, toluene, ethyl benzene and xylene)
- heavy metals
- phenols
- organochlorine pesticides
- radiation impacts from radio isotopes used
- asbestos.

Of particular concern for this site, is the identification of significant amounts of unidentified fill, the contents of which are unknown.

In light of the evidence presented and the proposal to undertake new sensitive land uses at the site, such as the proposed K-12 school, school of nursing and residential development, it is recommended that further site investigations and site management measures be undertaken prior to approval for the new land uses and/or prior to the commencement of construction activities at the site.

Site investigations and site management must be undertaken in accordance with the requirements of the Contaminated Land Management Act 1997 and Draft Contaminated Land Management Amendment Act 2008.

10. Urban design & built form

The proposal is for large scale development and, as such, allows for a greater degree of flexibility in the overall design concept to ensure consistency with best practice urban design principles. Consequently, the development of the site as a major project should be treated as development of a 'green field' site.

The following discussion identifies urban design and built form issues with the application and where appropriate, the comments provide alternative design solutions to tackle these issues. The following comments relate to each of the five precincts within the overall design concept:

10.1 Precinct A – Mount Pleasant

Figure 6: Mount Pleasant precinct



The precinct is physically divided by Mount Pleasant Avenue and an adjacent bushland/ creek area. To the north of the bushland and avenue are low scale single and two storey dwelling houses. These buildings are representative of the general area, particularly to the north. To the south of the avenue/ bushland area are low scale seniors living dwellings located at the topographical high point of the precinct. Larger scale medium density buildings are located to the southern side of the precinct along the down slope from the high point.

The application seeks to zone the majority of the precinct to R1 - Residential, which permits, *inter alia* dwelling houses, group homes and residential flat buildings. The concept plan envisages residential development in the form of dwelling houses, villa's, townhouses and residential flat buildings. The design also provides for a new road within the northern section of the precinct.

Whilst the use of this area may be appropriate for residential purposes, there are some fundamental issues with the concept plan in which the overall development should be reconsidered, as follows:

Zoning

- The zoning of the precinct north of Mount Pleasant and bushland/creek area R1 Residential is inappropriate. This area is currently zoned for low density residential development and is an ecologically rich and environmentally sensitive area.
- To provide zoning that permits medium density residential development in the form of residential flat buildings up to four storeys is inconsistent with the low density

Item

S05913
5 June 2009

residential character of the surrounding area and would adversely impact on the ecological importance.

- Lower scale residential development sensitively designed in the form of single dwelling houses, villas and townhouses up to a maximum height of two storeys would be more appropriate in this area.
- It is recommended that land currently zoned for residential purposes on the northern side of Mount Pleasant Avenue should be rezoned to encourage townhouse development from the proposed R1 – General Residential to R3 Residential Medium Density zone with a maximum height of two storeys.
- Areas to the south of Mount Pleasant Avenue adjacent to bushland and the riparian corridor should only support low-rise medium density residential development (up to 3 storeys height, subject to consideration of ecological, riparian and bushfire concerns expressed elsewhere in this report.
- Higher density buildings, which are greater than two storeys in height, should be relocated to the already established residential areas of this precinct, away from adjoining low density development. This will minimise overall impacts and ensure consistency with the existing built form

Building footprints & orientation

- The orientation of buildings, footprint and lot layout will result in poor solar access between residential flat buildings, particularly for the larger buildings to the north of the site which are poorly orientated. This is exacerbated by the proposed access road to Osborne Place, the orientation of the street and the sloping topography of the site. Buildings in this location should be of lower height and should be orientated to address both Mount Pleasant Avenue and the proposed access road.
- The layout of building footprints does not respond to the natural topography of the precinct and works against the fall of land. Consequently, the development would require significant embankments to achieve acceptable heights.

Building sections

- Sections within the plan for medium density residential development show parking areas located above natural ground level. This is a very poor design outcome and is strongly discouraged. It is suggested that basement parking below natural ground level for multi storey buildings would provide a better outcome.

Pedestrian access to SAN Hospital

- Pedestrian access between Mount Pleasant Avenue and the hospital/commercial precinct should be improved to allow for better connectivity and to encourage walking and cycling. The design must also incorporate best practice in terms of the Crime Prevention Through Environmental Design (CPTED) principles.

Recommendations:

- a) The zoning of the area north of Mount Pleasant Avenue be changed to R3 Residential and restrict the height of development to a maximum of two storeys.
- b) Any re zoning should exclude the bushland/creek areas outside of the residential allotments. These area should maintain appropriate zonings to retain and maintain the bushland creek particularly given the ecological importance of the area.
- c) Orientation of allotments and building footprints should be re-designed to provide for good solar access, minimise privacy/ overlooking and excavation impacts and respect the natural topography of the area.
- d) All basement car parking must be located below natural ground level.
- e) Pedestrian access between the residential area and main hospital campus should be improved to encourage use and be designed in consideration of CPTED principles.

10.2 Precinct B – Central church

The Precinct is located to the north-east of the existing hospital and along the western side of Fox Valley Road. The area is proposed to incorporate low and medium density residential development, a school and a special use – church. The area is currently zoned Special Uses – Hospital.

Existing development fronting Fox Valley Road and adjoining properties to the north consists of predominantly low density dwelling houses, with some open space and bushland areas. To the south and south-west is the main hospital complex, including SAN clinic, community centre and church.

Figure 7: Central church precinct



Item

S05913
5 June 2009

Development to the east across Fox Valley Road also comprises low density residential buildings, with some being converted to ancillary purposes to the hospital use, such as professional consulting rooms and church related administration uses.

The existing buildings at 146-148 Fox Valley Road are listed as a local heritage items and are presently used for administration purposes. To the rear of these buildings is bushland area.

The application seeks to zone the precinct R1 Residential, which will permit residential flat buildings, hostels, semi detached dwellings, dwelling and special uses for schools and churches. Incorporated into the design is a local road network, a central square, at grade parking, a pedestrian avenue and open space areas.

The proposal needs to be refined to preserve the established scale and character of the neighbourhood, to preserve the heritage importance of the nearby Item and to minimise impacts on the local biodiversity and topography, whilst providing good amenity for the users of the site.

The following urban design comments are relevant to this precinct and include suggested design improvements:

- Buildings fronting Fox Valley Road must provide an active street edge particularly given its high usage and the significance with the heritage item opposite. Fox Valley Road should be maintained as a prominent frontage, with landscape pedestrian edges and greater set backs for new residential flat development. Development along the Fox Valley road frontage needs to consider its greater context to ensure it is consistent within the planned context. Failure to provide an active frontage will compromise the existing and future urban design context of the area.
- Buildings must address the street front and be of an appropriate scale. Buildings fronting Fox Valley Road must be reduced to a maximum height of three storeys and set back further from Fox Valley Road. Any building above this height will significantly impact on the lower established scale and character of the surrounding area and, in particular, the heritage item at 146-148 Fox Valley Road.
- The lower scale buildings should also be orientated to the street and be sympathetic to the heritage item opposite the site. In conjunction, the buildings fronting Fox Valley Road should be set back a minimum of 12 metres, with an average of 14 metres to maintain the scale also to provide consistency in the built form along the whole length of Fox Valley Road;
- It is generally accepted that larger scale buildings can be located behind those buildings fronting Fox Valley Road. However, the scale should be three to four storeys. This will provide an appropriate transition between the larger hospital building and lower scale residential buildings along Fox Valley Road. Consideration should also be given to the orientation of building footprints.

Item

S05913
5 June 2009**Building footprints & orientation**

- The residential building footprints have been poorly orientated and will result in significant self shadowing of low floor units and communal open spaces. The proposed building separation of the 6 storey residential buildings is insufficient, resulting in overshadowing of other buildings and the main pedestrian avenue link and the central square. This will provide very poor amenity to the units and central square during the winter months and will reduce air flow during the warmer summer months. Instead of the central square being an inviting/ active and enjoyable space to use, it will have poor amenity.
- The layout of buildings in this precinct needs to be reconsidered to work with other elements of the precinct such as the school, church and the inclusion of a perimeter road for bush fire fighting purposes. This will also address concerns relating to vehicles entering and exiting the school precinct.
- To achieve the above and provide for a more active and vibrant layout, it is suggested that the design incorporate and improve upon the axis between the community centre and church, which could incorporate the central square as a focal point.

Proposed school and internal road

- The location of the school zone along the main thoroughfare will counteract the efficient and effective flow of vehicles. When considering the lot layout, consideration should be given to providing an alternative road network for vehicles dropping off and picking up students.
- The school needs to be relocated for a number of reasons:
 - i. The school is located in close proximity to the low density residential development to the north. The use will result in unacceptable amenity impacts to the nearby development in terms of noise and privacy impacts. The impacts will be compounded by the large scale of the school.
 - ii. The area allocated for the use of the school is too small. The buildings are cluttered and do not provide for sufficient area for an active outdoor space for students to interact outside of the main oval. The oval provides little usable amenity outside sporting activities and there is a distinct lack of cover to protect against varying weather conditions. It is also located some distance from the buildings. Students need an appropriate alternative such as a main courtyard/ square. The design also fails to provide an appropriate division between a primary and secondary school elements. It is imperative that the school provides a suitable layout for the amenity of its students. The tight configuration of the buildings is also contrary to the principles of Crime Prevention Through Environmental Design (CPTED).
 - iii. If it is imperative that the school is located in its proposed position, it is suggested that the secondary school element is deleted in favour of a primary school and child care centre. This will reduce the scale of development, allow for improved layout

Item

S05913
5 June 2009

and provide for the relocation of the oval to minimise impacts on the bushland and creek area including a reduction in fill required to provide a level playing field.

- iv. The oval is inappropriately located and encompasses part of the bushland area that leads down to a local creek network. The bushland area is scientifically recognised as Blue Gum High Forest, which is a critically endangered ecological community. The development will have a significantly impact on the Blue Gum High Forest. In this regard, refer to the ecology assessment of this submission. Further, the northern corner of the oval will require excessive fill to provide a consistent level for the oval. The amount of fill is in the order of approximately 10-12 metres at its highest point, which is excessive.
- v. The three storey height of the school will make it difficult to achieve accessibility requirements and also magnifies the impacts noted earlier;
- vi. The proposed at grade parking is not desirable, particularly in terms of aesthetics. It is suggested that an alternative solution is found, such as basement car parking, which could be used in conjunction with the larger residential development.

10.3 Precinct C – Central hospital

Precinct C is the central area of the site, encompassing the existing hospital buildings. The precinct extends in a southerly direction to the Comenarra Parkway and to the north-western corner of the Fox Valley Road and Comenarra Parkway intersection.

The expansion of the hospital is strongly supported. There is an identified need for improved and expanded hospital facilities within the Sydney region.

However, the precinct plan primarily relates to the area adjacent to the intersection and notes that further details for the hospital will be subject to separate 'hospital master plan'. The area is intended to be developed as a commercial precinct.

Located to the south-east of the site is a low scale commercial precinct known as Fox Valley shops/ village and specialist centre. Directly to the south are low density single dwelling houses. Low scale residential development is also located directly to the south-east and east of Precinct C.

Figure 8: Central hospital precinct

There are significant concerns with Precinct C. Specifically with regard to the extent of information provided and the relationship with the main hospital complex. The proposed zoning arrangement, proposed floor space and building heights will permit excessively large buildings and will inappropriately fragment the local Fox Valley shops commercial precinct.

Development of this area as an independent commercial and retail precinct would also contravene both Council and state strategic policies for housing and town centre development.

The following comments and suggestions are made in relation to this element of the proposal:

- It is acknowledged that the main hospital area will be the subject of a future master-plan, nevertheless it is vitally important to have an understanding of the future development of this area to make an informed assessment. This is necessary to fully understand the context of the site and its relationship to the surrounding area. The lack of detail significantly inhibits the assessment;
- The scale of commercial and residential buildings along the Comenarra Parkway up to four storeys with six storeys located directly behind is excessive and completely incompatible with the established future planned context of the neighbourhood.
- Existing development to the south and east consists of single and two storey buildings and the proposed development is completely at odds with this scale and fails to provide any transition zone to the larger buildings within the SAN Hospital site. This edge of the site must retain a low scale character to respect its existing and future context.
- Development should have a two storey height limit to the Comenarra Parkway and Fox Valley Road frontages.
- The area should not be zoned R1 Residential but should be zoned R2 Residential. To resolve the issue, it is accepted that there is scope for an increased scale of three and

Item

S05913
5 June 2009

four storey buildings behind those fronting the roads. This will provide an appropriate design solution forming a transition between the lower density development to the larger scale buildings located centrally within the site;

- The buildings located at the intersection of the Comenarra Parkway and Fox Valley Road intersection must address their corner location and provide a better design solutions. As this is a prominent location, any building located in this position must provide a good relationship to the intersection. The proposed the building orientation and layout fails to provide such a relationship;

Building footprints & orientation

- The buildings have been poorly orientated and they will not receive a reasonable amount of solar access. The larger scale buildings will also overshadow those to the south, which will further reduce the amenity of these buildings.

Visual corridor and pedestrian axis

- The pedestrian link will also be overshadowed during the winter months and will have little usable amenity during this period. It is suggested that the layout of buildings be reconsidered in light of the poor amenity and excessive scale;
- The proposed pedestrian avenue and view corridor does not lead to any significant focal point but rather ends at commercial development and the faculty of nursing. It is recommended that some focal point be incorporated, perhaps on the opposite side of Fox Valley Road and to the east of the nursing school.
- The 'at grade' parking area adjacent to the commercial building to the east conflicts with the intended pedestrian avenue. Further, the location of the parking area is visually obtrusive and needs better resolution. It is suggested that the parking be incorporated into a single basement level located below a public square.
- The view corridor and pedestrian link located centrally from the residential section of the precinct to the commercial area does not visually culminate in anything. This is a poor urban design outcome. The use of such a dramatic design element must have visual resolution.

10.4 Precinct D – Fox Valley Road east

Precinct D generally incorporates the properties located on the eastern side of Fox Valley Road from the north-eastern corner of the Fox Valley Road and Comenarra Parkway intersection to the Strone Avenue and Fox Valley Road intersection.

Currently, the precinct consists of typically single storey cottages, low scale residential buildings and a heritage item located at 146-148 Fox Valley Road, which is a two storey administration building.

To the east (rear) of these buildings is a bushland area. Directly to the west across Fox Valley Road is the main SAN hospital, which comprises Precinct C under this proposal. Precinct D, as

Item

S05913
5 June 2009

proposed will comprise a mixture of residential and commercial development supplemented with additional residential apartments to the northern fringes of the precinct and commercial buildings fronting Fox Valley Road.

Building heights are proposed to be primarily between three and four storeys with a small section being two storeys. The following concerns are expressed and solutions offered in relation to the Precinct D concept plan:

Figure 9: Fox Valley Road East precinct



Whilst some development in this precinct may occur, it needs to be refined to preserve the established scale and character of the locality, specifically with regard to preserving the heritage significance of the nearby item and to minimise impacts on the local biodiversity and topography, whilst providing good amenity for the users of the site.

The following urban design comments are relevant to this precinct and include suggested design improvements:

- The buildings located along this section of Fox Valley Road are excessive in scale and are inappropriate in terms of existing and the future context. The scale of buildings will also have a significant detrimental impact on the nearby heritage building. In this regard the setbacks for the future buildings must be increased to maintain view lines to the Item.
- Those areas to be developed for residential purposes should be rezoned R2 Residential or SP2 and have a maximum two storey height. The setback of all new buildings must be greater than that of the heritage item;
- The proposed building footprints to the northern section of the precinct will encroach into the Sydney Turpentine Ironbark Forest (STIF) Endangered Ecologically Community (EEC) habitat which exists to the immediate east of the precinct. Building footprints

Item

S05913
5 June 2009

should be reduced in scale and setback further from the bushland area to ensure there are no significant impacts on this important community;

- The road network to the rear of commercial buildings is not necessary and will result in a significant detrimental impact to the Sydney Turpentine Ironbark Forest EEC ;
- The proposed B4 Mixed Uses zoning is too dense given the area is outside Council's major centres. This will fragment Council's planning and the state government's metropolitan strategy to the detriment of other commercial precincts within the Kuring-gai Council area. It is suggested that the zoning be changed to SP2 Infrastructure to permit churches, schools and hospitals is a more appropriate zone for the site and location. This would still allow uses health and community related commercial development.

10.5 Precinct E – Residential east

Precinct E is located to the east of the hospital to the rear of Precinct D and is within an established bushland area identified as Sydney Turpentine Ironbark Forest (STIF) EEC habitat.

To the west of the precinct is low scale mixed residential and commercial development. To the east and south of the precinct beyond the bushland area is low scale residential development.

Other than the retention of existing residential development within this precinct, the proposed re-zoning and re-development of this precinct is inappropriate. Development of this area is not supported and significant concern is raised with regard to potential impacts to the STIF EEC.

The following comments are made in response to the proposed concept design:

- The road proposed from Precinct D to Warwick Place through the bushland is not necessary and will not serve any reasonable planning purpose. The traffic generated by the development of Precinct D and E does not require the provision of this road, and there does not appear to be any strategic traffic purpose.
- The proposed access road is excessively long for the extent of development proposed and would operate as a 'rat run' for traffic travelling to and from the F3 interchange. This is strongly discouraged within the area.
- The proposed access through Warwick Place is located outside the ownership of the Australasian Conference Association (ACA) and is outside the Wahroonga Estate boundary. Access through Warwick Place is currently not possible, given the land is in separate ownership.

11. Zoning and land use controls

The Standard Instrument sets out 34 standard zones for councils to use when preparing a new LEP for their local government area. Councils may select zones as appropriate to the needs of their local areas, taking into account any relevant State or regional planning guidance.

Item

S05913
5 June 2009

For each zone, the standard instrument sets out 'core' objectives for development in the zone, and requires certain permitted or prohibited land uses. The draft LEP has included a number of local objectives for the zones being used as well as identifying all permitted land uses for each zone. Details of these can be found in the Land Use Table under Part 2 of the Draft Town Centres LEP.

The 'Land Zoning Map' identifies the land to which each zone applies. The zones used under the standard LEP instrument are as follows:

- ***R2 – Low Density Residential zone:*** - applies to land where primarily low density housing is to be established or maintained.
- ***R3- Residential Medium Density zone:*** - to provide for medium density housing generally in the form of townhouse development of 2 to 3 storeys.
- ***R4 – Residential High Density zone:*** - to provide for unit development generally up to 5 storeys with similar densities to that currently permitted in the 2(d3) zone under LEP 194.
- ***B2- Local Centre zone:*** - to apply to the core retail/commercial areas. This zone will permit developments with a mix of retail, commercial, residential and associated community facilities.
- ***B4 – Mixed use zone:*** - intended to integrate a mixture of suitable uses such as business, office, residential, bulky good and other car based retail, which supports and not detracts from the retail functions and viability of the core of a centre.
- ***B5 – Business Development zone:*** - enables a mix of business and retail uses in locations which are close to, and which support the viability of centres. The zone does not permit residential uses.
- ***B7 – Business Park zone:*** - for land that primarily accommodates office and light industrial uses, including high technology industries.
- ***E2 – Environmental Conservation zone:*** - to protect land that has high conservation value. A number of land uses considered to be inappropriate for this zone have been mandated as prohibited uses.
- ***E4 – Environmental Living zone:*** - for land with special environmental or scenic values where residential development could be accommodated.
- ***RE1 – Public Recreation zone:*** - to provide for a wide range of public recreation areas and activities, including local open space.
- ***SP1 – Special Activities zone:*** - for special land uses or sites with special characteristics that cannot be accommodated in other zones. ;

Item

S05913
5 June 2009

- **SP2 – Infrastructure zone:** - accommodates a wide range of human and physical infrastructure uses. The main application of this zone is for main roads and the railways as well as for proposed future local roads and some schools.

Proposed zoning map

The major portion of the site is proposed as R1 General Residential. However, R1 is not considered to be an appropriate zone for residential flat development, townhouse or the proposed education uses. The standard LEP Template provides that the R4, R3 and SP2 zone can be used for such forms of development.

It is proposed to include “education” as a permitted use. The site is currently used for “educational establishment” and it is preferred that this use continue. The inclusion of this use is also consistent with Council’s current instruments and the Draft Town Centres LEP 2008.

In order for the main land use of the site to continue to be for health and community related uses the SP2 zone should be expanded to include:

- the faculty of nursing
- church facilities
- administration and commercial buildings
- all residential areas to be used staff, students or visitor accommodation.

Commercial uses are proposed in the B4 zone, however, this zone is not suitable outside major town centres. Office uses in general are unsuitable for a site outside the town centres, and would have the potential to compromise the achievement of sustainable office development in the centres as sought in Council’s town centre planning.

While the concept plan indicates areas to be designated for public open space or “village green”, there is no proposed zoning to reflect this use. It is recommended that a public recreation zone (RE1) be included on the site area to properly identify public areas within the site.

Extent of zone boundaries

The areas of land allocated to new residential, mixed use and the SP2 zones within Precinct A, B, C & E are considered to be excessive and unnecessary. The proposed zone boundaries should be reduced to prevent future residential development in environmentally sensitive areas of the site in accordance with the recommendations of Council’s consultant ecologist.

Specifically, the proposed zoning in Precinct A Mount Pleasant, Precinct B central Church and Precinct E Residential East is considered excessive and is likely to result in undesirable expansion of residential development into ecologically sensitive areas of the site.

The proposed zoning map should be amended to reflect the appropriate planning zones and only the extent of land deemed essential to achieve the proposed planning outcome.

Building height controls

It is noted that the height map is based on the number of storeys, rather than the building height as defined in the standard LEP template. It is recommended that the map be amended to provide heights in accordance with the definition and consistent with Council's Draft (Town Centres) LEP 2008. That is heights within zones which correspond with the following:

Table 8: Ku-ring-gai zoning height and FSR requirements consistent with Standard Instrument (Refer Draft LEP (Town Centres) 2008)

Zone	Max height (m)	Max FSR	Equiv storey height*
R2	9.5 metres	0.3:1	2 storeys
R3	11.5 metres	0.8:1	3 storeys
R4	17.5 metres	1.3:1	5 storeys
B1	Not yet specified	Not yet specified	Not yet specified
SP2	Not specified	Not specified	Not specified

* Height Allows for plant and lift overruns

There is insufficient information to assess the zoning controls as they apply to the main Hospital building. The proponent has excluded this part of the redevelopment of the SAN Hospital from the current application. Full details of the Hospital redevelopment should be included prior to any approval under Part 3A.

The constraints of the site and the locality as explained throughout the report, result in the need for changes to the building footprints and the scale of the development. Accordingly, the FSR map will need revision. If it is proposed to subdivide the site a subdivision/lot size map is also required as part of the SEPP Amendment. The FSRs should link to this map.

It is unclear whether it is proposed to allow subdivision at all, or whether the site is to be retained as a whole entity. If subdivision is to be allowed, the only method that would allow for the long term management of the site, its bushland habitat, asset protection zones, roads and car parks, and stormwater systems would be community title. Under this scenario a single body corporate would then be responsible for these systems. The statement of commitments needs to outline which method of managing the site as a whole entity is to be used.

12. Development density

The proposed concept plan indicates new residential, commercial and retail development which is excessive in terms of density when compared with the low density character of adjoining land. Whilst the amount of land available for development indicates that overall the total floor space is reasonable, site constraints result in the bulk of new development located at the fringes of the site. Consideration of the proposed dwelling yield and new retail and commercial floor space indicates dwelling yields and floor space ratios as detailed in the following tables:

Item

S05913
5 June 2009**Table 9:** Wahrenonga Estate Redevelopment: total Floor Space Ratio by land use and precinct

	Precinct A: <i>Mount Pleasant</i>		Precinct B: <i>Central Church</i>		Precinct C: <i>Central Hospital</i>		Precinct D: <i>Fox Valley Road East</i>		Precinct E: <i>Residential East</i>		Total	
	Total (m ²)	FSR	Total (m ²)	FSR	Total (m ²)	FSR	Total (m ²)	FSR	Total (m ²)	FSR	Total (m ²)	FSR
Precinct Area	130,300		71,400		126,800		44,100		80,600		453,200	
Residential	15,900	0.12	36,900	0.52	25,900	0.20	15,000	0.34	14,100	0.17	107,800	1.36
Seniors Housing	17,700	0.14									17,700	0.14
Hostels/Boarding House or similar					2,800	0.02					2,800	0.02
Total Residential	33,600	0.26	36,900	0.52	28,700	0.23	15,000	0.34	14,100	0.17	128,300	0.28
Retail					2,000	0.02					2,000	0.02
Commercial					1,000	0.01	15,000	0.34			16,000	0.01
Total Business					3,000	0.02	15,000	0.34			18,000	0.04
Educational			9,000	0.13	3,500	0.03					12,500	0.15
Place of Public Worship			3,200	0.04							3,200	0.04
Hospital/Ancillary					160,000*	1.26					160,000	1.26
Total Community			12,200	0.17	163,500	1.29					175,700	0.39
TOTAL	33,600	0.26	49,100	0.69	129,200	1.02	30,000	0.68	14,100	0.17	256,000	0.56

* Includes existing hospital floor space and proposed additional floor space of 94,000m².**Table 10:** Wahrenonga Estate Redevelopment: Proposed Dwellings per hectare by precinct

	Precinct A: <i>Mount Pleasant</i>	Precinct B: <i>Central Church</i>	Precinct C: <i>Central Hospital</i>	Precinct D: <i>Fox Valley Rd East</i>	Precinct E: <i>Residential East</i>	Total
Precinct Area (Ha)*	13.03	7.14	12.68	4.41	8.06	45.32
Dwelling Houses	15	7	3	10	9	44
Medium Density (Town Houses)	20				16	
High Density (Residential Flats)		302	91	88	72	553
Hostels/Group Home/Boarding House or similar	195		301			496
TOTAL DWELLINGS	230	309	395	98	97	1,129
DWELLINGS PER HECTARE*	17.65	43.28	31.15	22.22	12.03	24.91

* The calculation of precinct areas excludes areas zoned E2 Conservation on the proposed zoning map but includes asset protection zones.

13. Social and economic impacts

The proponent has provided a 'social and economic impact assessment' by Hill PDA Consulting (August 2008) addressing the social and economic impacts.

The proponent proposes to redevelop the current number of dwellings from 340 to approximately 1,000 (195,000sqm of residential floor space). The proposal is for the new dwellings to replace the existing older accommodation currently available for hospital and

Item

S05913
5 June 2009

church employees as well as nursing students. It will provide for more opportunities for staff to reside on site, in close proximity to their place of employment.

The proponent's contention is that, this increase in population will help provide for a greater social mix as well as adding to the economic development of this sector by providing additional jobs and a greater market for goods and services. However, this fails to address the resulting social concerns of a higher density contained in an area without the required public transport, older and infirm population close to an area which is more susceptible to bush fire with limited evacuation routes. Not all the residents will be employed by the hospital or the associated schools or church, as is stated in the report. Therefore, it must be assumed that a reasonable proportion of the population will require to commute daily to the city or to other areas requiring additional use of vehicles.

The applicant has proposed to help the hospital and church staff with accommodation by way of a 'lease system', which is a non-Government mechanism provided by the Seventh Day Church to increase the supply of affordable key worker accommodation in the area. Further details of this system have not been provided, but presumably will be by way of financial assistance by the Church.

13.1 Proposed commercial and retail development

The proposal provides for mixed-use development, including commercial/retail development on both corners of the Fox Valley Road/Comenarra Parkway intersection, across from the Fox Valley Neighbourhood Centre. This development may not be related to hospital uses but would provide for a small supermarket and specialty shops. These areas are proposed to be zoned B4. Further commercial development would be provided on the eastern side of Fox Valley Road. A total of 18,000 m² of commercial floor space appears to be proposed, of which 2,000m² is retail. 1,000m² of retail currently exists on the site, related to hospital uses. It is unclear whether the 2,000m² of retail proposed is in addition to this. The site also currently supports 8,000 m² of commercial development, including the Media Network Centre, Pacific Regional Headquarters of the SDA Church and other administrative functions. An expansion of these functions by 2,000 m² is provided for, with an additional 6,000m² for new commercial development.

The social and economic impact assessment, undertaken for the proponent by Hill PDA Consultants considers the impact of the proposal on the local provision of retail/commercial services (currently provided by Fox Valley Neighbourhood Centre) and on other centres in the locality, such as Turramurra, Wahroonga and West Pymble.

13.1.1 Retail development

The social and economic report by HILL PDA estimates that existing residential areas and development of the Wahroonga Estate would generate demand for retail floor space as follows:

- By 2010 – 900m² supermarket and 2,000m² of specialty retail space;
- By 2015* – 1,100m² supermarket and 2,300 m² of specialty retail space;

Item

S05913
5 June 2009

- By 2030** – 1,200m² supermarket and 3,000m² specialty retail

* with half of the proposed dwellings occupied

** with full dwelling take up.

The Hill PDA report also indicates that the proposed introduction of 2,000m² of new retail space at the site would result in an immediate decrease in turnover within surrounding centres from 2007 figures. The impact to turnover within these centres is assessed as follows:

Table 7: Decrease in turnover by Town Centre (Hill PDA Modelling)

Town Centre	Proposed change in turnover
Turrumurra	1.1% ¹
Wahroonga	0.7%
Gordon	0.4%
Pymble	0.4%
Fox Valley existing retailers	3.5%
West Pymble	0.5%
South Turrumurra	0.8%

¹ Considered to be a moderate impact

The modelling also shows that the setback would be temporary, with an increase in turnover for each centre in 2010, even without the growth expected as a result of the Draft Town Centres LEP. Further, the consultants consider that the provision of an anchor supermarket will increase turnover for the Fox Valley Centre as a whole to the “village” classification in the hierarchy of the Metropolitan Strategy.

Ku-ring-gai and Hornsby Subregional Employment Study (SGS, May 2008)

The Ku-ring-gai and Hornsby Subregional Employment Study (SGS, May 2008) was undertaken on behalf of the Department of Planning and Ku-ring-gai and Hornsby Councils to guide the Principal LEP and the achievement of the employment targets in the NSS. The study makes the following recommendations in relation to the uses and zoning of the subject site:

“Recommended zoning for the hospital precincts (both Hornsby and the SAN) is Infrastructure zoning: SP2 (Health Service Facility). Permissible land uses would then be: The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose. It would be the role of the DOP to determine whether the retail, commercial and residential uses proposed are “ordinarily incidental or ancillary to development”.

In Ku-ring-gai, in considering the proposal for the development at the SAN site, key issues to be considered is the potential impact of this development of other higher order centres (particularly those with better public transport access). Would this development and/or the associated retail, commercial and residential components be better accommodated in existing higher order centres and how likely is it that this would be the case? We feel that a specialised centre status for the SAN site is not justified and would risk encouraging out of centre development that may adversely impact on the centres strategy.”

Item

S05913
5 June 2009

Regarding the Fox Valley Neighbourhood Centre, the Subregional Employment Study states:

"The Fox Valley is a small Neighbourhood Centre, located in proximity to the SAN hospital. In 2006, total employment floor space on business zoned land, in this centre, was 2,863. Special Activities (31%) and Retail Main Street are the primary land uses within this centre. There is insufficient potential floor space within the centre to meet future demand, with unmet demand for 409 sqm. This reflects the relatively limited potential supply. Zone B1 – Neighbourhood Centre is the most appropriate zone for this location."

The additional 1,000-2,000m² proposed under development of the Wahrenonga Estate is well in excess of the 409m² of additional floor space needed to meet unmet demand in this locality. Further, the SGS recommendations relate to commercial and retail development. While some of this demand would be driven by the additional residents of the site, there is a clear difference between the recommendations of the two studies.

Figure 2: Hill PDF retail centres hierarchy and primary & secondary trading areas

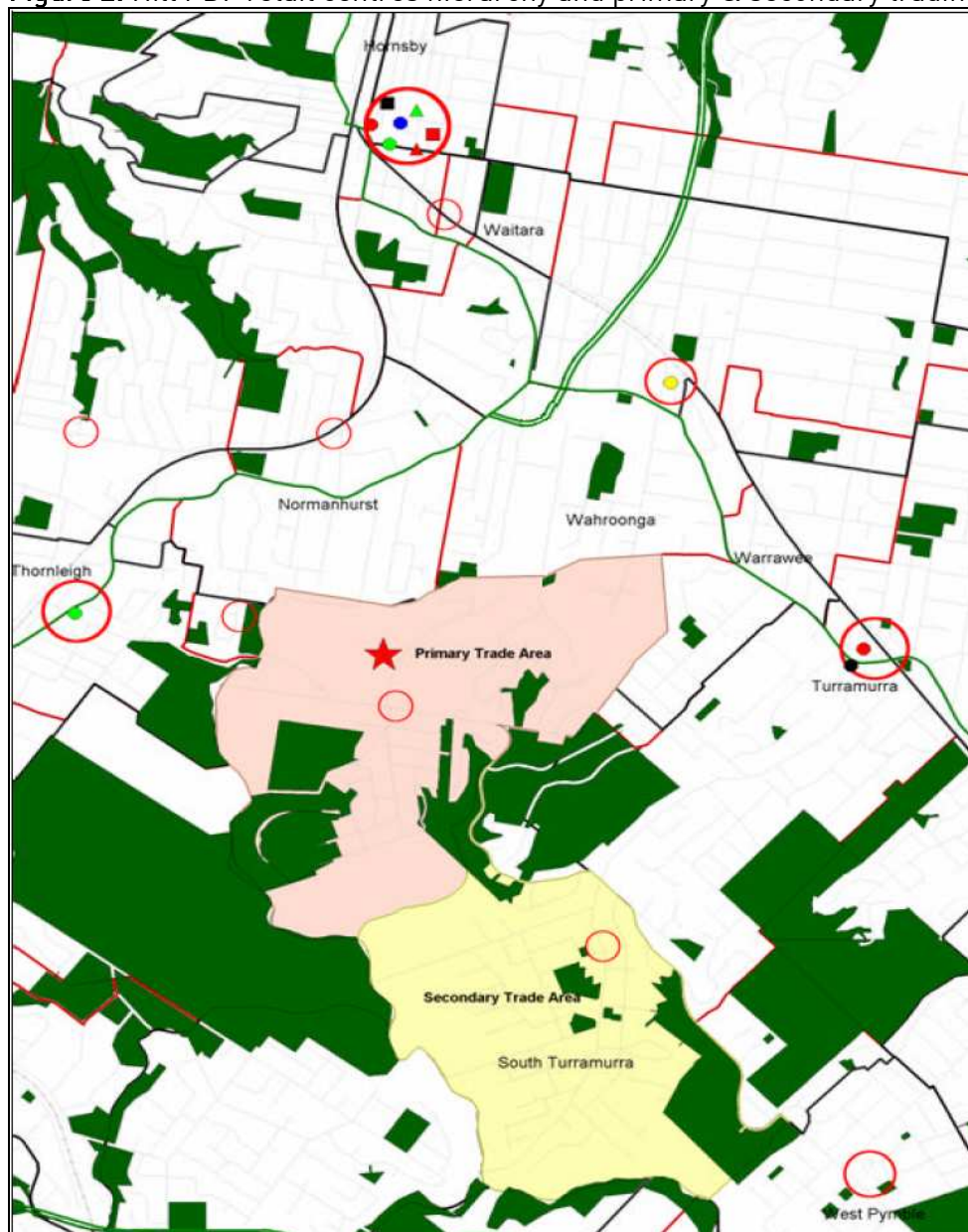


Figure 3: Legend Hill PDA retail centres hierarchy and primary & secondary trading areas



In relation to differences between the SGS study and a previous retail study undertaken by Hill PDA for Ku-ring-gai, SGS makes the following comment:

"The SGS additional floor space forecasts are generally lower than the Hill PDA forecasts when the additional retail requirements of the housing strategy are considered. This is likely to be the result of optimistic retail expenditure capture assumptions in the Hill PDA retail modelling. Likely differences are also driven by the different methodological approaches of the two studies. In the Hill PDA work, retail floor space requirements have been calculated from the estimated capture of retail expenditure and the translation of these dollar values to floor space figures given the estimated retail turnover densities for retail operations. In this study, the floor space requirements have been calculated from TDC forecast employment figures with an adjustment for any difference between TDC assumed population numbers and current planning for residential development."

The Hill PDA study for the subject site uses the same methodology for its retail modelling and expenditure capture based on the surrounding retail centres hierarchy and the establishment of defined primary and secondary trading areas. The primary and secondary trading areas are defined by Hill PDA as follows:

Hill PDA has used the following criteria to establish the retail centres hierarchy and primary and secondary trade areas.

- *the strength and attraction of the centre in question, determined by factors such as the composition, layout, ambience/atmosphere and car parking in the centre;*
- *competitive retail centres, particularly their proximity to the subject centre and respective sizes, retail offer and attraction;*
- *the location and accessibility of the centre, including the available road and public transport network and travel times; and*
- *the presence or absence of physical barriers, such as rivers, railways, national parks and freeways. Having regard to each of the factors detailed above, we have defined a Primary Trade Area (PTA) as the area bound:*
- *to the North by the northern boundary of the Subject Site, the suburb of Normanhurst and Fox Valley Road;*
- *to the South by the suburb of South Turramurra;*
- *to the West by Roland Avenue and Tin Creeks Reserve; and*
- *to the East by the Lane Cove National Park.*

The report by Hill PDA has also used the following criteria to define the trading area boundaries:

- *Owing to road and rail constraints and the location of other major supermarkets presently operating in Thornleigh and Pennant Hills, the proposed retail floorspace will have a stronger trade draw to the east of Pennant Hills Road;*
- *Some trade may however be drawn from the east, particularly for supermarket related shopping and specialty retail as consumers may seek a more convenient shopping option than the larger centres along the Pacific Highway;*

Item

S05913
5 June 2009

- *A stronger trade draw from the south of the Subject Site owing to the relative ease of road access and the lack of major supermarkets in the suburb of South Turramurra; and*
- *Less of a trade draw north of the Pacific Highway owing to the geographical constraints of the road and rail line and the presence of alternative supermarkets in centres such as Wahroonga, Turramurra and Gordon.*

The Hill PDA report estimates that the proposed 2,000m² supermarket to capture 25% of the supermarket expenditure from the primary and secondary trading areas.

On the other hand, the SGS study considered potential suitable retail and commercial floor space levels for all centres in both LGAs and its recommendations are based on appropriate allocation in line with the centres hierarchy and to meet the employment targets in the NSS.

It is recommended that the retail uses for the subject site be reduced. The appropriate level will need to be assessed in conjunction with the final residential yield of the site. Staging of the retail facilities will need to be considered in accordance with the staging of the residential development on the site.

In addition, if the SP2 zoning is not considered appropriate for the retail components of the site, a B1-Neighbourhood Centre zone should be applied, consistent with the centres hierarchy and the location of the site in relation to higher order centres and public transport. This would still allow shop-top housing as sought by the proponent.

13.1.2 Commercial development

Hill PDA has not undertaken any modelling or testing of the proposed level of commercial floor space. The consultant's recommendations are based on experience. The SGS study recommends that hospital related commercial uses be considered as ancillary development in an SP2 zone.

Hill PDA recognises that commercial development at the site should be related to the hospital and church uses. The report identifies that the 6,000m² of new commercial floor space uses is for "*new health and community based facilities looking to co-locate on the site*" and suggests that redevelopment of the hospital will attract such uses. The report also suggests that the new commercial floor space would not compete with the larger centres in the hierarchy for the same types of commercial uses.

It is noted from the concept plan that the proposed R1 – General Residential and B4 – Mixed Use zones within the Central Hospital precinct would allow a broad range of commercial and retail uses well beyond site administration or health and community uses.

It is recommended that in place of the proposed R1 and B4 zones that zoning for uses which are ancillary to the hospital use, such as the administration buildings, faculty of nursing and associated accommodation, be amended to the SP2 zone. All such land uses are associated with the health and community uses of the site. This zone would also allow some expansion of the current commercial uses of the site such as the pharmacy, hospital retail and café uses. It is therefore recommended that the use of the SP2 zone be expanded and the extent of new commercial uses reduced.

13.2 Health related uses

An expansion and upgrade of the hospital is supported. There is a clear need for improved and expanded hospital facilities within Sydney generally. Ku-ring-gai has no public hospitals within its boundaries, and the SAN hospital is the largest private hospital within the LGA. The closest public hospitals are the Royal North Shore at St Leonards and Hornsby Hospital. The retention of these facilities on site is strongly supported. Additional/expanded hospital facilities within the region are desirable.

The site currently supports a clinic and medical and dental centre. With the ageing Ku-ring-gai population, increased medical facilities would also be welcome within the region.

Consideration needs to be given to an appropriate expanded mix of hospital/medical uses into the future to maintain the viability of the complex and provide employment growth. As such a significant employer, the SAN plays important role in catering for any future employment growth in Ku-ring-gai.

14. Housing mix and affordability

The proponent has provided a 'social and economic impact assessment' by Hill PDA Consulting (August 2008) addressing the above.

The proponent has proposes to redevelop the current number of dwellings from 340 to approximately 1,000 (195,000sqm of residential floor space). These dwellings would include a mix of 1 to 3 bedroom apartments, townhouses and detached dwellings, including housing for the disabled and elderly.

Given the current level of housing stress in Sydney, it is recommended that a commitment be made for additional affordable housing as a public benefit and not only open to member soft the church. Discussions should be held with the department of Planning, Council, local employers and community housing providores in the area to consider the level of affordable housing to be provided.

The Ku-ring-gai LGA remains predominantly an area of low density residential dwellings with low housing affordability. However, since the implementation of Council's Housing strategy and the LEP 194/200 this has started to change with the introduction of new residential flat development in close proximity to the LGA's main town centres and transport hubs. Further change will also be driven by the next stage of the housing strategy and the implementation of Councils draft Town Centres LEP 2008 which will result in an increase of commercial and retail floor space and mixed use development into the major town centres of Ku-ring-gai.

It is important to note that of the 4,752 dwellings approved since April 2004, 3,827 dwellings are apartments or town houses and of these only a handful are townhouses. The draft Town Centres LEP has also been designed to cater for housing choice. Under LEP194/200 (2(d3 zones) and the draft LEP (R4 zones), Ku-ring-gai will provide adequately for apartment development within the LGA regardless of the development of the Wahroonga Estate.

Notwithstanding, it is agreed that there is opportunity to encourage some forms of higher

Item

S05913
5 June 2009

density residential development in the Wahroonga Estate. However, while the current proposal seeks consent for 6 storey residential flat development, this is considered excessive in this location, given the poor access to public transport and the constraints of the site.

The draft Town Centres LEP specifically provides areas for townhouse development within the R3 zone, consistent with the Standard LEP. Opportunities to provide more areas for townhouse development are appropriate, in order to further improve housing choice in the LGA. Townhouse development would also be a more appropriate scale than 6 storey apartment buildings and commercial development along Fox Valley Road.

It is therefore recommended that the proponent consider an amended scheme which increases the amount of townhouse development within the Wahroonga Estate in place of inappropriate residential flat development.

Ku-ring-gai LEP194 & LEP200, the Minister's sites and the draft Town Centres LEP provide sufficient land zoned for residential flat buildings. Residential flat buildings for private sale on the subject site is therefore not supported from a housing choice perspective.

Townhouse development

It is important to note that of the 4,752 dwellings approved since April 2004, 3,827 dwellings are apartments or townhouses and, of these, only a handful are townhouses. The draft Town Centres LEP has also been designed to cater for housing choice. Under LEP194/200 (2[d3 zones) and the draft LEP (R4 zones), Ku-ring-gai will provide adequately for apartment development within the LGA regardless of the development of the Wahroonga Estate.

Notwithstanding, it is agreed that there is opportunity to accommodate some forms of higher density residential development in the Wahroonga Estate. However, while the current proposal seeks consent for 6 storey residential flat development, this is considered excessive in this location, given the poor access to public transport and the constraints of the site.

The draft Town Centres LEP specifically provides areas for townhouse development within the R3 zone, consistent with the Standard LEP. Opportunities to provide more areas for townhouse development are appropriate in order to further improve housing choice in the LGA. Townhouse development would also be a more appropriate scale than 6 storey apartment buildings and commercial development along Fox Valley Road.

It is therefore recommended that the proponent consider an amended scheme which increases the amount of townhouse development within the Wahroonga Estate in place of inappropriate residential flat development.

Despite the significant increases in residential population identified above, there is opportunity to provide more areas for townhouse development within the LGA.

New townhouse development would further improve housing choice in the LGA and would present a more appropriate scale than the proposed 6 storey residential flat development and 4-6 storey mixed use development proposed under the current scheme.

Residential flat development

Item

S05913
5 June 2009

Ku-ring-gai LEP194 & LEP200, the Minister's sites and the draft Town Centres LEP provide sufficient land zoned for residential flat buildings. Residential flat buildings for private sale on the subject site is therefore not supported from a housing choice perspective.

Student & hostel accommodation

In addition to the proposed residential flat development and townhouse developments, the proposal provides for. The following forms of accommodation which are supported, where they can be located appropriately in terms of planning, ecological and bushfire constraints:

- Temporary accommodation for families seeking to support loved ones or outpatients unable to travel considerable distances from the hospital.
- Short term accommodation for visiting staff or delegates in relation to hospital and other on site services.
- A mix of housing that caters to a range of aged persons' abilities.

Key worker housing

The Metropolitan Strategy identifies that some areas of Sydney have difficulty in attracting workers because of high housing prices and rents. Housing prices and rents in Ku-ring-gai are very high, even in comparison to many other areas in Sydney. Such prices can give rise to skill shortages or lead to extended journey to work distances and travel times especially for "key workers". Examples include primary school teachers, childcare workers, retail and hospitality staff, and home care and nursing aides.

The Strategy aims to provide affordable housing in these areas to accommodate these workers. The social and economic consultant for the proposal, Hill PDA discusses the issue of reduced housing affordability for key workers:

"... may be evidenced by the relatively high proportion of the subject site's workforce (12% of people employed in the Health and Community Service and 6% of people employed in Education) that travel from more affordable locations such as the Central Coast and Lower Hunter daily.

At present the site provides in the order of 340 dwellings for its Nursing College Students and hospital staff. These dwellings are all owned and managed by the ACA however there is not a sufficient number to meet demand and the standard of the housing stock is considered inefficient and poor. Therefore in order to address the issues and pressures listed above, new and additional housing is proposed as part of the Subject Site's redevelopment."

Whilst provision of affordable housing for staff and students on the site is supported in principle, it is unclear how much of the proposed development is to be allocated for staff employed within the site. Indeed, it would be difficult given the proposed mix of Torrens and Strata titled development to restrict ownership to employees at the site only.

A number of measures are proposed to subsidise housing on the site, including capping rentals. However, the statement of commitments does not include a commitment to this in any

Item

S05913
5 June 2009

form. It is recommended that the statement of commitments include a commitment to a level of capping/ subsidy scheme for a minimum given percentage of the housing available on site.

The documentation is unclear about how the proposed residential components are broken down, especially in terms of comparing private sale and temporary/staff/student accommodation. Clarity is sought in this regard.

15. Development contributions & planning agreement

Council's Infrastructure Co-ordinator has reviewed the proposal and schedule of commitments and has commented on the proposal as follows:

15.1 Identification of contributions plans

Commentary on development contributions begins on Page 102 of the *Wahroonga Estate Development Environmental Assessment and Concept Plan* prepared by Johnson Property Group dated April 2009 and cross-references the supporting document: *Wahroonga Estate Redevelopment – Social and Economic Impact Assessment* prepared by Hill PDA and dated August 2008.

Despite the reference in the opening paragraph to Amendment 1 of Ku-ring-gai's *Section 94 Contributions Plan 2004-2009 – Residential Development*, it is apparent from the amounts quoted for medium and high density dwellings that the proponent has actually referred to the current version which is Amendment 2. This is the correct Amendment.

The *Section 94 Development Contributions Plan 2007-2011* referred to is Hornsby Shire Council's Contributions Plan. Ku-ring-gai has no Contributions Plan by that title.

The SAN is outside the Town Centres and is not subject to *Ku-ring-gai Town Centres Development Contributions Plan 2008*.

15.2 Calculation of contribution rates

While the base amounts in the Contributions Plan appear to be correct, they do not reflect the current indexing by the Consumer Price Index and Housing Price Index currently on Council's website. Nonetheless, they provide an indicative picture of the contributions that would arise from the development of the site. Beyond this, there is no real purpose in determining more precise figures at this point in time as the proposed development will be staged over a lengthy development period.

Over the development period, many things are likely to change including the relative index in the inflationary mechanisms of the Consumer Price Index and Housing Price Index. It is possible the proposed unit mix will change during the detailed design phase. Even the Contributions Plan applying to the site is currently under comprehensive review and is likely to result in some change.

15.3 Application of the Ku-ring-gai Contributions Plan 2004-2009 (Amendment 2)

Item

S05913
5 June 2009

The submission clearly states that future Development Applications will be subject to the Contributions Plan that is in force at the time of determination of each and every Development Application. The submission states specifically:

Local contributions will be in accordance with Council Section 94 Contribution plans, including provision for:

- *levies,*
- *works in kind, or*
- *voluntary planning agreement*

Prior to determination or in accordance with the conditions of any project / development application.

The reference to works in kind and voluntary planning agreement in addition to monetary contributions, which are not, incidentally, mutually exclusive (as implied by the use of the word 'or') may result in a requirement for a combination of levies, works in kind and a voluntary planning agreement.

The accompanying documentation: *Wahroonga Estate Redevelopment – Social and Economic Impact Assessment* implies, though it does not state outright, that the developer intends to seek at least some credit for works which are proposed as part of the development. This could mean the provision of community facilities (childcare and use of a community hall are mentioned) and/or provision of open space (both active and passive space including a sports oval are mentioned) whether or not these works are to be dedicated to Council for full community use.

In the absence of any clarity as to precisely what the developer may seek in the future and how it might be valued, and, consequently, a lack of detail of the works that would be the subject of any discussion, it is difficult to provide specific commentary.

Other than the school and community centre, it is unclear as to the precise extent to which these various facilities exist, of those that do exist, which are being expanded and/or refurbished, and which are wholly new.

Hypothetically, the SAN developer might intend to seek a partial exclusion from a category of contribution only or may offer to provide an alternate package of works for the whole site.

15.4 Voluntary planning agreement

In a comprehensive redevelopment of this scale, should consent be granted for the scheme, it would be impractical to embark on a process of piecemeal assessment of possible works-in-kind, for each and every subsequent DA. It may, therefore, seem more logical for a voluntary planning agreement to be negotiated as the earliest practical point in the development process. Given it is unclear whether Council will be the consent authority for all or any of the subsequent Development Applications, the most appropriate point may be before the first Development Application or Major Project application for construction works.

Any voluntary planning agreement would have the advantage of providing clarity and certainty for both parties and for the community. As a voluntary planning agreement, both parties would have to formally and voluntarily agree on the complete package. It would document an agreed position between the parties concerning how the relative benefits of monetary contributions

Item

S05913
5 June 2009

and any ultimately qualifying works in kind were to be valued and assessed for each stage of the proposed development as well as their future ownership, management, public accessibility and zoning.

The submission states that the developer intends to enter into either a planning agreement or like agreement with the state government for state infrastructure. It is possible for all parties to be party to a single planning agreement. Alternatively, Council may prefer a distinct planning agreement.

It is recommended that, given the lack of clarity in the potential future mix of monetary and in-kind contributions, Ku-ring-gai Council requests the proponent to commence the process of negotiating a voluntary planning agreement prior to the lodgement of their first development application or Major Project application.

PART 6 – CONSULTATION

The Department of Planning has notified the proposal, in accordance with Council's Notification Policy, and Part 3A of the Environmental Planning and Assessment Act. The summary documents and a link to the more detailed information has also been included on Council's website.

The Minister also required the formation of a Community Reference Group (CRG) to provide information and gain input to facilitate the planning assessment process for the Wahroonga Estate State Significant Site Study, Environmental Assessment and Concept Plan. The CRG included representatives from Council including staff and Ward Councillors.

The Department of Planning advises that the purpose of the CRG is to:

- a) provide information and a forum to enable diverse range of stakeholders to make a considered response to the proposal and prepare informed submissions to the assessment process; and*
- b) provide an opportunity for the Department of Planning to understand and consider stakeholder views, issues and comments as made by members of the CRG through the assessment process.*

Two meetings have been held during the exhibition period, on 14 May & 21 May 2009. The exhibition period finishes on 19 June 2009.

Council's nominated Community Reference Group have been notified by email of this report going to Council and will be provided copies to assist them in making a submission.

PART 7 – FINANCIAL CONSIDERATIONS

The costs of the submission are covered under the operating budget of the relevant Council Departments. The cost of consultants are covered by the Department of Strategy and Environment.

A. Consultation with other council departments

Item

S05913
5 June 2009

An integrated approach has been taken to the consideration of the proposal, with input from a number of staff in the Strategy, Community and Development and Regulation departments.

SUMMARY

The Minister for Planning has declared the proposal to be a Major Project (and therefore a project to which Part 3A of the Environmental Planning and Assessment Act 1979 applies)

Johnson Property Group has submitted a State Significant Site Study and Environmental Assessment (EA) to support the Concept Plan to the Department of Planning for assessment and determination by the Minister for Planning.

The proposal seeks approval for listing as a State Significant Site and concept plan approval for the rezoning of land to provide for new high density residential flat development, new townhouse development, new commercial and retail development, expansion existing school to include years K-12 and relocation to Fox Valley Road and new detached dwellings and dual occupancy development.

The proponent's stated intention to expand and upgrade the hospital facilities and associated complex of buildings is strongly supported. However, it is apparent that despite this intention, the current proposal involves only the concept development of the Wahroonga Estate, that is; land which surrounds the SAN Hospital that is the ownership of Australasian Conference Association (ACA). This land is currently not utilised for the core business of Hospital related activities.

The development of the Wahroonga Estate, in isolation of the redevelopment of the Sydney Adventist Hospital, does not meet the requirements of Clause 8 of SEPP (Major Projects) 2008, which outlines the requirement for the inclusion of State Significant Sites in Schedule 3 of the SEPP.

The proposal excludes significant details of the proposed SAN Hospital redevelopment and insufficient justification has been provided by the proponent to demonstrate that redevelopment of the site is of state significance or would be consistent with any identified state or regional planning policy.

It is recommended that Council oppose the identification of the Wahroonga Estate as a State Significant Site in Schedule 3 of SEPP (Major Projects) 2005 because the State Significant Site study is significantly flawed, the concept plan is inconsistent with the Metropolitan Strategy and Council's Residential Strategy, the North Subregional Strategy (NSS) and the development of the site would present unacceptable environmental impacts.

Having regard for the Director-General's Requirements and Clause 8 of SEPP (Major Projects) 2005, the proposed concept plan and request to include the Wahroonga Estate as a State Significant Site is not supported for the following key reasons:

A. State or regional planning significance of the site

- i. The site is not suitable for development as a "specialised centre" as sought by the proponent.

Item

S05913
5 June 2009

- ii. The proposal is inconsistent with the NSS, which seeks to establish a framework for business parks. The proposal predominantly relates to residential development of the Wahroonga Estate and is not for the purposes of a business park. The site is also not in a location that is well served by public transport.
- iii. The proposal is inconsistent with A2.2 of the NSS, which seeks to strengthen knowledge industry clusters including health and education clusters in that:
 - there is no demonstrable nexus between development of the Wahroonga Estate lands surrounding the hospital for private residential and commercial development in circumstances where the existing primary purpose of the site is to provide health care and related services
 - the proposal fails to provide a concept plan for the redevelopment of the hospital itself
 - the primary use of the site is proposed to be changed to residential.
- iv. The construction and private sale of new residential development on the site to fund the hospital is not a justification for poor planning outcomes.
- v. The extent of residential and commercial development as proposed will compromise the achievement of the objectives for the Ku-ring-gai town centres under local and regional plans and strategies.
- vi. The extent and form of new business, retail and residential development in an area that is predominantly characterised by low density residential development and a small neighbourhood centre is inconsistent with the NSS and the Metropolitan Strategy.

B. Environmental conservation or natural resource importance

- i. The proposed environmental strategy for the site will not “*contribute to biodiversity outcomes for this part of Sydney*” as claimed in the study. The proposal would represent significant impacts to threatened and endangered flora and fauna species and communities which have not been adequately addressed by the proponent.

C. Need for alternate planning arrangements

- i. The proponent has not demonstrated that development of the site could not be achieved under Part 4 of the Environmental Planning and Assessment Act 1979. Furthermore, as the concept plan does not include redevelopment of the hospital premises, all development under this proposal should be considered under Part 4 of the Act.
- ii. Future development of the site, including subdivision, and residential and commercial construction projects should be subject to the same assessment and public consultation processes as other development of a similar scale and nature in the Sydney region.

D. Suitability of the site

- i. The site is not suitable for the proposal in its current form for the following key reasons:

Item

S05913
5 June 2009

- the scale and density of future development is excessive and outside identified town centres.
- the potential to compromise the achievement of regional residential strategies to encourage new development in close proximity to services and good public transport.
- The proposal will present an unreasonable bushfire evacuation risk to existing residents in surrounding areas and future residents and students on the site.
- The proposal will present an unreasonable economic impact to the Fox Valley Neighbourhood Centre.
- The proposal will have a significant impact on the Sydney Blue Gum High Forest Critically Endangered Ecological Community and the Sydney Turpentine Ironbark Forest Endangered Ecological Community.
- The proposal would present a significant and adverse impact on the Coups Creek ecological corridor from and Coups Creek riparian zone due to the extent of fill associated with the proposed School and potential unknown impact associated with the extension and improvement of sewer infrastructure.
- The proposal will have significant and adverse impacts on local traffic generation which cannot be satisfactorily managed through the proposed car sharing schemes.
- Poor integration into the local area.
- The lack of specific commitments to ESD.
- Impact on heritage significance of the site as a whole.

ii. The adverse impacts of the proposal far outweigh any public benefits.

If the Minister, notwithstanding the above stated issues, determines to list the proposal and consider it under Part 3A of the Act, the following modifications are recommended to improve strategic economic, social and environmental outcomes and the public benefits of the project:

1. Further flora & fauna assessment

- a. The proponent should to provide an amended flora & fauna assessment which addresses the following:
 - i. Detailed vegetation mapping which adequately identifies the location, extent and form of all Endangered Ecological Communities (EECs) associated with the site as indicated by Council's consultant flora & fauna expert.
 - ii. In accordance with the recommendations of Council's flora & fauna consultant, the development should be redesigned to reduce impacts to the Powerful Owl breeding site. Building setback from the breeding site shall be increase to ensure that

Item

S05913
5 June 2009

vegetation clearing for asset protection zones does not encroach any closer than 200 metres of the breeding site. Furthermore, all hollow bearing trees should be retained.

- iii. The development should be redesigned to incorporate the proposed asset protection zones only within the existing development footprints to minimise impacts to ecological corridors in accordance with the recommendations of Council's consultant flora & fauna expert.
 - iv. The amended flora & fauna assessment must have regard to the implications of the removal of all areas of vegetation associated with bushfire asset protection zones.
- b. The proposal should be modified in accordance with the recommendations included within the amended flora & fauna assessment.
 - c. The flora & fauna assessment should be done in conjunction with the bushfire and water management consultants.
 - d. Should the Department grant approval to the proposal, the loss of any significant vegetation or habitat must be offset in accordance with the DECC's offsetting guidelines. The proponent must demonstrate that the overall development of the site would result in improved biodiversity outcomes.

2. Impacts on riparian corridors

- a. The proposed concept plan is likely to result in development which would significantly and adversely alter a number of identified watercourses through the location of large areas of fill, the construction of large on site detention systems and vegetation clearing for bushfire management. Development within water courses should be modified to be in accordance with the Department of Water & Energy requirements for first order watercourse riparian zones contained within *Guidelines for controlled activities: Riparian Corridors* and the *Guidelines for controlled activities: In-stream works*. The proposed works in the Fox Valley Tributary 2, Lane Cove Tributary 1 and Coups Creek Tributary 2 shall be considered to be works in first order watercourses in accordance with these guidelines.
- b. The proposal should be amended to incorporate adequate riparian buffer zones for all other water courses in accordance with the above guidelines and Ku-ring-gai Council's Riparian Policy 2004.

3. Sustainable water management

- a. The proposed on site detention systems should be modified to better incorporate Water Sensitive Urban Design (WSUD) principles in consultation with Council's Water & Catchment Officer. Specific water management outcomes should be included in the statement of commitments.
- b. The proponent should investigate an on-site sewer treatment facility to minimise waste and to provide water for non-potable purposes.

4. Traffic, transport and access

Item

S05913
5 June 2009

- a. The proponent should provide details of the hospital parking survey undertaken by Parking Consultant's International, which purportedly details current parking demand and turnover.
- b. In order to demonstrate that the proposed residential parking provision is adequate, the proponent should better outline how many dwellings are to be retained as hospital staff accommodation and what measures are to be implemented to manage private parking demand in the long term.
- c. The proponent should provide further details on the proposed car sharing scheme, including details of costs, management, access and the requirement for dedication of on-site facilities.
- d. The proponent should provide further assessment of the traffic and parking implications for the proposed K-12 school. The current location of the school may not be appropriate for a number of reasons, including traffic and public transport management.
- e. The proponent should provide further details on the proposed K-12 school to outline the operation of pickup & drop off facilities and the parking facilities to be provided for students and school staff. Parking should be provided in accordance with Council's DCP 43.
- f. The proponent should undertake further assessment of the proposed K-12 school's public transport arrangements, with investigation of indented bus bays within Fox Valley Road. The proposal should be amended to incorporate bus parking bays if the location of the school is deemed to be viable.
- g. In order to demonstrate how trip containment can be achieved at the site, the proponent must specify the number of student places are to be allocated to children of the hospital, church or school staff or residents of the Wahroonga Estate within both the K-12 school and faculty of nursing facility. The proponent should also indicate how student places could be restricted to staff and estate residents only.
- h. The proponent should undertake further investigation to determine the feasibility of the proposed road and traffic management works. It is apparent that there may be insufficient public land available to allow a number of the proposed road works to be implemented.
- i. The proponent must demonstrate how the proposed internal road circulation for the central hospital and central church precinct are to operate, with particular regard for the operation of restricted hospital parking areas and road side parking within the estate.
- j. The proposed access road through Precinct E, which links Fox Valley Road and The Comenarra Parkway, is likely to operate as a commuter 'rat-run' between The Comenarra Parkway and the F3 interchange. Access to and from this road from The Comenarra Parkway should be removed.
- k. The statement of commitments should outline funding arrangements for proposed upgrades to the road and bus network.

5. Planning for bushfire protection

Item

S05913
5 June 2009

- a. The proponent should provide details of the Fire Management Plan (FMP) referred to in the bushfire assessment report by Australian Bushfire Protection Planners (ABPP).
- b. The proponent should undertake an amended bushfire assessment to address the comments of Council's Fire Officer in relation to slope and the width asset protection zones.
- c. Particular consideration should be given to the impact of the proposed rezoning and development on bushfire evacuation, both from the site and impacts to emergency evacuation of surrounding residential areas.
- d. A map of the proposed asset protection zones should be included in the amended bushfire assessment report.

6. Preservation of heritage

- a. The proponent should prepare a Conservation Management Plan for the retention and restoration of heritage items to be retained on the site.
- b. The following existing cottages have local heritage significance; Nos 128, 130, 132, 136, 138, 140, 142, 144, 149, 151, 153, 175, 177 and 179 Fox Valley Road. Relocation of some of these cottages can only be supported if the public health benefits outweigh the heritage significance of these buildings. The amended HIS should state which dwellings are to be retained on site.
- c. The proponent should provide an amended Heritage Impact Statement to address the issues raised by Council's Heritage Advisor.
- d. The proponent should demonstrate what measures are to be implemented to protect and preserve sites of aboriginal heritage significance, with particular regard to managing the proposed sewer upgrade works to be undertaken within the Coups Creek corridor.
- e. The proponent should identify the buildings within Precinct C Central Hospital associated with the historical use of the site as a hospital that are to be retained. The buildings identified as the Shannon Wing, Maternity Wing and Bethel are recommended for retention and refurbishment.
- f. The proponent should undertake archaeological surveys prior to the commencement of work or excavation for building construction. A summary of the findings of the archaeological surveys should be forwarded to Council's Heritage Advisor.

7. Infrastructure issues

- a. The civil engineering & utilities report by Hyder Consulting indicates that the wastewater system does not have sufficient capacity to cater for the proposed development. The applicant would need to upgrade/duplicate two sewer mains to ensure that there is sufficient capacity in the system. The report indicates that there are two existing sewer mains which require upgrade, one situated in Coups Creek and another in the Fox Valley tributary to the east of the site.

Item

S05913
5 June 2009

- b. It is unclear from the proponent's statement as to what works are required to achieve the necessary upgrade to the sewer mains or the impact of such works on EECs which exist in these areas. The impacts of the upgrade on flora and fauna and riparian zones should be considered in the flora & fauna assessment.
- c. The proponent should provide details of the required sewer works and further flora and fauna assessment should be undertaken.
- d. All roads, including internal roads, will need to be of suitable cross-section and have adequate kerb return radii to allow access for large waste collection vehicles. The proponent must demonstrate that adequate infrastructure planning has been undertaken for the waste collection requirements of the following:
 - i. Detached dwellings and villas: must be able to be serviced at the kerb-side by the large waste collection vehicle.
 - ii. New residential flat development: waste collection is to be via basement areas which are accessible by the small waste collection vehicle.
 - iii. Commercial & education buildings: must have arrangements as required by Council's Manager Waste Services.

8. Contamination

- a. The proponent should undertake further site investigations and detail what remediation and site management measures are required in respect of contaminants on the site.

9. Urban design issues

- a. Precinct A – Mount Pleasant. The following modifications are required to the proposed precinct plan, zoning map and development controls:
 - i. The land proposed to be zoned for residential purposes on the northern side of Mount Pleasant Avenue should be rezoned to encourage townhouse development from the proposed R1 – General Residential to R3 Residential Medium Density zone, to a maximum height of two storeys.
 - ii. Subject to further consideration of ecological, riparian and bushfire concerns, areas to the south of Mount Pleasant Avenue adjacent to bushland and the riparian corridor, should only support low-rise medium-density residential development of up to 3 storeys.
 - iii. Any higher density buildings which are greater than two storeys in height should be restricted to the established residential areas of this precinct, away from adjoining low density development.
 - iv. The orientation of buildings, height of buildings, building footprints and the lot layout should be altered to encourage development of a lower height and in a manner which better responds to the topography.

Item

S05913
5 June 2009

- v. New development should address both Mount Pleasant Avenue and the proposed access road.
 - vi. Additional communal/public open space should be provided.
 - vii. Pedestrian access between Mount Pleasant Avenue and the hospital/commercial precinct should be improved.
 - viii. The design must also incorporate best practice principles in terms of the Crime Prevention Through Environmental Design (CPTED) principles.
- b. Precinct B – Central church: The following modifications are required to the proposed precinct plan, zoning map and development controls:
- i. Buildings fronting Fox Valley Road must provide an active street edge.
 - ii. Fox Valley Road must be maintained as a prominent frontage, with landscape pedestrian edges and greater set backs for any new residential flat development.
 - iii. Buildings fronting Fox Valley Road must be reduced to a maximum height of three storeys and set back further from Fox Valley Road.
 - iv. The residential building footprints have been poorly orientated and will result in significant self-shadowing of low floor units and communal open spaces. The building footprints must be amended to improve solar access to these areas.
 - v. The proposed building separation between residential flat buildings is insufficient. The proposed separation between residential flat buildings should be increased.
 - vi. To provide more active and vibrant communal open space and gathering points, the design should incorporate and improve upon the axis between the community centre and church.
 - vii. The school is located in close proximity to the low density residential development to the north. The proposed three storey building height is considered to be excessive and should be reduced to a maximum of two storeys adjoining the site boundaries with low density zones.
 - viii. The secondary school element should be replaced by a primary school and child care centre. This will reduce the scale of development, allow for improved layout and provide for the relocation of the oval to minimise impacts on the bushland and creek area, including a reduction in fill required to provide a level playing field.
 - ix. The school development and oval should be redesigned to avoid the removal of any part of the Sydney Blue Gum High Forest Critically Endangered Ecological Community.
 - x. The proposed at grade parking should be deleted in favour of basement car parking.

Item

S05913
5 June 2009

- xi. The entry and exit to the school should not require vehicular access through the hospital or residential areas.
- c. Precinct C – Central hospital: The following modifications are required to the proposed precinct plan, zoning map and development controls:
 - i. The scale of commercial and residential buildings along the Comenarra Parkway up to four storeys with six storeys located directly behind is excessive. Development should have a two storey height limit to the Comenarra Parkway and Fox Valley Road frontages.
 - ii. The entire precinct should be zoned SP2 to reflect the use of the site as a hospital.
 - iii. The buildings located at the intersection of the Comenarra Parkway and Fox Valley Road intersection must address their corner location and provide a better design solution.
 - iv. The pedestrian link will be overshadowed during the winter months and will have little usable amenity during this period. The layout of buildings must be modified to improve solar access to communal open spaces.
 - v. The proposed pedestrian avenue and view corridor does not lead to any significant focal point. It is recommended that a focal point be incorporated, perhaps on the opposite side of Fox Valley Road and to the east of the nursing school.
 - vi. The proposed 'at-grade' parking conflicts with the intended pedestrian avenue. All proposed car parking should be incorporated into a single basement level located below a public square.
- d. Precinct D – Fox Valley Road east The following modifications are required to the proposed precinct plan, zoning map and development controls:
 - i. Those areas to be developed for detached residential dwellings should be rezoned R2 Residential and have a maximum two storey height.
 - ii. The proposed high density residential development should be rezoned R3 Residential Medium Density and have a maximum of three storeys in height.
 - iii. Alternatively, these areas could be zoned SP2 to retain health related uses.
 - iv. Building footprints should be reduced and set back further from areas of Sydney Turpentine Ironbark Forest (STIF) Endangered Ecologically Community (EEC) habitat to the immediate east of the development fronting Fox Valley Road.
 - v. The road network to the rear of commercial buildings is superfluous and will result in a significant detrimental impact to the Sydney Turpentine Ironbark Forest EEC. The proposed road should be deleted.
 - vi. The zoning of the administration buildings and heritage items should be changed to SP2 Infrastructure.

Item

S05913
5 June 2009

- e. Precinct E – Residential East: Other than for the retention of existing residential development, the proposed re-zoning and re-development of Precinct E – Residential east is inappropriate. Council does not support development of this area and raises significant concern with regard to potential impacts to the threatened ecological community and ecological corridor.

10. Modified zone and land use controls

- a. The utilisation of zones should be in accordance with the Standard Instrument LEP and as such the proposed zoning should be modified to incorporate changes as follows:
 - i. Use of the SP2 zone for all hospital related or church related uses include the areas to be used for commercial or retail purposes, or buildings which are to be retained for church administration or hospital related purposes.
 - ii. Use of the R2 zone in all locations where low density detached housing is proposed.
 - iii. Expanded use of the R3 zone for townhouse development, particularly in Precinct A Mount Pleasant.
- b. The extent of land allocated to new residential, mixed use and the SP2 zones within Precinct A, B, C & E is considered excessive. The proposed zone boundaries should be reduced to prevent future residential development in environmentally sensitive areas of the site. all existing areas of bushland including any APZ and fuel management zone should be zoned SP2.
- c. Specifically, the proposed zonings in Precinct A Mount Pleasant, Precinct B central Church and Precinct E Residential East are considered excessive and are likely to result in undesirable expansion of residential development into ecologically sensitive areas of the site.
- d. The proposed zoning map should be amended to reflect the appropriate planning zones and only the extent of land deemed essential to achieve the proposed planning outcome.

11. Improved site planning

- a. The site should be retained in single ownership. Details of the proposed land titling arrangements should be provided.
- b. A proposed plan of subdivision should be provided detailing the future subdivision of the site including details of land title and potential future ownership.

12. Development contributions

- a. Future development applications should be subject to Council's Contributions Plan in force at the time of determination of each and every development application.
- b. The proponent should commence negotiations for a voluntary planning agreement to be implemented prior to the final approval of any subsequent development application or Major Project application.

Item

**S05913
5 June 2009**

- c. Works in kind and voluntary planning agreement may result in a requirement for a combination of levies, works in kind and a voluntary planning agreement. This should be outlined in the statement of commitments.

RECOMMENDATION

- A. That Council adopt the report as the basis for a submission to the Department of Planning.
- B. That the Ecological consultant's report assessing the ecology assessment and its conclusions be included with the submission.
- C. That the final submission be submitted to the Department of Planning prior to 19 June 2009.
- D. That the submission be released on Council's website, to enable the public to use it as a basis for their own submissions.

D Hoy
Executive Assessment Officer
Development & Regulation

Terri Southwell
Urban Planner
Strategy & Environment

A Fabbro
Manager
Urban Planning & Heritage

M Miocic
Director
Development & Regulation

- Attachment 1 Minister's major project declaration
- Attachment 2 Director-General's Requirements
- Attachment 3 Department of Planning - Part3A Major Project Assessment Process
- Attachment 4A Wahroonga Estate concept plan
- Attachment 4B Proposed zoning map
- Attachment 5 High density zones within proximity of the Wahroonga Estate
- Attachment 6 Eco Logical Australia review of proponent's flora & fauna assessment
- Attachment 7 Draft Ku-ring-gai Council Vegetation Mapping – SAN Hospital and Wahroonga Estate
- Attachment 8 SAN Hospital & Wahroonga Estate Concept Plan & Slope Map



NEW SOUTH WALES

The Hon Frank Sartor MP
Minister for Planning
Minister for Redfern Waterloo
Minister for the Arts

Attachment 1
COPY

Mr Keith Johnson
Managing Director
Johnson Property Group
PO Box A1308
SYDNEY SOUTH NSW 1235

Y07/2418

12 DEC 2007

Dear Mr Johnson

**Australasian Conference Association Wahroonga Estate, Ku-ring-gai LGA
Proposed State Significant Site and Concept Plan Application**

I refer to your submission to the Department of Planning dated 19 September 2007, requesting that the Australasian Conference Association Wahroonga Estate be considered as a State significant site under Schedule 3 of the State Environmental Planning Policy (Major Projects) 2005. The letter also requests that I form the opinion that the Concept Plan for the proposed redevelopment of the site is a Major Project to which Part 3A of the Environmental Planning and Assessment Act 1979 (the Act) applies.

I am pleased to inform you that I have agreed to consider the Australasian Conference Association Wahroonga Estate as a potential State significant site for listing under the instrument. In doing so, I have also formed the opinion that the proposed Concept Plan is a Major Project.

While in principle I support the concept of development and expansion of the existing hospital and education facilities, I retain some concerns regarding the proposed density, bulk and scale of residential and other development on the site and the capacity for public access via both private vehicles and public transport. I urge you to continue discussions with the Department, Ku-ring-gai Council and all relevant stakeholders to ensure achievement of an excellent design outcome for the benefit of both the proposed redevelopment and the wider community. The Director-General will specify key issues to be assessed through requirements for the proposal's Environmental Assessment.

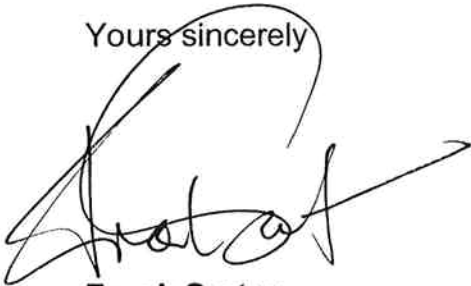
In considering whether to include the site in Schedule 3 of the Major Projects SEPP, I have requested that the Director-General make arrangements for a study to be undertaken by your organisation. Please see the State significant site study requirements in the attached document.

The study will also be used by the Director-General to make recommendations to myself with regard to appropriate development controls for the site, and whether any subsequent development on the site should be declared to be a project subject to the provisions of Part 3A of the Act, local development (with the Council as the consent authority) or exempt and complying development.

The Director-General's Environmental Assessment Requirements for the project application will be issued to your organisation shortly at which time you will also be informed of the project fee.

Should you have any further enquiries regarding the State significant site process or the project application process please contact Michael File, Director, Strategic Assessments on (02) 9228 6407.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Frank Sartor', with a large, sweeping flourish extending from the end of the signature.

Frank Sartor

**Scope of study to be undertaken to determine whether the
Australasian Conference Association Wahroonga Estate site should be
inserted in Schedule 3 to the *State Environmental Planning Policy (Major
Projects) 2005***

The following issues will be considered and assessed as part of the study to be undertaken pursuant to clause 8 of the Major Projects SEPP to determine whether the site should be included as a State significant site in Schedule 3 to the SEPP:

- (a) the State or regional planning significance of the site (having regard to the Department of Planning's *Guideline for State Significant Sites under the Major Projects SEPP*);
- (b) the suitability of the site for any proposed land use taking into consideration environmental, social or economic factors, the principles of ecologically sustainable development and any relevant State or regional planning strategy;
- (c) the implications of any proposed land use for local and regional land use, infrastructure, service delivery and natural resource planning;
- (d) those parts of the site which should be subject to Part 4 of the *Environmental Planning and Assessment Act 1979* with either Ku-ring-gai Council or Hornsby Council as consent authority;
- (e) the development controls for the site that should be included in Schedule 3 generally in accordance with the provisions of the *Standard Instrument (Local Environmental Plans) Order 2006* (the Standard Instrument);
- (f) the means by which local and regional developer contributions should be secured in respect of the site; and
- (g) natural conservation issues.



NSW GOVERNMENT
Department of Planning

Contact: Emma Hitchens
 Phone: 02 9228 6434
 Fax: 02 9228 6570
 Email: emma.hitchens@planning.nsw.gov.au

Our ref: S06/01212

Mr Keith Johnson
 Managing Director
 Johnson Property Group
 PO Box A1308
 SOUTH SYDNEY NSW 1235

Dear Mr Johnson,

Subject: Wahroonga Estate Redevelopment (MP 07_0166 Concept Plan)
Modified Director General's Requirements

I refer to my letter dated 9 April 2008 setting out the Director-General's Environmental Assessment Requirements for the above Major Project.

As you are aware, the Commonwealth Department of the Environment, Water, Heritage and the Arts (DEWHA) subsequently determined on 5 November 2008 that your proposal:

1. is a "controlled action" under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) and
2. will be assessed under the Bilateral Agreement which accredits the assessment regime under Part 3A of the EP&A Act for assessment purposes under the EPBC Act.

DEWHA has identified the need to ensure the Environment Assessment comprehensively addresses the potential impacts on, and proposed mitigation measures for, certain listed threatened and migratory species listed under the EPBC Act.

Therefore pursuant to 75F(3) of the Environmental Planning and Assessment Act 1979 please find attached modified Director-General's Environmental Assessment Requirements. The modifications involve amendments to item '8. Biodiversity' under Key Assessment Requirements and the inclusion of two attachments.

You should keep the contact officer for this project up to date with the preparation of the Environmental Assessment Report and, where relevant, any emerging issues. The officer, Emma Hitchens is available on (02) 9228 6434 or via email emma.hitchens@planning.nsw.gov.au.

Yours sincerely

Jason Perica
 Executive Director
 Strategic Sites and Urban Renewal

3/12/08

Director-General's Requirements – Attachment 1

Section 75F of the *Environmental Planning and Assessment Act 1979*

Major Project No.	MP07_0166 (Concept Plan)
Project Description	Concept Plan – Sydney Adventist Hospital, Wahroonga The proponent is seeking concept plan approval to redevelop the site. The main elements include upgrade and expansion of existing hospital; new low, medium and high density dwellings; educational facilities and commercial/retail floor space.
Site	Sydney Adventist Hospital, Wahroonga , comprising 191-213 Comenarra Parkway; 128-172 & 145-189 Fox Valley Road; 73-79 & 64-104 Mt Pleasant Avenue; 21 Elizabeth Street; 76 Hinemoa Avenue, 7 Nicholas Crescent.
Proponent	Johnson Property Group (acting on behalf of ACA)
Date of Issue	09 April 2008, as amended 03 December 2008 <i>(If the Environmental Assessment is not exhibited within 2 years after this date, the applicant must consult further with the Director-General in relation to the preparation of the environmental assessment.)</i>
General Requirements	The Environmental Assessment (EA) must include: <ul style="list-style-type: none"> (1) Executive summary. (2) Description of the proposal comprising: <ul style="list-style-type: none"> (a) project vision, objectives and need; (b) description of the site, including cadastral and title details; (c) various precincts and staging (including infrastructure staging); and (d) alternatives considered. (3) Consideration of: <ul style="list-style-type: none"> (a) all relevant State Environmental Planning Policies; (b) Ku-ring-gai Planning Scheme Ordinance and any relevant DCP's; (c) Metropolitan Strategy "City of Cities" and draft North Subregion Strategy. (4) Draft Statement of Commitments outlining commitments to public benefits including State and local infrastructure provision or contributions, environmental management, mitigation and monitoring measures and clear indication of responsibilities. (5) Signed statement from the author of the EA confirming that the information is neither false nor misleading. (6) Report from a quantity surveyor identifying the capital investment value of the Concept Plan.
Key Assessment Requirements	<ol style="list-style-type: none"> 1. Site Analysis <ul style="list-style-type: none"> • Site opportunities and constraints, identifying natural and built environmental features within and adjoining the site. 2. Land Use <ul style="list-style-type: none"> • Identify proposed precincts, stages, timing, uses contained in each precinct, road and pedestrian networks. • Existing and proposed zones. • Table outlining different land uses, FSR, development yield, site coverage for each use and total GFA for the development. • Consider surrounding land use, patterns, density and character and assess/resolve potential land use conflicts. • Justify proposed commercial development with particular regard to impacts on existing local town centres. 3. Ownership and Title <ul style="list-style-type: none"> • Identify proposed staging, ownership and titling arrangements for each of the proposed land uses. • Identify measures to ensure residential accommodation for hospital and church staff will be retained for that purpose. 4. Urban Design – Built Form <ul style="list-style-type: none"> • Typical plans (elevations and sections) and associated development controls, identifying the height, bulk, scale, density and typologies of the proposed built form in relation to existing development site, surrounding development and landscape.

- Typical plans and sections of the proposed public domain, identifying the proposed street network and car parking, pedestrian and bicycle linkages and landscape treatments.
 - Assessment of any potential visual impacts using photomontages and view analysis.
- 5. Heritage**
- Heritage Impact Statement assessing impacts on the Adventist Administration Building (local heritage item under KPSO), Mahratta Urban Conservation Area, views from distant sites along the ridge tops on either side of the Lane Cove River (eg Cheltenham and West Pymble) and timber framed houses north of Fox Valley Road for any significance.
 - Assess the development against the Department of Environment and Climate Change's draft *Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation*.
- 6. Traffic, Transport and Car Parking**
- Traffic Study in accordance with the Roads and Traffic Authority's *Guide Traffic Generating Developments*, with particular regard to:
 - Existing road capacity, expected impacts on local and regional roads and any upgrade requirements;
 - Internal road layout and access arrangements;
 - Pedestrian and bicycle linkages; and
 - Access for emergency vehicles.
 - Transport Management and Accessibility Plan (TMAP) for the entire site, in accordance with the Ministry of Transport's *Interim TMAP Guidelines*, also including:
 - Staging/ Sequencing Plan;
 - Construction Management Plan; and
 - Voluntary Planning Agreement addressing MoT's requirements.
 - Car parking plans showing location and number of existing and proposed car parks, allocation to proposed uses and evidence confirming adequacy.
- 7. Bushfire**
- Demonstrate compliance with NSW Rural Fire Service's *Planning for Bush Fire Protection 2006*, with particular regard to ensuring Special Fire Protection purpose developments are located away from the bushland interface; and
 - Identify vegetation types, ownership and ongoing management of any proposed Asset Protection Zones.
- 8. Biodiversity**
- Identify the location, extent and species of vegetation proposed to be cleared.
 - Assess impacts of proposed vegetation clearing and development generally on critically endangered and endangered communities, identified threatened species, having regard to the Department of Environment and Climate Change's *Threatened Species Assessment Guidelines*.
 - Biodiversity conservation strategy including offset and/or rehabilitation measures to avoid or mitigate impacts.
 - Assess and mitigate impacts on edge effects, ecological corridors, watercourses and associated riparian vegetation, existing rock outcrops and Lane Cove National Park.
 - Identify the location, extent, timing of dedication, intended ownership and long term management for conservation lands.
 - Comprehensively address potential impacts on, and proposed mitigation measures for listed threatened species under the *Environment Protection and Biodiversity Conservation Act* (EPBC Act) (including Blue Gum High Forest and Turpentine Ironbark Forest, Grey Headed Flying Fox and Swift Parrot). See Attachments 1

	<p>(Specific Requirements) and 2 (General Requirements) for reference.</p> <p>9. Ecologically Sustainable Development</p> <ul style="list-style-type: none"> Demonstrate how the development will satisfy ESD principles, including BASIX, water sensitive urban design measures, energy efficiency and recycling and waste disposal. <p>10. Geotechnical and Contamination</p> <ul style="list-style-type: none"> Geotechnical report assessing matters such as the suitability of the site for its proposed uses, slope stability, erosion hazard, proposed earthworks and retention methods. Assess suitability of site for proposed uses in accordance with SEPP 55. <p>11. Utilities and Social Infrastructure</p> <ul style="list-style-type: none"> Utility and infrastructure servicing strategy, demonstrating the development can be adequately serviced for water supply, wastewater, stormwater, electricity, gas, communications and fire fighting. Demonstrate appropriate provision of social infrastructure and services to support expected population increase. Assess appropriateness of footprint size proposed for the school. <p>12. Drainage, Stormwater and Groundwater Management</p> <ul style="list-style-type: none"> Identify drainage, stormwater and groundwater management issues, including riparian areas, topography, on site stormwater detention, water sensitive urban design measures and drainage infrastructure. Identify and address any potential flooding risk. Identify the location of water quality control measures (eg basins) relative to existing bushland. <p>13. Developer Contributions</p> <ul style="list-style-type: none"> Scope and justification of developer contributions between the proponent and the State (via relevant agencies including Roads and Traffic Authority, Department of Education and Ministry of Transport), based on the demand for services generated by the development and Department of Planning guidelines. Scope and justification of developer contributions between the proponent and Ku-ring-gai Council, based on existing Section 94 plans and Department of Planning guidelines.
Consultation Requirements	<p>An appropriate and justified level of consultation should be undertaken with the following relevant parties during the preparation of the environmental assessment, having regard to any previous consultation.</p> <p>a) <i>Agencies and other authorities:</i></p> <ul style="list-style-type: none"> Ku-ring-gai Council; Hornsby Council; NSW Department of Water and Energy; NSW Health; NSW Ministry of Transport; NSW Roads and Traffic Authority; NSW Department of Education and Training; NSW Department of Conservation and Climate Change; NSW Rural Fire Service; Commonwealth Department of Environment and Water Resources; and All relevant utility providers. <p>b) <i>Public</i></p> <ul style="list-style-type: none"> Community Reference Group; Existing users of the site; and Surrounding residents.

	<p>Document all community consultation undertaken to date or discuss the proposed strategy for undertaking community consultation. This should include any contingencies for addressing any issues arising from the community consultation and an effective communications strategy.</p> <p>The consultation process and the issues raised should be described in the Environmental Assessment.</p>
Landowner's Consent	Landowner's consent is to be provided within the EA in accordance with clause 8F of the Environmental Planning & Assessment Regulation 2000.
Deemed refusal period	120 days (see Clause 8E of the <i>Environmental Planning & Assessment Regulation 2000</i>)
Application Fee Information	The application fee is based on Capital Investment Value of the project as defined in the Major Projects SEPP and as set out in Clause 8H of the <i>Environmental Planning and Assessment Regulation 2000</i> .
Documents to be submitted	<p>Fifteen (15) hard copies of the environmental assessment with plans to be to scale and A3 in size.</p> <p>Fifteen (15) copies of the environmental assessment and plans on CD-ROM (pdf format)</p>

Director-General's Requirements

Attachment 1 – EPBC Act Specific Requirements

1. EPBC Listed Ecological Communities: Turpentine Iron-Bark Forest (TIF) & Blue Gum High Forest (BGHF)

- Surveys and information on the extent and quality of BGHF and TIF present on site. Information on how much of this is proposed to be cleared, altered and maintained on site.
- Information on the extent and quality of TIF on site and within surrounding areas, significance of stands and whether they meet the requirements of ecological communities as defined by the EPBC Act. Comment on if they do not meet listing requirements whether they still provide linkages to surrounding communities and biodiversity values.
- Information on the interconnectedness of BGHF on site and in surrounding areas especially the significant stand located on the Eastern side of Fox Valley Rd.
- Confirm effects run-off will have on BGHF and TIF both on site and in the adjoining areas, including information on the nutrient loads that these communities will be exposed to as well as the potential edge effects of runoff for weed infestation and degradation of these ecological communities.
- Information on the interaction and impacts of increased human access and traffic through pedestrian and bicycle linkages, and increased traffic resulting from the proposed access road which will fragment the BGHF.

2. EPBC Listed Threatened and Migratory species

- Surveys on what EPBC listed threatened and migratory species use this site. In particular but not limited to Grey Headed Flying Fox (GHFF), Swift Parrot and the Large Eared Pied Bat. Clearly demonstrate to what extent EPBC listed species will be impacted by the development.
- Information on the extent GHFF use the site and whether there are links with the flying fox reserve located at nearby Lane Cove (this area is relatively close and therefore may provide a substantial component to the food resource of GHFF in the area).
- Assessment as to how the clearing of vegetation required may impact on EPBC listed migratory and threatened species through removal of foraging and nesting/roosting habitat.

3. Asset Protection Zones

- Information on Asset protection zones in relation to the quality and quantity of vegetation that will be cleared or affected to accommodate Asset protection zones.
- Confirm State/local government requirements for Asset Protection Zones for the site (the extent of Asset protection zones is of concern to DEWHA as the width required may result in more fragmentation of the communities both on the site and to those communities adjoining the site).
- Information on the ongoing requirements to alter understorey of the EPBC listed communities through Asset Protection Zone management (DEWHA is concerned the requirement to clear understorey which is an integral part of the BGHF community will degrade the integrity of the remaining communities).

Mitigation Measures

- Information on mitigation measures which will be employed to protect and minimise impacts to the EPBC listed ecological communities, threatened species and migratory species that are on site and in surrounding areas, including measures which have been investigated to reduce edge effects and fragmentation and minimise the need to remove or impact upon the communities listed. Also details confirming any commitments to these measures.
- Details of any consideration given to redesigning the development to minimise impacts to EPBC listed ecological communities and listed threatened species.
- Details of any consideration of offsets.

Director-General's Requirements

Attachment 2 – EPBC Act General Requirements

The Environmental Assessment (EA) must include a consideration of the following with any variations to be justified:

- Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*

Key Assessment requirements:

EPBC Act Controlled Action

- (1) Impacts on species listed under Section 18 and 18A of the *Environment Protection and Biodiversity Conservation Act 1999*;
- (2) Impacts on other threatened species, populations or ecological communities, critical habitat (including riparian habitat) and native vegetation generally;
- (3) Impacts on migratory species listed under the *Environment Protection and Biodiversity Conservation Act 1999*;
- (4) Impacts on RAMSAR Wetlands;
- (5) Any relevant State and Commonwealth Government technical and policy guidelines, including the NSW Department of Planning's *Environment Protection and Biodiversity Conservation Act 1999: Guide to implementation in NSW* (May 2007);
- (6) Proposed offset measures to avoid or mitigate impacts on matters of national environmental significance; and
- (7) Matters outlined in Schedule 4 of the *Environment Protection and Biodiversity Conservation Regulation 2000*.

Guidelines on EPBC Act matters – for reference

The Commonwealth Minister for the Environment has declared the project to be a controlled action under section 75 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Under the provisions of the Bilateral Agreement between New South Wales and Commonwealth Governments, the environmental assessment of the impacts of the controlled action must be assessed under Part 3A of the EP&A Act.

The Assessment should also include enough information about the controlled action and its relevant impacts to allow the Commonwealth Environment Minister to make an informed decision whether or not to approve the controlled action under the EPBC Act.

This assessment is to be integrated into the assessment required for Part 3A of the EP&A Act. As a guide, the following matters in the EPBC Act and Schedule 4 of the EPBC Regulations 2000 should be considered.

1. General information

The background of the action including:

- (a) the title of the action;
- (b) the full name and postal address of the designated proponent;
- (c) a clear outline of the objective of the action;
- (d) the location of the action;
- (e) the background to the development of the action;
- (f) how the action relates to any other actions (of which the proponent should reasonably be aware) that have been, or are being, taken or that have been approved in the region affected by the action;
- (g) the current status of the action;
- (h) the consequences of not proceeding with the action.

2. Description of the controlled action

A description of the action, including:

- (a) all the components of the action;
- (b) the precise location of any works to be undertaken, structures to be built or elements of the action that may have relevant impacts;
- (c) how the works are to be undertaken and design parameters for those aspects of the structures or elements of the action that may have relevant impacts;

(d) to the extent reasonably practicable, a description of any feasible alternatives to the controlled action that have been identified through the assessment, and their likely impact, including:

- (i) if relevant, the alternative of taking no action;
- (ii) a comparative description of the impacts of each alternative on the matters protected by the controlling provisions for the action;
- (iii) sufficient detail to make clear why any alternative is preferred to another.

3. A description of the relevant impacts of the controlled action;

An assessment of all relevant impacts that the controlled action has, will have or is likely to have on:

- (a) threatened ecological communities and threatened species potentially present and listed under sections 18 and 18A of the EPBC Act;
- (b) migratory species listed under the EPBC Act;
- (c) RAMSAR Wetlands;
- (d) places listed on the National heritage list and protected under the EPBC Act;
- (e) World heritage areas.

Information must include:

- (a) a description of the relevant impacts of the action on matters of national environmental significance;
- (b) a detailed assessment of the nature and extent of the likely short term and long term relevant impacts;
- (c) a statement whether any relevant impacts are likely to be unknown, unpredictable or irreversible;
- (d) analysis of the significance of the relevant impacts;
- (e) any technical data and other information used or needed to make a detailed assessment of the relevant impacts.

4. Proposed safeguards and mitigation measures

A description of feasible mitigation measures, changes to the controlled action or procedures, which have been proposed by the proponent or suggested in public submissions, and which are intended to prevent or minimise relevant impacts. Information must include:

- (a) a description, and an assessment of the expected or predicted effectiveness of, the mitigation measures;
- (b) any statutory or policy basis for the mitigation measures;
- (c) the cost of the mitigation measures;
- (d) an outline of an environmental management plan that sets out the framework for continuing management, mitigation and monitoring programs for the relevant impacts of the action, including any provisions for independent environmental auditing;
- (e) the name of the agency responsible for endorsing or approving each mitigation measure or monitoring program;
- (f) a consolidated list of mitigation measures proposed to be undertaken to prevent, minimise or compensate for the relevant impacts of the action, including mitigation measures proposed to be taken by State governments, local governments or the proponent.

5. Other approvals and conditions

Any other requirements for approval or conditions that apply, or that the proponent reasonably believes are likely to apply, to the proposed action. Information must include:

- (a) details of any local or State government planning scheme, or plan or policy under any local or State government planning system that deals with the proposed action, including:
 - (i) what environmental assessment of the proposed action has been, or is being, carried out under the scheme, plan or policy;
 - (ii) how the scheme provides for the prevention, minimisation and management of any relevant impacts;
- (b) a description of any approval that has been obtained from a State, Territory or Commonwealth agency or authority (other than an approval under the Act), including any conditions that apply to the action;
- (c) a statement identifying any additional approval that is required;
- (d) a description of the monitoring, enforcement and review procedures that apply, or are proposed to apply, to the action.

6. Environmental record of person proposing to take the action

(1) Details of any proceedings under a Commonwealth, State or Territory law for the protection of the environment or the conservation and sustainable use of natural resources against:

- (a) the person proposing to take the action; and
- (b) for an action for which a person has applied for a permit, the person making the application.

(2) If the person proposing to take the action is a corporation — details of the corporation's environmental policy and planning framework.

7. Information sources

For information given in an environment assessment, the draft must state:

- (a) the source of the information; and
- (b) how recent the information is; and
- (c) how the reliability of the information was tested; and
- (d) what uncertainties (if any) are in the information.

8. Consultation

(a) Any consultation about the action, including:

- (i) any consultation that has already taken place;
- (ii) proposed consultation about relevant impacts of the action;
- (iii) if there has been consultation about the proposed action — any documented response to, or result of, the consultation.

(b) Identification of affected parties, including a statement mentioning any communities that may be affected and describing their views.



Steps in the major project assessment process

Major projects assessment system: fact sheet 3

1. PROJECT DECLARED A MAJOR PROJECT

The Minister forms an opinion as to whether a proposal should be declared a project and assessed under Part 3A. For further information on what sort of developments are declared major projects, see the fact sheet *What is considered a major project*.

The Minister may also decide whether to authorise or require a project to be lodged as a concept plan, which provides a broad overview of the proposal. Further approvals may be required, before the project can proceed further, if a concept plan is approved.

2. INITIAL APPLICATION

The proponent submits a project application and may also provide a preliminary environmental assessment with this application.

3. ENVIRONMENTAL ASSESSMENT REQUIREMENTS

The Director-General of the Department of Planning establishes requirements which outline the key issues that a proponent must address in its environmental assessment of the project. These requirements, which are specifically tailored in response to the proposal, are sometimes referred to as Director General's requirements. The Director-General notifies the proponent of these requirements.

Relevant public authorities such as the Department of Environment and Climate Change and local council/s are consulted in developing these requirements. For some projects, a planning focus meeting may be held to help determine the scope of issues and level of assessment required.

The Director-General's requirements also outline any consultation requirements and may require the proponent to include, as part of its environmental assessment, a statement of commitments setting out the commitments the proponent is prepared to make for environmental management and mitigation measures on the site.

4. PREPARATION OF THE ENVIRONMENTAL ASSESSMENT DOCUMENT

The proponent is encouraged to consult the community, relevant councils and agencies in the preparation of its environmental assessment document.

The proponent submits its draft environmental assessment and statement of commitments (if required) to the Director-General.

The Director-General determines whether the draft environmental assessment adequately addresses the Director-General's requirements. If it is not adequate, the proponent will be asked to revise the environmental assessment.

5. PUBLIC EXHIBITION, CONSULTATION AND REVIEW

The Director-General exhibits the environmental assessment documentation for a minimum of 30 days and invites public comment. Advertisements are placed in appropriate newspapers, and relevant State agencies and local council/s are notified, as well as adjacent landowners if required.

The environmental assessment is made available for inspection during the exhibition period at the Department's head office and relevant regional offices, local council offices as well as being published on the Department's website.

During the exhibition period any person is able to make a written submission to the Director-General regarding the project.

6. CONSIDERING SUBMISSIONS AND FINALISING ASSESSMENT

The Director-General provides copies of public submissions to the proponent and to relevant public authorities. The proponent can be required to prepare a response to the issues raised in submissions or to amend their project and statement of commitments to minimise impacts on the environment.

Where changes are proposed to the project, the proponent is generally required to prepare a preferred project report outlining the changes.

[OPTION] INDEPENDENT INQUIRY

At any stage, the Minister may appoint an independent hearing and assessment panel (under section 75G of the EP&A Act) of experts, or of officers representing the Department and other relevant public authorities to provide advice on any aspect of the project.

7. ASSESSMENT REPORT

The Director-General must provide an assessment report to the Minister that includes the matters set out in Section 75I(2) of the EPA&A Act. These matters include a copy of the proponent's environmental assessment and any preferred project report; a statement relating to compliance with environmental assessment requirements; a copy of any report of a panel constituted under Section 75G in respect of the project; any advice provided by public authorities on the project; any relevant environmental planning instrument; any environmental assessment undertaken by the Director-General or other matter the Director-General considers appropriate.

If the Director-General is recommending that the project be approved, draft conditions of approval are prepared by the Director-General.

8. DETERMINATION

The Minister may approve or disapprove the carrying out of the project and determines the conditions that apply to the carrying out of the project. In making this decision the Minister considers the matters set out in Section 75J(2) of the Act.

The Department will notify the proponent of the Minister's decision and will publish the Minister's determination along with the Director-General's assessment report on the Department's website.

9. COMPLIANCE AND ENFORCEMENT

The proponent is responsible for carrying out the project in compliance with the terms of the Minister's approval.

The Department will monitor the implementation of the conditions of approval, which may include preparation of monitoring and compliance reports and undertaking of independent environmental audits. The Department also conducts inspections and compliance audits for approved projects.

Non-compliance with conditions of approval could attract enforcement actions, which range from serving notices requiring rectification work, imposing fines or taking enforcement proceedings in the Land and Environment Court.

10. FURTHER PROJECT APPLICATIONS

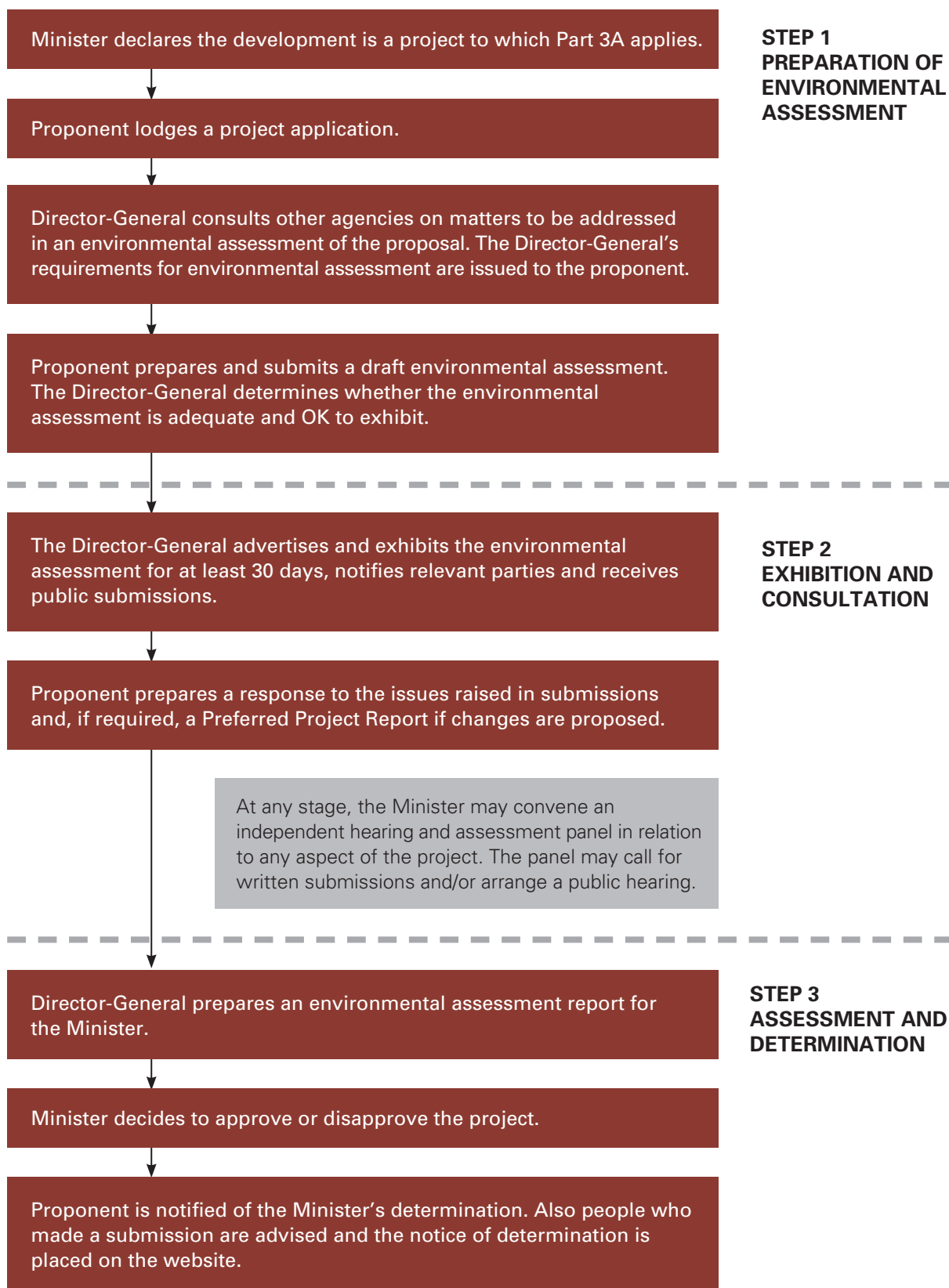
If a concept plan is approved for a project, further applications may be required.

FURTHER INFORMATION

Department of Planning website:
www.planning.nsw.gov.au

MAJOR PROJECT ASSESSMENT — TYPICAL STEPS

Under Part 3A of the *Environmental Planning and Assessment Act 1979*



© Crown copyright 2007. NSW Department of Planning, 23–33 Bridge Street, Sydney NSW 2000. GPO Box 39, Sydney NSW 2001

T 02 9228 6333 F 02 9228 6555 E information@planning.nsw.gov.au W www.planning.nsw.gov.au

Disclaimer: While every reasonable effort has been made to ensure that this document is correct at the time of publication, the State of New South Wales, its agencies and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document.

DOP 07_017C. ISBN 978 0 7347 5959 7

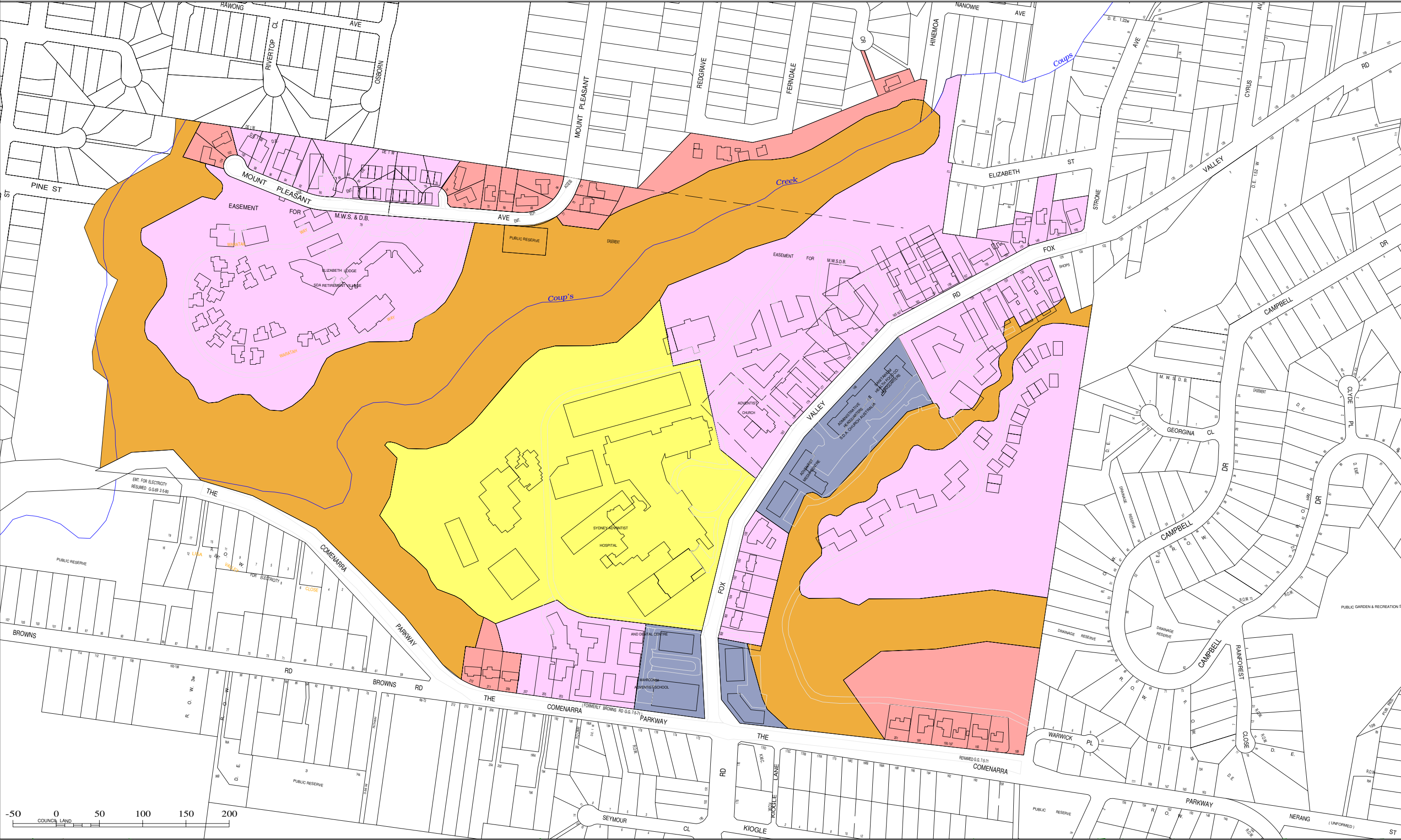


Figure 18 – The Concept Plan

PROPOSED ZONING

Sydney Adventist Hospital - Wahroonga

Attachment 4B



SCALE: 1:4000

DATE: 20-05-2009

R1 - General Residential

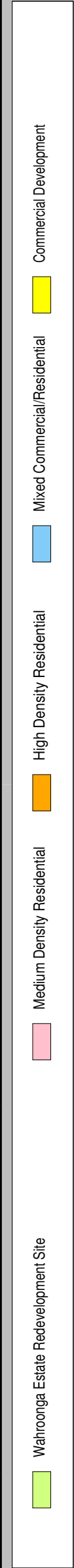
R2 - Low Density Residential

B4 - Mixed Business

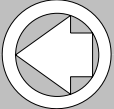
E2 - Environmental Conservation

SP2 Infrastructure - Hospital

Relationship of Wahrenonga Estate to zonings under LEP194/200 and Draft (Town Centres) LEP 2008



DATE: 26-05-2009





Wahroonga Estate – Ecological Review

Review of Flora and Fauna Assessment

Prepared for
Ku-ring-gai Municipal Council



Wahroonga Estate – Ecological Review

Review of Flora and Fauna Assessment

PREPARED FOR	Ku-ring-gai Municipal Council
--------------	-------------------------------

PROJECT NO	093–007
------------	---------

DATE	May 2009
------	----------

DOCUMENT TRACKING

ITEM	DETAIL
Project Name	Wahroonga Estate – Ecological Review
Project Number	093-007
File location	G:\Synergy\Projects\0093\0093-0007 Sydney Adventist Hospital - Flora and Fauna report review\Report\Draft Reports\
Prepared by	BT
Approved by	EL
Status	Final
Version Number	1
Last saved on	27 May 2009

ACKNOWLEDGEMENTS

This document has been prepared by Eco Logical Australia Pty Ltd with support from Ku-ring-gai Municipal Council staff.

Disclaimer

This document may only be used for the purpose for which it was commissioned and in accordance with the contract between Eco Logical Australia Pty Ltd and Ku-ring-gai. The scope of services was defined in consultation with Ku-ring-gai, by time and budgetary constraints imposed by the client, and the availability of reports and other data on the subject area. Changes to available information, legislation and schedules are made on an ongoing basis and readers should obtain up to date information.

Eco Logical Australia Pty Ltd accepts no liability or responsibility whatsoever for or in respect of any use of or reliance upon this report and its supporting material by any third party. Information provided is not intended to be a substitute for site specific assessment or legal advice in relation to any matter. Unauthorised use of this report in any form is prohibited.

Contents

List of Figures v

List of Tables v

Abbreviations.....vi

1 Introduction..... 1

 1.1 Terminology..... 2

2 Review of Flora and Fauna Assessment 3

 2.1 Chapter 1: Introduction..... 3

 2.2 Chapter 2: Methodology..... 3

 2.3 Chapter 3: Results 5

 2.3.1 Vegetation Communities 5

 2.3.2 Rare or Threatened Plant Species 20

 2.4 Chapter 4: Impact Assessment 20

 2.4.1 Vegetation communities..... 20

 2.4.2 Threatened flora species..... 23

 2.4.3 Threatened fauna species..... 23

 2.4.4 Ecological Corridors..... 24

 2.4.1 Mitigation Measures..... 26

 2.4.2 Conclusions and Recommendations 26

 2.5 omissions; 27

3 Conclusions 28

References 29

List of Figures

Figure 1: Ku-ring-gai Council Vegetation Mapping for the Subject site	6
Figure 2: Cumberland Ecology (2009) Vegetation Mapping for the Subject site.	7
Figure 3: Ku-ring-gai Council Vegetation Mapping for the northwest of the Subject site	10
Figure 4: Cumberland Ecology (2009) Vegetation Mapping for the northwest of the Subject site.....	11
Figure 5: Ku-ring-gai Council Vegetation Mapping for the northeast of the Subject site	13
Figure 6: Cumberland Ecology (2009) Vegetation Mapping for the northeast of the Subject site.	14
Figure 7: Ku-ring-gai Council Vegetation Mapping for the southeast of the Subject site	15
Figure 8: Cumberland Ecology (2009) Vegetation Mapping for the southeast of the Subject site.....	16
Figure 9: Ku-ring-gai Council Vegetation Mapping for the Sydney Adventist Hospital Grounds	18
Figure 10: Cumberland Ecology (2009) Vegetation Mapping for the Sydney Adventist Hospital Grounds	19
Figure 11: Ku-ring-gai Council vegetation mapping and vegetation management regimes as part of the proposed development.....	22
Figure 12: Ecological Corridors within the locality	25

List of Tables

Table 1: Characteristics of Coastal Shale Sandstone Transition Forest (CSSTF).....	9
Table 2: Threatened species previously recorded within 10km of 146 Fox Valley Road and 21 Elizabeth St, Wahroonga, but not listed in Table 3.1 and of the Flora and Fauna Assessment.	20
Table 3: Areas of EECs (ha), based on Council Mapping, for each management regime under the proposed development. Numbers in brackets indicates the percentage of the entire community.....	21
Table 4: Areas of vegetation communities (ha), based on Cumberland Ecology (2009), for each management regime under the proposed development. Numbers in brackets indicates the percentage of the entire community. Modified from table S.2 in the Flora and Fauna Assessment.	21

Abbreviations

ABBREVIATION	DESCRIPTION
APZ	Asset Protection Zone
BGHF	Blue Gum High Forest
BMP	Biodiversity Management Plan
CEEC	Critically Endangered Ecological Community
CSSTF	Coastal Shale Sandstone Transition Forest
DECC	NSW Department of Environment and Climate Change
DEWHA	Commonwealth Department of the Environment ,Water, Heritage and the Arts
DGRs	Director Generals Requirements
DoP	NSW Department of Planning
EEC	Endangered Ecological Community
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
OV	Other Vegetation
SEPP	State Environmental Planning Policy
SSGF	Sandstone Gully Forest
STIF	Sydney Turpentine Ironbark Forest
TSC Act'	<i>Threatened Species Conservation Act 1995</i>

1 Introduction

This report, which reviews the Flora and Fauna Assessment prepared by Cumberland Ecology (Cumberland Ecology 2009; hereafter referred to as the Flora and Fauna Assessment) in relation to the proposed Wahroonga Estate Redevelopment, has been prepared for Ku-ring-gai Municipal Council. The Flora and Fauna Assessment forms part of the documentation submitted to the NSW Department of Planning (DoP) in support of an application for approval as an Environmental Assessment and Concept plan under Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The proponent is concurrently seeking to rezone and list the subject site as a State Significant Site in Schedule 3 of the *State Environmental Planning Policy (Major Projects)*.

The Environmental Assessment and Concept plan proposes a comprehensive redevelopment of the Subject site to allow for expansion of the existing Sydney Adventist Hospital and development of new facilities including:

- A school;
- Church facilities;
- Commercial facilities;
- Residential development;
- Retail developments; and
- Open space for both passive and active recreation activities.

The concept plan seeks approval for the use of the site and broad development parameters including building envelopes and yield, with detailed site operation and design details to be provided in subsequent Project Applications.

This review discusses the various sections of the Flora and Fauna Assessment and provides an overall conclusion. The aims of this peer review are to assess the Flora and Fauna Assessment in terms of the following:

- Accuracy of the report;
- Technical competence;
- Adequacy; and
- Veracity.

In addition, the aims of this peer review include identifying any gaps or omissions from the report.

In reviewing the Flora and Fauna Assessment, a brief inspection of the Subject site was undertaken by ecologist, Brian Towle, on the 21 May 2009 in the presence of Ku-ring-gai Council Environmental officer, Penny Colyer. Additionally, the following documents were read:

- 'Wahroonga Estate Redevelopment Incorporating Sydney Adventist Hospital, Environmental Assessment & Concept Plan'. Report prepared by Johnson Property Group dated April 2009;
- 'Wahroonga Estate Flooding and Stormwater Master Plan. Report prepared by Hyder Consulting Pty Ltd dated 17 February 2009.

1.1 TERMINOLOGY

In this report the following terms have the following meanings:

- Council – refers to Ku-ring-gai Municipal Council and its staff;
- The Flora and Fauna Assessment – refers to the report prepared by Cumberland Ecology entitled 'The Proposed Redevelopment of Wahroonga Estate, Fox Valley Road and Comenarra Parkway, Wahroonga; Flora and Fauna Assessment for a Part 3A Assessment' dated April 2009;
- The Concept Plan – refers to the report prepared by Johnson Property Group entitled 'Wahroonga Estate Redevelopment Incorporating Sydney Adventist Hospital, Environmental Assessment & Concept Plan' dated April 2009;
- Proposed development – refers to the development as described in the Concept Plan;
- The terms 'Subject site' and 'Locality' have been given the same meanings as defined in the Flora and Fauna Assessment, specifically:
 - 'Subject site' – refers to the parcels of land on which development is proposed;
 - 'Locality' – refers to the land within a 5km radius of the subject site;
- DECC guidelines – refers to the DECC Threatened Species Assessment Guidelines.

2 Review of Flora and Fauna Assessment

2.1 CHAPTER 1: INTRODUCTION

Chapter 1 of the Flora and Fauna Assessment identifies the purpose of the report, briefly describes the physical setting of the subject site, generally describes the proposed development, and defines the subject site, study area and locality. This chapter of the report is considered to be clear and of sufficient detail with the exception of issues discussed below.

- In describing the proposed development, the Flora and Fauna Assessment refers to the locations of buffers of native vegetation around Powerful Owl (*Ninox strenua*) sightings and Asset Protection Zones (APZs) without referring to any specific figures. It is difficult to determine exactly the areas which are being referred to in this section.
- Under the heading '1.3 Proposed Development' the Flora and Fauna Assessment states that it has made extensive use of a previous Flora and Fauna Assessment prepared by Conacher Travers (in 2004). This report is not included as an appendix to the report and so it is not possible to assess the survey effort, results or conclusions of this report. For the purpose of this review a copy of the previous report has been referred to assess survey effort.

2.2 CHAPTER 2: METHODOLOGY

This chapter of the report describes background data reviewed and the methodology employed for field surveys of both flora and fauna species. It also includes a description of the survey methodology of the Conacher Travers Flora and Fauna Assessment.

The background literature reviewed as part of the Flora and Fauna Assessment is listed as including the following:

- The previous Flora and Fauna Assessment of Conacher Travers to extract information regarding vegetation community mapping and species recorded, particularly threatened species;
- The Sydney 1:100, 000 vegetation map sheet (Benson and Howell 1994); and
- The Atlas of NSW wildlife and EPBC Act Protected Matters Search Tool.

In subsequent sections of the report it becomes apparent that a number of other documents have been consulted either prior to or during the preparation of this report including vegetation mapping of NPWS (2002) and Tozer *et al.* (2006). Generally, the Flora and Fauna Assessment has referred to the relevant literature which is applicable to the study area.

The following minor issues were identified in regard to this section of the report.

- As part of the preparation of the Flora and Fauna Assessment, major stake holders do not appear to have been consulted. It may have been of assistance to contact the NSW Department of Environment and Climate Change (DECC) and Ku-ring-gai Council, both of which currently have vegetation mapping projects in progress which relate to the study area. The importance of this is highlighted in 'Chapter 3: Results' with regard to discrepancies between vegetation community mapping of Ku-ring-gai Council and the Flora and Fauna Assessment.
- The co-ordinates used and dates when the searches of the databases (Atlas of NSW wildlife and EPBC Act Protected Matters Search Tool) were undertaken is not provided. The importance of providing this data is highlighted in discussions of 'Chapter 3.3: Rare or Threatened Plant Species' with regard to discrepancies between species identified from the DECC Atlas of NSW wildlife in the Flora and Fauna Assessment and searches carried out in the course of preparing this report.
- The methodology employed for the vegetation survey appears adequate, incorporating the recording of all species observed with 20m x 20m quadrats (including an assessment of abundance) in addition to random-meander surveys of the subject site. From the data presented it appears that vegetation was surveyed in quadrats within all communities identified in the Flora and Fauna Assessment as occurring within the subject site. Additional details including the dates and name(s) of observers and locations of random meander surveys would provide a more detailed report.
- The fauna survey incorporated the use of hair funnels, spotlighting, call playback, tree hollow surveys, frog surveys and bird surveys. In general there is a lack of detail regarding the methodology employed. Specifically, the weather conditions, the timing of surveys and survey effort are not discussed in detail.
- The information presented on hair funnel surveys, spotlighting and call playback suggest that sufficient survey effort has been undertaken. However, a list of species for which species the call playback technique was used has not been provided.
- There are a number of shortcomings regarding the frog surveys, most significantly the timing of surveys. The surveys undertaken in June are outside the calling breeding/calling period for a number of the targeted frog species. While surveys in June may not exclude the detection of these species it does not maximise the chances of detecting the targeted threatened species. Furthermore the location of freshwater habitats included as part of the frogs survey is not described or shown on any map.
- There is a general lack of detail regarding the bird surveys undertaken as part of the Flora and Fauna Assessment including the timing of the bird surveys, personnel, weather conditions and survey effort, all of which can influence the chances of recording all species which utilise the subject site. It is impossible to assess whether the field survey effort is adequate.
- No attempts have been made by the Flora and Fauna Assessment to detect microchiropteran species. The results of a previous Flora and Fauna Assessments has been relied upon, although the survey effort in the previous report is less than recommended by the former Department of Environment and Conservation (DEC; 2004).

2.3 CHAPTER 3: RESULTS

2.3.1 Vegetation Communities

The vegetation communities identified as occurring within the subject site as part of Ku-ring-gai Council's internal mapping project (Figure 1) have several differences from vegetation communities identified as occurring on the subject site within the Flora and Fauna Assessment (Figure 2). A large number of these differences arise from the fact that the Flora and Fauna Assessment recognises three forms of the Sydney Sandstone Gully Forest (SSGF) community as described by Benson and Howell (1994), while Council simply mapped all these forms of the community under the title SSGF. This distinction is not important to the conclusions of the report. However, differences pertaining to the distribution of Critically Endangered Ecological Communities (CEEC) and Endangered Ecological Communities (EEC) are of importance.

The Council vegetation mapping is considered to better represent the vegetation communities and ecological relationships of the study area. The Subject site has visited on several occasions by at least three ecologists and the boundaries of vegetation communities discussed, refined and justified. In determining vegetation communities, ecologists have taken into consideration the soils, topography and species of the Subject site. Furthermore, Council vegetation mapping is part of a larger project and thus has the benefit of being able to put the Subject site within the context of the entire LGA.

The vegetation mapping in the Flora and Fauna Assessment has relied heavily upon the previous Flora and Fauna Assessment of Conacher Travers (2004) which is considered to inadequately represent the ecological communities of the Subject site. This is highlighted by the fact this previous Flora and Fauna Assessment (Conacher Travers 2004) concluded that STIF did not occur on the Subject site, although it has been identified by both Council and the current Flora and Fauna Assessment. The fact that STIF was not recognised onsite suggests that the previous Flora and Fauna Assessment (Conacher Travers 2004) does not have an understanding of the distribution and variation that occurs within this community. In addition to relying on previous, flawed mapping the current Flora and Fauna Assessment has incorrectly identified stands of planted *Eucalyptus grandis* and non-native species as native vegetation communities.

The following discussion of differences in the distribution of EECs is divided into four areas where there is disagreement between Council's mapping and mapping within the Flora and Fauna Assessment.



Figure 1: Ku-ring-gai Council Vegetation Mapping for the Subject site

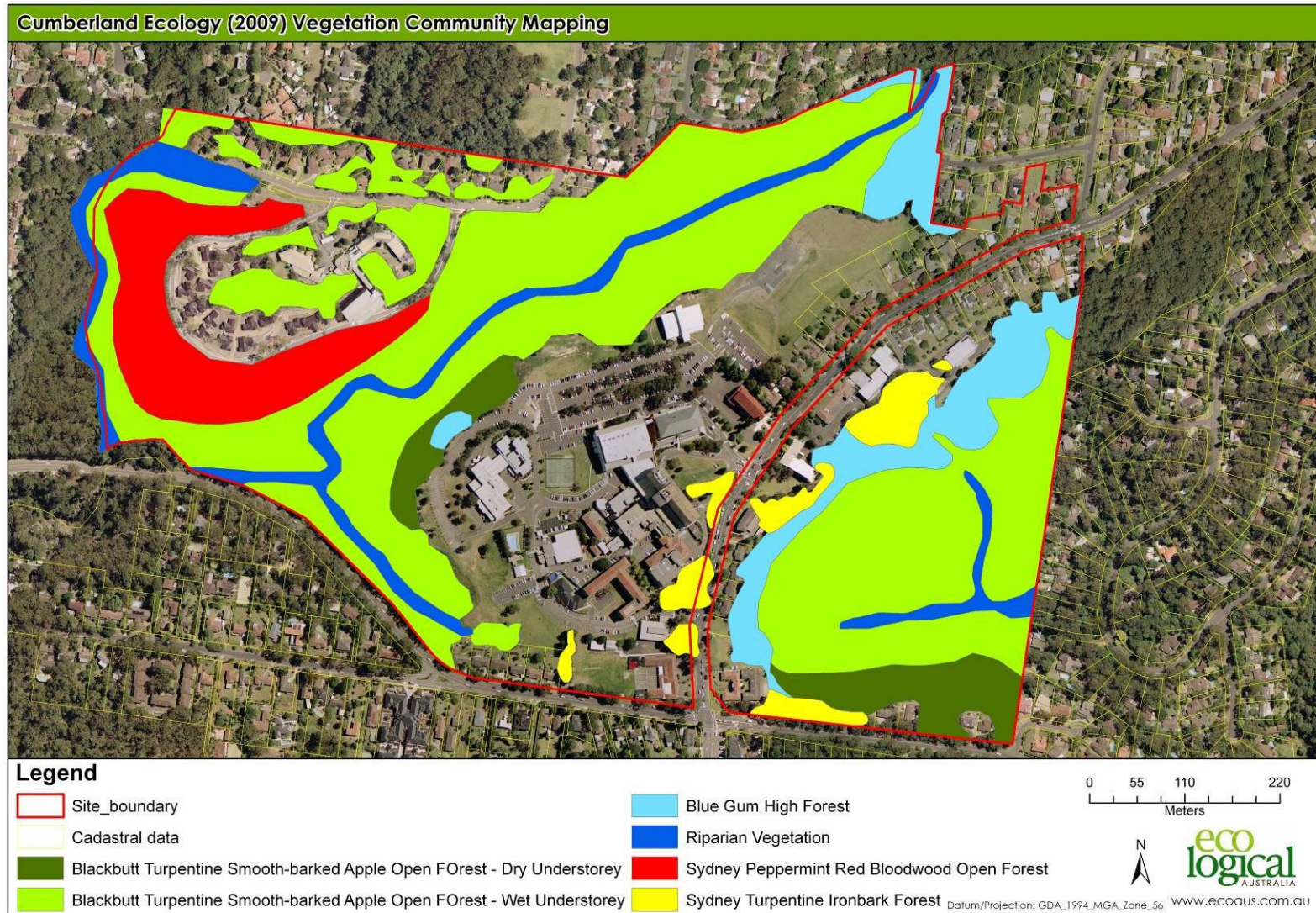


Figure 2: Cumberland Ecology (2009) Vegetation Mapping for the Subject site.

The Normanhurst Adventist Retirement Village and Mount Pleasant Avenue

The limited vegetation to the north of Mount Pleasant Avenue within the Subject land is mapped within the Flora and Fauna Assessment as 'Blackbutt Turpentine Smooth-barked Apple Open Forest – Wet Understorey' (Figure 4), which is a component of SSGF described by Benson and Howell (1994). Council vegetation mapping of this area identifies vegetation as 'Turpentine Ironbark Forest – Margin' which forms part of the Sydney Turpentine Ironbark Forest (STIF) EEC listed under the TSC Act (Figure 3). The vegetation within this area is largely to be retained according to Figure 4.1 of the Flora and Fauna Assessment (also shown in Figure 11 of this report), although a minor area would be managed as an APZ. As such, the area of STIF which is to be impacted as part of the proposed development has been underestimated in regard to this area.

Similarly, to the south of Mount Pleasant Avenue within the Normanhurst Adventist Retirement Village areas identified by Council mapping as part of the STIF EEC (Figure 3) have been identified as SSGF within the Flora and Fauna Assessment (Figure 4). Some of this area will be managed as an APZ and as such the area of STIF which is to be impacted as part of the proposed development has been underestimated in regard to this area.

A small area of native vegetation is present within the Subject site south of Mount Pleasant Avenue and to the north and west of the Private Road which encircles the Normanhurst Adventist Retirement Village (Figure 3). This area has been mapped as 'Sydney Peppermint Red Bloodwood Open Forest' by the Flora and Fauna Assessment (Figure 4) while council has mapped this area as 'Coastal Shale Sandstone Transition Forest' (CSSTF) (Figure 3). The vegetation in this area is to be cleared as part of the proposed redevelopment as shown in Figure 4.1 of the Flora and Fauna Assessment (also shown in Figure 11 of this report), although no discussion of the impact of the proposed development upon this vegetation community has been provided. CSSTF has been recognised by both Council and the DECC as part of recent vegetation mapping within Ku-ring-gai LGA, although the status of this community has not yet been determined. It is understood that this community may be nominated for listing as an EEC in the future and a discussion of this community is provided below. Other patches of CSSTF community occur within the Normanhurst Adventist Retirement Village and will be managed as an APZ as part of the proposed development.

Coastal Shale Sandstone Transition Forest

Much of the following information is summarised from James (2009). CSSTF is associated with transitional soils (soils with both sandy and clay components) which are derived predominantly from the Mittagong Formation geology comprising a thin unit between the Ashfield Shales and Hawkesbury Sandstone (James 2009). The Mittagong Formation is embedded with the top part of the Hawkesbury Sandstone and is scientifically associated with the sandstone rather than the Ashfield Shale (Herbert 1980). These transitional soils occur widely throughout the Ku-ring-gai LGA due to the dissection down to sandstone of the slopes of the shale covered ridges by various drainage lines. Soils derived from this geology are predominantly of the Lucas Heights soil landscape and support distinctive transitional vegetation communities.

Previous vegetation mapping of the Ku-ring-gai LGA (e.g. Benson and Howell 1994; Smith and Smith 2004; Tozer *et al.* 2006) have included these transitional areas within the Duffys Forest (DF), Sandstone Ridgetop Woodland (SSRW) and STIF vegetation communities. The Council mapping project, undertaken at a much finer scale than other studies in the area, has identified the need for recognition of this community as a separate vegetation community.

CSSTF has been identified as occurring on thin shale caps over sandstone and on moderate, sheltered slopes below STIF and above SSGF. On these thin shale caps and on moderate to gentle slopes there

is a wider transitional area between the shale communities upslope (STIF) and the sandstone communities downslope (SSGF), allowing for the development of a distinct vegetation community. In areas of steeper slope where a narrower transition zones occurs development of this community is limited and these areas are ecologically better classified as an intergrade between STIF and SSGF, specifically STIF – Wet Transition. A brief summary of the characteristics of CSSTF is outlined in Table 1.

The distribution of CSSTF within Ku-ring-gai LGA is limited with the ridgetops and gentle to moderate slopes where this community occurs having been historically cleared for urban development. DECC has indicated that this community is likely to be similar to a community identified within the Lane Cove area and is likely to be nominated as an EEC under the TSC Act.

Table 1: Characteristics of Coastal Shale Sandstone Transition Forest (CSSTF)

CHaracteristics	CCSTF
Soil landscape & characteristics	Lucas Heights, GyMEA. Shallow, sandy clay loam with sandstone fragments & minor to moderate rock outcrops.
Vegetation structure	Medium open forest or woodland with open to moderate grassy shrub understorey.
Canopy trees	<i>Eucalyptus pilularis</i> (D), <i>Angophora costata</i> , <i>Syncarpia glomulifera</i> , <i>Eucalyptus resinifera</i> , <i>E. globoidea</i> , <i>E. punctata</i> , <i>E. piperita</i> , <i>E. oblonga</i> and <i>Corymbia gummifera</i> .
Smaller trees	<i>Pittosporum undulatum</i> , <i>Ceratopetalum gummiferum</i> , <i>Allocasuarina littoralis</i> , <i>Elaeocarpus reticulatus</i> , <i>Glochidion ferdinandi</i> , <i>Acacia parramattensis</i> and <i>A. implexa</i> .
Shrubs	<i>A. longifolia</i> , <i>A. linifolia</i> , <i>A. myrtifolia</i> , <i>Bossiaea obcordata</i> , <i>Bursaria spinosa</i> , <i>Daviesia corymbosa</i> , <i>Dodonaea triquetra</i> , <i>Epacris pulchella</i> , <i>+Epacris purpurascens</i> var. <i>purpurascens</i> , <i>Grevillea linearifolia</i> , <i>Hakea sericea</i> , <i>Hibbertia aspera</i> , <i>Kunzea ambigua</i> , <i>Leucopogon juniperinus</i> , <i>Lomatia silaifolia</i> , <i>Micrantheum ericoides</i> , <i>Ozothamnus diosmifolius</i> , <i>Persoonia levis</i> , <i>P. linearis</i> , <i>P. pinifolia</i> , <i>Polyscias sambucifolia</i> , <i>Pultenaea hispidula</i> , <i>Xanthosia tridentata</i>
Ground layer-graminoids	<i>Aristida vagans</i> , <i>Austrodanthonia racemosa</i> , <i>A. tenuior</i> , <i>Austrostipa pubescens</i> , <i>Cyathochaeta diandra</i> , <i>Dichelachne micrantha</i> , <i>Digitaria ramularis</i> , <i>Entolasia stricta</i> , <i>E. marginata</i> , <i>Echinopogon caespitosus</i> , <i>E. ovatus</i> , <i>Eragrostis brownii</i> , <i>Imperata cylindrica</i> , <i>Lepidosperma laterale</i> , <i>Lomandra filiformis</i> , <i>Lomandra gracilis</i> , <i>Lomandra longifolia</i> , <i>Lomandra multiflora</i> , <i>Lomandra obliqua</i> , <i>Microlaena stipoides</i> , <i>Oplismenus aemulus</i> , <i>Panicum simile</i> , <i>Themeda australis</i> , <i>Xanthorrhoea media</i>
Ground layer-ferns & herbs	<i>Pteridium esculentum</i> , <i>Brunoniella australis</i> , <i>Cryptostylis erecta</i> , <i>Desmodium varians</i> , <i>Dichondra repens</i> , <i>Dianella caerulea</i> , <i>Goodenia heterophylla</i> , <i>Oxalis perennans</i> , <i>Pomax umbellata</i> , <i>Poranthera microphylla</i> , <i>Pratia purpurascens</i> , <i>Veronica plebeia</i> , <i>Wahlenbergia gracilis</i> ,
Climbers	<i>Billardiera scandens</i> , <i>Cassytha pubescens</i> , <i>Hardenbergia violacea</i> , <i>Glycine microphylla</i> , <i>G. tabacina</i> , <i>G. clandestina</i> , <i>Kennedia rubicunda</i> , <i>Pandorea pandorana</i>

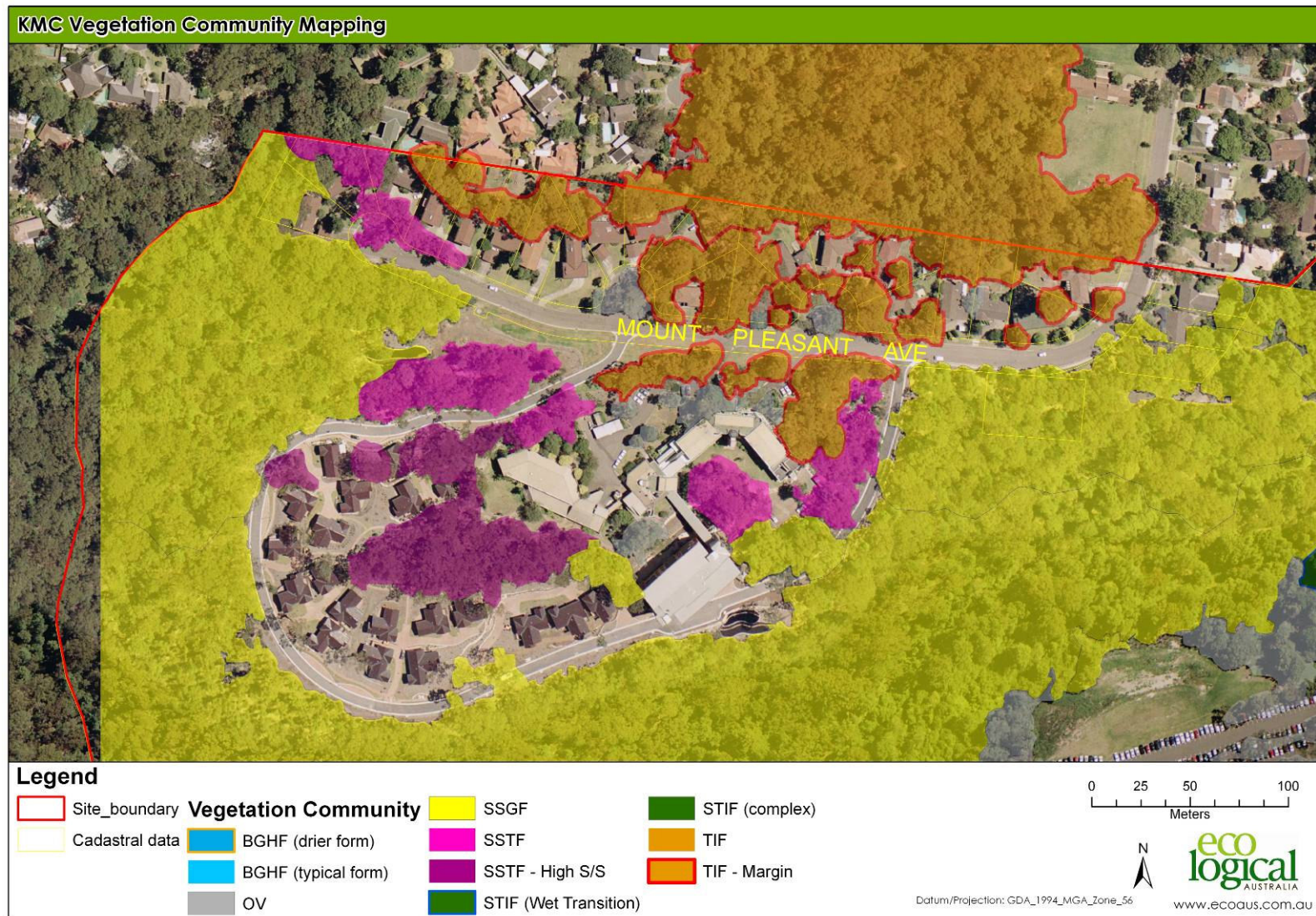


Figure 3: Ku-ring-gai Council Vegetation Mapping for the northwest of the Subject site



Figure 4: Cumberland Ecology (2009) Vegetation Mapping for the northwest of the Subject site.

Elizabeth Avenue and northeast of the Adventist Church Regional Headquarters

Beyond the western limit of Elizabeth Avenue, the Flora and Fauna Assessment has identified an area of Blue Gum High Forest (BGHF), with 'Blackbutt Turpentine Smooth-barked Apple Open Forest – Wet Understorey' (a component of SSGF) occurring further to the west (Figure 6). Council vegetation mapping has identified a smaller area of BGHF with a wet transition form of STIF beyond this area to the west (Figure 5). The differences in distribution of these communities are highly significant because based upon Council mapping and Figure 4.1 of the Flora and Fauna Assessment (also shown in Figure 11 of this report) the proposed development in this area would:

- Involve clearing the majority of the BGHF in this area. As such, the estimates within subsequent sections of the Flora and Fauna Assessment of the area of BGHF to be cleared would be an under estimate in this area; and
- Involve managing an increased area of STIF as an APZ, and therefore increase the impact of the proposed development upon this community.

East of Fox Valley Road

The Flora and Fauna Assessment identifies a narrow band of BGHF and STIF running parallel to Fox Valley Road to the east of existing development on the east side of Fox Valley Road (Figure 8). Further downslope to the east, the Flora and Fauna Assessment has identified 'Blackbutt Turpentine Smooth-barked Apple Open Forest – Wet Understorey and Riparian Vegetation'. Council vegetation mapping has identified scattered areas of exotic planted trees within this area, a more restricted area of BGHF, and a broad band of STIF (incorporating the 'Wet transition' form) further downslope (Figure 7). The result of these discrepancies is the following:

- According to Council mapping a much larger area of STIF exists within the Subject site and may conform to the EPBC definition of this community. Additionally, the proposed development would remove a much larger area of STIF than estimated within the Flora and Fauna Assessment; and
- The area of vegetation which is proposed to be retained within this area would not include any areas of BGHF. Therefore the impact of the proposed development upon BGHF would be much larger than estimated within the Flora and Fauna Assessment.

The southern portions of the vegetation to the east of Fox Valley Road and adjoining the Comenarra Parkway have been mapped by the Flora and Fauna Assessment as a restricted area of STIF and a large band of 'Blackbutt Turpentine Smooth-barked Apple Open Forest – Dry Understorey' (Figure 8). Council mapping of this area has identified this entire area as the Wet transition form of STIF (Figure 7). This area will maintained as an APZ as part of the proposed development and would contain a road and stormwater detention basin. The result of these discrepancies in mapping is:

- The impact to STIF is greatly underestimated by the Flora and Fauna Assessment.

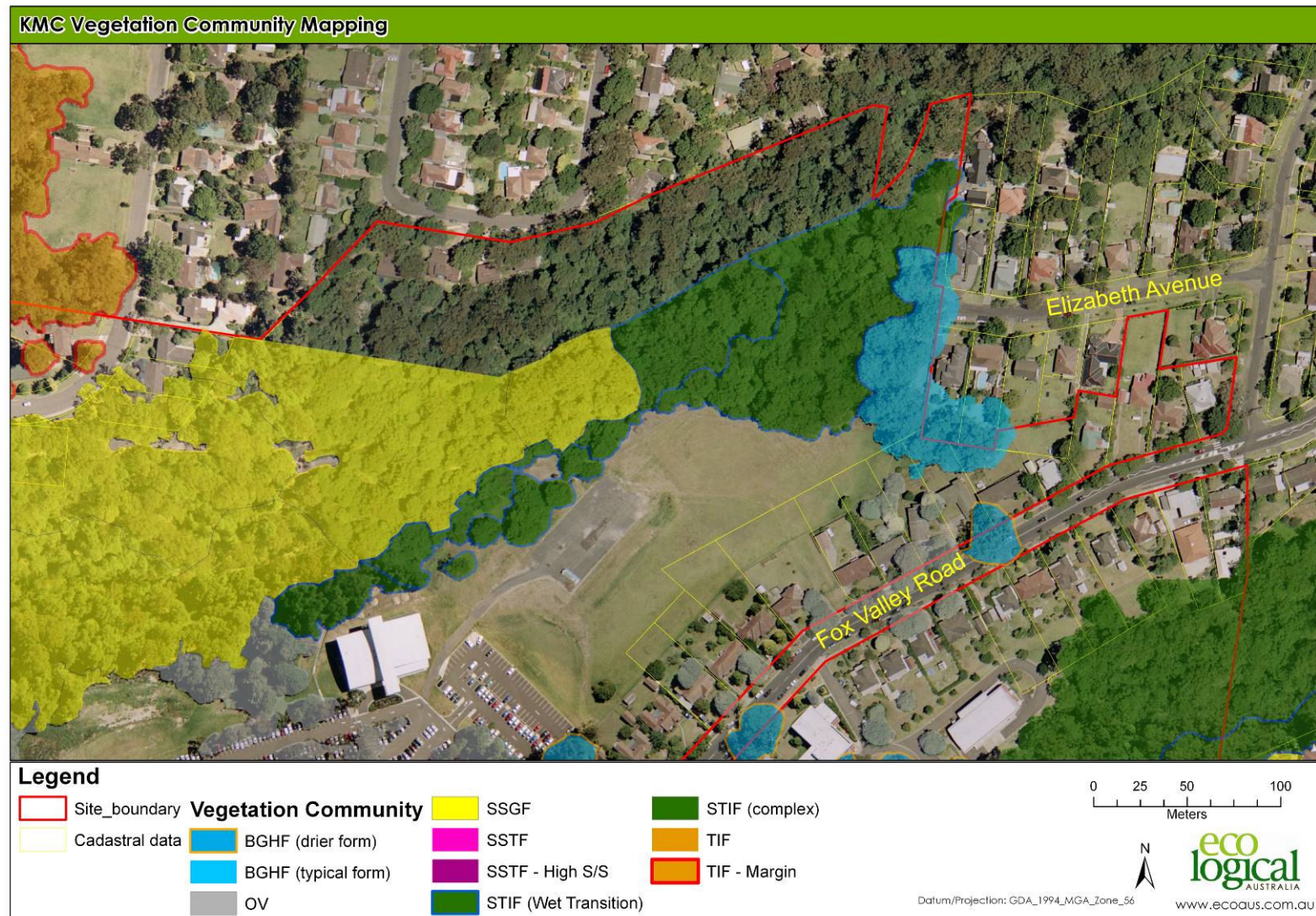


Figure 5: Ku-ring-gai Council Vegetation Mapping for the northeast of the Subject site

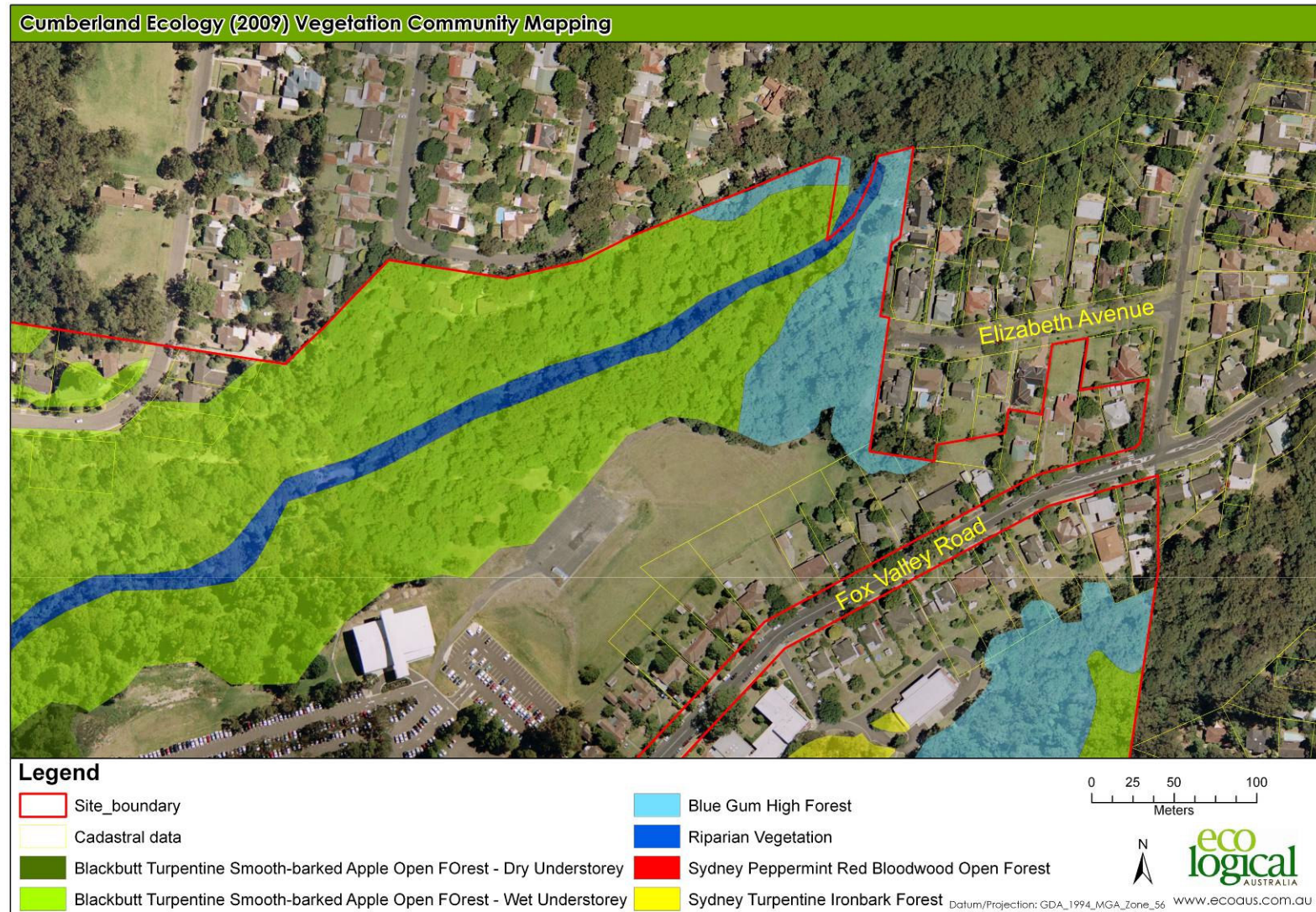


Figure 6: Cumberland Ecology (2009) Vegetation Mapping for the northeast of the Subject site.

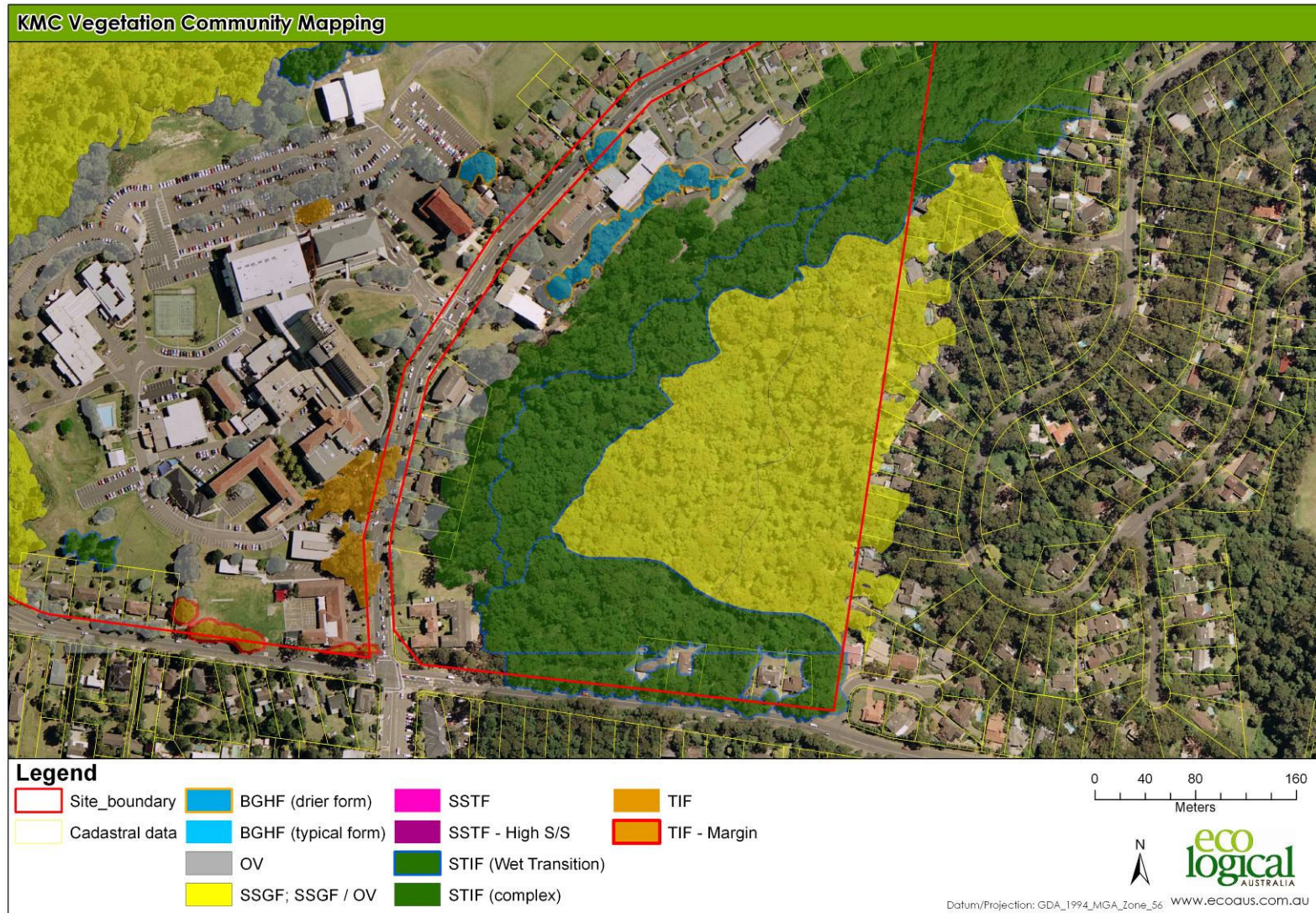


Figure 7: Ku-ring-gai Council Vegetation Mapping for the southeast of the Subject site

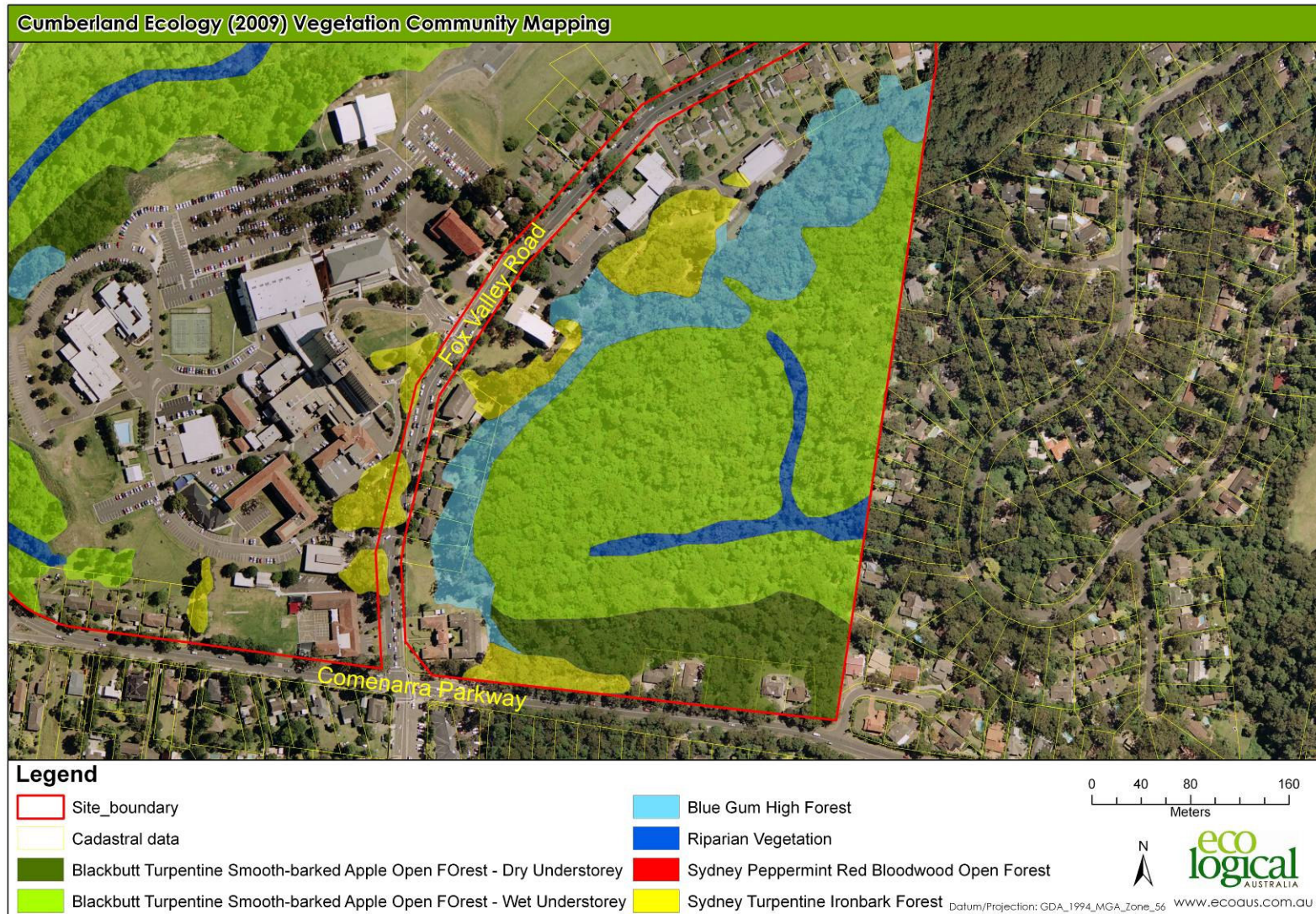


Figure 8: Cumberland Ecology (2009) Vegetation Mapping for the southeast of the Subject site.

Within the Sydney Adventist Hospital Grounds, west of Fox Valley Road

The Flora and Fauna Assessment identified an area of BGHF occurring on fill immediately adjoining the western most area of the hospital grounds (Figure 10). This area consists of a stand of the non-local native *Eucalyptus grandis* (Flooded Gum) which appears to have been planted in the past as part of the landscaping of the hospital grounds. As such, it is mapped as 'Other Vegetation' (OV) by Council vegetation mapping (Figure 9).

Adjoining Fox Valley Road, the Flora and Fauna Assessment identified three stands of STIF (Figure 10), two of which are to be retained as part of the proposed development (Figure 4.1 of the Flora and Fauna Assessment and Figure 11 of this report). The northernmost of these stands has been identified as exotic plantings as part of Council mapping (Figure 9), and this was confirmed during inspections undertaken as part of this project. As such, the area of STIF to be retained as part of the proposed development has been overestimated in regard to this area.

The Flora and Fauna Assessment has not included remnant trees within the grounds of the Sydney Adventist Hospital in its mapping of vegetation communities. Council mapping has identified isolated remnant trees or groups of trees within this area and along Fox Valley Road, which represent remnants of BGHF, STIF and SSTF. The Flora and Fauna Assessment has not indicated whether these isolated remnants will be cleared or retained as part of the proposed development. It does not appear that these areas have been considered in assessing the impact of the proposed development upon these communities.

The significance of isolated trees of BGHF and STIF is highlighted in both the final determinations for these communities and in Land and Environment Court judgements (Murlan Consulting Pty Limited v Ku-ring-gai Council and John Williams Neighbourhood Group Inc [2007]). Highly modified relics of these communities including small clumps of trees without a native understorey and remnant trees are recognised as having particular ecological and genetic significance and contribute significantly to the long-term genetic viability of endangered and critically endangered communities and must be protected.



Figure 9: Ku-ring-gai Council Vegetation Mapping for the Sydney Adventist Hospital Grounds

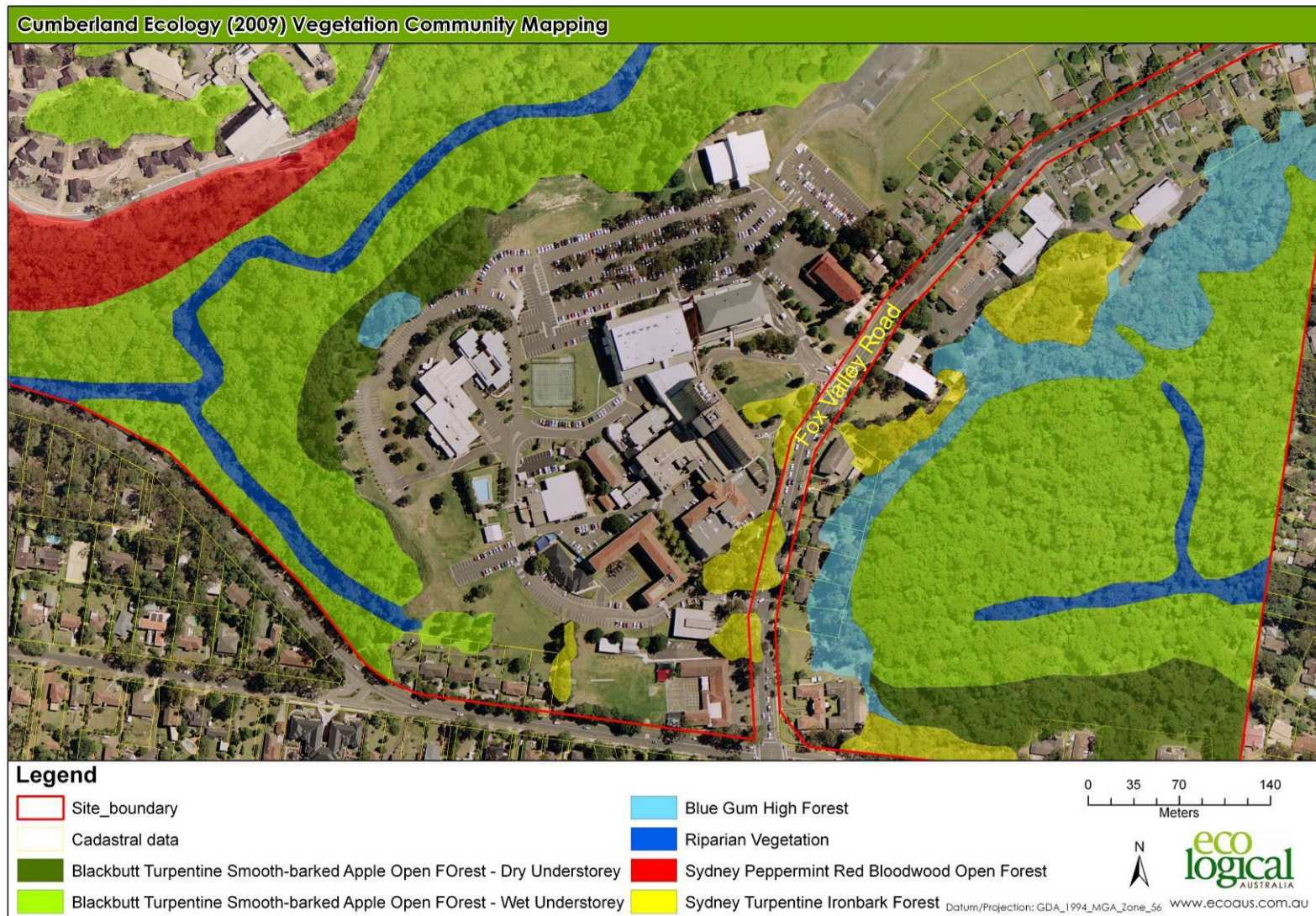


Figure 10: Cumberland Ecology (2009) Vegetation Mapping for the Sydney Adventist Hospital Grounds

2.3.2 Rare or Threatened Plant Species

A search of the DECC Atlas of NSW wildlife database was undertaken by Eco Logical Australia on 19 May 2009, using a 10km radius around the Lots at 146 Fox Valley Road and 21 Elizabeth St, Wahroonga (which closely approximates but slightly under estimates the subject site), and a search of the DEWHA protected matters database was undertaken on 25 May 2009 for 10 km around the four corners of the Subject site (using the following coordinates: -33.73624,151.1039; -33.72914,151.1033; -33.72945,151.0936; -33.73299,151.0926). These searches identified previous records or suitable habitat for 11 threatened species, which have not been considered by the Flora and Fauna Assessment (Table 2). While the likelihood of occurrence for some of these species is low, and the subject site is well outside the natural range for other species, there is no evidence that species listed in Table 2 have been considered during the preparation of the Flora and Fauna Assessment.

Table 2: Threatened species previously recorded within 10km of 146 Fox Valley Road and 21 Elizabeth St, Wahroonga, but not listed in Table 3.1 and of the Flora and Fauna Assessment.

Scientific Name	Common name	TSC Act Status	EPBC Act Status
<i>Caladenia tessellata</i>	Thick Lip Spider Orchid	E	V
<i>Cryptostylis hunteriana</i>	Leafless Tongue-orchid	V	V
<i>Deyeuxia appressa</i>		E	E
<i>Eucalyptus nicholii</i>	Narrow-leaved Black Peppermint	V	V
<i>Eucalyptus scoparia</i>	Wallangarra White Gum	E	V
<i>Genoplesium bauera</i>		V	-
<i>Grammitis stenophylla</i>		E	-
<i>Melaleuca biconvexa</i>		V	V
<i>Prostanthera marifolia</i>		CE	
<i>Pterostylis nigricans</i>		V	-
<i>Wilsonia Backhousei</i>		V	-

2.4 CHAPTER 4: IMPACT ASSESSMENT

2.4.1 Vegetation communities

This chapter begins with a discussion of impacts to native vegetation and identifies clearing of native vegetation as the major impact to native vegetation, including CEECs and EECs. It discusses the significance of this impact at various scales. The chapter also discusses indirect impacts and management of these via a Biodiversity Management Plan (BMP) and the Flooding and Stormwater Management Plan.

In general this chapter provides an appropriate discussion of the potential impacts and concludes that the impacts to BGHF and STIF from the proposed development constitute a significant impact to both communities at both a local and regional scale.

It should be noted that based upon discrepancies between Council vegetation community mapping and that in the Flora and Fauna Assessment (as discussed in Section 2.4.1 of this report) the impact to

these communities may have been underestimated, particularly BGHF. Based upon Council vegetation mapping and the mapping of vegetation management regimes under the proposed development, (mapped in Figure 4.1 of the Flora and Fauna Assessment and Figure 11 of this report), estimates of the impacts to vegetation communities have been calculated in Table 3.

The Flora and Fauna Assessment states that due to the proximity to watercourses Riparian Vegetation is protected under the *Water Management Act 2003*, although areas of this vegetation community are to be cleared and managed as APZs as part of the proposed development (Table 4). The impacts to this community have not been discussed.

Table 3: Areas of EECs (ha), based on Council Mapping, for each management regime under the proposed development. Numbers in brackets indicates the percentage of the entire community.

Vegetation Community	Vegetation to be cleared	APZ	Retained	Total
BGHF	0.46 (82.14)	0.1 (17.86)	0 (0.00)	0.56
STIF	2.78 (29.64)	4.55 (48.51)	2.05 (21.86)	9.38

Table 4: Areas of vegetation communities (ha), based on Cumberland Ecology (2009), for each management regime under the proposed development. Numbers in brackets indicates the percentage of the entire community. Modified from table S.2 in the Flora and Fauna Assessment.

Vegetation Community	Cleared	APZ	Retained	Total
BGHF	1.64 (44.67)	1.87 (50.76)	0.168 (4.57)	3.68
STIF	0.79 (46.37)	0.51 (29.89)	0.40 (23.74)	1.693
Riparian Vegetation	0.027 (0.88)	0.27 (8.87)	2.78 (90.25)	3.08



Figure 11: Ku-ring-gai Council vegetation mapping and vegetation management regimes as part of the proposed development

2.4.2 Threatened flora species

While no threatened flora species have been recorded within the subject site, the Flora and Fauna Assessment identifies potential habitat for ten threatened flora species. No detailed assessment of the potential impact to these species is included within the Flora and Fauna Assessment and it is simply stated that this potential habitat is to be retained. Figure 4.1 of the Flora and Fauna Assessment suggests that some of the potential habitat for these species will be cleared and areas will be managed as APZs. As such, some discussion of the impact upon these species is warranted. Furthermore, the potential indirect impacts should also be discussed. It is acknowledged that it is unlikely that this discussion would identify significant impacts; nonetheless, some evidence that impacts to these species have been considered should be included within the Flora and Fauna Assessment.

2.4.3 Threatened fauna species

The impact upon fauna is assessed in relation to threatened fauna species and groups identified in Table 3.2 of the Flora and Fauna Assessment. The Flora and Fauna Assessment concludes that the proposed development would not significantly impact upon Powerful Owls (*Ninox strenua*) despite recognising the potential for the development to cause reduced breeding success and potential abandonment of an identified nest tree (which is described as the only suitable hollow tree in the relevant bushland gully in Appendix E of the Flora and Fauna Assessment). The DECC Guidelines state that any factor which operates to reduce reproductive success will increase the risk of extinction. Furthermore, the conclusion that if disturbed, the owls would concentrate future breeding efforts in a more secluded area of their existing home range, assumes that there are other suitable nest sites within the existing home range of this breeding pair. Without knowledge of other suitable nest sites, which are suitably far from other neighbouring pairs in the Lane Cove Valley, it cannot be concluded that the proposed development will not significantly impact upon this species. Additionally, there are discrepancies regarding the existing buffer of native vegetation around the existing nest site, with Chapter 4 stating there is currently residential development within 100m of the nest site, while Appendix E states the nest site is 150m from residential development. As the location of the nest site is not mapped on any figure, the distance between any residential development and the nest tree cannot be ascertained by the reader.

In assessing impacts to arboreal mammals, the Flora and Fauna Assessment states that impacts to this fauna group would arise from the removal of hollow bearing trees, but that hollow bearing trees will be retained in preference to non-hollow bearing trees and nest boxes will replace any hollows removed. It is unclear what is meant by retaining hollow bearing trees in preference to non-hollow bearing trees when Figure 4.1 of the Flora and Fauna Assessment suggests that the selection of trees to be retained will be guided by their location rather than attributes of the individual tree.

In assessing the impact to microchiropteran species, the Flora and Fauna Assessment states that as only single or few records of each species exist for the locality, it is unlikely that the area supports viable or important populations of these species. This assumption is contrary to the DECC guidelines which state that demonstrating that a population is not viable would require considerable effort and therefore any known or presumed local populations should be assumed viable unless the contrary can be conclusively demonstrated. The data presented in the Flora and Fauna Assessment is not adequate to conclusively demonstrate that the records of these species are part of non-viable populations. Even so, this is unlikely to change the conclusion of the Flora and Fauna Assessment that these species will not be significantly impacted.

2.4.4 Ecological Corridors

The Flora and Fauna Assessment identifies that the proposed development will reduce the width of the ecological corridor to the east of Fox Valley Road, with the result that it will decrease the likelihood of fauna species attempting to cross from the Coups Creek Corridor to the vegetation east of Fox Valley Road (although this was unlikely via the hospital grounds). However, there is a shorter distance between the Coups Creek Corridor and the bushland east of Fox Valley Road via the property at 113 Fox Valley Road, Wahroonga (Figure 12). At this point, there is a shorter distance for fauna to travel between the two ecological corridors, although this would be further disrupted by the proposed development. This issue warrants discussion, although it may be deemed that use of this corridor by fauna, even in its current state, is unlikely.

Additionally, at the very local scale, connectivity between the bushland east of Fox Valley Road and the adjacent lot to the north east (Figure 12) will be severed. An assessment of any fauna movements between these two lots is warranted.



Figure 12: Ecological Corridors within the locality

2.4.1 Mitigation Measures

This chapter outlines mitigation measures which aim to mitigate the impact of the proposed development. The two main mitigation measures associated with the proposal is the management of retained vegetation according to a BMP and installation of nest boxes to replace hollow-bearing trees cleared as part of the proposed development.

Ongoing management of retained vegetation according to a BMP may prove successful in managing weed invasions and edge effects although it is noted that implementation of a BMP will not address overshadowing from buildings.

Artificial nest boxes are proposed to be installed as part of the proposed development to replace hollows to be cleared which may be utilized by hollow dependent fauna species including the Powerful Owl and its prey. While research has shown that large Owl species may use artificial nest boxes, it cannot be shown that artificial nest boxes will successfully substitute natural hollows on the scale proposed by the proposed development. The Approved Recovery Plan for Large Forest Owls (which include Powerful Owls; DECC 2006) states that nest boxes have been used extensively, and with great success, in the Northern Hemisphere to increase owl populations where nest sites are limited or absent. It does not indicate that nest boxes are appropriate to act as substitutes for natural hollows over long periods of time. Installation of artificial hollows at other locations within Ku-ring-gai and other urban environments has led to usage of these hollows by non target species including exotic species. Furthermore, nest boxes are either short lived or require ongoing maintenance which can be costly. Actions which are identified by DECC (2005) as aiding the recovery of this species include:

- Retain at least a 200 metre buffer of native vegetation around known nesting sites;
- Retain large stands of native vegetation, especially those containing hollow-bearing trees; and
- Protect hollow-bearing trees for nest sites. Younger recruitment trees should also be retained to replace older trees in the long-term.

In addition to proposed mitigation measures, the Flora and Fauna Assessment indicates that offset and mitigation measures are to be determined in consultation with relevant authorities. It is considered appropriate that these offsetting details should be determined prior to any approval, rather than simply committing to consulting with relevant authorities.

2.4.2 Conclusions and Recommendations

This chapter outlines the conclusions and recommendations of the Flora and Fauna Assessment. It is considered that the findings of the preceding chapters of the report are not clearly outlined in this chapter. Specifically, the finding that the CEEC BGHF and the EEC STIF would be significantly impacted by the proposed development (as stated in Section 4.2.3 of the Flora and Fauna Assessment) is not restated in the conclusions. The conclusions only indicate that DEWHA have considered the development a controlled action in relation to impacts to these communities and that a BMP will seek to offset and mitigate impacts to this community.

In addition to not clearly restating the findings of earlier sections of the Flora and Fauna Assessment, it is considered that the conclusions that Powerful Owls and the function of the ecological corridor east of Fox Valley Road will not be significantly impacted are questionable. That is, it is considered that the

proposed development has the potential to significantly impact upon Powerful Owls and the function of the ecological corridor east of Fox Valley Road.

Notwithstanding the previous above stated shortcomings of the conclusions and the Flora and Fauna Assessment as a whole, the recommendation that a BMP be prepared, detailing ongoing management and monitoring of retained vegetation and fauna habitats, specifically Powerful Owls, is considered appropriate.

2.5 OMISSIONS;

The following points are considered omissions from the Flora and Fauna Assessment::

- The DGRs include consideration of all relevant State Environmental Planning Policies (SEPPs), which are identified in the Concept Plan to include SEPP 44 – Koala Habitat Protection. SEPP 44 is not addressed in the Flora and Fauna Assessment;
- Figure 9 of the Concept Plan identifies an easement running east-west through the Subject site. There is no discussion of the purpose of this easement and it is unclear if it is an existing easement, or proposed as part of the overall proposed development. If this easement forms part of the proposed development the Flora and Fauna Assessment should discuss the impacts of the easements on retained vegetation through which the easement runs; and
- There is no indication if the proposed development involves the carrying out of a ‘controlled activity’ on ‘waterfront land’ as requires approval under the *Water Management Act 2000*.

3 Conclusions

The following conclusions arise from the review of the Flora and Fauna Assessment:

- The methodologies are not explained in detail and the results of previous reports have been relied upon without providing details of the survey effort from these previous reports. It is noted that the combined survey effort for microchiropteran bat species is less than recommended by DEC (2004) ;
- The vegetation mapping of the Flora and Fauna Assessment is coarse and includes areas of plantings of exotic and non-local native species in the distribution of native vegetation communities. This contributes to an overall under estimation of the impacts of the proposed development upon Critically Endangered and Endangered Ecological Communities;
- Council vegetation mapping indicates that there is a reduced area of BGHF within the Subject site and that the proposed development would not retain any of this vegetation in its current state;
- Council Vegetation mapping indicates that there is an increased area of vegetation consistent with STIF and that this area satisfies the description of STIF under the EPBC Act. Furthermore, the Flora and Fauna Assessment underestimates the area of this community which would be impacted by the proposed development;
- The findings that the breeding pair of Powerful Owls will not be significantly impacted despite acknowledging the potential for this pair to abandon the current nest tree and to experience reduced breeding success is questionable. It is considered that there is potential to significantly impact upon this breeding pair given that APZs will incur to within 50m of the current nest site. The location of vegetation clearing, roads or stormwater detention basin within 50m of the nest site would involve construction works and could involve ongoing disturbance in close proximity to the nest site;
- The finding that ecological corridors will be unaffected is questionable and more detailed assessment of corridors is warranted, particularly in relation to the continuance of ecological corridors beyond the Subject site; and
- The conclusions of the Flora and Fauna Assessment do not clearly indicate the findings discussed in the main body of text including that the proposed development will significantly impact upon the Critically Endangered Ecological Community (CEEC) 'Blue Gum High Forest' (BGHF), as listed under the TSC Act and EPBC Act, and the Endangered Ecological Community (EEC) Sydney Turpentine Ironbark Forest (STIF) as listed under the TSC Act.

References

- Benson, D. and Howell, J. (1994). The natural vegetation of the Sydney 1:100,000 map sheet. *Cunninghamia* 3(4).
- Conacher Travers (2004). *Flora and Fauna Assessment Report: Proposed Roadway Development "Wahroonga Estate" Fox Valley Road & Comenarra Parkway Wahroonga*. Conacher Travers Environmental Consultants, Somersby.
- Cumberland Ecology (2009). *The Proposed Redevelopment of Wahroonga Estate, Fox Valley Road and Comenarra Parkway, Wahroonga; Flora and Fauna Assessment for a Part 3A Assessment*. Report prepared for Johnson Property Group, dated April 2009;
- DECC (2006) Approved
- DECC (2007) *Threatened species assessment guidelines: The assessment of significance*. Department of Environment and Climate Change.
- Hyder Consulting Pty Ltd (2009). *Wahroonga Estate Flooding and Stormwater Master Plan*. Report prepared for Johnson Property Group, dated 17 February 2009.
- James, T. (2009) Transitional vegetation communities of Ku-ring-gai LGA. Draft report to Ku-ring-gai Council dated April 2009.
- Land and Environment Court Judgement (2007). *Murlan Consulting Pty Limited v Ku-ring-gai Council and John Williams Neighbourhood Group Inc [2007] NSWLEC 374*.
- NSW NPWS (2002). *Native Vegetation Maps of the Cumberland Plain Western Sydney*. NSW National Parks and Wildlife Service, Sydney.
- NSW Department of Environment and Conservation (2004) Threatened Biodiversity Survey and Assessment: Guidelines for Developments and Activities. Draft report dated November 2004.
- Smith, P. and Smith, J. (2000) Survey of the Duffys Forest Vegetation Community. Report to NSW National Parks and Wildlife Service and Warringah Council dated November 2000
- Tozer, M.G., Turner, K., Simpson, C., Keith, D.A., Beukers, P., MacKenzie, B., Tindall, D., and Pennay, C. (2006) *Native vegetation of southeast NSW: a revised classification and map for the coast and eastern tablelands*. Department of Environment and Climate Change (NSW) and NSW Department of Natural Resources.

**HEAD OFFICE**

Suite 4, Level 1
2-4 Merton Street
Sutherland NSW
T 02 8536 8600
F 02 9542 5622

SYDNEY

Suite 604, Level 6
267 Castlereagh Street
Sydney NSW 2000
T 02 9993 0566
F 02 9993 0573

ST GEORGES BASIN

8/128 Island Point Road
St Georges Basin NSW 2540
T 02 4443 5555
F 02 4443 6655

CANBERRA

Level 4
11 London Circuit
Canberra ACT 2601
T 02 6103 0145
F 02 6103 0148

HUNTER

Suite 17, Level 4
19 Bolton Street
Newcastle NSW 2300
T 02 4910 0125
F 02 4910 0126

NAROOMA

5/20 Canty Street
Narooma NSW 2546
T 02 4476 1151
F 02 4476 1161

COFFS HARBOUR

35 Orlando Street
Coffs Harbour Jetty NSW 2450
T 02 6651 5484
F 02 6651 6890

ARMIDALE

92 Taylor Street
Armidale NSW 2350
T 02 8081 2681
F 02 6772 1279

BRISBANE

93 Boundary St
West End QLD 4101
T 0429 494 886

WESTERN AUSTRALIA

108 Stirling Street
Perth WA 6000
T 08 9227 1070
F 08 9227 1078



Wahroonga Estate – Ecological Review

Review of Flora and Fauna Assessment

Prepared for
Ku-ring-gai Municipal Council



Wahroonga Estate – Ecological Review

Review of Flora and Fauna Assessment

PREPARED FOR	Ku-ring-gai Municipal Council
--------------	-------------------------------

PROJECT NO	093–007
------------	---------

DATE	June 2009
------	-----------

DOCUMENT TRACKING

ITEM	DETAIL
Project Name	Wahroonga Estate – Ecological Review
Project Number	093-007
File location	G:\Synergy\Projects\0093\0093-0007 Sydney Adventist Hospital - Flora and Fauna report review\Report\Draft Reports\
Prepared by	BT
Approved by	EL
Status	Final
Version Number	1
Last saved on	5 June 2009

ACKNOWLEDGEMENTS

This document has been prepared by Eco Logical Australia Pty Ltd with support from Ku-ring-gai Municipal Council staff.

Disclaimer

This document may only be used for the purpose for which it was commissioned and in accordance with the contract between Eco Logical Australia Pty Ltd and Ku-ring-gai. The scope of services was defined in consultation with Ku-ring-gai, by time and budgetary constraints imposed by the client, and the availability of reports and other data on the subject area. Changes to available information, legislation and schedules are made on an ongoing basis and readers should obtain up to date information.

Eco Logical Australia Pty Ltd accepts no liability or responsibility whatsoever for or in respect of any use of or reliance upon this report and its supporting material by any third party. Information provided is not intended to be a substitute for site specific assessment or legal advice in relation to any matter. Unauthorised use of this report in any form is prohibited.

Contents

List of Figures v

List of Tablesvi

Abbreviations.....vi

1 Introduction..... 1

 1.1 Terminology..... 2

2 Review of Flora and Fauna Assessment 3

 2.1 Chapter 1: Introduction..... 3

 2.2 Chapter 2: Methodology..... 3

 2.3 Chapter 3: Results 5

 2.3.1 Vegetation Communities 5

 2.3.2 Council Vegetation Mapping Project..... 20

 2.3.3 Rare or Threatened Plant Species 26

 2.4 Chapter 4: Impact Assessment 27

 2.4.1 Vegetation Communities 27

 2.4.2 Threatened Flora Species 29

 2.4.3 Threatened Fauna Species 29

 2.4.4 Ecological Corridors..... 30

 2.4.1 Watercourses and Associated Riparian Vegetation 32

 2.4.2 Mitigation Measures..... 32

 2.4.3 Conclusions and Recommendations 33

 2.5 omissions 33

3 Conclusions 34

References 36

List of Figures

Figure 1: Ku-ring-gai Council Vegetation Mapping for the Subject site 6

Figure 2: Vegetation community mapping of Cumberland Ecology (2009)..... 7

Figure 3: Ku-ring-gai Council Vegetation Mapping for the northwest of the Subject site 9

Figure 4: Cumberland Ecology (2009) Vegetation Mapping for the northwest of the Subject site..... 10

Figure 5: Ku-ring-gai Council Vegetation Mapping for the northeast of the Subject site 12

Figure 6: Cumberland Ecology (2009) Vegetation Mapping for the northeast of the Subject site 13

Figure 7: Ku-ring-gai Council Vegetation Mapping for the southeast of the Subject site 14

Figure 8: Cumberland Ecology (2009) Vegetation Mapping for the southeast of the Subject site..... 15

Figure 9: Ku-ring-gai Council Vegetation Mapping for the Sydney Adventist Hospital Grounds 17

Figure 10: Cumberland Ecology (2009) Vegetation Mapping for the Sydney Adventist Hospital Grounds 18

Figure 11: Building layout and vegetation management of the proposed development..... 19

Figure 12: Ecological corridors within the Subject Site.....31

List of Tables

Table 1: Characteristics of the three forms Blue Gum High Forest within the Ku-ring-gai LGA.	20
Table 2: Characteristics of the three forms Sydney Turpentine Ironbark within the Ku-ring-gai LGA.	23
Table 3: Characteristics of Coastal Shale Sandstone Transition Forest (CSSTF) within the Ku-ring-gai LGA.....	25
Table 4: Threatened species previously recorded within 10km of 146 Fox Valley Road and 21 Elizabeth St, Wahroonga, but not listed in Table 3.1 of the Flora and Fauna Assessment.	27
Table 5: Areas of EECs (ha), based on Council Mapping, for each management regime under the proposed development.	28
Table 6: Areas of vegetation communities (ha), based on Cumberland Ecology (2009), for each management regime under the proposed development.	28

Abbreviations

ABBREVIATION	DESCRIPTION
APZ	Asset Protection Zone
BGHF	Blue Gum High Forest
BMP	Biodiversity Management Plan
CEEC	Critically Endangered Ecological Community
CSSTF	Coastal Shale Sandstone Transition Forest
DECC	NSW Department of Environment and Climate Change
DEWHA	Commonwealth Department of the Environment ,Water, Heritage and the Arts
DGRs	Director Generals Requirements
EEC	Endangered Ecological Community
EP&A Act	Environmental Planning and Assessment Act 1979
EPBC Act	Environment Protection and Biodiversity Conservation Act 1999
OV	Other Vegetation
SEPP	State Environmental Planning Policy
SSGF	Sandstone Gully Forest
STIF	Sydney Turpentine Ironbark Forest
TSC Act'	<i>Threatened Species Conservation Act 1995;</i>

1 Introduction

This report has been prepared for Ku-ring-gai Municipal Council to review the Flora and Fauna Assessment prepared by Cumberland Ecology (Cumberland Ecology 2009; hereafter referred to as the Flora and Fauna Assessment) in relation to the proposed Wahroonga Estate Redevelopment. The Flora and Fauna Assessment forms part of the documentation submitted to the NSW Department of Planning in support of an application for approval as an Environmental Assessment and Concept plan under Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The proponent is concurrently seeking to rezone and list the subject site as a State Significant Site in Schedule 3 of the *State Environmental Planning Policy (Major Projects)*.

The Environmental Assessment and Concept plan proposes a comprehensive redevelopment of the Subject site to allow for expansion of the existing Sydney Adventist Hospital and development of new facilities including:

- A school;
- Church facilities;
- Commercial facilities;
- Residential development;
- Retail developments; and
- Open space for both passive and active recreation activities.

The concept plan seeks approval for the use of the site and broad development parameters including building envelopes and yield, with detailed site operation and design details to be provided in subsequent Project Applications.

This review discusses the various sections of the Flora and Fauna Assessment and provides an overall conclusion. The aims of this peer review are to assess the Flora and Fauna Assessment in terms of the following:

- Accuracy of the report;
- Technical competence;
- Adequacy; and
- Veracity.

In addition, the aims of this peer review include identifying any gaps or omissions from the report.

In reviewing the Flora and Fauna Assessment, a brief inspection of the Subject site was undertaken by ecologist, Brian Towle, on the 21 May 2009 in the presence of Ku-ring-gai Council Environmental officer, Penny Colyer. Additionally, the following documents were read:

- 'Wahroonga Estate Redevelopment Incorporating Sydney Adventist Hospital, Environmental Assessment & Concept Plan'. Report prepared by Johnson Property Group dated April 2009;
- 'Wahroonga Estate Flooding and Stormwater Master Plan. Report prepared by Hyder Consulting Pty Ltd dated 17 February 2009.

1.1 TERMINOLOGY

In this report the following terms have the following meanings:

- Council – refers to Ku-ring-gai Municipal Council and its staff;
- The Flora and Fauna Assessment – refers to the report prepared by Cumberland Ecology entitled 'The Proposed Redevelopment of Wahroonga Estate, Fox Valley Road and Comenarra Parkway, Wahroonga; Flora and Fauna Assessment for a Part 3A Assessment' dated April 2009;
- The Concept Plan – refers to the report prepared by Johnson Property Group entitled 'Wahroonga Estate Redevelopment Incorporating Sydney Adventist Hospital, Environmental Assessment & Concept Plan' dated April 2009;
- Proposed development – refers to the development as described in the Concept Plan;
- The terms 'Subject site' and 'Locality' have been given the same meanings as defined in the Flora and Fauna Assessment, specifically:
 - 'Subject site' – refers to the parcels of land on which development is proposed;
 - 'Locality' – refers to the land within a 5km radius of the subject site;
- DECC guidelines – refers to the DECC (2007) Threatened Species Assessment Guidelines.

2 Review of Flora and Fauna Assessment

2.1 CHAPTER 1: INTRODUCTION

Chapter 1 of the Flora and Fauna Assessment identifies the purpose of the report, briefly describes the physical setting of the subject site, generally describes the proposed development, and defines the subject site, study area and locality. This chapter of the report is considered to be clear and of sufficient detail with the exception of issues discussed below.

- In describing the proposed development, the Flora and Fauna Assessment refers to the locations of buffers of native vegetation around Powerful Owl (*Ninox strenua*) sightings and Asset Protection Zones (APZs) without referring to any specific figures. It is difficult to determine exactly the areas which are being referred to in this section.
- Under the heading '1.3 Proposed Development' the Flora and Fauna Assessment states that it has made extensive use of a previous Flora and Fauna Assessment prepared by Conacher Travers (in 2004). This report is not included as an appendix to the report and so it is not possible to assess the survey effort, results or conclusions of this report. For the purpose of this review a copy of the previous report has been referred to, in order to assess survey effort.

2.2 CHAPTER 2: METHODOLOGY

This chapter of the report describes background data reviewed and the methodology employed for field surveys of both flora and fauna species. It also includes a description of the survey methodology of the Conacher Travers Flora and Fauna Assessment.

The background literature reviewed as part of the Flora and Fauna Assessment is listed as including the following:

- The previous Flora and Fauna Assessment of Conacher Travers to extract information regarding vegetation community mapping and species recorded, particularly threatened species;
- The Sydney 1:100,000 vegetation map sheet (Benson and Howell 1994); and
- The Atlas of NSW wildlife and *Environment Protection and Biodiversity Conservation Act* 1999 (EPBC Act) Protected Matters Search Tool.

In subsequent sections of the report it becomes apparent that a number of other documents have been consulted either prior to or during the preparation of this report including vegetation mapping of NPWS (2002) and Tozer *et al.* (2006). Generally, the Flora and Fauna Assessment has referred to the relevant literature which is applicable to the study area.

The following minor issues were identified in regard to this section of the report.

- As part of the preparation of the Flora and Fauna Assessment, major stake holders do not appear to have been consulted. It may have been of assistance to contact the NSW Department of Environment and Climate Change (DECC) and Ku-ring-gai Council, both of which currently have vegetation mapping projects in progress which relate to the study area. The importance of this is highlighted in 'Chapter 3: Results' with regard to discrepancies between vegetation community mapping of Ku-ring-gai Council and the Flora and Fauna Assessment.
- The co-ordinates used and dates when the searches of the databases (Atlas of NSW wildlife and EPBC Act Protected Matters Search Tool) were undertaken is not provided. The importance of providing this data is highlighted in discussions of 'Chapter 3.3: Rare or Threatened Plant Species' with regard to discrepancies between species identified from the DECC Atlas of NSW wildlife in the Flora and Fauna Assessment and searches carried out in the course of preparing this report.
- The methodology employed for the vegetation survey appears adequate, incorporating the recording of all species observed with 20m x 20m quadrats (including an assessment of abundance) in addition to random-meander surveys of the subject site. From the data presented it appears that vegetation was surveyed in quadrats within all communities identified in the Flora and Fauna Assessment as occurring within the subject site. Additional details including the dates and name(s) of observers and locations of random meander surveys would provide a more detailed report.
- The fauna survey incorporated the use of hair funnels, spotlighting, call playback, tree hollow surveys, frog surveys and bird surveys. In general there is a lack of detail regarding the methodology employed. Specifically, the weather conditions, the timing of surveys and survey effort are not discussed in detail.
- The information presented on hair funnel surveys, spotlighting and call playback suggest that sufficient survey effort has been undertaken. However, a list of species for which species the call playback technique was used has not been provided.
- There are a number of shortcomings regarding the frog surveys, most significantly the timing of surveys. The surveys undertaken in June are outside the calling breeding/calling period for a number of the targeted frog species. While surveys in June may not exclude the detection of these species it does not maximise the chances of detecting the targeted threatened species. Furthermore the location of freshwater habitats included as part of the frogs survey is not described or shown on any map.
- There is a general lack of detail regarding the bird surveys undertaken as part of the Flora and Fauna Assessment including the timing of the bird surveys, personnel, weather conditions and survey effort, all of which can influence the chances of recording all species which utilise the subject site. It is impossible to assess whether the field survey effort is adequate.
- No attempts have been made by the Flora and Fauna Assessment to detect microchiropteran species. The results of a previous Flora and Fauna Assessment has been relied upon, although the survey effort is less than recommended by the former Department of Environment and Conservation (DEC; DEC 2004)

2.3 CHAPTER 3: RESULTS

2.3.1 Vegetation Communities

The vegetation communities identified as occurring within the subject site as part of Ku-ring-gai Council's internal mapping project (Figure 1) have several differences from vegetation communities identified as occurring on the subject site within the Flora and Fauna Assessment (Figure 2). The Council's vegetation mapping is considered to better represent the vegetation communities and ecological relationships of the study area. As part of the Council mapping the Subject site has been visited on several occasions by at least three ecologists and the boundaries of vegetation communities discussed, refined and justified. In determining vegetation communities, ecologists have taken into consideration the soils, topography and species of the Subject site. Furthermore, Council vegetation mapping is part of a larger project and thus has the benefit of being able to put the Subject site within the context of the entire LGA.

Vegetation mapping in the Flora and Fauna Assessment has relied heavily upon the previous Flora and Fauna Assessment of Conacher Travers (2004) which is considered to inadequately represent the ecological communities of the Subject site. This is highlighted by the fact this previous Flora and Fauna Assessment (Conacher Travers 2004) concluded that Sydney Turpentine Ironbark Forest (STIF) did not occur on the Subject site, although it has been identified by both Council and the current Flora and Fauna Assessment. The fact that STIF was not recognised onsite suggests that the previous Flora and Fauna Assessment (Conacher Travers 2004) does not reflect the true distribution of vegetation communities within the Subject site. In addition to relying on previous, flawed mapping, the current Flora and Fauna Assessment has incorrectly identified stands of planted *Eucalyptus grandis* (Flooded Gum; naturally occurs north from Newcastle (Harden 1991)) and non-native species as native vegetation communities.

The following discussion of differences in the distribution of EECs is divided into four areas where there is disagreement between Council's mapping and mapping within the Flora and Fauna Assessment. A description of the vegetation communities including various forms of each community is provided in section 2.3.2.

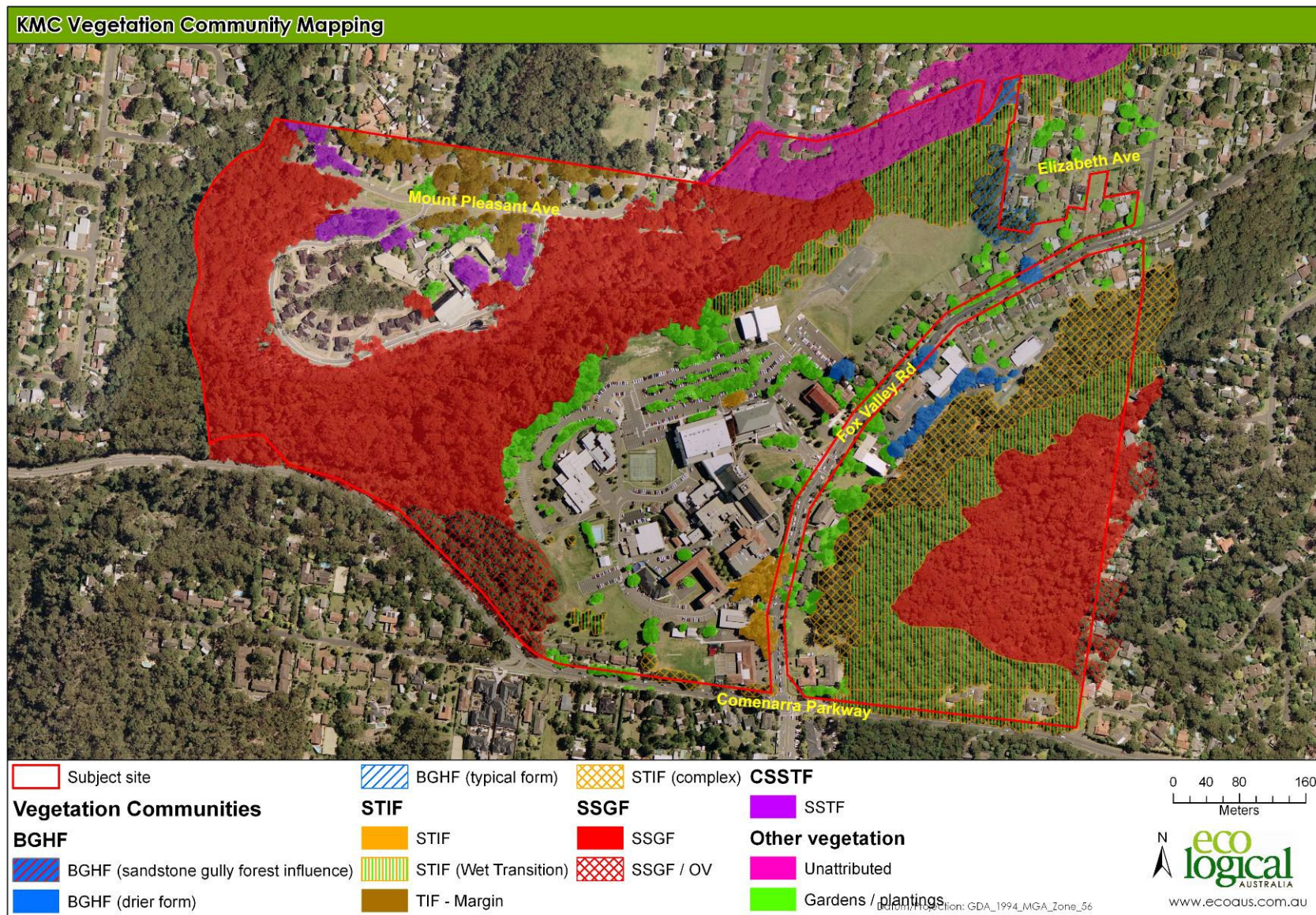


Figure 1: Ku-ring-gai Council Vegetation Mapping for the Subject site

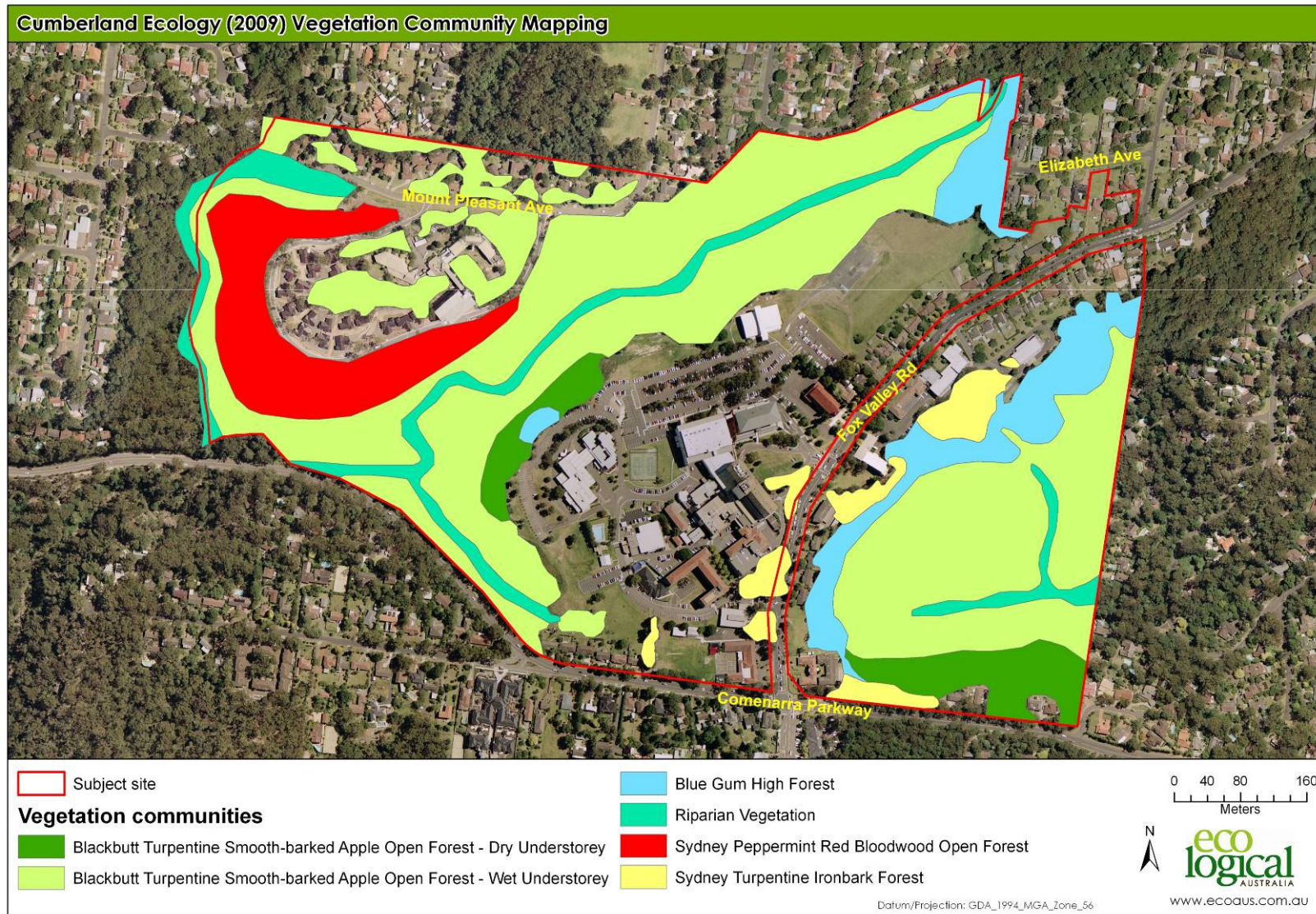


Figure 2: Vegetation community mapping of Cumberland Ecology (2009). Source: Digitised from original map by KMC and reproduced by Eco Logical Australia

The Normanhurst Adventist Retirement Village and Mount Pleasant Avenue

The limited vegetation to the north of Mount Pleasant Avenue within the Subject land is mapped within the Flora and Fauna Assessment as 'Blackbutt Turpentine Smooth-barked Apple Open Forest – Wet Understorey' (Figure 4), which is a component of SSGF described by Benson and Howell (1994). Council vegetation mapping of this area identifies vegetation as 'Turpentine Ironbark Forest – Margin' (TIF – Margin)' which forms part of the Sydney Turpentine Ironbark Forest (STIF) EEC listed under the *Threatened Species Conservation Act 1995* (TSC Act; Figure 3). The vegetation within this area is largely to be retained according to Figure 4.1 of the Flora and Fauna Assessment (also shown in Figure 11 of this report), although a minor area would be managed as an APZ. As such, the area of STIF which is to be impacted as part of the proposed development has been underestimated in regard to this area.

Similarly, to the south of Mount Pleasant Avenue within the Normanhurst Adventist Retirement Village areas identified by Council mapping as part of the STIF EEC (Figure 3) have been identified as SSGF within the Flora and Fauna Assessment (Figure 4). Some of this area will be managed as an APZ and as such the area of STIF which is to be impacted as part of the proposed development has been underestimated in regard to this area. Furthermore, Council has identified the 'Coastal Shale Sandstone Transition Forest' (CSSTF) vegetation community as occurring within the Normanhurst Adventist Retirement Village while the Flora and Fauna Assessment has not identified this community, and as such, not assessed the impacts to this vegetation community. CSSTF has been recognised by both Council and the DECC as part of recent vegetation mapping within Ku-ring-gai LGA, although the status of this community has not yet been determined. It is understood that this community may be nominated for listing as an EEC in the future and a more detailed discussion of this community is provided in section 2.3.2.

A small area of native vegetation is present within the Subject site south of Mount Pleasant Avenue and to the north and west of the Private Road which encircles the Normanhurst Adventist Retirement Village (Figure 3). This area has been mapped as 'Sydney Peppermint Red Bloodwood Open Forest' by the Flora and Fauna Assessment (Figure 4) while council has mapped this area as CSSTF (Figure 3). The vegetation in this area is to be cleared as part of the proposed redevelopment as shown in Figure 4.1 of the Flora and Fauna Assessment (also shown in Figure 11 of this report), although no discussion of the impact of the proposed development upon this vegetation community has been provided.

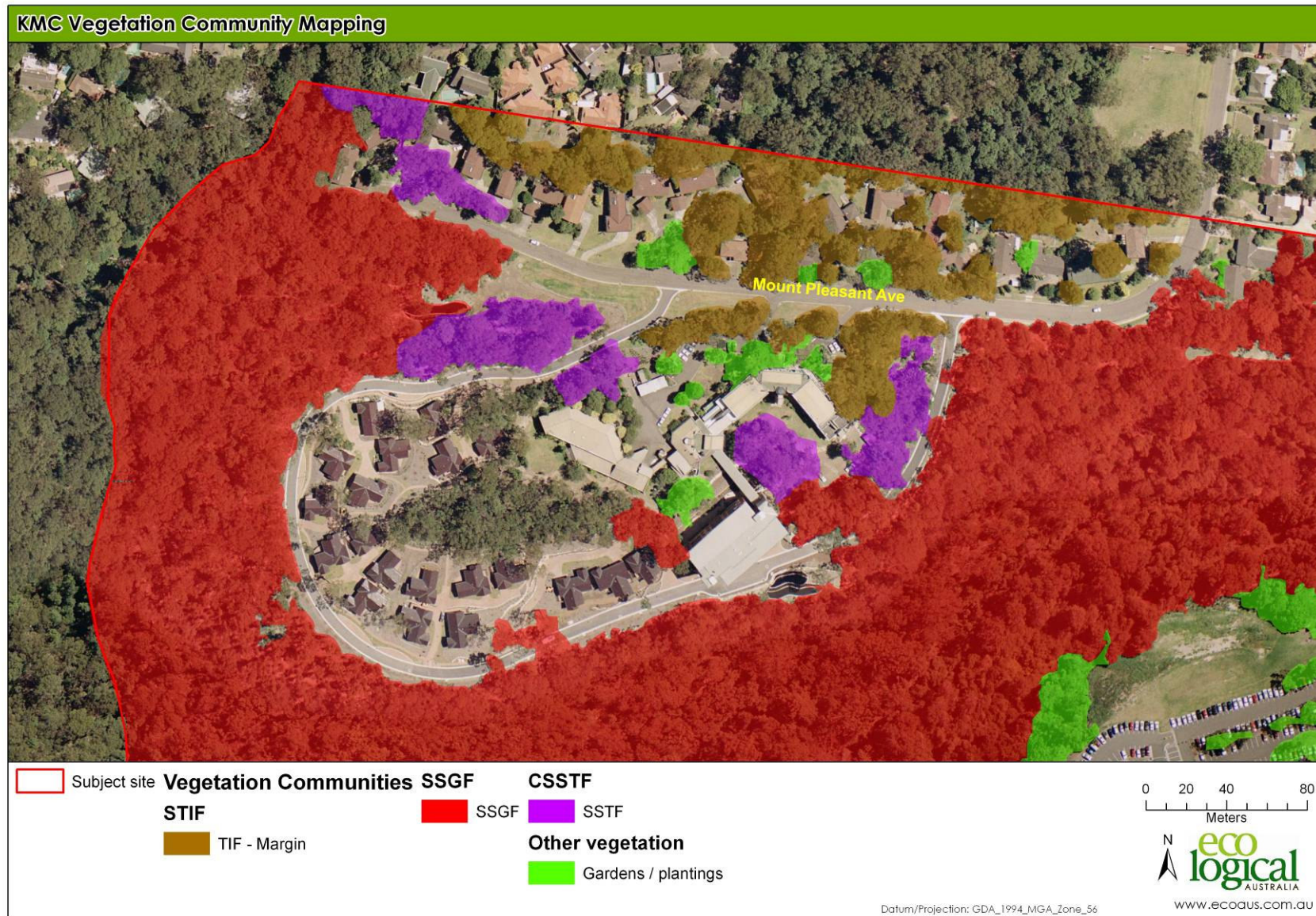


Figure 3: Ku-ring-gai Council Vegetation Mapping for the northwest of the Subject site



Figure 4: Cumberland Ecology (2009) Vegetation Mapping for the northwest of the Subject site. Source: Digitised from original map by KMC and reproduced by Eco Logical Australia

Elizabeth Avenue and northeast of the Adventist Church Regional Headquarters

Beyond the western limit of Elizabeth Avenue, the Flora and Fauna Assessment has identified an area of Blue Gum High Forest (BGHF), with 'Blackbutt Turpentine Smooth-barked Apple Open Forest – Wet Understorey' (a component of SSGF) occurring further to the west (Figure 6). Council vegetation mapping has identified two small areas of BGHF with a wet transition form of STIF beyond this area to the west (Figure 5). The BGHF identified by Council includes patches of the typical form and the Sandstone Gully influenced form of this community (a discussion of the different forms of BGHF and STIF is provided in Section 2.3.2). The differences in distribution of these communities are highly significant because based upon Council mapping and Figure 4.1 of the Flora and Fauna Assessment (also shown in Figure 11 of this report) the proposed development in this area would:

- Involve clearing the majority of the 'BGHF – typical' form in this area, managing a smaller area of 'BGHF – typical' and 'BGHF – sandstone gully forest' as an APZ and retaining a small area of the 'BGHF – sandstone gully forest' form (approximately 0.01 ha). As such, the estimates within subsequent sections of the Flora and Fauna Assessment of the proportion of the BGHF to be cleared would be an under estimate in this area; and
- Involve managing an increased area of 'STIF – Wet Transition' as an APZ, and therefore increase the impact of the proposed development upon this community.

East of Fox Valley Road

The Flora and Fauna Assessment identifies a narrow band of BGHF and STIF running parallel to Fox Valley Road to the east of existing development on the east side of Fox Valley Road (Figure 8). Further downslope to the east, the Flora and Fauna Assessment has identified 'Blackbutt Turpentine Smooth-barked Apple Open Forest – Wet Understorey and Riparian Vegetation'. Council vegetation mapping has identified scattered areas of exotic planted trees within this area, a more restricted area of 'BGHF – Drier form', a broad band of STIF (incorporating the 'Wet transition' form) further downslope and a smaller area of SSGF (Figure 7). The result of these discrepancies is the following:

- According to Council mapping a much larger area of STIF exists (approximately 8.17 ha including all forms of STIF) within the Subject site which conforms to the EPBC definition of this community. Additionally, the proposed development would remove a much larger area of STIF than estimated within the Flora and Fauna Assessment; and
- The area of vegetation which is proposed to be retained within this area would not include any areas of 'BGHF – Drier form'. Therefore the impact of the proposed development upon BGHF as a whole would be much larger than estimated within the Flora and Fauna Assessment.

The southern portions of vegetation to the east of Fox Valley Road and adjoining the Comenarra Parkway have been mapped by the Flora and Fauna Assessment as a restricted area of STIF and a large band of 'Blackbutt Turpentine Smooth-barked Apple Open Forest – Dry Understorey' (Figure 8). Council mapping of this area has identified this entire area as the 'Wet transition' form of STIF (Figure 7). This area will maintained as an APZ as part of the proposed development and would contain a road and stormwater detention basin. As such, the impact the impact to STIF as a whole is greatly underestimated by the Flora and Fauna Assessment.



Figure 5: Ku-ring-gai Council Vegetation Mapping for the northeast of the Subject site

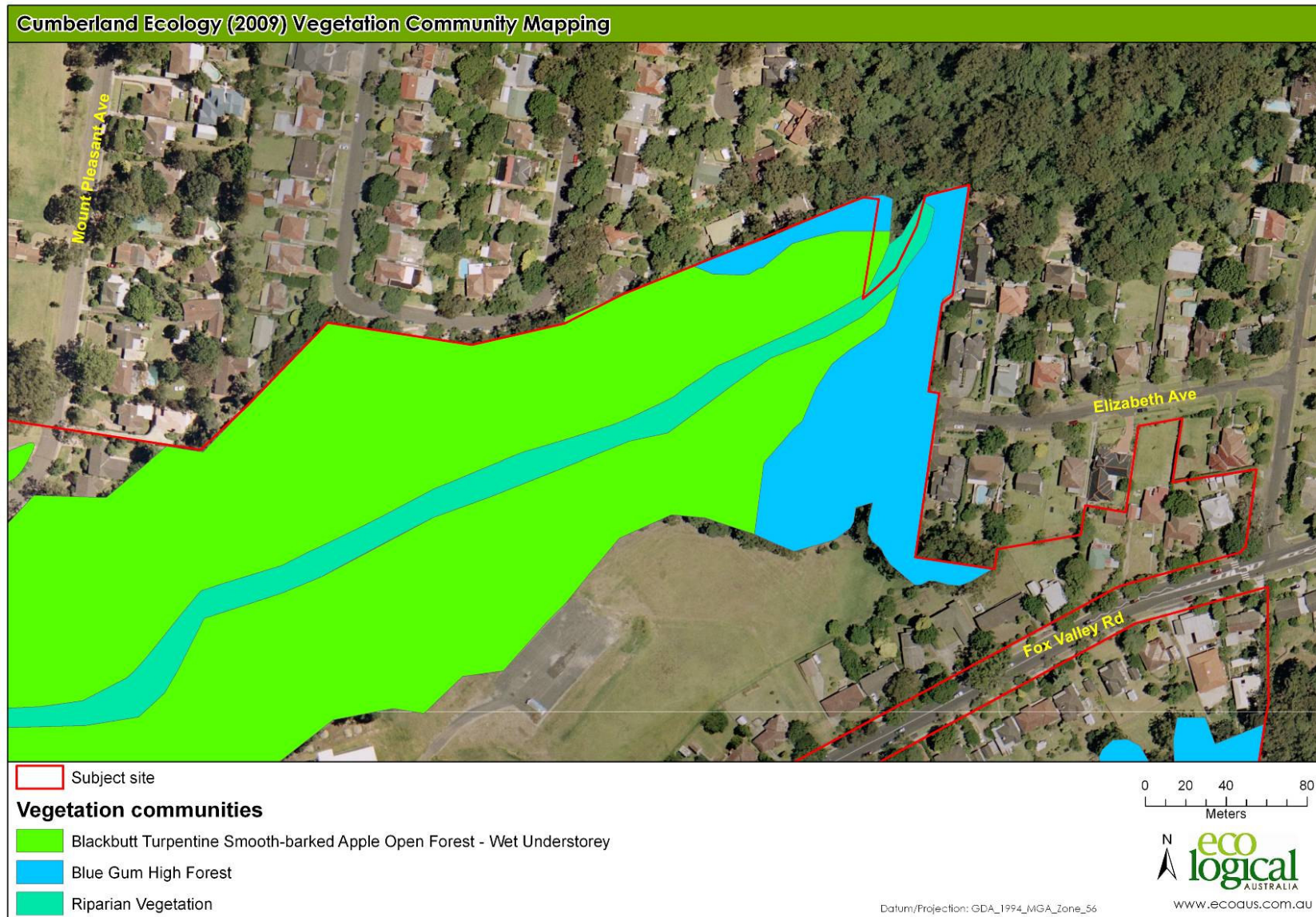


Figure 6: Cumberland Ecology (2009) Vegetation Mapping for the northeast of the Subject site. Source: Digitised from original map by KMC and reproduced by Eco Logical Australia

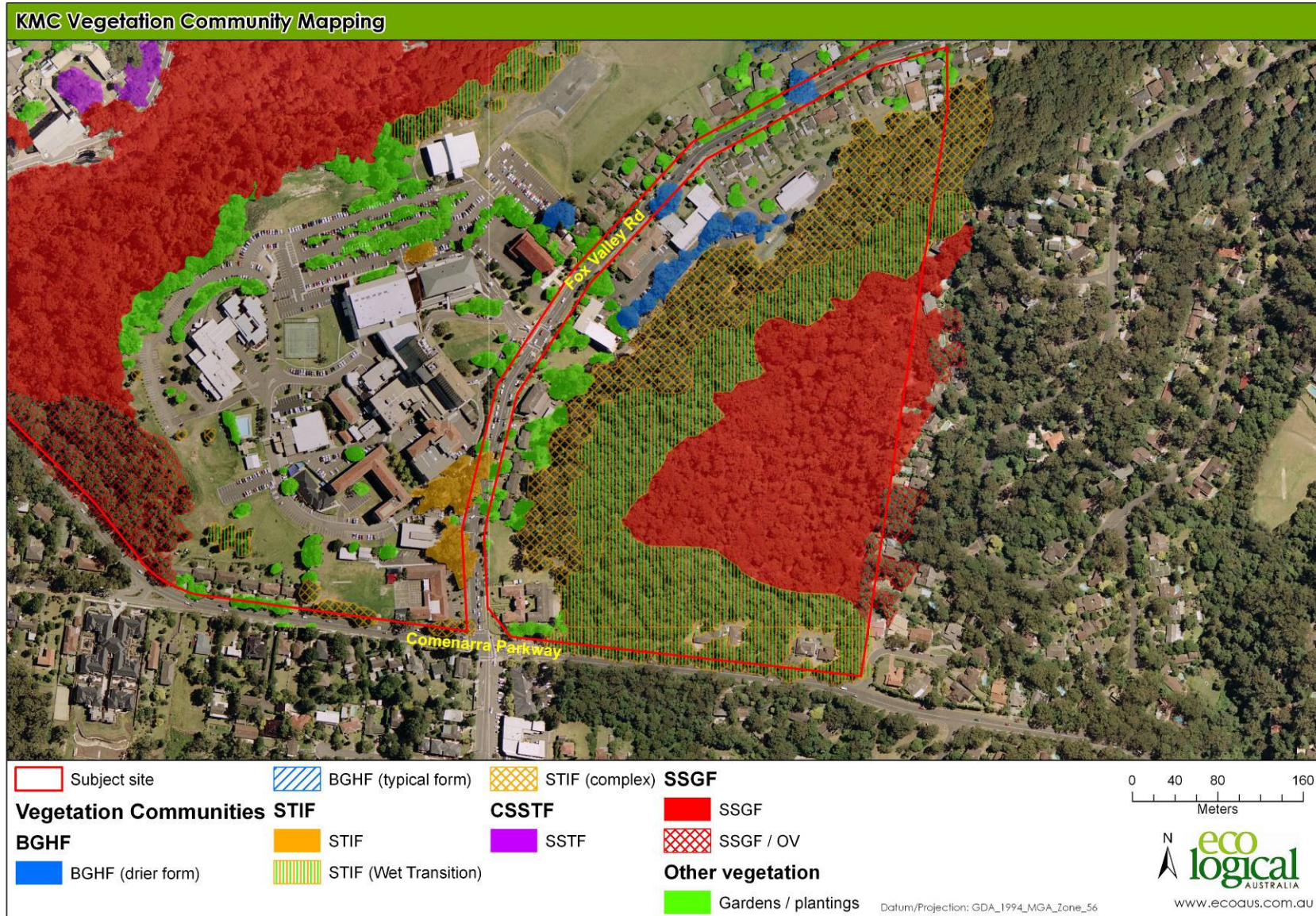


Figure 7: Ku-ring-gai Council Vegetation Mapping for the southeast of the Subject site

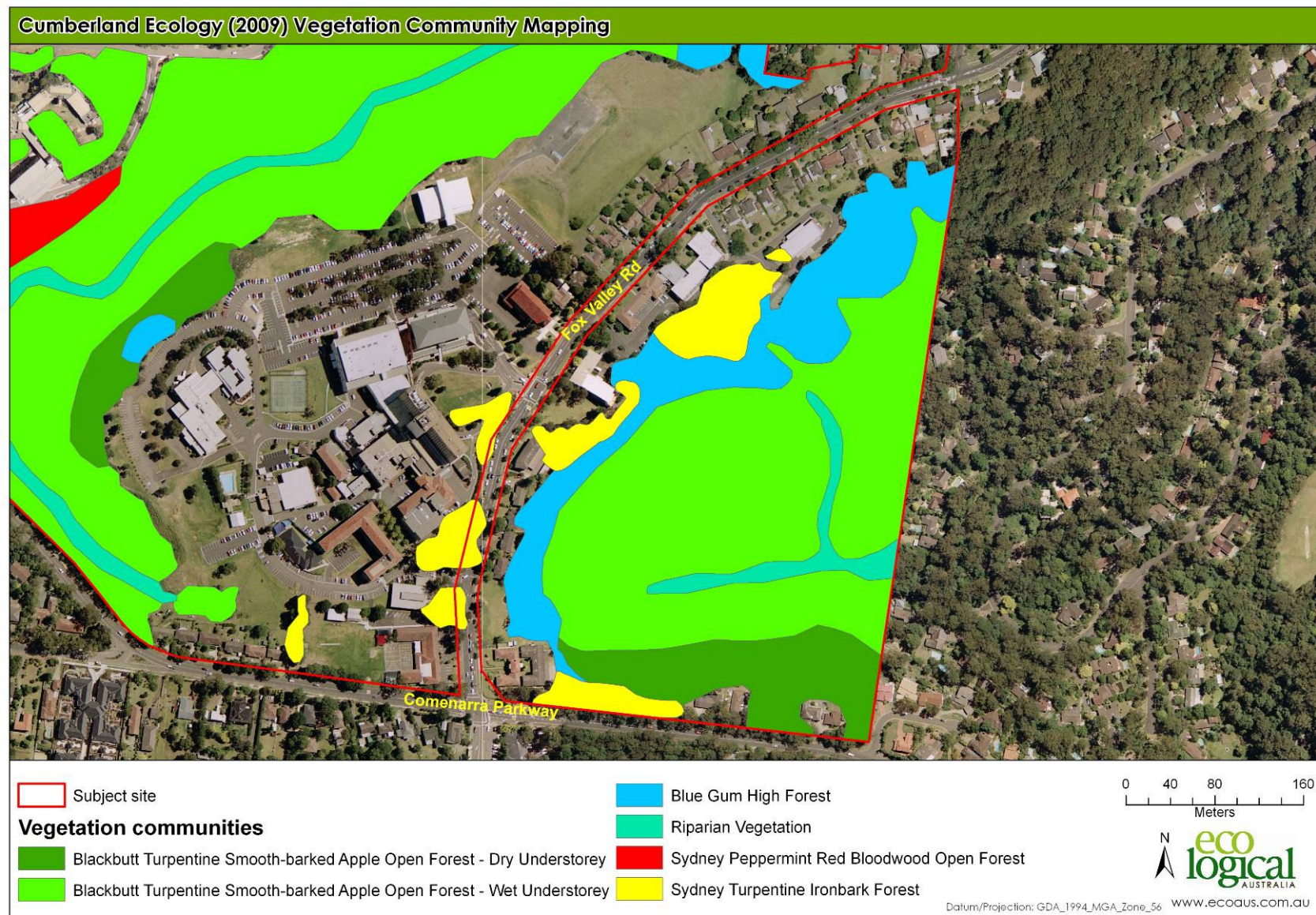


Figure 8: Cumberland Ecology (2009) Vegetation Mapping for the southeast of the Subject site. Source: Digitised from original map by KMC and reproduced by Eco Logical Australia

Within the Sydney Adventist Hospital Grounds, west of Fox Valley Road

The Flora and Fauna Assessment identified an area of BGHF occurring on fill immediately adjoining the western most area of the hospital grounds (Figure 10). This area consists of a stand of the non-local native *Eucalyptus grandis* (Flooded Gum) which appears to have been planted in the past as part of the landscaping of the hospital grounds. This area has been appropriately identified as 'Other Vegetation' (OV) by Council vegetation mapping (Figure 9). The result of this misidentification by the Flora and Fauna Assessment is that the estimates of the area of BGHF to be managed as an APZ have been overestimated in regard to this area.

Adjoining Fox Valley Road, the Flora and Fauna Assessment identified three stands of STIF (Figure 10), two of which are to be retained as part of the proposed development (Figure 4.1 of the Flora and Fauna Assessment and Figure 11 of this report). The northernmost of these stands has been identified as exotic plantings as part of Council mapping (Figure 9). As such, the area of STIF to be retained as part of the proposed development has been overestimated in regard to this area.

The Flora and Fauna Assessment has not included remnant trees within the grounds of the Sydney Adventist Hospital in its mapping of vegetation communities. Council mapping has identified isolated remnant trees or groups of trees within this area and along Fox Valley Road, which represent remnants of BGHF and STIF. The Flora and Fauna Assessment has not indicated whether these isolated remnants will be cleared or retained as part of the proposed development. It does not appear that these areas have been considered in assessing the impact of the proposed development upon these communities.

The significance of isolated trees of BGHF and STIF is highlighted in both the final determinations for these communities and in Land and Environment Court judgements (*Drazdon Pty Ltd v Ku-ring-gai Council* [2009]; *Murlan Consulting Pty Limited v Ku-ring-gai Council and John Williams Neighbourhood Group Inc* [2007]). Highly modified relics of these communities including small clumps of trees without a native understorey and remnant trees are recognised as having particular ecological and genetic significance, contributing significantly to the long-term genetic viability of these endangered and critically endangered communities, and thus requiring protection.

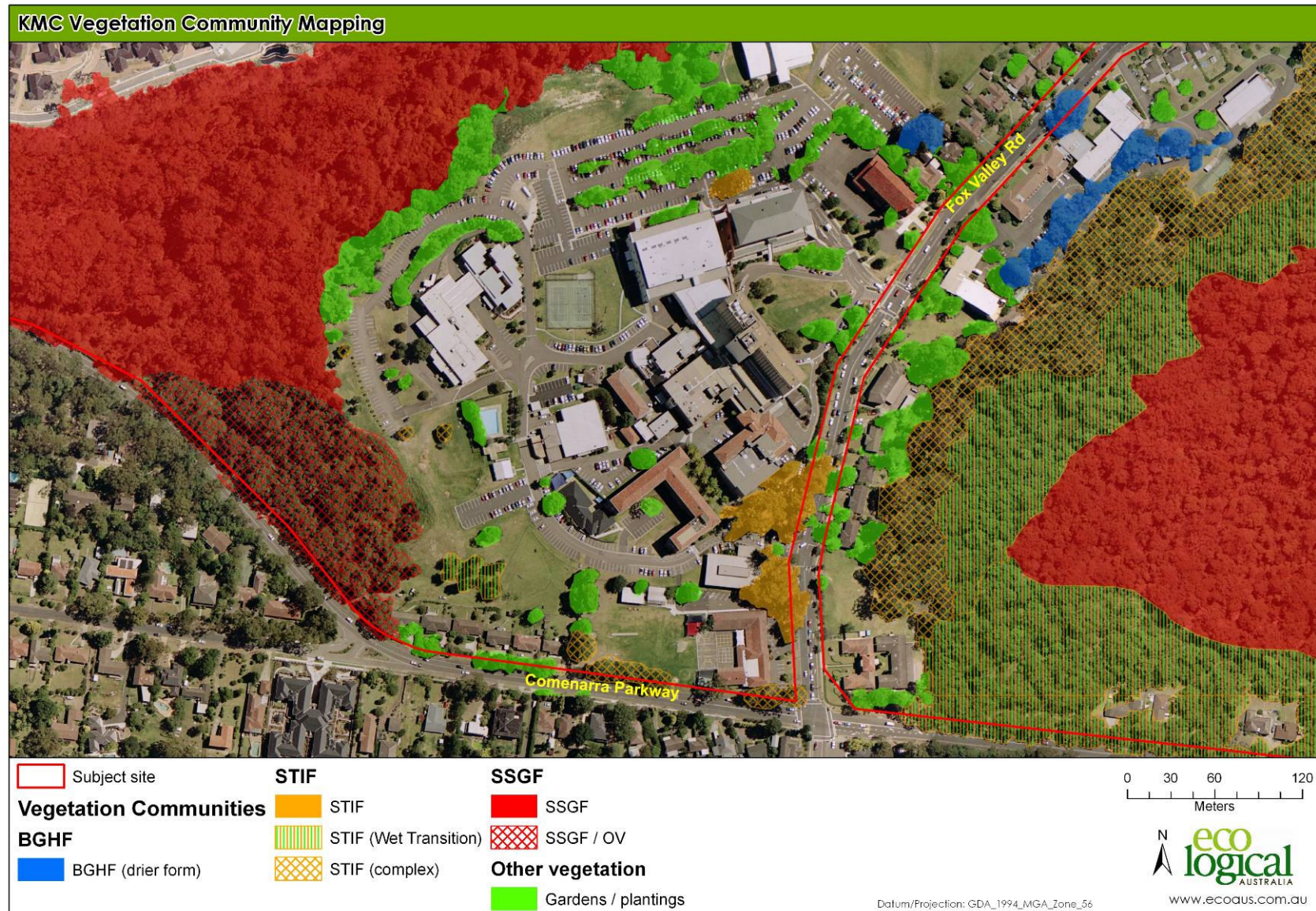


Figure 9: Ku-ring-gai Council Vegetation Mapping for the Sydney Adventist Hospital Grounds

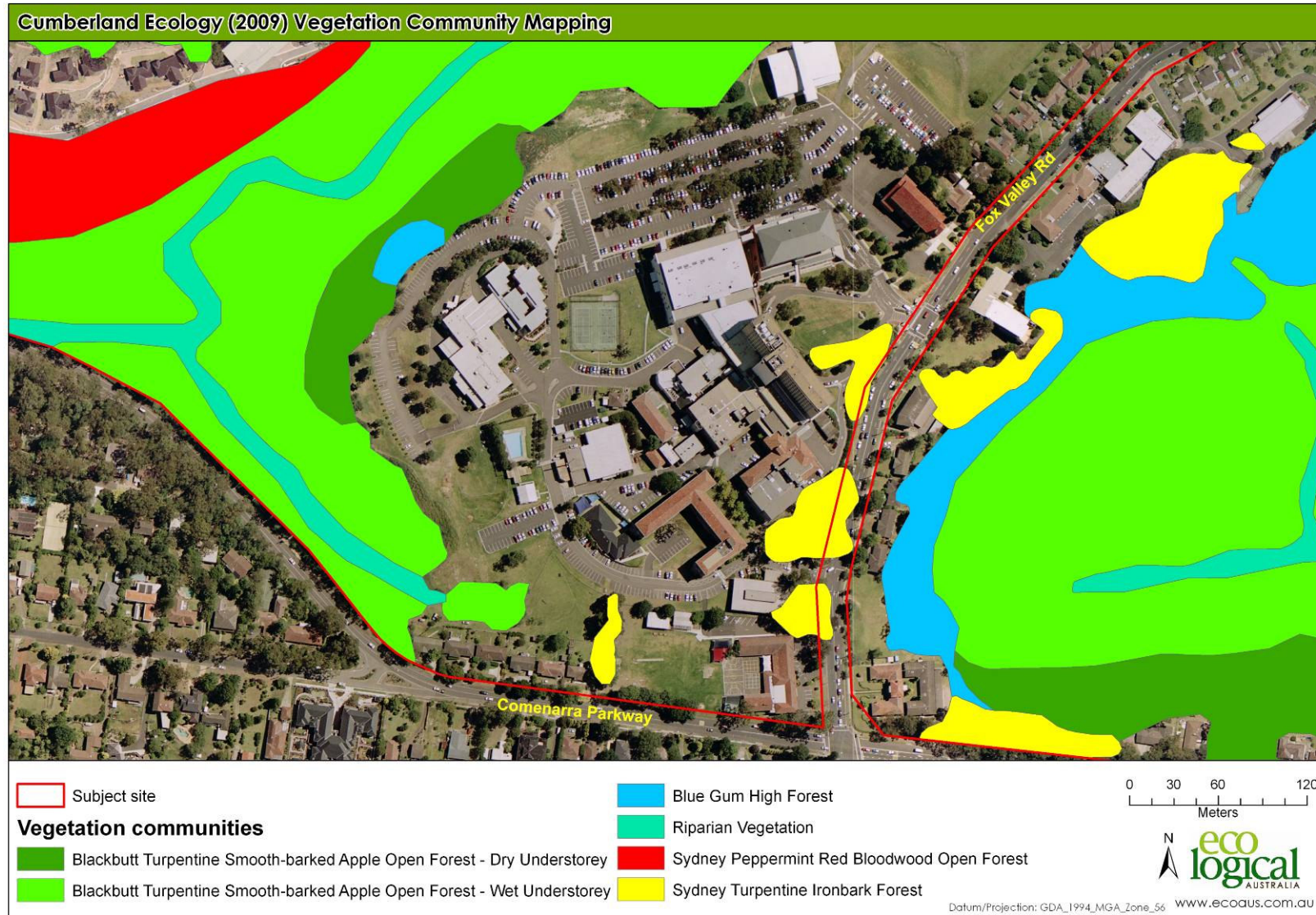


Figure 10: Cumberland Ecology (2009) Vegetation Mapping for the Sydney Adventist Hospital Grounds. Source: Digitised from original map by KMC and reproduced by Eco Logical Australia



Figure 11: Building layout and vegetation management of the proposed development

2.3.2 Council Vegetation Mapping Project

This section of the report provides a brief background to the Council vegetation mapping project and specifically the naming of various forms of the BGHF and STIF vegetation communities within Ku-ring-gai LGA. It also includes a brief description of the previously undescribed CSSTF vegetation community.

Blue Gum High Forest (BGHF)

Blue Gum High Forest (BGHF) occurs on deeper clay soils in higher parts of the Ku-ring-gai LGA, with the core area close to the ridge-line between Pymble and Wahroonga. Three forms of BGHF are identified as occurring within Ku-ring-gai and together they form the broader BGHF Complex, namely:

- a typical form occurring on sheltered slopes;
- a drier form in more exposed sites at higher elevations; and
- a sandstone gully form where some sandstone influence is evident.

The three forms are described in Table 1, much of which has been extracted from James (2009a). All three forms of BGHF are considered part of the BGHF community described by the NSW Scientific Committee and listed under the TSC Act. Additionally, stands of all three forms of this community which meet the condition requirements under the EPBC Act are also considered part of this community as listed under the EPBC Act.

Table 1: Characteristics of the three forms Blue Gum High Forest within the Ku-ring-gai LGA.

Characteristics	Blue Gum High Forest		
	Typical	Drier form	SSGF
Geology	Ashfield Shale of the Wianamatta Group (predominantly siltstone), up to 60 metres deep in northern part of LGA e.g. Wahroonga.	Ashfield Shale. Typically includes more coarse soil with fine sandstone laminae and ironstone nodules resulting from deep lateritic weathering.	Ashfield Shale with Hawkesbury sandstone influence.
Altitude	Mostly 90 m to 190 m above sea level. Below 90 m patches rare & confined to very sheltered sites associated with drainage lines.	Mostly 130 m to 200 m above sea level but down to 90 m - 120 m in central and southern parts of the LGA e.g. Gordon, Lindfield, Killara, West Pymble.	Mostly 80 m to 190 m above sea level.
Soil landscapes & Characteristics	Predominantly Glenorie soil landscape, smaller areas of West Pennant Hills and occasionally Lucas Heights at lower altitudes. Soil a deep, dark brown to brown, clay to clay loam.	Glenorie, occasionally Lucas Heights at lower altitudes (close to shale boundary). Medium depth soil, brown to orange-brown, silty to sandy clay-loam with a medium to high clay content. Occasionally some sandstone fragments (from sandstone laminae within shale) or more frequently lateritic gravels exposed.	Mostly Glenorie, also Gympsea and Lucas Heights. Soil of medium to shallow depth, dark brown to brown, sandy clay loam – some sandstone fragments or minor outcrops may be present.

Characteristics	Blue Gum High Forest		
	Typical	Drier form	SSGF
Habitat	Steeper side slopes of the central plateau and lateral ridge-lines, particularly south and east-facing; shallow depressions/ concave slopes associated with drainage lines on upper to mid slopes (away from direct sandstone influence in deeper gullies). Typically found down-slope of drier form of BGHF or STIF.	Higher ridge-lines, crests and benches/spurs often with a northerly or western aspect. Localised occurrence.	Lower to mid-slopes of shallow depressions or gullies above main shale/sandstone boundary (higher parts of landscape).
Structure	Tall open forest with mesic understorey, typically with few or scattered shrubs due to disturbance and mowing regimes.	Tall to medium open forest, Sydney Blue Gum a dominant canopy species with drier understorey than typical form, generally with few or scattered shrubs due to disturbance and mowing regimes.	Tall open forest with mesic understorey, frequently with more intact shrub layer than other forms due to less disturbance
Canopy trees	<u>Eucalyptus saligna</u> , <u>Eucalyptus pilularis</u>	<u>Eucalyptus saligna</u> , <u>Eucalyptus pilularis</u> , <u>Eucalyptus paniculata</u> , <u>Angophora floribunda</u> , <u>Angophora costata</u> , <u>Eucalyptus resinifera</u> , <u>E. acmenoides</u> (rare), <u>Syncarpia glomulifera</u> (rare).	<u>Eucalyptus saligna</u> , <u>Eucalyptus pilularis</u> , <u>Syncarpia glomulifera</u> , <u>Angophora costata</u> , <u>A. floribunda</u> , <u>Ficus rubiginosa</u> .
Smaller trees	<u>Pittosporum undulatum</u> , <u>Allocasuarina torulosa</u> , <u>Acmena smithii</u> <u>Brachychiton acerifolius</u> (but often naturalized), <u>Acacia parramattensis</u> , <u>Exocarpos cupressiformis</u> .	<u>Pittosporum undulatum</u> , <u>Acacia implexa</u> , <u>A. floribunda</u> , <u>Allocasuarina torulosa</u> , <u>Elaeocarpus reticulatus</u> , <u>Exocarpos cupressiformis</u> , <u>Brachychiton acerifolius</u> .	<u>Pittosporum undulatum</u> , <u>Allocasuarina torulosa</u> , <u>Acacia elata</u> , <u>A. parramattensis</u> , <u>A. irrorata</u> , <u>A. decurrens</u> , <u>Tristanopsis laurina</u> , <u>Acmena smithii</u> , <u>Elaeocarpus reticulatus</u> , <u>Rapanea variabilis</u> , <u>Ceratopetalum gummiferum</u> , <u>Callicoma serratifolia</u> , <u>Ficus coronata</u> .
Shrubs	<u>Breynia oblongifolia</u> , <u>Pittosporum undulatum</u> , <u>Polyscias sambucifolia</u> , <u>Notelaea longifolia</u> , <u>Pittosporum revolutum</u> , <u>Clerodendrum tomentosum</u> , <u>Platylobium formosum</u> , <u>Omalanthus populifolius</u> , <u>Maytenus silvestris</u> , <u>Acacia longissima</u> (localized).	<u>Breynia oblongifolia</u> , <u>Polyscias sambucifolia</u> , <u>Notelaea longifolia</u> , <u>Pittosporum revolutum</u> , <u>Platylobium formosum</u> , <u>Indigofera australis</u> , <u>Zieria smithii</u> , <u>Acacia falcata</u> , <u>Bursaria spinosa</u> , <u>Dodonaea triquetra</u> , <u>Leucopogon juniperinus</u> , <u>Ozothamnus diosmifolius</u> , <u>Acacia binervata</u> .	<u>Breynia oblongifolia</u> , <u>Pittosporum undulatum</u> , <u>Polyscias sambucifolia</u> , <u>Notelaea longifolia</u> , <u>Pittosporum revolutum</u> , <u>Clerodendrum tomentosum</u> , <u>Dodonaea triquetra</u> , <u>Omalanthus populifolius</u> , <u>Platylobium formosum</u> , <u>Leucopogon juniperinus</u> , <u>Maytenus silvestris</u> , <u>Acacia floribunda</u> , <u>A. longifolia</u> , <u>Ozothamnus diosmifolius</u> , <u>Acrotriche divaricata</u> , <u>Solanum aviculare</u> .

Characteristics	Blue Gum High Forest		
	Typical	Drier form	SSGF
Ground layer-graminoids	<i>Entolasia marginata</i> , <i>Poa affinis</i> , <i>Microlaena stipoides</i> , <i>Oplismenus aemulus</i> , <i>O. imbecillus</i> , <i>Lomandra longifolia</i> , <i>Cyperus gracilis</i> , <i>Carex inversa</i> , <i>Dichelachne micrantha</i> .	<i>Entolasia marginata</i> , <i>Microlaena stipoides</i> , <i>Oplismenus aemulus</i> , <i>O. imbecillus</i> , <i>Austrodanthonia racemosa</i> , <i>A. tenuior</i> , <i>Austrostipa rudis</i> , <i>Dichelachne micrantha</i> , <i>Echinopogon ovatus</i> , <i>E. caespitosus</i> , <i>Themeda australis</i> , <i>Cymbopogon refractus</i> , <i>Lomandra longifolia</i> , <i>L. filiformis</i> , <i>Cyperus gracilis</i> , <i>Carex inversa</i>	<i>Entolasia marginata</i> , <i>Poa affinis</i> , <i>Microlaena stipoides</i> , <i>Oplismenus aemulus</i> , <i>O. imbecillus</i> , <i>Dichelachne micrantha</i> , <i>Echinopogon ovatus</i> , <i>Austrodanthonia racemosa</i> , <i>Lomandra longifolia</i> , <i>Carex inversa</i> , <i>Cyperus gracilis</i> , <i>Lepidosperma laterale</i> , <i>Juncus usitatus</i> .
Ground layer-ferns & herbs	<i>Adiantum aethiopicum</i> , <i>Calochlaena dubia</i> , <i>Blechnum cartilagineum</i> , <i>Pseuderanthemum variabile</i> , <i>Dichondra repens</i> , <i>Centella asiatica</i> , <i>Sigesbeckia orientalis</i> , <i>Dianella caerulea</i> , <i>Oxalis perennans</i> , <i>Oxalis exilis</i> , <i>Geranium homeanum</i> , <i>Rumex brownii</i> , <i>Veronica plebeia</i> , <i>Pratia purpurascens</i> , <i>Wahlenbergia gracilis</i> , <i>Einadia trigonos</i> .	<i>Blechnum cartilagineum</i> , <i>Pellaea falcata</i> , <i>Adiantum aethiopicum</i> – wetter sites) <i>Calochlaena dubia</i> , <i>Pseuderanthemum variabile</i> , <i>Dichondra repens</i> , <i>Centella asiatica</i> , <i>Brunoniella australis</i> , <i>Arthropodium milleflorum</i> , <i>Dianella caerulea</i> , <i>Oxalis perennans</i> , <i>Geranium homeanum</i> , <i>Desmodium varians</i> , <i>Poranthera microphylla</i> , <i>Veronica plebeia</i> , <i>Rumex brownii</i> , <i>Einadia trigonos</i> , <i>Wahlenbergia gracilis</i> , <i>Plantago debilis</i> , <i>Pratia purpurascens</i> .	<i>Adiantum aethiopicum</i> , <i>Calochlaena dubia</i> , <i>Blechnum cartilagineum</i> , <i>Cyathea australis</i> , <i>Doodia aspera</i> , <i>Pseuderanthemum variabile</i> , <i>Centella asiatica</i> , <i>Sigesbeckia orientalis</i> , <i>Dianella caerulea</i> , <i>Geranium solanderi</i> , <i>Viola hederacea</i> , <i>Hydrocotyle tripartita</i> , <i>Pratia purpurascens</i> , <i>Oxalis exilis</i> .
Climbers	<i>Commelina cyanea</i> , <i>Eustrephus latifolius</i> , <i>Pandorea pandorana</i> , <i>Cayratia clematidea</i> , <i>Smilax glycyphylla</i> , <i>Clematis glycinoides</i> , <i>Glycine microphylla</i> , <i>Cissus antarctica</i> .	<i>Hardenbergia violacea</i> , <i>Glycine microphylla</i> , <i>G. tabacina</i> , <i>G. clandestina</i> , <i>Eustrephus latifolius</i> , <i>Commelina cyanea</i> , <i>Cayratia clematidea</i> , <i>Clematis glycinoides</i> .	<i>Commelina cyanea</i> , <i>Eustrephus latifolius</i> , <i>Pandorea pandorana</i> , <i>Cayratia clematidea</i> , <i>Smilax glycyphylla</i> , <i>Clematis glycinoides</i> , <i>Glycine microphylla</i> , <i>G. clandestina</i> , <i>Tylophora barbata</i> , <i>Hibbertia scandens</i> , <i>Kennedia rubicunda</i> , <i>Cissus antarctica</i> , <i>Morinda jasminoides</i> .

*Species underlined are characteristic or diagnostic as listed in NSW Scientific Committee Final Determination for BGHF & Tozer (2003)

Sydney Turpentine Ironbark Forest (STIF)

Sydney Turpentine Ironbark Forest (STIF) occurs on clay soils associated with ridgelines and slopes in moderate rainfall zones within the Ku-ring-gai LGA. Generally STIF occurs down slope of BGHF at higher altitudes and becomes the dominant community (i.e. replaces BGHF) in outlier areas at lower altitudes close to the edge of the shale plateau.

Three forms of STIF are identified within the LGA, namely:

- a typical form occurring along ridge-lines and upper slopes;

- STIF (Wet transition); and
- STIF (dry transition). This form is consistent with the vegetation community TIF – Margin as described by Tozer (2003).

Additionally, STIF (complex) refers to areas where the forms are not distinct or change frequently over short distances due to intermediate or variable environmental conditions. All forms of STIF form part of the STIF community described by the NSW Scientific Committee and listed under the TSC Act. Additionally, stands of all forms of STIF which meet the condition requirements under the EPBC Act are also considered part of this community as listed under the EPBC Act. The three forms are described in Table 2, much of which is extracted from James (2009a).

Table 2: Characteristics of the three forms Sydney Turpentine Ironbark within the Ku-ring-gai LGA.

Characteristics	Sydney Turpentine Ironbark Forest		
	Typical	Wet transition	Dry Transition (TIF – Margin)
Geology	Ashfield Shale of the Wianamatta Group and rarely Hawkesbury Sandstone.	Mostly Mittagong Formation, also Ashfield Shale & Hawkesbury Sandstone.	Mostly Mittagong Formation, also Ashfield Shale and Hawkesbury Sandstone.
Altitude	Mostly 70-150 m above sea level but recorded to 180 m at Warrawee, Turramurra & Wahroonga where adjacent to steeper sandstone gullies.	Mostly 80-150 m above sea level.	Mostly 60-130 m above sea level but up to 190 - 200 m in higher areas e.g. Wahroonga, Warrawee & Turramurra districts where shale is close to deeper sandstone gullies.
Soil landscapes & Characteristics	Predominantly Glenorie, also Lucas Heights & Gymea. Medium depth brown to orange-brown sandy clay loam – medium to high clay content; ironstone gravels and sandstone fragments may be present but very localised.	Most commonly Lucas Heights & Gymea, also Glenorie. Medium brown to orange-brown sandy clay loam – sandstone fragments or minor outcrops may be present close to creeks.	Lucas Heights, Gymea, transitional areas between Glenorie & Lucas Heights. Medium deep soils, yellow to orange or brown silty or sandy clay loam-loose sandstone fragments & ironstone gravels typically present.
Habitat	Mostly secondary ridges, lower plateaus & moderate to gentle slopes. Exposed or sheltered conditions. Down slope in the vicinity of creek lines with increasing sandstone influence the typical form is replaced by transitional forms.	Lower, sheltered slopes often associated with gullies with sandstone influence.	Secondary crests, benches, spurs & gentle mid-slopes; relatively exposed conditions. Often short distance upslope of shale/sandstone boundary.
Structure	Tall to medium open forest with shrubby or grassy understorey depending on level of disturbance and time since fire. Within Ku-ring-gai the typical form of STIF is generally dominated by Blackbutt rather than Turpentine.	Medium to tall open forest with well developed mesic understorey. Turpentine and Blackbutt are typically dominant canopy trees.	Medium to low open forest with typically drier understorey of scattered shrubs and grassy ground cover.

Characteristics	Typical	Wet transition	Dry Transition (TIF – Margin)
Canopy trees	<u>Eucalyptus pilularis</u> (dominant), <u>Angophora costata</u> , <u>Eucalyptus resinifera</u> , <u>Syncarpia glomulifera</u> , <u>Eucalyptus paniculata</u> , <u>Angophora floribunda</u> , <u>Eucalyptus acmenoides</u> , <u>Eucalyptus saligna</u> .	<u>Syncarpia glomulifera</u> (D), <u>Angophora costata</u> (D), <u>Eucalyptus pilularis</u> (D), <u>Eucalyptus resinifera</u> , <u>Angophora floribunda</u> , <u>E. paniculata</u> , <u>E. globoidea</u> .	<u>Angophora costata</u> , <u>Eucalyptus resinifera</u> , <u>Eucalyptus globoidea</u> , <u>Syncarpia glomulifera</u> , <u>Eucalyptus pilularis</u> , <u>Angophora floribunda</u> , <u>Corymbia gummifera</u> .
Smaller trees	<u>Pittosporum undulatum</u> , <u>Acacia implexa</u> , <u>A. parramattensis</u> , <u>Elaeocarpus reticulatus</u> , <u>Allocasuarina littoralis</u> .	<u>Pittosporum undulatum</u> , <u>Allocasuarina torulosa</u> , <u>Acacia implexa</u> , <u>A. parramattensis</u> , <u>Acacia elata</u> , <u>Elaeocarpus reticulatus</u> , <u>Ceratopetalum gummiferum</u> , <u>Tristaniopsis laurina</u> , <u>Omalanthus populifolius</u> .	<u>Pittosporum undulatum</u> , <u>Acacia implexa</u> , <u>A. parramattensis</u> , <u>Allocasuarina littoralis</u> .
Shrubs	<u>Breynia oblongifolia</u> , <u>Ozothamnus diosmifolius</u> , <u>Omalanthus populifolius</u> , <u>Polyscias sambucifolia</u> , <u>Pittosporum revolutum</u> , <u>Platylodium formosum</u> , <u>Indigofera australis</u> , <u>Bursaria spinosa</u> , <u>Zieria smithii</u> , <u>Acacia longissima</u> , <u>Hibbertia aspera</u> , <u>Leucopogon lanceolatus</u> , <u>Pultenaea flexilis</u> .	<u>Breynia oblongifolia</u> , <u>Ozothamnus diosmifolius</u> , <u>Polyscias sambucifolia</u> , <u>Pittosporum revolutum</u> , <u>Platylodium formosum</u> , <u>Indigofera australis</u> , <u>Dodonaea triquetra</u> , <u>Leucopogon juniperinus</u> , <u>Maytenus silvestris</u> , <u>Acacia floribunda</u> , <u>A. longifolia</u> , <u>Ozothamnus diosmifolius</u> , <u>Zieria smithii</u> , <u>Hibbertia aspera</u> , <u>Xanthosia pilosa</u> .	<u>Ozothamnus diosmifolius</u> , <u>Leucopogon juniperinus</u> , <u>Bursaria spinosa</u> , <u>Breynia oblongifolia</u> , <u>Zieria smithii</u> , <u>Kunzea ambigua</u> , <u>Acacia floribunda</u> , <u>A. terminalis</u> , <u>A. ulicifolia</u> , <u>A. longifolia</u> , <u>Pultenaea flexilis</u> .
Ground layer-graminoids	<u>Entolasia marginata</u> , <u>Entolasia stricta</u> , <u>Microlaena stipoides</u> , <u>Oplismenus aemulus</u> , <u>Austrodanthonia racemosa</u> , <u>A. tenuior</u> , <u>Echinopogon ovatus</u> , <u>E. caespitosus</u> , <u>Dichelachne inaequiglumis</u> , <u>Lomandra longifolia</u> , <u>Cyperus gracilis</u> .	<u>Entolasia marginata</u> , <u>Entolasia stricta</u> , <u>Poa affinis</u> , <u>Poa labillardieri</u> , <u>Microlaena stipoides</u> , <u>Oplismenus aemulus</u> , <u>O. imbecillis</u> , <u>Echinopogon ovatus</u> , <u>E. caespitosus</u> , <u>Lomandra longifolia</u> , <u>Cyperus gracilis</u> , <u>Lepidosperma laterale</u> , <u>Panicum simile</u> .	<u>Entolasia stricta</u> , <u>E. marginata</u> , <u>Microlaena stipoides</u> , <u>Oplismenus aemulus</u> , <u>Austrodanthonia racemosa</u> , <u>A. tenuior</u> , <u>Aristida vagans</u> , <u>Echinopogon ovatus</u> , <u>E. caespitosus</u> , <u>Themeda australis</u> , <u>Lomandra longifolia</u> , <u>Lomandra filiformis</u> , <u>Cyperus gracilis</u> , <u>Carex inversa</u> , <u>Austrostipa rudis</u> , <u>Dichelachne micrantha</u> , <u>Eragrostis brownii</u> , <u>Bothriochloa decipiens</u> .
Ground layer-ferns & herbs	<u>Pteridium esculentum</u> , <u>Dichondra repens</u> , <u>Centella asiatica</u> , <u>Dianella caerulea</u> , <u>Oxalis perennans</u> , <u>Geranium homeanum</u> , <u>Desmodium varians</u> , <u>Veronica plebeia</u> , <u>Wahlenbergia gracilis</u> .	<u>Dichondra repens</u> , <u>Centella asiatica</u> , <u>Pseuderanthemum variabile</u> , <u>Dianella caerulea</u> , <u>Oxalis perennans</u> , <u>Geranium homeanum</u> , <u>Desmodium varians</u> , <u>Veronica plebeia</u> , <u>Cryptostylis erecta</u> , <u>Calochlaena dubia</u> , <u>Cyathea australis</u> , <u>Pteridium esculentum</u> , <u>Blechnum cartilagineum</u> , <u>Lindsaea linearis</u> .	<u>Pteridium esculentum</u> , <u>Dichondra repens</u> , <u>Dianella caerulea</u> , <u>Oxalis perennans</u> , <u>Desmodium varians</u> , <u>Veronica plebeia</u> , <u>Wahlenbergia gracilis</u> , <u>Poranthera microphylla</u> , <u>Euchiton sphaericus</u> , <u>Plantago debilis</u> .

Characteristics	Typical	Wet transition	Dry Transition (TIF – Margin)
Climbers	<u>Hardenbergia violacea</u> , <u>Glycine microphylla</u> , <u>G. tabacina</u> , <u>Kennedia rubicunda</u> , <u>Clematis glycinoides</u> , <u>Commelina cyanea</u> .	<u>Hardenbergia violacea</u> , <u>Glycine microphylla</u> , <u>Kennedia rubicunda</u> , <u>Eustrephus latifolius</u> , <u>Pandorea pandorana</u> , <u>Clematis glycinoides</u> , <u>Geitonoplesium cymosum</u> , <u>Hibbertia dentata</u> , <u>Morinda jasminoides</u> , <u>Cayratia clematidea</u> , <u>Stephania japonica</u> var. <u>discolor</u> .	<u>Hardenbergia violacea</u> , <u>Glycine microphylla</u> , <u>G. tabacina</u> , <u>G. clandestina</u> , <u>Kennedia rubicunda</u> .

*Species underlined are characteristic or diagnostic as listed in NSW Scientific Committee Final Determination for STIF & Tozer (2003)

Coastal Shale Sandstone Transition Forest (CSSTF)

CSSTF has not previously been described and a brief summary of this community provided. Much of the following information is summarised from James (2009b). CSSTF is associated with transitional soils (soils with both sandy and clay components) which are derived predominantly from the Mittagong Formation geology comprising a thin unit between the Ashfield Shales and Hawkesbury Sandstone (James 2009b). The Mittagong Formation is embedded with the top part of the Hawkesbury Sandstone and is scientifically associated with the sandstone rather than the Ashfield Shale (Herbert 1980). These transitional soils occur widely throughout the Ku-ring-gai LGA due to the dissection down to sandstone of the slopes of the shale covered ridges by various drainage lines. Soils derived from this geology are predominantly of the Lucas Heights soil landscape and support distinctive transitional vegetation communities.

Previous vegetation mapping of the Ku-ring-gai LGA (e.g. Benson and Howell 1994; Smith and Smith 2000; Tozer *et al.* 2006) have included these transitional areas within the Duffys Forest (DF), Sandstone Ridgetop Woodland (SSRW) and STIF vegetation communities. The Council mapping project, undertaken at a much finer scale than other studies in the area, has identified the need for recognition of this community as a separate vegetation community.

CSSTF has been identified as occurring on thin shale caps over sandstone and on moderate, sheltered slopes below STIF and above SSGF. On these thin shale caps and on moderate to gentle slopes there is a wider transitional area between the shale communities upslope (STIF) and the sandstone communities downslope (SSGF), allowing for the development of a distinct vegetation community. A brief summary of the characteristics of CSSTF is outlined in Table 3. Much of the habitat for this community within the Ku-ring-gai LGA has been historically cleared for urban development. DECC has indicated that this community is likely to be similar to a community identified within the Lane Cove area and is likely to be nominated as an EEC under the TSC Act.

Table 3: Characteristics of Coastal Shale Sandstone Transition Forest (CSSTF) within the Ku-ring-gai LGA

Characteristics	CSSTF
Soil landscape & characteristics	Lucas Heights and Gynea soil landscapes. Shallow, sandy clay loam with sandstone fragments & minor to moderate rock outcrops.

Characteristics	CCSTF
Vegetation structure	Medium open forest or woodland with open to moderate grassy shrub understorey.
Canopy trees	<i>Eucalyptus pilularis</i> (D), <i>Angophora costata</i> , <i>Syncarpia glomulifera</i> , <i>Eucalyptus resinifera</i> , <i>E. globoidea</i> , <i>E. punctata</i> , <i>E. piperita</i> , <i>E. oblonga</i> and <i>Corymbia gummifera</i> .
Smaller trees	<i>Pittosporum undulatum</i> , <i>Ceratopetalum gummiferum</i> , <i>Allocasuarina littoralis</i> , <i>Elaeocarpus reticulatus</i> , <i>Glochidion ferdinandi</i> , <i>Acacia parramattensis</i> and <i>A. implexa</i> .
Shrubs	<i>A. longifolia</i> , <i>A. linifolia</i> , <i>A. myrtifolia</i> , <i>Bossiaea obcordata</i> , <i>Bursaria spinosa</i> , <i>Daviesia corymbosa</i> , <i>Dodonaea triquetra</i> , <i>Epacris pulchella</i> , + <i>Epacris purpurascens</i> var. <i>purpurascens</i> , <i>Grevillea linearifolia</i> , <i>Hakea sericea</i> , <i>Hibbertia aspera</i> , <i>Kunzea ambigua</i> , <i>Leucopogon juniperinus</i> , <i>Lomatia silaifolia</i> , <i>Micrantheum ericoides</i> , <i>Ozothamnus diosmifolius</i> , <i>Persoonia levis</i> , <i>P. linearis</i> , <i>P. pinifolia</i> , <i>Polyscias sambucifolia</i> , <i>Pultenaea hispidula</i> , <i>Xanthosia tridentata</i>
Ground layer-graminoids	<i>Aristida vagans</i> , <i>Austrodanthonia racemosa</i> , <i>A. tenuior</i> , <i>Austrostipa pubescens</i> , <i>Cyathochaeta diandra</i> , <i>Dichelachne micrantha</i> , <i>Digitaria ramularis</i> , <i>Entolasia stricta</i> , <i>E. marginata</i> , <i>Echinopogon caespitosus</i> , <i>E. ovatus</i> , <i>Eragrostis brownii</i> , <i>Imperata cylindrica</i> , <i>Lepidosperma laterale</i> , <i>Lomandra filiformis</i> , <i>Lomandra gracilis</i> , <i>Lomandra longifolia</i> , <i>Lomandra multiflora</i> , <i>Lomandra obliqua</i> , <i>Microlaena stipoides</i> , <i>Oplismenus aemulus</i> , <i>Panicum simile</i> , <i>Themeda australis</i> , <i>Xanthorrhoea media</i>
Ground layer-ferns & herbs	<i>Pteridium esculentum</i> , <i>Brunoniella australis</i> , <i>Cryptostylis erecta</i> , <i>Desmodium varians</i> , <i>Dichondra repens</i> , <i>Dianella caerulea</i> , <i>Goodenia heterophylla</i> , <i>Oxalis perennans</i> , <i>Pomax umbellata</i> , <i>Poranthera microphylla</i> , <i>Pratia purpurascens</i> , <i>Veronica plebeia</i> , <i>Wahlenbergia gracilis</i> ,
Climbers	<i>Billardiera scandens</i> , <i>Cassytha pubescens</i> , <i>Hardenbergia violacea</i> , <i>Glycine microphylla</i> , <i>G. tabacina</i> , <i>G. clandestina</i> , <i>Kennedia rubicunda</i> , <i>Pandorea pandorana</i>

2.3.3 Rare or Threatened Plant Species

A search of the DECC Atlas of NSW wildlife database was undertaken by Eco Logical Australia on 19 May 2009, using a 10km radius around the Lots at 146 Fox Valley Road and 21 Elizabeth St, Wahroonga (which closely approximates but slightly under estimates the subject site). A search of the DEWHA protected matters database was undertaken on 25 May 2009 for 10 km around the four corners of the Subject site (using the following Longitudes and Latitudes : -33.73624,151.1039; -33.72914,151.1033; -33.72945,151.0936; -33.73299,151.0926). These searches identified previous records or suitable habitat for 11 threatened species, which have not been considered by the Flora and Fauna Assessment (Table 4). While the likelihood of occurrence for some of these species is low, and the subject site is well outside the natural range for other species, there is no evidence that species listed in Table 4 have been considered during the preparation of the Flora and Fauna Assessment.

Table 4: Threatened species previously recorded within 10km of 146 Fox Valley Road and 21 Elizabeth St, Wahroonga, but not listed in Table 3.1 of the Flora and Fauna Assessment.

Scientific Name	Common name	TSC Act Status	EPBC Act Status
<i>Caladenia tessellata</i>	Thick Lip Spider Orchid	E	V
<i>Cryptostylis hunteriana</i>	Leafless Tongue-orchid	V	V
<i>Deyeuxia appressa</i>		E	E
<i>Eucalyptus nicholii</i>	Narrow-leaved Black Peppermint	V	V
<i>Eucalyptus scoparia</i>	Wallangarra White Gum	E	V
<i>Genoplesium bauera</i>		V	-
<i>Grammitis stenophylla</i>		E	-
<i>Melaleuca biconvexa</i>		V	V
<i>Prostanthera marifolia</i>		CE	
<i>Pterostylis nigricans</i>		V	-
<i>Wilsonia Backhousei</i>		V	-

2.4 CHAPTER 4: IMPACT ASSESSMENT

2.4.1 Vegetation Communities

This chapter begins with a discussion of impacts to native vegetation and identifies clearing of native vegetation as the major impact to native vegetation, including CEECs and EECs. It discusses the significance of this impact at various scales. The chapter also discusses indirect impacts and management of these via a Biodiversity Management Plan (BMP) and the Flooding and Stormwater Management Plan. In general this chapter provides an appropriate discussion of the potential impacts and concludes that the impacts to BGHF and STIF from the proposed development constitute a significant impact to both communities at both a local and regional scale.

As previously discussed (Section 2.3.1), Council vegetation mapping indicates that the impacts to CEECs and EECs have been under or over estimated in different areas of the Subject site. A summary of the area of each vegetation community to be impacted, using Council vegetation mapping, as a result of the proposed development is outlined in Table 5. When compared to the calculations based upon vegetation mapping in the Flora and Fauna Assessment (Table 6) the following points become apparent:

- The Flora and Fauna Assessment identifies an area of 3.68 ha of BGHF within the Subject site, of which approximately 45% would be cleared, approximately 50% would be maintained as an APZ and approximately 5% would be retained. Council vegetation mapping only identifies 0.67 ha of BGHF of which approximately 68% would be cleared, approximately 29% would be maintained as an APZ and approximately 3% would be retained; and
- Council mapping identifies a much larger area of STIF within the Subject site, of which 7.45ha would be cleared or partially cleared for maintenance as an APZ.

Table 5: Areas of EECs (ha), based on Council Mapping, for each management regime under the proposed development. Numbers in brackets indicates the percentage of the entire community within the Subject site.

Vegetation Community	Vegetation to be cleared	APZ	Retained	Fuel Reduction Zone	Total
BGHF	0.46 (68.47)	0.19 (28.74)	0.02 (2.79)		0.67
STIF	2.79 (27.07)	4.66 (45.25)	2.85 (27.68)		10.31
CSSTF	0.23 (21.13)	0.42 (38.15)	0.45 (40.72)		1.09
SSGF	1.10 (5.24)	8.34 (39.69)	10.19 (48.53)	1.37 (6.55)	21.00
OV	0.22 (20.11)	0.68 (61.28)	0.21 (18.61)		1.11
Vegetation community not assigned	0.25 (13.53)	0.96 (53.02)	0.61 (33.46)		1.81

Table 6: Areas of vegetation communities (ha), based on Cumberland Ecology (2009), for each management regime under the proposed development. Numbers in brackets indicates the percentage of the entire community. Modified from table S.2 in the Flora and Fauna Assessment.

Vegetation Community	Cleared	APZ	Retained	Fuel Reduction Zone	Total
BGHF	1.644 (44.67)	1.868 (50.76)	0.168 (4.57)	-	3.68
STIF	0.785 (46.37)	0.506 (29.89)	0.402 (23.74)	-	1.69
SSGF	3.315 (11.58)	13.709 (47.89)	10.243 (35.78)	1.36 (4.75)	28.6
Riparian Vegetation	0.027 (0.88)	0.273 (8.87)	2.777 (90.25)	-	3.08

The following issues are also noted in regard to this section:

- The Flora and Fauna Assessment states that none of the stands of STIF identified within the Subject site constitute the community as defined under the EPBC Act. Based upon Council mapping of vegetation communities all stands of STIF (including the various forms of the vegetation community) have at least some characteristic native plant species in each structural layer, are located within patches of greater than 1 ha and have canopy cover of greater than 10%. Therefore these areas meet the requirements for STIF as listed under the EPBC Act;
- The impact to CSSTF has not been identified or discussed within the Flora and Fauna Assessment;
- The Flora and Fauna Assessment states that due to the proximity to watercourses Riparian Vegetation is protected under the *Water management Act 2003*, although areas of this vegetation community are to be cleared and managed as APZs as part of the proposed development²⁷. The impacts to this community have not been discussed; and
- There is no discussion of the impact associated with managing areas of CEECs and EECs as APZs. The Concept Plan states that this area will be managed in accordance with APZ guidelines and to create 'parkland' edge settings. It goes on to say that stands of native vegetation would be retained within open grassed areas for passive recreation. Furthermore, the Concept Plan indicates that roads and stormwater detention basins will be located within APZs. As such, APZs are likely to be heavily disturbed during the construction phase in

addition to ongoing disturbance associated with managing these areas as APZs and parkland settings.

2.4.2 Threatened Flora Species

While no threatened flora species have been recorded within the subject site, the Flora and Fauna Assessment identifies potential habitat for ten threatened flora species. No detailed assessment of the potential impact to these species is included within the Flora and Fauna Assessment and it is simply stated that this potential habitat is to be retained. Figure 4.1 of the Flora and Fauna Assessment suggests that some of the potential habitat for these species will be cleared and other areas of potential habitat will be managed as APZs. As such, some discussion of the impact upon these species is warranted. Furthermore, the potential indirect impacts should also be discussed. It is acknowledged that it is unlikely that this discussion would identify significant impacts; nonetheless, some evidence that impacts to these species have been considered should be included within the Flora and Fauna Assessment.

2.4.3 Threatened Fauna Species

The impact upon fauna is assessed in relation to threatened fauna species and groups identified in Table 3.2 of the Flora and Fauna Assessment. The Flora and Fauna Assessment concludes that the proposed development would not significantly impact upon Powerful Owls (*Ninox strenua*) despite recognising that Powerful Owls are sensitive to disturbance during the breeding season, that there is potential for the development to cause reduced breeding success and that the recorded pair of Powerfuls Owls may abandon the identified nest tree (which is described as the only suitable hollow tree in the relevant bushland gully in Appendix E of the Flora and Fauna Assessment). The DECC Guidelines state that any factor which operates to reduce reproductive success will increase the risk of extinction and therefore is likely to constitute a significant impact. The Flora and Fauna Assessment states that if disturbed, the owls would concentrate future breeding efforts in a more secluded area of their existing home range and that this breeding pair would not necessarily be lost from the local population. This assumes that there are other suitable nest sites within the existing home range of this breeding pair, which are suitably far from other neighbouring pairs in the Lane Cove Valley. Powerful Owls are thought to have high fidelity to a small number nest trees and suitable nest sites are thought to comprise of a single nest tree and a number of surrounding trees up 200m away which provide roosting habitat for males during the breeding season. Without knowledge of other suitable nest sites, it cannot be concluded that the proposed development will not significantly impact upon this species.

Additionally, there are discrepancies regarding the existing buffer of native vegetation around the existing Powerful Owl nest site, with Chapter 4 stating there is currently residential development within 100m of the nest site, while Appendix E states the nest site is currently 150m from residential development. As the location of the nest site is not mapped on any figure, the distance between any residential development and the nest tree cannot be ascertained by the reader.

In assessing impacts to arboreal mammals, the Flora and Fauna Assessment states that impacts to this fauna group would arise from the removal of hollow bearing trees, but that hollow bearing trees will be retained in preference to non-hollow bearing trees and nest boxes will replace any hollows removed. It is unclear what is meant by retaining hollow bearing trees in preference to non-hollow bearing trees when Figure 4.1 of the Flora and Fauna Assessment suggests that the selection of trees to be retained will be guided by their location rather than attributes of the individual tree.

In assessing the impact to microchiropteran species, the Flora and Fauna Assessment states that as only single or few records of each species exist for the locality, it is unlikely that the area supports viable or important populations of these species. This assumption is contrary to the DECC guidelines which state that demonstrating that a population is not viable would require considerable effort and therefore any known or presumed local populations should be assumed viable unless the contrary can be conclusively demonstrated. The data presented in the Flora and Fauna Assessment is not adequate to conclusively demonstrate that the records of these species are part of non-viable populations.

2.4.4 Ecological Corridors

The Flora and Fauna Assessment identifies three ecological corridors as contributing to the important ecological value of the subject site, Coups Creek, the tributary of Coups Creek which forms the western boundary of the Subject site and the vegetation to the east of Fox Valley Road. The Flora and Fauna Assessment notes that these and other corridors are important in providing for the passage of fauna between locations ensuring the transfer of genetic diversity between populations. Furthermore, the Flora and Fauna Assessment notes that this movement of fauna also facilitates the dispersal of flora propagules assisting the long-term viability of flora species through ongoing dispersal.

The Flora and Fauna Assessment states that the Coups Creek corridor and corridor along the tributary of Coups Creek will undergo a reduction in width as a result of vegetation clearing and APZ management. It concludes that this will not have a major impact upon the passage of terrestrial and arboreal fauna as a 100m wide corridor will be retained (this includes areas managed for APZs). No evidence is provided to support this statement and research suggests that the wider a corridor the better (Drinnan 2005). It is possible that the reduction in width of these corridors will impact upon some fauna groups.

The Flora and Fauna Assessment states that the corridor to the east of Fox Valley Road will undergo the greatest alterations as a result of clearing of vegetation associated with the proposed development. It notes that the length and width of the corridor will be reduced and that the likelihood of fauna species attempting to cross from the Coups Creek Corridor to the vegetation east of Fox Valley Road would be reduced. It should be noted that there is a shorter distance between the Coups Creek Corridor and the bushland east of Fox Valley Road via the property at 113 Fox Valley Road, Wahroonga (Figure 12). At this location, there is a shorter distance for fauna to travel between the two ecological corridors, although this would be further disrupted by the proposed development.

The Flora and Fauna Assessment concludes that the corridor east of Fox Valley Road will maintain connection to Mitchell Crescent Reserve and that the vegetation clearing should not greatly alter the current passage of fauna to and from this part of the Subject site. The Flora and Fauna Assessment does not assess the impacts to the connectivity of this corridor to the northeast. It is considered that this corridor extends northeast from the portion of the Subject site east of Fox Valley Road and connects to the Coups Creek Corridor and to Mitchell Crescent Reserve and the Lane Cove Valley. This connection to the northeast was mapped by DECC (2008) as part of the Rapid Fauna Habitat Assessment. The vegetation clearing and maintenance of APZs which are proposed within the portions of the Subject site to the east of Fox Valley Road would sever the connection along this part of the corridor. As such, the conclusions of the Flora and Fauna Assessment that the proposed development would not greatly alter the current passage of fauna to the east of Fox Valley Road is unsupported.

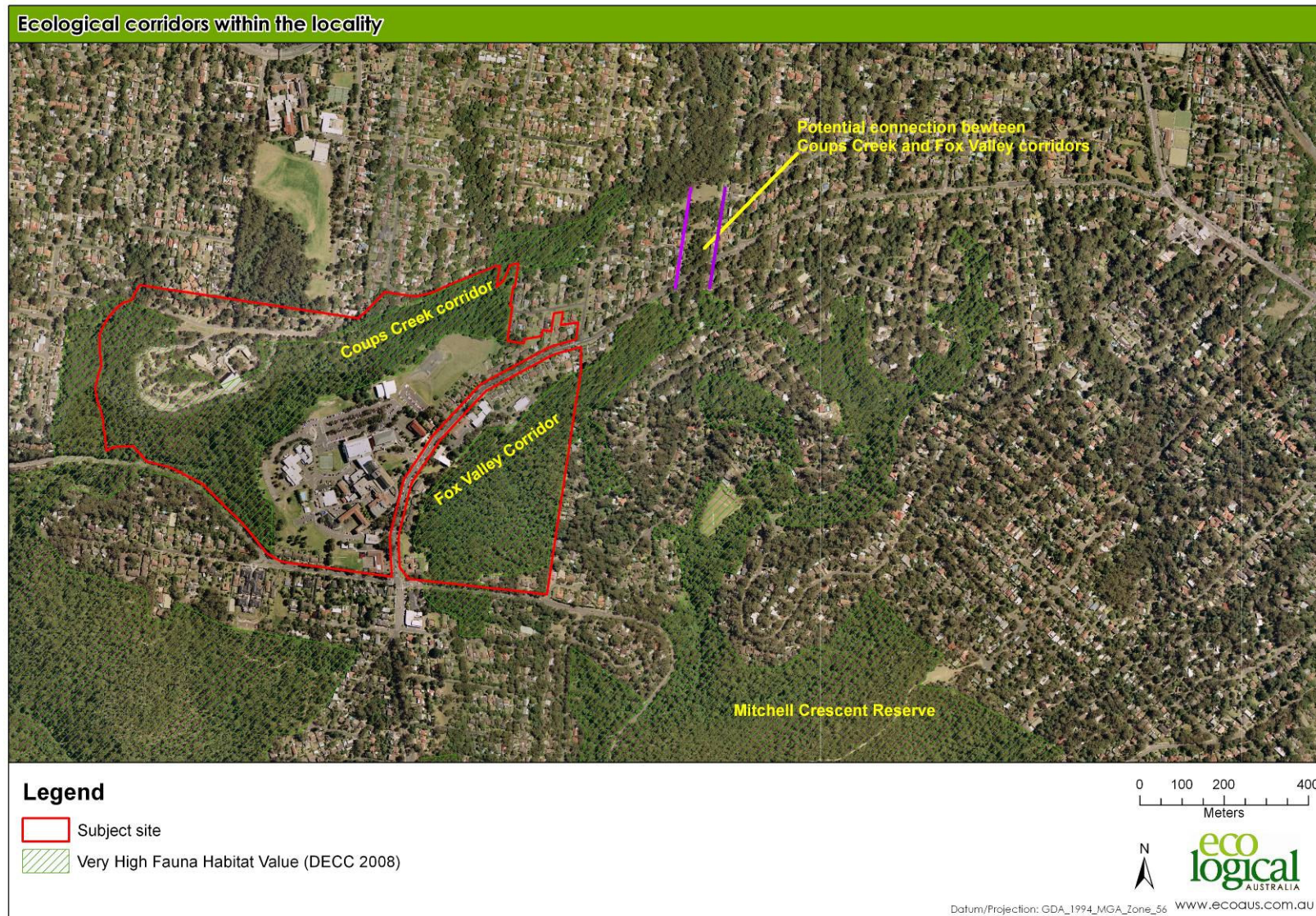


Figure 12: Ecological corridors within the Subject Site

2.4.1 Watercourses and Associated Riparian Vegetation

The Flora and Fauna Assessment states that the water courses and associated riparian vegetation on the subject land will be unaffected by the proposed development as no aspect of the development will encroach within the DIPNR and Ku-ring-gai Council Core Riparian Zones and appropriate buffers (Ku-ring-gai Council, 2004). This is not the case, with the Flora and Fauna Assessment identifying that 0.027 ha of riparian vegetation would be cleared and that a further 0.273 ha would be managed as an APZ (Table 6). Furthermore, the concept plan indicates that three stormwater detention ponds will be located within or in close proximity to watercourses which would require construction works within areas of vegetation which the Flora and Fauna Assessment indicates would be retained. The clearing of riparian vegetation and the managing of riparian areas as an APZ would have impacts upon riparian vegetation and water courses including issues associated with bank stability and channel erosion, water quality and habitat for terrestrial and aquatic flora and fauna. The inclusion of riparian areas within APZs is contrary to the Department of Water and Energy guidelines which require the establishment of a Core Riparian Zone (CRZ) around stream channels which should not be located within APZs. If the inclusion of stormwater detention ponds within watercourses acts to regulate water flow there are likely to be impacts to riparian ecosystems downstream. These impacts have not been identified or considered within the Flora and Fauna Assessment.

2.4.2 Mitigation Measures

This chapter outlines measures which aim to mitigate the impact of the proposed development. The main mitigation measures associated with the proposal is the management of retained vegetation according to a Biodiversity Management Plan (BMP), management of APZ according to a Bushfire Management Plan and the installation of nest boxes to replace hollow-bearing trees cleared as part of the proposed development.

The Flora and Fauna Assessment states that the BMP will minimise and mitigate all potential impacts of the proposed development. Ongoing management of retained vegetation according to a BMP may prove successful in managing a number of potential impacts including weed invasions and edge effects although it is noted that some impacts previously discussed within the Flora and Fauna Assessment including overshadowing from buildings are unlikely to be mitigated by the implementation of a BMP. An assessment of potential overshadowing as a result of the proposed development and the impact of this upon native vegetation is warranted.

The Flora and Fauna Assessment proposes preparing a Bushfire Management Plan, described as being sympathetic to BGHF and STIF, which manages bushfire protection issues. As previously discussed (Section 2.4.1), the management of areas of CEECs and EECs as APZs will involve large disturbances during the construction phase as well as ongoing disturbance associated with managing these areas for passive recreation and fuel reduction. A bushfire management plan is unlikely to significantly reduce the scale or nature of these impacts.

Artificial nest boxes are proposed to be installed as part of the proposed development to replace those hollows bearing trees which will be removed. These artificial nest boxes are aimed to provide nest sites for hollow dependent fauna species including the Powerful Owl and its prey. While research has shown that large owl species may use artificial nest boxes, it cannot be shown that these boxes will successfully substitute the removal of a large number of natural hollows as is the case in the proposed development. The Approved Recovery Plan for Large Forest Owls (which include Powerful Owls;

DECC 2006) states that nest boxes have been used extensively, and with great success, in the Northern Hemisphere to increase owl populations where nest sites are limited or absent. It does not indicate that nest boxes are appropriate to act as substitutes for natural hollows over long periods of time. Installation of artificial hollows at other locations within Ku-ring-gai and other urban environments has led to usage of these hollows by non target species including exotic species. Furthermore, nest boxes are either short lived or require ongoing maintenance which can be costly. Actions which are identified by DECC (2006) as aiding the recovery of this species include:

- Retaining at least a 200 metre buffer of native vegetation around known nesting sites;
- Retaining large stands of native vegetation, especially those containing hollow-bearing trees; and
- Protecting hollow-bearing trees for nest sites. Younger recruitment trees should also be retained to replace older trees in the long-term.

In addition to proposed mitigation measures, the Flora and Fauna Assessment indicates that offset and mitigation measures are to be determined in consultation with relevant authorities. It is considered appropriate that these offsetting details should be determined prior to any approval, rather than simply committing to consulting with relevant authorities.

2.4.3 Conclusions and Recommendations

This chapter outlines the conclusions and recommendations of the Flora and Fauna Assessment. It is considered that the findings of the preceding chapters of the report are not clearly outlined in this chapter. Specifically, the finding that the CEEC BGHF and the EEC STIF would be significantly impacted by the proposed development (as stated in Section 4.2.3 of the Flora and Fauna Assessment) is not restated in the conclusions. The conclusions only indicate that DEWHA have considered the development a controlled action in relation to impacts to these communities and that a BMP will seek to offset and mitigate impacts to this community.

In addition to not clearly restating the findings of earlier sections of the Flora and Fauna Assessment, it is considered that the conclusions that Powerful Owls and the function of the ecological corridor east of Fox Valley Road will not be significantly impacted are questionable. That is, it is considered that the proposed development has the potential to significantly impact upon Powerful Owls and the function of the ecological corridor east of Fox Valley Road.

Notwithstanding the shortcomings of the conclusions discussed above and the Flora and Fauna Assessment as a whole, the recommendation that a BMP be prepared, detailing ongoing management and monitoring of retained vegetation, fauna and their habitats, and specifically Powerful Owls, is considered appropriate.

2.5 OMISSIONS

The following points are considered omissions from the Flora and Fauna Assessment:

- The DGRs include consideration of all relevant State Environmental Planning Policies (SEPPs), which are identified in the Concept Plan to include SEPP 44 – Koala Habitat Protection. SEPP 44 is not addressed in the Flora and Fauna Assessment;

- Figure 9 of the Concept Plan identifies an easement running east-west through the Subject site. There is no discussion of the purpose of this easement and it is unclear if it is an existing easement, or proposed as part of the overall proposed development. If this easement forms part of the proposed development the Flora and Fauna Assessment should discuss the impacts of the easements on retained vegetation and fauna habitats through which the easement runs; and
- The DGRs include assessment and mitigation of impacts and watercourses and associated vegetation. The Flora and Fauna Assessment states that “...water courses and riparian vegetation will be unaffected as by the proposed development as no aspect of the development will encroach within the DIPNR and Ku-ring-gai Council Core Riparian Zones and appropriate buffers (Ku-ring-gai Council, 2004)” (page 4.30). As previously discussed (Section 2.4.1), this is not the case and impacts to water courses and riparian vegetation have not been discussed.

3 Conclusions

The following conclusions arise from the review of the Flora and Fauna Assessment:

- The methodologies are not explained in detail and the results of previous reports have been relied upon without providing details of the survey effort from these previous reports;
- The vegetation mapping of the Flora and Fauna Assessment is coarse and includes areas of plantings of exotic and non-local native species in the distribution of native vegetation communities. This contributes to an overall under estimation of the impacts of the proposed development upon Critically Endangered and Endangered Ecological Communities;
- Council Vegetation mapping indicates that there is an increased area of vegetation consistent with STIF and that this area satisfies the description of STIF under the TSC Act and the EPBC Act.
- The findings that the breeding pair of Powerful Owls will not be significantly impacted despite acknowledging the potential for this pair to abandon the current nest tree and to experience reduced breeding success is questionable. It is considered that there is potential to significantly impact upon this breeding pair given that APZs will incur to within 50m of the current nest site. The location of vegetation clearing, roads or stormwater detention basin within 50m of the nest site would involve construction works and could involve ongoing disturbance in close proximity to the nest site;
- The finding that ecological corridors will be unaffected is questionable. The proposed development would sever the connection between the ecological corridor to the east of Fox Valley Road with the vegetation to the east, as mapped by DECC (2008);
- The statement that water courses and riparian vegetation will be unaffected as by the proposed development is incorrect and areas of these ecosystems will be impacted by the proposed development;

- The conclusions of the Flora and Fauna Assessment do not clearly indicate the findings discussed in the main body of text including that the proposed development will significantly impact upon the CEECs and EECs listed under the TSC Act and EPBC Act.

References

- Benson, D. (1992) The natural vegetation of the Penrith 1:100 000 map sheet. *Cunninghamia*, 2(4),541-596.
- Benson, D. and Howell, J (1990) The natural vegetation of the Penrith 1:100 000 map sheet. *Cunninghamia*, 2, 541-596.
- Benson, D. and Howell, J. (1994) The natural vegetation of the Sydney 1:100,000 map sheet. *Cunninghamia*, 3 (4), 677-722.
- Conacher Travers (2004) Flora and Fauna Assessment Report: Proposed Roadway Development "Wahroonga Estate" Fox Valley Road & Comenarra Parkway Wahroonga Conacher Travers Environmental Consultants, Somersby.
- Cumberland Ecology (2009). The Proposed Redevelopment of Wahroonga Estate, Fox Valley Road and Comenarra Parkway, Wahroonga; Flora and Fauna Assessment for a Part 3A Assessment. Report prepared for Johnson Property Group, dated April 2009;
- DEC (NSW) (2006). NSW Recovery Plan for the Large Forest Owls: Powerful Owl (*Ninox strenua*), Sooty Owl (*Tyto tenebricosa*) and Masked Owl (*Tyto novaehollandiae*) DEC, Sydney.
- DECC (2007) Threatened species assessment guidelines: The assessment of significance. Department of Environment and Climate Change
- DECC (2008) Rapid Fauna Habitat Assessment of the Sydney Metropolitan Catchment Management Authority Area. Department of Environment and Climate Change, Hurstville
- Drinnan, I. (2005) The search for fragmentation thresholds in a Southern Sydney Suburb. *Biological Conservation* 124, 339 – 349.
- Harden, G. (1991) *Flora of New South Wales Volume 2*. UNSW Press, Kensington.
- Hyder Consulting Pty Ltd (2009). Wahroonga Estate Flooding and Stormwater Master Plan. Report prepared for Johnson Property Group, dated 17 February 2009.
- James, T. (2009a) Endangered ecological communities of Ku-ring-gai local government area – profiles. Draft report prepared for Ku-ring-gai Council dated May 2009.
- James, T. (2009b) Transitional vegetation communities of Ku-ring-gai LGA. Draft report prepared for Ku-ring-gai Council dated April 2009.
- Land and Environment Court Judgement (2007). Murlan Consulting Pty Limited v Ku-ring-gai Council and John Williams Neighbourhood Group Inc [2007] NSWLEC 374.

NSW NPWS (2002) Native Vegetation Maps of the Cumberland Plain Western Sydney NSW National Parks and Wildlife Service, Sydney.

Smith, P. and Smith, J. (2000) Survey of Duffys Forest Vegetation Community. Report prepared for the NSW National Parks and Wildlife Service and Warringah Council, dated November 2000.

Tozer MG (2003) The native vegetation of the Cumberland Plain, western Sydney: systematic classification and field identification of communities. *Cunninghamia* **8**, 1-75.

Tozer, M.G., Turner, K., Simpson, C., Keith, D.A., Beukers, P., MacKenzie, B., Tindall, D., and Pennay, C. (2006) Native vegetation of southeast NSW: a revised classification and map for the coast and eastern tablelands. Department of Environment and Climate Change (NSW) and NSW Department of Natural Resources.

**HEAD OFFICE**

Suite 4, Level 1
2-4 Merton Street
Sutherland NSW
T 02 8536 8600
F 02 9542 5622

SYDNEY

Suite 604, Level 6
267 Castlereagh Street
Sydney NSW 2000
T 02 9993 0566
F 02 9993 0573

ST GEORGES BASIN

8/128 Island Point Road
St Georges Basin NSW 2540
T 02 4443 5555
F 02 4443 6655

CANBERRA

Level 4
11 London Circuit
Canberra ACT 2601
T 02 6103 0145
F 02 6103 0148

HUNTER

Suite 17, Level 4
19 Bolton Street
Newcastle NSW 2300
T 02 4910 0125
F 02 4910 0126

NAROOMA

5/20 Canty Street
Narooma NSW 2546
T 02 4476 1151
F 02 4476 1161

COFFS HARBOUR

35 Orlando Street
Coffs Harbour Jetty NSW 2450
T 02 6651 5484
F 02 6651 6890

ARMIDALE

92 Taylor Street
Armidale NSW 2350
T 02 8081 2681
F 02 6772 1279

BRISBANE

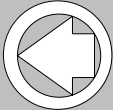
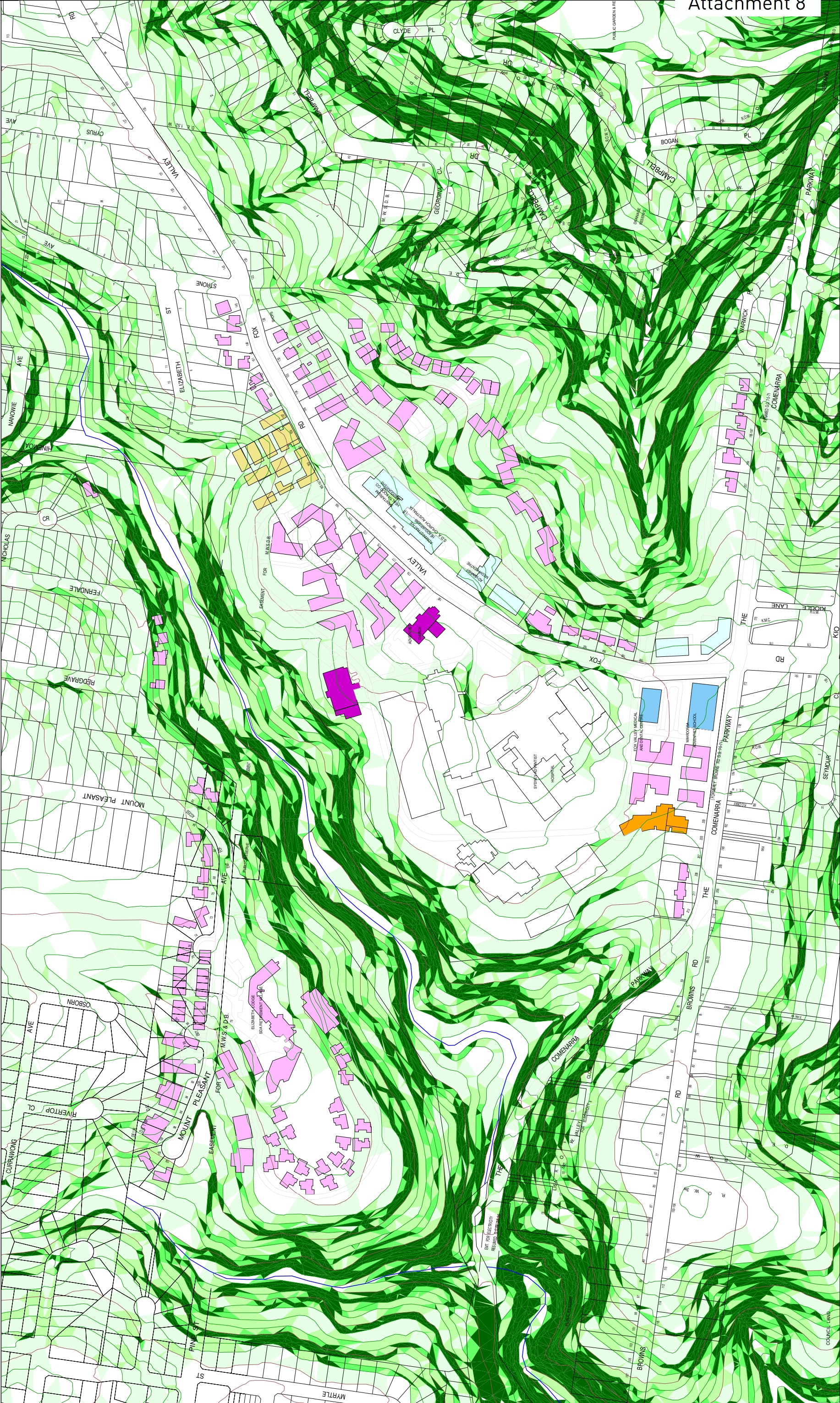
93 Boundary St
West End QLD 4101
T 0429 494 886

WESTERN AUSTRALIA

108 Stirling Street
Perth WA 6000
T 08 9227 1070
F 08 9227 1078

SLOPE MAP

Sydney Adventists Hospital - Wahroonga



SCALE:1:4000

DATE:20-05-2009

0-5 deg

5-10 deg

10-15 deg

15-18 deg

>18 deg

