

SUPPLEMENTARY PLANNING REPORT AND UPDATED PLANNING PROPOSAL

RALSTON AVENUE, BELROSE

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EXECUTIVE SUMMARY

BACKGROUND TO REPORT

This *Supplementary Planning Report and Updated Planning Proposal* has been prepared by Urbis on behalf of the Metropolitan Local Aboriginal Land Council ('MLALC') and in association with a proposed amendment to *Warringah Local Environmental Plan 2011* ('WLEP 2011') that applies to land owned by the MLALC at Ralston Avenue, Belrose.

The Planning Proposal has been subject to a lengthy assessment process since it was originally lodged with the former Warringah Council including:

- Preliminary assessment by the former Warringah Council between April and November 2013.
- Recommendation by Council's Group Support Manager Strategic Planning and decision by the Warringah Development Assessment Panel ('WDAP') to support the Planning Proposal in November 2013.
- Determination by Warringah Council to not support the recommendation of the WDAP in December 2013.
- Pre-gateway review by the Department of Planning and Environment ('the Department') and the Joint Regional Planning Panel – Sydney Region East ('the JRPP') between January 2014 and January 2015.
- Issue of a Gateway determination by the Department on 28 January 2015 (refer to **Appendix A**).
- Ongoing consultation with Northern Beaches Council ('Council') and the nominated State government authorities and agencies in the Gateway determination between 2015 and 2017.

A number of changes to the original rezoning proposal have been incorporated in response to the feedback provided by Council, the RFS and OEH during the pre-exhibition consultation. However, it is important to realise that these changes do not have any implications for the strategic justification of the proposed rezoning which underpinned the decision by the Department to issue the Gateway determination in 2015.

The intended outcomes for the proposed LEP amendment remain identical to the original objectives listed within the original *Planning Proposal* dated April 2013 and considered by the JRPP and Department prior to issuing the Gateway determination, ie:

- *Utilise the existing assets of the MLALC through the release of land for the wider economic, cultural and social benefits of the Metropolitan Aboriginal community to meet the objectives of the provision of housing, education and employment.*
- *Allowing land owned under freehold title through the NSW Land Rights Act 1983 to be more than just symbolic, and provide economic opportunity for the Aboriginal people through the development of their own land.*
- *To provide a landmark development which has the highest regards for urban design and master planning, and at the same time deliver capacity and economic self-sufficiency. The aim is to develop individual house lots for release on the open market.*
- *Provide compatible land use zones that will create additional low density housing opportunities to meet the existing and likely future needs of the local community.*
- *Integrate the site with the broader local community through improved accessibility and connections between the adjoining established residential areas and the Garigal National Park.*
- *Avoid unacceptable impacts on the character and amenity of the adjoining and surrounding residential development by developing a range of controls that will facilitate housing that is consistent with the surrounding development and compatible with the bushland setting.*

- *Develop an integrated design solution for the site that incorporates the unique ecological and hydrological features.*
- *Utilise the established physical and social infrastructure which currently services the site and adjacent urban areas.*

This report has been prepared in response to a request by Council for an *Updated Planning Proposal* which addresses the requirements of the Department of Planning and Environment's *Planning Proposals: A guide to preparing planning proposals* dated August 2016. These guidelines were issued following the preparation of the original Planning Proposal and the issue of the Gateway determination.

The updated report includes a detailed summary of the background to the Planning Proposal to assist the local community and other key stakeholders understand the strategic justification for the proposed rezoning which led to the issue of the Gateway determination in 2015.

It also details the key changes since the issue of the Gateway determination and the way in which the feedback from the pre-exhibition consultation has been incorporated into the amended proposal. This includes additional research and investigations undertaken by the proponent as summarised within this report and described in detail within the attached specialist reports.

UPDATED PLANNING PROPOSAL

The *Updated Planning Proposal* seeks to amend the current local planning controls to enable the redevelopment of part of the land owned by the MLALC for low density residential housing, public open space and bushfire protection.

It proposes to rezone 17.27 hectares (or 12.6%) of the 136.16 hectare site to Zone RE2 Low Density Residential and Zone R1 Public Recreation to facilitate the release and development of 156 low density residential lots and a 3,000m² public park. The remaining 119.05 hectares of land will be rezoned to E3 Environmental Management, allowing for retention of the natural bushland and the provision of Asset Protection Zones and recreation trails adjacent to the future residential land.

The updated proposal incorporates each of the changes made in response to the Gateway determination and the feedback provided by Council and the State government authorities and agencies during the subsequent pre-exhibition consultation. The changes made in response to the conditions imposed by the Gateway determination include:

- **Land use zones:** the land use zones in the original Planning Proposal were amended as follows:
 - Zone E2 Environmental Conservation was replaced with Zone E3 Environmental Management due to concerns raised by the Department regarding the appropriateness of the zoning and the site acquisition implications.
 - Zone RE1 Public Recreation zones was revised to enable the amalgamation of the original proposed pocket parks into a larger consolidated public open space.
 - The boundary interface between the Zone R2 Low Density Residential and Zone E3 Environmental Management land was amended due to the reconfiguration of the indicative subdivision layout and increased width of the perimeter road.
- **Minimum lot size:** the minimum lot size was increased from 550m² to 600m².

The changes following the Gateway determination and in response to matters raised by Northern Beaches Council ('Council'), the NSW Rural Fire Service ('RFS') and Office of Environment and Heritage ('OEH') include:

- The Zone R2 Low Density Residential land was reduced to enable the retention and protection of the Duffys Forest in the eastern part of the site.
- The area of Duffys Forest is now proposed to be included within Zone E3 Environmental Management. The surrounding roads were reconfigured to accommodate the retention and protection of this vegetation.
- The proposed public open space (Zone RE1 Public Recreation) was relocated to the south-west of the R2 Low Density Residential zone.

Each of the above changes has resulted in a net reduction of the developable area from 17.79 hectares in the original proposal to 17.27 hectares in the current proposal. This has also resulted in a corresponding increase in the Zone E3 Environmental Management land from 118.37 hectares to 119.05 hectares and a decrease in the potential future residential lots from 171 to 156 lots.

The principal outcomes arising from the pre-exhibition consultation with Council and the State government authorities and agencies relate to the preparation and submission of additional detailed information regarding the potential environmental impacts, particularly regarding bushfire management and ecology. Additional research and investigations were undertaken by the proponent in response to the detailed issues raised by the RFS and OEH during the pre-exhibition consultation. The additional investigations also responded to a peer review commissioned by Council regarding the original bushfire assessment. The updated specialist reports prepared by the proponent in response to each of these matters include:

- *Bushfire Protection Assessment* dated April 2017 (refer to **Appendix B**)
- *Fuel Management Plan* dated April 2017 (refer to **Appendix C**)
- *Ecological Assessment* dated April 2017 (refer to **Appendix D**)

The key findings and recommendations of the additional specialist reports have been incorporated into the *Updated Planning Proposal*. The outcomes from these reports have also been incorporated into the updated indicative subdivision plan and draft LEP maps (refer to **Appendix E** and **Appendix F**) which will inform the preparation of the final LEP maps by Council in accordance with Condition 1 of the Gateway determination.

An updated *Draft Voluntary Planning Agreement (VPA) and Explanatory Note* (refer to **Appendix G**) has also been prepared to respond to matters raised by Council, the NSW Roads and Maritime Services ('RMS') and Transport for NSW ('TfNSW') as part of the pre-exhibition consultation phase. The draft VPA also provides a legal framework for the implementation of the recommendations detailed within the updated specialist reports, including the ongoing management requirements associated with the bushfire protection measures.

Overall, the *Updated Planning Proposal* has fully addressed the provisions of the Gateway determination and the requirements of Council as the Relevant Planning Authority to enable its public exhibition and consultation in accordance with the *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2000* and the Gateway determination.

1. INTRODUCTION

This *Supplementary Planning Report and Updated Planning Proposal* has been prepared by Urbis on behalf of the Metropolitan Local Aboriginal Land Council (MLALC) and in association with a proposed amendment to Warringah Local Environmental Plan 2011. The proposed amendment seeks to facilitate the future development of land owned by the MLALC at Ralston Avenue, Belrose for residential purposes.

The report provides a comprehensive summary of the assessment of the Planning Proposal since it was lodged with Warringah Council ('Council') in April 2013, including:

- Preliminary assessment phase completed by Council.
- Pre-Gateway review assessment by the Department of Planning and Joint Regional Planning Panel - Sydney Region East ('JRPP').
- Post-Gateway determination consultation by Council with the nominated government agencies.

The report includes an updated Planning Proposal prepared in accordance with *Planning Proposals: A guide to preparing planning proposals* dated August 2016. These guidelines were released following the issue of the Gateway determination on 28 January 2015. It is appropriate to update the Planning Proposal having regard to the changes to the original proposal, as well as the updated guidelines.

Each of the above matters is addressed within the following sections of the report:

- **Section 2 – Background to Planning Proposal:** comprehensive summary of the assessment process, including:
 - Preliminary assessment by Warringah Council between April and December 2013.
 - Pre-gateway review by the Department and JRPP between January 2014 and January 2015.
 - Gateway determination issued by the Department on 28 January 2015.
- **Section 3 – Pre-Exhibition Consultation with Government Agencies:** detailed description of consultation with government agencies in accordance with the Gateway determination, including:
 - NSW Rural Fire Service (RFS)
 - Office of Environment and Heritage (OEH)
 - NSW Roads and Maritime Services (RMS)
 - Transport for NSW (TfNSW)
- **Section 4 – Amendments to the Original Planning Proposal:** outline of changes to the original Planning Proposal, including prior to and following the issue of the Gateway determination.
- **Section 4 – Additional Research and Investigations:** comprehensive summary of additional research and investigations by the specialist consultants in response to matters raised by the Council and/or the agencies during the pre-exhibition consultation.
- **Section 5 – Updated Planning Proposal:** detailed explanation and justification of the proposed amendments to Warringah Local Environmental Plan 2011 in accordance with the relevant guidelines.
- **Section 7 – Summary and Conclusion:** overview of the Planning Proposal and recommendation to proceed to public exhibition, final assessment and gazettal.

2. BACKGROUND TO PLANNING PROPOSAL

This section of the report provides a comprehensive summary of the assessment process that was completed between the preparation and lodgement of the Planning Proposal in 2013 and issue of the Gateway determination in 2015. This includes:

- Preliminary review and assessment by the former Warringah Council between February and December 2013, including:
 - Pre-lodgement discussions, preliminary community consultation and assessment by Council officers between February and November 2013.
 - Recommendation by Council's Group Support Manager Strategic Planning and decision by the Warringah Development Assessment Panel ('WDAP') to support the Planning Proposal in November 2013.
 - Determination by Warringah Council to not support the recommendation of the WDAP in December 2013.
- Pre-gateway review by the Department of Planning and Environment ('the Department') and the Joint Regional Planning Panel – Sydney Region East ('the JRPP') between January 2014 and January 2015.
- Issue of a Gateway determination by the Department on 28 January 2015 (refer to **Appendix A**).

This summary is intended to provide the local community and other key stakeholders with a clear understanding of the rationale underpinning the issue of the Gateway determination by the Department.

2.1. WARRINGAH COUNCIL ASSESSMENT

A pre-lodgement meeting was held between the proponent and Warringah Council on 12 February 2013. Council provided formal feedback on the proposed rezoning and identified matters to be addressed in the Planning Proposal documentation. Each of these matters was addressed in the Planning Proposal lodged with Council on 26 April 2013, which included:

- Planning report (Urbis)
- Urban design and built form (Hassell)
- Flora and fauna and bushfire protection (Travers Bushfire and Ecology)
- Aboriginal archaeological (Dominic Steele Consulting Archaeology)
- Open space and recreation (Gondwana Consulting)
- Transport and traffic (Transport and Traffic Planning Associates)
- Site contamination (Environmental Investigations)
- Geotechnical (Pells Sullivan Meynink)
- Infrastructure services (Warren Smith & Partners)
- Electrical services (DEP Consulting Pty Ltd)
- Social impacts, housing demand and economic impacts (Hill PDA)
- Land survey (Lockley Land Title Solutions)

Council undertook preliminary (or informal/non-statutory) consultation with the local community from 20 May 2013 to 3 June 2013, with 41 letters of objection and three letters in support of the proposal. Additional information was requested by Council on 12 June 2013 to assist with the assessment process and respond to the public submissions.

The proponent's response on 3 July 2013 included a revised subdivision layout and additional speciality reports. Subsequent requests for additional information were made by Council on 10 July 2013 and 16 July

2013. A comprehensive response was prepared by the proponent on 22 August 2013, including significant changes to the proposed rezoning:

- **Changes to land use zones** - the original submission sought to rezone the site as follows:
 - Zone R2 Low Density Residential (approximately 12.7% of the site when combined with RE1)
 - Zone RE1 Public Recreation (approximately 12.7% of the site when combined with R2)
 - Zone E3 Environmental Management (approximately 87.3% of the site)

This was subsequently amended to

- Zone R2 Low Density Residential (approximately 13.5% of the site when combined with RE1)
- Zone RE1 Public Recreation (approximately 13.5% of the site when combined with R2)
- Zone E2 Environmental Conservation (approximately 86.5% of the site)
- **Lot sizes** – the original proposal sought a minimum lot size of 550m² and an average lot size of 600m². This was subsequently amended to a minimum lot size of 600m².
- **Public recreation** – the proposed parkland was amalgamated into one park, rather than one larger park with smaller pocket parks, increasing the area of land for public recreation to 2,079m².
- **Amended road pattern** – the road layout was amended through the realignment of the perimeter road and an increased width of 17 metres.
- **Voluntary planning agreement (VPA)** – the proponent provided their ‘in principle’ agreement to enter a VPA with Council.

The amendments were supported by a response to issues, supporting reports and updated LEP maps. The updated Planning Proposal was referred to the Warringah Development Assessment Panel on 13 November 2013. The report requested advice from the Panel as to whether Council should support the referral of the Planning Proposal to the Department under the Gateway process. The recommendation provided by Council’s Group Manager Strategic Planning was as follows:

A. Support the Planning Proposal to amend Warringah LEP 2000 and Warringah LEP 2011 to rezone Lot 1 in DP 1139826, Ralston Avenue Belrose, to R2 - Low Density Residential, RE1 – Public Recreation, and E2 – Environmental Conservation with the acknowledgement that further studies and concurrences will be required in order to determine the exact extent of the residential land, asset protection zones and conservation area.

B. Support the preparation and exhibition of a Voluntary Planning Agreement that provides public benefits including;

a. Construction and dedication of public roads

b. Embellishment and dedication of a neighbourhood park

c. Construction of a section of Wyatt Avenue kerb and roadway

d. Works to the intersection of Ralston Avenue and the Forest Way

e. Delivery of future management plans, surveys and agreements including an APZ Fuel Management Plan, Vegetation Management Plan, biodiversity certification agreement/bio banking agreement

f. Construction and commitment to the ongoing maintenance of local drainage facilities

g. Provision of security to cover the developer’s obligations under the agreement

h. Any relevant monetary contributions that would normally be levied through Councils Section 94A Developer Contributions Plan.

The minutes issued by the Panel clearly stated that the planning report prepared by Urbis and submitted with the original request for the proposed rezoning was satisfactory:

The report has addressed all the requirements of s.55 of the Act:

- 1. A statement of objectives of the proposed instrument;*
- 2. An explanation of the provisions to be included;*
- 3. Justification for the objectives and the process for implementation;*
- 4. Relevant Maps;*
- 5. A community consultation process for the future (noting that it has already commenced with the first notification by Council).*

The Panel minutes state sufficient justification had been provided to advance the Planning Proposal to the Department for Gateway determination. The minutes also acknowledge that additional information would be required to further advance the Planning Proposal. Importantly, the Panel provided clear support to advance the proposal by supporting the Council Officer's recommendation to forward the Planning Proposal to the Department. The justification for the Panel decision included:

- The subject site is in proximity to an established urban area and a range of services including local commercial centres and recreation facilities.*
- The site can be serviced by utility infrastructure.*
- The majority of the proposed residential area is located along the plateau with relatively flat topography limiting the need for bulk excavation.*
- The site is not constrained by flooding or landslip.*
- The proposed dwelling density is consistent with the existing development pattern of Belrose and nearby Frenchs Forest.*

The Panel also finds the justification in the Urbis report to be persuasive, namely the consistency of the proposal with the strategic planning framework of Warringah, together with the Draft Warringah housing strategy, the social and economic outcomes, the agreement of RFS with bushfire controls to be conditioned, the low contamination risk, the lack of impact on Aboriginal Heritage, the existing social, and servicing, infrastructure in the area, and noting the offers made in the Voluntary Planning Agreement. The applicant will have to convene the various government departments in relation to meeting environmental concerns as expressed by the residents – and will have to argue a case for use of such devices as biobanking and other alternatives to full conservation, but the Panel believes that this is why there is such a process as a Gateway assessment to allow these matters to be fully considered at the right time.

The Panel agrees with the Council's assessment of this application as suitable and justified to be recommended to Council for progression to a Gateway assessment in accordance with s56 of the EPA Act. The Panel does not yet support wholesale approval of the rezoning and does not believe it is required to do so at this stage. The Panel notes the terms of the voluntary offer of the applicant and finds the items proposed to be for public purposes and of a relevant planning purpose and suitable to be offered in this situation by way of a Planning Agreement.

A report to the Council meeting on 17 December 2013 confirmed the Panel's support for advancement of the Planning Proposal. Despite the recommendation, Council resolved not to support the recommendation. No reasons or justification were provided in Council's meeting minutes or subsequent correspondence.

2.2.PRE-GATEWAY REVIEW

A request for a Pre-Gateway Review was lodged on 24 January 2014 seeking an independent review of the decision made by Council not to advance the proposal. The following table identified the way in which each of the criteria had been addressed in the Planning Proposal:

Table 1 – Pre Gateway Review Submission

Criteria for Review	Section Reference
a. has strategic merit as it:	
• is consistent with a relevant local strategy endorsed by the Director-General or	Section 4.2.3
• is consistent with the relevant regional strategy or Metropolitan Plan or	Section 4.2.1
• can otherwise demonstrate strategic merit, giving consideration to the relevant Section 117 Directions applying to the site and other strategic considerations (e.g. proximity to existing urban areas, public transport and infrastructure accessibility, providing jobs closer to home etc)	Section 4.2.4
b. has site-specific merit and is compatible with the surrounding land uses; having regard to the following:	
• the natural environment (including known significant environmental values, resources or hazards)	Section 2.2, 4.1.3, 4.3.1 and 4.3.2
• the existing uses, approved uses and likely future uses of land in the vicinity of the proposal	Section 2.1.2, 2.2, 4.1.3, 4.1.4 and 4.3.3
• the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.	Section 4.4.

The Pre-Gateway Review request concluded that the Planning Proposal was justified as follows:

- The proposal provides clear strategic and site specific benefits that contribute to the achievement of government policy regarding the provision of additional housing in a suitable location.*
- The proposal is supported by extensive technical and strategic assessments conducted over a significant period of time and in consultation with Warringah Council, and which fully satisfy Departmental Guidelines relating to information required to support Planning Proposals.*
- Extensive community and stakeholder consultation undertaken by the proponent and Council revealed strong support and recognition of the merits of the proposal with the number and nature of objections being limited given the nature of the proposal.*
- The merits of the proposal have been comprehensively evaluated by Warringah Council Planning staff with the proposal being recommended to advance to Gateway determination.*
- The proposal was thoroughly reviewed by the Warringah Development Assessment Panel and which resolved to recommend to Council that it be advanced to Gateway determination.*
- The proposal generates a wide range of significant public benefits as well as generating important social, environmental and economic benefits for the Metropolitan Local Aboriginal Land Council and its members.*

7. *The proposal represents an important precedent for the Metropolitan Local Aboriginal Land Council as properly recognised by Council staff in recommending to Council that the matter advance to Gateway determination.*
8. *Warringah Council has not provided any clear grounds upon which it has determined not to advance the proposal for Gateway determination*

The Pre-Gateway Review request was assessed over approximately 12 months with the key steps in the assessment process summarised below:

- The Department completed an initial assessment of the Planning Proposal, including consultation with Warringah Council regarding the reasons for refusing to advance the Planning Proposal. The Department resolved on 15 May 2014 to forward the Planning Proposal to the JRPP with the following recommendation:

The proposal for Lot 1 DP 1139829 (Ralston Avenue, Belrose) should proceed to Gateway with the following conditions:

- *Rezoning the subject site R2 Low Density Residential, RE1 Public Recreation and E3 Environmental Management;*
- *Introduce a minimum lot size of 600m², or lower;*
- *Apply a building height of 8.5m to land zoned R2 Low Density Residential, consistent with nearby residential areas;*
- *Any future development approval to require the potential impacts upon threatened species listed in the schedules of the Threatened Species Conservation Act 1995 and Environmental Protection & Biodiversity Act 1999 to be adequately addressed and investigated, including measures to mitigate any significant impacts; and*
- *Development will need to be designed and constructed so as to manage the potential risk from bushfire. Future development applications will need to comply with the Environmental Planning and Assessment Act 1979 and the requirements of the NSW Rural Fire Service Planning for Bushfire Protection 2006.*
- The JRPP unanimously resolved at their meeting on 23 July 2014 to proceed to Gateway on the basis of the above recommendations.
- The Department requested clarification from Council as to whether they wished to continue as the Relevant Planning Authority ('the RPA') for the post-Gateway tasks associated with the Planning Proposal. Council resolved at their meeting on 25 November 2014 to undertake to be the RPA.

The Department subsequently issued the Gateway determination on 28 January 2015 as outlined in Section 2.3 below.

2.3. GATEWAY DETERMINATION

The Gateway determination was issued by the Department on 28 January 2015 (refer to **Appendix A**). The determination enabled the Planning Proposal to proceed subject to the following conditions:

1. *Prior to undertaking public exhibition, the planning proposal is to be updated to:*
 - a) *Remove all reference to the E2 Environmental Conservation Zone, to be replaced with the E3 Environmental Management zone;*
 - b) *Demonstrate consistency with 'A Plan for Growing Sydney', released on 14 December 2014;*
 - c) *Rezone the site R2 Low Density Residential, RE1 Public Recreation and E3 Environmental Management on the Lane Use Zoning Map;*

- d) *Apply a minimum lot size of 600sqm to land rezoned R2 Low Density Residential on the Lot Size Map; and*
- e) *Apply a building height of 8.5m to land rezoned R2 Low Density Residential on the Height of Building Map.*

Note: Maps should be prepared to the standards identified in the Standard Technical Requirements for LEP Maps (Department of Planning and Infrastructure 2013).

- 2. *Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:*

- a) *The planning proposal must be made publicly available for a minimum of 28 days; and*
- b) *The relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning and Environment 2013).*

- 3. *Consultation with the NSW Rural Fire Service consistent with s117 Direction 4.4 Planning for Bushfire Protection is required prior to undertaking community consultation under section 57 of the EP&A Act. NSW Rural Fire Service is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.*

This agency advice received and the proponents proposed response to this advice should be placed on public exhibition with the planning proposal.

- 4. *Consultation is required with the following Government agencies prior to exhibition:*

- a) *Office of Environment and Heritage; and*
- b) *Transport for NSW – Roads and Maritime Services.*

The agencies are to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal. This agency advice received and the proponents proposed response to this advice should be placed on public exhibition with the planning proposal.

- 5. *A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).*
- 6. *The time frame for completed the Local Environmental Plan is to be 12 months from the week following the date of the Gateway determination.*

This report provides a comprehensive description of the proponent's response to Conditions 1, 3 and 4 to enable the Planning Proposal to be publicly exhibited in accordance with Condition 2.

3. PRE-EXHIBITION CONSULTATION WITH GOVERNMENT AGENCIES AND AUTHORITIES

This section summarises the pre-exhibition consultation which was completed in accordance with the Gateway determination. The consultation process was led by Council and included written submissions and discussions between the proponent, Council and the following Government agencies and authorities:

- NSW Rural Fire Service (RFS)
- NSW Office of Environment and Heritage (OEH)
- NSW Transport - Roads and Maritime Services (RMS)
- Transport for NSW (TfNSW)

Each of the submissions received from the above agencies and authorities and the proponent responses to their issues is summarised within the following sections. Council is required to publicly exhibit each of the submissions and responses in accordance with the Gateway determination. Copies of the technical investigations completed by the specialist consultants on behalf of the proponent are attached to this report.

3.1. NSW RURAL FIRE SERVICE

3.1.1. Pre-Exhibition Consultation

The RFS was provided with a copy of the Planning Proposal on 3 February 2015 and issued reply correspondence on 20 February 2015 which stated:

The RFS is not opposed to the development of this site in principle, however the site is exposed to a significant bush fire threat. In this regard, I wish to reiterate our concerns expressed in previous correspondence dated 6 June 2013.

- *The RFS does not support the location of asset protection zones (APZs) on land exceeding 18 degrees and recommends a modification of the lot layout.*
- *For future dwellings to be constructed on the site, the bushfire attack level (BAL) rating provided for under the Australian Standard AS 3959 Construction of buildings in bushfire-prone area is valid where the effective slope does not exceed 20 degrees. The slopes on this site often exceed this.*
- *The requirements under PBP for public roads are applicable for the road access regardless of final ownership. In this regard perimeter roads are required to have a minimum carriageway width of 8 metres and other internal roads shall have a minimum carriageway of 6.5 metres.*
- *It is noted that the road layout is changing and without a detailed design the RFS cannot provide further comment.*

The proponent submitted their response on 15 May 2015 including correspondence prepared by Travers Bushfire & Ecology in response to each of the items listed within the RFS correspondence and including:

- *An alternative solution can be developed based on a comprehensive fuel management plan. The fuel management plan will clearly identify the areas that are above 18 degrees and provide responses to the RFS by way of a detailed effective slope categorisation.*
- *The bushfire report states that the future road design is to provide for 8 metre wide perimeter roads and widths of 6.5 metres for all other roads.*
- *The proposed strategic management zone will be further refined within the fuel management plan, taking into account the natural topography, fire history and frequency, existing tracks and clearings. The fuel management plan will provide additional information*

regarding the compliance of the proposal with the NSW Planning for Bushfire Protection 2006.

- *Mountain bike riding on the Heath Trail is not critical to the Planning Proposal. However, a perimeter cycleway can be effectively integrated as part of the road, pathway and fire trail design.*

The proponent response was forwarded to the RFS for their review, with a further submission issued in reply on 26 June 2015. The key issues raised in the RFS response are listed below:

- **Asset Protection Zones (APZs)** – APZs on slopes greater than 18 degrees are generally not supported, particularly for new developments where they can be avoided by good design.
- **Fuel Management Plan** - the proposal to develop a Fuel Management Plan to address the APZs on steep slopes and construction of dwellings at the DA stage is not supported.
- **Maintenance of APZs** - the location of APZs within the residual lot is not supported due to concerns regarding maintenance in perpetuity and the potential impact on the NSW RFS and their resources.
- **Land Use Zoning of APZs** – the location of APZs within Zone E2 Environmental Conservation may conflict with the objectives of the zone given the extent of the area to be managed.

A meeting was held on-site between the proponent, RFS, Warringah Council and the OEH on 1 October 2015 to discuss the proposed response. The key responses to matters discussed on site are as follows:

- Further slope analysis plans were prepared to show the areas where APZs are located on slopes that exceed 18 degrees. Travers confirmed that these occur only in a few locations and the majority are comprised of rock ledges devoid of fuel, reducing the overall bushfire risk.
- The former E2 zone has been replaced with Zone E3 Environmental Management in accordance with the Gateway determination. The Fuel Management Plan provides a comprehensive assessment of the proposal having regard to the need to protect human life and property, as well as the ecological and environmental impact associated with the bushfire protection measures.
- The Fuel Management Plan has been updated to clarify the proposed funding and ongoing management of APZs within the E3 zone, as well as the standard requirements for residential lot owners.

Additional correspondence prepared by the RFS was issued to the proponent by Council on 23 September 2016. The undated letter indicated that the proposal had not demonstrated compliance with *Planning for Bushfire Protection 2006* (PBP) or the Section 117 Ministerial Directions. The proponent sought a meeting with the RFS, however, it was advised that a meeting could only be arranged through Council. The proponent sought a meeting via Council and prepared a detailed response dated 4 November 2016, noting:

- The proposal complies with the Section 117 Direction, the PBP and *Australian Standard AS3959 'Construction of bushfire prone areas'*.
- The Planning Proposal has been amended to address concerns raised by the RFS including increased APZs, changes to land use zone boundaries, realignment of local roads and new fire trails.
- Additional information has been provided regarding the slope gradient within the APZ to allay concerns raised by the RFS.

Council advised that a further response would be sought from the RFS as part of the public exhibition process. Each of the matters raised within the various correspondence between the RFS and the proponent has been incorporated into updated technical reports prepared by Travers Bushfire & Ecology for public exhibition with the Planning Proposal. The updated reports are outlined in detail within the following sections, with copies attached as **Appendix B** and **Appendix C**.

3.1.2. Additional Research and Investigations

Updated technical studies have been completed by Travers Bushfire and Ecology to address the issues raised by the RFS during the pre-exhibition consultation including:

- *Bushfire Protection Assessment* dated April 2017 (refer to **Appendix B**)
- *Fuel Management Plan* dated April 2017 (refer to **Appendix C**)

The updated technical studies also respond to a peer review which was commissioned by Council following the issue of the Gateway determination. The *Peer Review of Ralston Avenue Planning Proposal – Bushfire Planning* prepared by Blackash Bushfire Consulting ('the Blackash report') is not required to be prepared (or responded to) in accordance with the provisions of the Gateway determination. However, it has been addressed in detail within the updated specialist reports prepared by Travers to conclusively demonstrate that the site-specific bushfire issues can be addressed.

3.1.2.1. Bushfire Protection Assessment

The aims of the *Bushfire Protection Assessment* are listed in the report as follows:

- *Review the bushfire threat to the landscape*
- *Undertake a bushfire attack assessment in accordance with PBP*
- *Provide advice on planning principles, including the provision of perimeter roads, asset protection zones (APZs) and other specific fire management issues*
- *Review the potential to carry out hazard management over the landscape, taking into consideration the proposed retention of trees within the final development plans.*

The report responds to the RFS issues with the feasibility and management of the APZs and assesses the revised proposal, including retention and protection of the Duffys Forest and the relocated public open space. Detailed consideration is given to the compliance of the future residential development with the *Environmental Planning and Assessment Act 1979, Section 117 Direction 4.4, Planning for Bushfire Protection 2006* and *Community Resilience Practice Note 2/12 Planning Instruments and Policies*.

The report concludes that the potential bushfire risk can be mitigated by the implementation and ongoing management of the recommended bushfire protection measures, as outlined below:

- *The R2 low density residential zoning is a suitable development class and is unremarkable in comparison to other similar topographical developments.*
- *The requirements established in s.177 Direction 4.4 Planning for Bushfire Protection and Plan Sydney have been satisfied.*
- *Safe evacuation can be provided through three evacuation routes leading through established residential areas and away from the hazard.*
- *APZs can be provided that exceed the minimum requirements of PBP 2006 and AS3959.*
- *The wider landscape beyond the APZ will be managed by Strategic Fire Advantage Zones.*
- *Adequate APZ's adjacent to power lines will be implemented to ensure access is not affected by unmanaged lands.*
- *The planning proposal will improve bushfire protection measures afforded to existing development through the removal of hazardous vegetation and improved access for firefighting suppression.*
- *Costs for the development and implementation of bushfire protection measures will be imposed on the landowner and the developer.*
- *There have been no additional burdens on emergency services demonstrated.*
- *Environmental constraints have been minimised.*

The following recommendations are provided to enable the future residential development to comply or exceed the relevant bushfire protection requirements:

Recommendation 1 - APZs are to be provided to the future residential development. APZs are to be measured from the exposed wall of any dwelling toward the hazardous vegetation. The minimum APZ must be achievable within all lots fronting the bushfire hazard as nominated in Table 2.2 and also as generally depicted in Schedule 1.

Recommendation 2 – Appropriate APZ setbacks are to be provided for the future development as depicted in Schedule 1 and outlined in Table 2.2. Fuel management within the

APZs will need to be maintained by regular maintenance in accordance with the guidelines provided in Appendix 1, and as advised by the NSW RFS in their publications.

Recommendation 3 – *The surrounding lands are to be maintained in accordance with the Fuel Management Plan (2017) prepared by Travers bushfire & ecology. This plan should be linked to the Warringah bushfire risk management plan for protection of the community.*

Recommendation 4 - *Building construction standards are to be applied for future residential dwellings in accordance with Australian Standard AS3959 Construction of buildings in bushfire prone areas (2009) with additional construction requirements as listed within Section A3.7 of Addendum Appendix 3 of PBP.*

Recommendation 5 – *Public access roads are to comply with the acceptable solutions provided within Section 4.1.3 of PBP (refer Section 3.4 of this report).*

Recommendation 6 – *A fire trail system should be designed and constructed in order to link with existing peripheral trails (if possible) to ensure the ongoing management of the peripheral landscape (see Rec' 3 above) is maintained in both fire management terms and environmental protection terms. There is ample scope for this to occur.*

Recommendation 7 - *Water, electricity and gas supply is to comply with the acceptable solutions as provided within Section 4.1.3 of PBP (refer Sections 3.5, 3.6 & 3.7 of this report)*

The updated *Bushfire Protection Assessment* demonstrates that the rezoning sought by way of the Planning Proposal is appropriate, subject to the implementation of the above recommendations.

3.1.2.2. Fuel Management Plan

An updated *Fuel Management Plan* has been prepared in response to the consultation with the RFS and Recommendations 2 and 3 of the updated *Bushfire Protection Assessment* report. The aims of the *Fuel Management Plan* are listed in the report as follows:

- *carry out hazard reduction (burning and physical removal) to protect life and property*
- *carry out hazard reduction (burning and physical removal) to protect the broad range of forest resources and assets from the effects of uncontrolled wildfire*
- *implement infrastructure works that allow fuel management to occur (e.g. construction and maintenance of fire trails).*

The Plan is a living document which will be updated on a regular basis and to account for changes arising from major fire events, bushfire risk, economic circumstances, organisational responsibilities or legislation. It will facilitate ongoing management of the APZs and bushfire hazards within the Zone E3 Environmental Management land. The APZs within the Zone R2 Low Density Residential land will be managed by individual owners in accordance with conditions of consent for the future residential dwellings.

Detailed consideration is given to the protection of human life and property, as well as the ecological and environmental impact associated with the bushfire protection measures. The Plan includes a comprehensive assessment of the potential impacts of the fuel management measures on the flora and fauna identified within the ecological assessments, as well as the riparian corridors and catchment values.

The Plan divides the site into a series of 'management' zones, each of which have similar environmental, cultural and social characteristics and likely to have similar bushfire risk and bushfire behaviour:

- Asset Protection Zones
- Strategic Fire Advantage Zones
- Land Management Zones

Each of the zones includes fire management objectives, strategies and actions that are specific to the area within the zone boundary. This approach provides flexibility to facilitate the conservation of biodiversity in specific circumstances, such as the isolated occurrence of rare plant and animal species. The Plan also details the way in which the fuel management strategies and actions will be implemented, including:

- Management of works
- Environmental assessment of scheduled works
- Approvals required to undertake fuel management works
- Monitoring fuel
- Monitoring fire regimes and changes to biodiversity
- Operations works schedule
- Asset protection zones
- Fire management access
- Regular plan reviews

The updated *Fuel Management Plan* satisfactorily responds to each of the issues raised by the RFS and will form an important part of the ongoing management of the site following gazettal of the proposed rezoning and its redevelopment for residential purposes.

3.2. OFFICE OF ENVIRONMENT AND HERITAGE

3.2.1. Pre-Exhibition Consultation

The OEH was provided with a copy of the Planning Proposal in February 2015. The OEH prepared a comprehensive submission dated 27 February 2015, with the key matters identified in the cover letter:

In summary, OEH considers the current proposal cannot be supported. There are significant biodiversity issues that should be addressed at this planning stage and not deferred to development assessment stage. OEH has a number of concerns about the impacts of the proposal, but most particularly that an Environmental Management zoning for retained bushland will not ensure that the land can be appropriately protected and managed for conservation purposes.

OEH has also identified inadequacies in the ecological surveys and assessment and recommends these be addressed in order for an adequate assessment to be undertaken. In particular, an assessment of the impacts over the entire site, supported by appropriate studies is required before any consideration is given to a zoning outcome that would diminish the biodiversity values of the land. OEH also raises concern that Aboriginal cultural heritage impacts have not been appropriately assessed.

OEH strongly recommends that the current Planning Proposal be reconsidered and that Council proceed instead with Biocertification of the land. Biocertification systematically assesses the biodiversity values present across the site upfront to inform the development footprint so that impacts are avoided and/or minimised. It provides secure offsets for any residual impacts through the use of Biobanking agreements. Most importantly, it streamlines the assessment process at the development application stage reducing costs for both developers and Council as the consent authority.

The proponent submitted their response on 15 May 2015 including correspondence prepared by Travers Bushfire & Ecology that responded to each of the issues raised by the OEH, including the following:

- *It is proposed, with Warringah Council as the Planning Authority, to proceed with a formal biocertification assessment and application. Significant biometric floristic assessment has already been completed to enable the biodiversity certification to proceed.*
- *The proposed registration of the BioBank Agreement will secure the biodiversity offsets over the land that is proposed to be located within Zone E3 Environmental Management land. The BioBank Agreement management plan will clearly define the limited activities that can be undertaken on the E3 zoned land, as well as the types of uses and activities that are prohibited, providing a significantly higher level of environmental protection than the standard LEP controls.*

- *Additional ecological surveys are proposed to be undertaken following the issue of the gateway determination, detailed review of the agency referrals and having regard to relevant seasonal factors for the completion of the required investigations (refer to attached correspondence).*
- *Additional protection measures are proposed to protect the critical habitat, potentially including the use of legal covenants and physical barriers (eg enclosed outdoor runs, exclusion fencing). The final measures will be resolved upon the completion of the additional ecological survey and fuel management plan.*
- *An Aboriginal cultural heritage assessment is to be undertaken in accordance with the relevant guidelines and requirements, including consultation with Aboriginal communities.*

A further response was submitted by the OEH to Council on 30 June 2015. The key matters included:

- **Biodiversity Certification** – the OEH strongly recommend that the BAR be exhibited at the same time as the planning proposal having regard to the potential environmental impacts and benefits of a biocertification assessment process.
- **Threatened Species Surveys and Assessment** – the OEH raised concerns regarding descriptions and mapping of surveys undertaken by the proponent, including:
 - Adequacy of targeted survey for *Tetratheca glandulosa* to determine whether the offset can be achieved and/or whether the red flag could be varied.
 - Further expert report documentation or survey work to assess the Eastern Pygmy Possum.
 - Clarification of impacts on *Grevillea caleyi*, including the number likely to be impacted by the future development and the number within the offset areas and/or whether the red flag could be varied.
 - Further assessment of the red flag vegetation type - Needlebush - Banksia wet heath to determine whether a red flag variation can be considered.
 - Need for a consolidated assessment of potential impacts and higher resolution survey maps.

A meeting was held between the proponent, OEH and Council on 5 August 2015 and an on-site meeting was held with the same parties and the RFS on 1 October 2015. The issues raised in these meetings have been addressed by additional research and investigations, including target surveys and mapping of the identified species. The outcomes of these assessments are summarised within the following section of this report.

3.2.2. Additional Research and Investigations

An updated *Ecological Assessment* dated April 2017 (**Appendix D**) has been prepared to provide a comprehensive and consolidated assessment of the potential ecological impacts of the proposed rezoning, taking into account the numerous surveys undertaken over the past seven years, including:

- 2008: initial ecological surveys to identify potential ecological constraints
- 2011-2013: extensive ecological surveys, including target surveys, to define the development footprint.
- 2015: additional target survey and habitat assessment in response to OEH issues.

Ten threatened fauna species, two threatened flora species and two endangered ecological communities (EECs) were identified. Matters to be considered under the EPBC Act included two threatened fauna species and two threatened flora species. Specialist reports were prepared for four threatened fauna species (each of which is discussed further on the following page). The assessment found that the potential impacts of the proposed rezoning on threatened and rare flora species include:

- *Grevillea caleyi* – 4 specimens recorded (alive), no direct impacts expected (100% conservation of observed specimens).
- *Tetratheca glandulosa* – 151 specimens recorded, 138 likely to be impacted through development or by APZ management (91% loss to be offset, 0.01% of the regional population).
- *Eucalyptus luehmanniana* – estimated population is 3,796 of which 1,100 will be impacted by the development and APZ (approximately 29% loss).

- *Angophora crassifolia* – estimated population is 1,208 of which 254 will be impacted by the development and APZ (approximately 23.7% loss).

Ten threatened flora species were recorded within or in close proximity to the development area including:

- Powerful Owl (*Ninox strenua*)
- Eastern Pygmy Possum (*Cercartetus nanus*)
- Grey-headed Flying-fox (*Pteropus poliocephalus*)
- Eastern Bentwing-bat (*Miniopterus orianae oceanensis*)
- Little Bentwing-bat (*Miniopterus australis*)
- Little Lorikeet (*Glossopsitta pusilla*)
- Glossy Black-Cockatoo (*Calyptorhynchus latham*)
- Rosenberg's Goanna (*Varanus rosenbergi*)
- Red-crowned Toadlet (*Pseudophryne australis*)
- Giant Burrowing Frog (*Heleioporus australiacus*)

Three threatened fauna species were not recorded but considered to have varying potential to occur within the development area:

- Southern Brown Bandicoot (*Isodon obesulus*)
- Spotted-tailed Quoll (*Dasyurus maculatus*)
- New Holland Mouse (*Pseudomys novaehollandiae*)

The potential impacts were assessed in detail, including specialist advice regarding four species likely to be impacted by the proposed rezoning. The key findings for these assessments are summarised below:

- Eastern Pygmy Possum (*Cercartetus nanus*) - there is adequate habitat within the National Park and offset area to support a viable local population, subject to implementation of the mitigation measures.
- Rosenberg's Goanna (*Varanus rosenbergi*) – there is adequate surrounding habitat to maintain a viable population and the proposed future residential development is not likely to have a significant impact.
- Red-crowned Toadlet (*Pseudophryne australis*) – the proposed rezoning and development will not have a significant impact on the local population from removal or breaking of corridors. It will be necessary to implement stormwater quality and quantity measures to maintain the existing hydrological integrity.
- Giant Burrowing Frog (*Heleioporus australiacus*) – there is considerable distance to the identified breeding habitat and indirect impacts on hydrology are unlikely to impact on the local viable population, subject to implementation of the stormwater quality and quantity measures.

The report concludes that the proposed rezoning and future development has the potential to result in ecological impacts. However, the proposed biodiversity certification process would provide offset areas that are well located adjacent to the National Park. Recommendations have been made to minimise the potential adverse impacts of the proposal on the surrounding terrestrial and aquatic ecosystems, including:

- Integration of the Fuel Management Plan and Vegetation Management Plan to protect key habitat features within the APZ.
- Preparation of a Vegetation Management Plan in accordance with the detailed recommendations provided within the Ecological Assessment.
- Implementation of stormwater management measures to control the quality and quantity of stormwater runoff and avoid indirect impacts on the surrounding waterways.

- Protection and enhancement of the Eastern Pygmy-possum habitat through the implementation of the mitigation measures prior to the removal of any vegetation.
- Provision of offset areas by way of a biodiversity certification process.

The report also recommends consideration be given to installation of a fauna overpass (by others) to provide improved connectivity and secure fauna movements within the surrounding area. However, the proposed overpass would not be required to accommodate the residential subdivision of this site, having regard to the conservation outcomes of the proposal.

A *Biodiversity Assessment Report* and *Biodiversity Certification Strategy and Expert Report* have been prepared by Ecological Australia and will be publicly exhibited with the application for biodiversity certification. This has been deferred pending further consideration by Council as to whether Council wishes to be the applicant for the biodiversity application. This will be resolved following the exhibition of the Planning Proposal in accordance with the Gateway determination.

The proponent has also commissioned a specialist consultant to prepare the *Aboriginal Cultural Heritage Assessment* and undertake consultation with Aboriginal communities. Consultation has commenced and is expected to coincide with the public exhibition of the Planning Proposal in accordance with the Travers response dated 15 May 2015.

Overall, it is considered that the proposed response of the proponent, including the preparation of the updated *Ecological Assessment*, satisfactorily responds to each of the issues raised by the OEH.

3.3. ROADS AND MARITIME SERVICES

The RMS was provided with a copy of the Planning Proposal on 6 February 2015 and prepared a comprehensive submission dated 10 March 2015. The key matters in the RMS response are below.

1. *That the exhibited material includes the Transport and Traffic Report submitted with the initial Planning Proposal and the supplementary document from Transport and Traffic Planning Associates dated 27 June 2013.*
2. *That Council satisfactorily addresses any issues raised as a result of consultation with Transport for NSW (TfNSW).*
3. *That the exhibited material must provide any details of the infrastructure works and requirements that the developer has offered to provide/construct as part of a Voluntary Planning Agreement (VPA) which would be entered into with Council.*

This should also include indicative timeframes or trigger points for the provision of infrastructure works.

Note: the VPA shall be entered into (ie signed by the developer/proponent) prior to Council resolving to send the draft planning instrument to the draft planning instrument to the Minister for Planning for making.

The VPA must also ensure that the proposed 'seagull' intersection treatment at the junction of Forest Way/Ralston Avenue complies with the following requirements:

- a) *Fully funded and constructed by the developer/proponent.*
- b) *The developer/proponent will be required to submit detailed civil design plans that are designed to meet Roads and Maritime requirements, and endorsed by a suitably qualified practitioner. The design requirements shall be in accordance with AUSTROADS and other Australian Codes of Practice. The certified copies of the civil design plans shall be submitted to Roads and Maritime for consideration and approval prior to the release of the Construction Certificate by the Principal Certifying Authority and commencement of road works.*

The developer/proponent will be required to enter into a Works Authorisation Deed (WAD) with Roads and Maritime for the abovementioned 'seagull' intersection works.

Roads and Maritime fees for administration, plan checking, civil works inspections and project management shall be paid by the developer/proponent prior to the commencement of the works.

The proponent submitted correspondence in reply on 15 May 2015 which included the following:

- *It is understood that the public exhibition of the Planning Proposal would include all relevant supporting documentation, including the transport and traffic assessment.*
- *The completed Intention to Submit a Voluntary Planning Agreement Offer attached to this correspondence includes a clear commitment to the delivery of the proposed infrastructure works as previously outlined within correspondence dated 22 August 2013.*

The MLALC has prepared and submitted a draft Voluntary Planning Agreement (VPA) which incorporates the road upgrade works required by way of the RPA submission. Further details regarding the draft VPA are provided within **Section 4.2** of this report.

3.4. TRANSPORT FOR NSW

Council issued a copy of the Planning Proposal to Transport for NSW (TfNSW) on 2 February 2016, more than 12 months after the issue of the Gateway determination. TfNSW was not clearly listed as an authority to be consulted prior to exhibition. However, it is understood that feedback was sought to avoid any doubt as to whether all authorities had been consulted in accordance with the Gateway determination. TfNSW provided a submission dated 3 March 2016 which identified the following issues:

TfNSW has reviewed the proposed and supporting documentation and it is advised that the Ministerial Directions (s117 directions) Direction 3.4 – Integrating Land Use and Transport has not been adequately addressed. Further detail is provided at TAB A. Comments are also provided regarding future bus services, bus access on the proposed road network and provisions for active transport. These matters should be considered in the assessment of the planning proposal.

A response was prepared on behalf of the proponent by Transport and Traffic Planning Associates dated 9 March 2016 which included the following:

- *Bus Servicing*

Forest Coach Lines services 271, 274, 282 and 283 currently operate along Wyatt Avenue and Cotentin Road connecting to Forest Way. Whilst there are many existing dwellings along and to the south of Ralston Avenue (and along Wyatt Avenue) to the west of Cotentin Road that these buses are not able to service at present due to the termination of Wyatt Avenue.

The proposed development will extend Ralston Avenue and Wyatt Avenue to connect with a road width more than adequate for Forest Coach Lines to extend the existing services. These would then service not only the proposed new dwellings but also the significant number of existing dwellings located away from the bus route with a very minimal increase in route travel time.

It is my experience that Forest Coach Lines would embrace the opportunity to facilitate bus patronage by extending services in this way. Should Forest Coach Lines wish it would also be possible to extend the bus route to travel along the new peninsula access road particularly as it now adopts a 17m wide corridor.

It is noted that pathways along the proposed access road system will provide easy direct access between the new dwellings and Wyatt Avenue.

- *Active Transport*

As specified in the TTPA report (P17), a 2.5m shared pathway will be provided along the “circuit” roadway whilst connection of this along the existing section of Ralston Avenue and Wyatt Avenue to/from Forest Way would be a matter for Council. Council’s planning and priorities in this regard are shown on the diagram overleaf.

The *Updated Planning Proposal* provided within Section 5 of this report includes an assessment of the amended proposal in accordance with the s117 Ministerial Directions, including *Direction 3.4 – Integrating Land Use and Transport*.

4. MODIFICATIONS TO ORIGINAL PLANNING PROPOSAL

4.1. DRAFT AMENDMENT TO WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011

The original *Planning Proposal* dated April 2013 has been modified several times in responses to issues raised by Council, the Department and other Government authorities. Amendments were required in response to the preliminary assessment, Pre-Gateway Review and Gateway determination, including:

- **Land use zones:** the land use zones in the original Planning Proposal were amended as follows:
 - Zone E2 Environmental Conservation was replaced with Zone E3 Environmental Management due to concerns raised by the Department regarding the E2 zoning and site acquisition implications.
 - The RE1 Public Recreation zones were revised to enable the amalgamation of the original proposed pocket parks into a larger consolidated public open space.
 - The boundary interface between Zone R2 Low Density Residential and Zone E3 Environmental Management was amended by reconfiguration of the indicative subdivision layout and increased width of the perimeter road.
- **Minimum lot size:** the minimum lot size was increased from 550m² to 600m².

Further minor changes were made following the Gateway determination to respond to issues raised by Council, RFS and OEH during the pre-exhibition consultation (as outlined within **Section 3**). Part of the Zone R2 Low Density Residential land was changed to Zone E3 Environmental Management to facilitate the retention and protection of the Duffys Forest in the eastern part of the site. The internal roads surrounding the new E3 zoned land were also modified to accommodate the retained vegetation.

The public open space (Zone RE1 Public Recreation) was relocated to the south-west of the R2 zoned land and adjacent to the perimeter road to allow for the efficient use of part of the Asset Protection Zone. The selected location comprises appropriate topography and site characteristics, including an attractive bushland setting, to accommodate the public recreation activities. The relocation of the RE1 zone partially offset the loss of developable area associated with the retention of the Duffys Forest. However, the proposed changes to the land use zonings resulted in a reduction of the developable area as outlined below:

- The Gateway determination allowed for a total developable area of 17.79 hectares, comprising 17.59 hectares for Zone R2 Low Density Residential and 0.2 hectares for Zone RE1 Public Recreation (or 13% of the total site area, which includes the 135.3 hectare lot plus the unmade roads).
- The current Planning Proposal, incorporating the retention of the Duffy's Forest and relocated public open space has a total developable area of 17.57 hectares, comprising 17.27 hectares for Zone R2 Low Density Residential and 0.3 hectares for Zone RE1 Public Recreation (or 12.9% of the total site area).

The above changes increased the Zone E3 Environmental Management land from 118.37 hectares to 119.05 hectares (or 87.2% of the site) and a reduction in the potential dwellings from 171 lots to 156 lots.

A copy of the indicative subdivision plan which underpins the proposed LEP amendment is attached as **Appendix E**. A copy of the proposed amendments to the LEP maps is attached as **Appendix F**. An updated Planning Proposal which incorporates the above changes and the matters raised during the pre-exhibition consultation has been completed and is provided as **Section 5**.

4.2. DRAFT VOLUNTARY PLANNING AGREEMENT

The MLALC issued correspondence to Warringah Council on 22 August 2013 offering to enter a Voluntary Planning Agreement (VPA). The Letter of Offer included matters for further consideration and negotiation, however, no commitment was made until further discussions were commenced. Consideration was to be given to the inclusion of the following matters:

5.1 Approval and construction of a seagull treatment at Ralston Avenue; (Following determination of a subdivision Development Application and construction prior to the completion of subdivision works)

5.2 Implementation of a desired road layout; (To be provided prior to determination of subdivision Development Application)

5.3 The location, indicative footprint, ownership and maintenance of water management facilities (OSD and water quality) (Prior to works commencing on site)

5.4 The embellishment of the proposed park and the management and maintenance arrangements for the park. (Prior to occupation of the park lot)

5.5 The need to finalise other documents e.g. Biodiversity Certification, APZ Fuel Management Plan. (Prior to works commencing on site)

The Letter of Offer proposed to submit a draft VPA with the future DA for subdivision, with its execution upon determination of the DA. The offer was later formalised by submission of an *Intention to Submit a Voluntary Planning Agreement Offer Form* in accordance with Council's requirements. The formal offer was consistent with the original Letter of Offer, including a breakdown of the proposed contributions, timing and delivery details. It identified potential recurring costs and the way in which these would be managed. The positive planning outcomes for the people of Warringah were listed as follows:

- Provision of additional houses where existing utilities and infrastructure can be utilised.
- Delivery of public recreation areas and open spaces that meet the needs of residents and visitors.
- Formalisation of existing recreation uses (ie walking tracks).
- Preservation of the majority of the land through the biodiversity certification process.

Council issued correspondence on 31 October 2016 stating its staff had formed a preliminary view that the public benefits proposed within the draft VPA were not sufficient to gain support for the following reasons:

- *The proposed public benefits do not appear to equate to 50% of the profit uplift.*
- *The ongoing maintenance costs associated with the proposed public benefits are not acceptable.*
- *Many of the public benefits would be required as part of a development application and therefore should not be considered as an additional public benefit under the VPA.*
- *Several of the public benefits pose an unacceptable risk of environmental disturbance.*
- *There is insufficient detail regarding the proposed public benefits for the Aboriginal community. Such benefits are not contained within the revised draft VPA. Instead they are listed within the draft explanatory note, which has no legal weight and is therefore un-enforceable.*
- *Several public benefits require further detail regarding funding sources, the description of the service, description of the works, value of the works, maintenance costs and policy objectives.*
- *The use of a Fuel Management Plan to manage the Asset Protection Zones and Strategic Fire Asset Zone is not common and is only proposed because of the unusual ownership and funding arrangement of the APZ and the high bushfire risk with which the site is burdened.*

Mills Oakley prepared correspondence dated 24 November 2016 which responded to each of the above issues on behalf of the proponent. A summary of the response to the key issues raised within the correspondence is provided below.

- There is no legislative or legal requirement for MLALC to provide a 50% share of its profits or to make a VPA offer. Nor does Council's VPA Policy does not require or contemplate a profit share arrangement.
- The items to be delivered by the VPA will not pose any significant ongoing maintenance cost obligations on Council and will rectify a number of outstanding infrastructure issues (eg formed road access).

- Public benefits are provided within and outside the developable area to benefit the community, including a new 3,000m² public park, upgrades to local roads to benefit existing residents, installation of bus shelters, construction of public paths and lookouts, bike paths, trail biking paths/bush walking tracks, an outdoor gymnasium and cash contributions.
- No public benefits pose any risk of environmental disturbance. Public asset works are within existing and identified public road corridors or within asset protection zones.
- Public benefits for the Aboriginal community were included within the explanatory notes (and not in the main body of the VPA) as instructed by Council. MLALC believes they should be included in the VPA as they directly benefit Aboriginal people in the Northern Beaches LGA and Warringah. Cost estimates are provided in the explanatory notes section.
- A value schedule with approximate volume and budget costings and work description was issued to Council on 11 August 2016 providing budget estimates for each component.
- The proponent is prepared to consider community title ownership of the Asset Protection Zones. This will allow for the ongoing funding and ownership of the Asset Protection Zones in perpetuity.

The draft VPA and Explanatory Note have been updated to respond to the matters raised by Council as outlined above and facilitate the public exhibition of the draft VPA with the Planning Proposal. A copy of the draft VPA and Explanatory Note are held as **Appendix G**.

5. UPDATED PLANNING PROPOSAL

The Department of Planning and Environment guidelines *Planning Proposals: A guide to preparing planning proposals* dated August 2016 state that a planning proposal may evolve during its preparation, particularly with regard to complex proposals (refer to page 4, Section 1.1, paragraph 2).

This Planning Proposal has been subject to a lengthy assessment process as outlined within this report. Each step in the process has resulted in changes to the original proposal that was lodged with Council in April 2013. Further changes have occurred since the Gateway determination and the required pre-exhibition consultation with other Government agencies and authorities.

This section of the report provides an *Updated Planning Proposal*, incorporating each of the changes since its submission providing an updated assessment in accordance with the current Department guidelines. The *Updated Planning Proposal* has been prepared to facilitate the public exhibition and formal stakeholder consultation processes in accordance with the Gateway determination dated 28 January 2015.

5.1. PART 1: OBJECTIVES OR INTENDED OUTCOMES

The Planning Proposal aims to amend *Warringah Local Environmental Plan 2011* to enable the subdivision and redevelopment of land owned by the MLALC at Ralston Avenue, Belrose for low density residential housing, public open space and bushfire protection. It aims to redevelop 17.27 hectares (or 12.6% of the total site area) to deliver 156 residential lots and a 3,000m² public park as shown in the indicative subdivision layout plan held as Error! Reference source not found. (and **Appendix E**). The remaining 119.05 hectares will be retained as natural bushland with Asset Protection Zones and recreation trails adjacent to the future residential land.

Figure 1 – Indicative Subdivision Layout (Source: LTS Lockley, 2017)



The intended outcomes for the proposed LEP amendment remain identical to the original objectives that were listed within the *Planning Proposal* dated April 2013 and considered by the JRPP and Department in their decision to issue the Gateway determination on 28 January 2015, ie:

- *Utilise the existing assets of the MLALC through the release of land for the wider economic, cultural and social benefits of the Metropolitan Aboriginal community to meet the objectives of the provision of housing, education and employment.*
- *Allowing land owned under freehold title through the NSW Land Rights Act 1983 to be more than just symbolic, and provide economic opportunity for the Aboriginal people through the development of their own land.*
- *To provide a landmark development which has the highest regards for urban design and master planning, and at the same time deliver capacity and economic self-sufficiency. The aim is to develop individual house lots for release on the open market.*
- *Provide compatible land use zones that will create additional low density housing opportunities to meet the existing and likely future needs of the local community.*
- *Integrate the site with the broader local community through improved accessibility and connections between the adjoining established residential areas and the Garigal National Park.*
- *Avoid unacceptable impacts on the character and amenity of the adjoining and surrounding residential development by developing a range of controls that will facilitate housing that is consistent with the surrounding development and compatible with the bushland setting.*
- *Develop an integrated design solution for the site that incorporates the unique ecological and hydrological features.*
- *Utilise the established physical and social infrastructure which currently services the site and adjacent urban areas.*

The detailed research and technical investigations that have occurred since the preparation of the original Planning Proposal have clearly demonstrated that these objectives can be achieved by way of the proposed plan amendment.

5.2. PART 2: EXPLANATION OF PROVISIONS

The intended outcomes of the Planning Proposal will be achieved by:

- Amending the Warringah Local Environmental Plan 2011 Land Zoning Map Sheet LZN_003 for the MLALC site at Ralston Avenue, Belrose in accordance with the proposed zoning maps shown as **Figure 2** and **Figure 3** (and **Appendix F**) including:
 - **Zone R2 Low Density** - approximately 17.27 hectares is to be zoned to allow for low density residential dwellings.
 - **Zone RE1 Public Recreation** - approximately 3,000m² is to be zoned to facilitate the construction and dedication of public open space to Council.
 - **Zone E3 Environmental Management** - the remaining 119.05 hectares will be zoned for environmental purposes, enabling the retention of natural bushland and management of the Asset Protection Zones immediately adjacent to the proposed residential subdivision.

The above land use zones are consistent with the recommendations of the Joint Regional Planning Panel in January 2014 and the Gateway determination issued by the Department of Planning and Environment on 28 January 2015.

[illegible]

RE-ZONING

Legend:

- E3 Environmental Conservation
- R2 Residential Zone 2
- RE1 Recreational Zone 1
- MLALC Boundary

Scale: 0 50 100 150 200
1:2000

Area = 110.05ha
Area = 17.27ha
Area = 3000m²

SYDNEY EAST SUBSTATION

WYATT AVENUE

RALSTON AVENUE

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LOT 2

LOT 3

LOT 4

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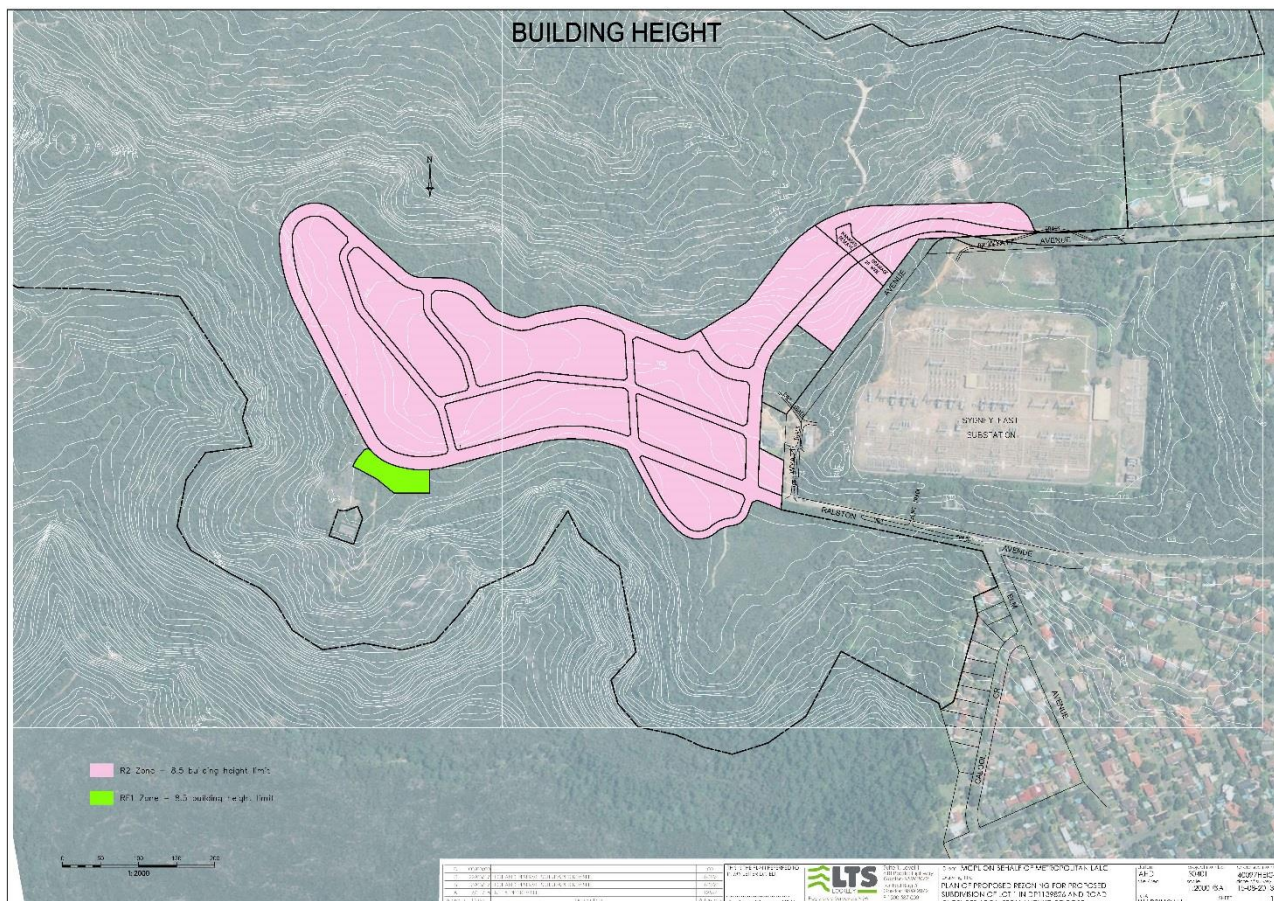
LOT 348

LOT 349</

- Amending the Warringah Local Environmental Plan 2011 Height of Building Map Sheet HOB_003 for the MLALC site at Ralston Avenue in accordance with the proposed height map shown as **Figure 4** (and **Appendix F**) which indicates a maximum permissible height of 8.5 metres for the land within Zone R2 Low Density Residential and RE1 Public Recreation.

The maximum building height is consistent with the recommendations of the Joint Regional Planning Panel in January 2014 and the Gateway determination issued by the Department of Planning and Environment on 28 January 2015. The RE1 land is also included to provide a maximum height of any potential future building in association with the public open space (eg public amenities).

Figure 4 – Proposed Maximum Building Height (Source: LTS Lockley, 2017)



5.3. PART 3: JUSTIFICATION

Section A – Need for the Planning Proposal

Q1. Is the Planning Proposal a result of any strategic study or report?

The NSW Government has identified 12 Premier's priorities and 18 State priorities to grow the NSW economy, deliver infrastructure, and improve health, education and public services across NSW. These priorities have effectively replaced the former NSW State Plans referenced in the original *Planning Proposal* dated April 2013 and the *Supplementary Planning Report* dated June 2016, including *NSW Making It Happen: State Priorities* and *NSW 2021: A Plan to Make NSW Number One*. The current focus areas outlined within the Premier and State priorities include:

Increasing housing supply

Increase housing supply across NSW - Deliver more than 50,000 approvals every year

A Plan for Growing Sydney estimates that Sydney will need 664,000 new homes over the next 20 years.

Increasing the supply of housing will put downward pressure on prices. In the 12 months to July 2015, there were 61,057 building approvals in NSW, the highest result in more than 41 years and 64.5% above the decade average.

The government is supporting future growth by establishing housing targets across NSW, and providing record allocations to the Housing Acceleration Fund to build the infrastructure to support this growth.

Better services

Improving Aboriginal education outcomes

Increase the proportion of Aboriginal and Torres Strait Islander students in the top two NAPLAN bands for reading and numeracy by 30%

The government wants all NSW school students to reach their potential, including Aboriginal and Torres Strait Islander students.

Currently, these students are under-represented in the top two NAPLAN bands and this needs to change. The government has introduced reforms to help ensure more Aboriginal and Torres Strait Islander students perform better at school.

These reforms include the Connected Communities program which builds partnerships between the school, the community and government agencies to improve indigenous education outcomes, and needs-based school funding, which provides additional resources for Aboriginal and Torres Strait Islander students to ensure they have the support they need.

The proposed rezoning will contribute to the delivery of the above priorities as outlined below:

- The proposed Zone R2 Low Density Residential land would accommodate low density dwellings to meet existing and likely future housing demand, with 156 lots at a minimum lot size of 600m².
- The proposal will deliver housing accessible to existing local and regional bus services, access to jobs within the wider north east region and the Sydney metropolitan area.
- The project outcomes mean the MLALC can deliver local support services to their community, including programmes to improve education outcomes consistent with the intended outcome:

Utilise the existing assets of the MLALC through the release of land for the wider economic, cultural and social benefits of the Metropolitan Aboriginal community to meet the objectives of the provision of housing, education and employment

It is also recognised that the Oxford Falls Valley and Belrose North precincts have been subject to a strategic review which has been undertaken concurrently with the Planning Proposal. The strategic review applies to approximately 1341.4 hectares of land deferred from the original gazettal of Warringah LEP 2011, including native vegetation, large rural-residential lots and a variety of other land use activities.

The Department issued correspondence to Warringah Council on 23 January 2015 regarding the proposed land use zones. Council subsequently prepared a Planning Proposal which (in part) sought to rezone the MLALC land to E3 Environmental Management. However, the E3 zoning for the site was based on a review for a much broader locality with significantly less detailed information compared to the Planning Proposal lodged by the MLALC (and as outlined in detailed within this report).

The detailed research and investigations undertaken in this Planning Proposal provide a comprehensive analysis of the site and its context to inform the selection of appropriate land use and built form controls. The technical reports and studies clearly demonstrate that the R2 Low Density Residential, RE1 Public Recreation and E3 Environmental Management zones are appropriate. The reports also provide a thorough assessment of the potential impacts of the future development and recommended mitigation measures to be implemented to ensure that any impacts can be satisfactorily managed.

Overall, it is considered that the Planning Proposal comprises an appropriate balance between the economic and social benefits arising from the proposed rezoning of the developable land (17.27 hectares or 12.6%) with the environmental benefits of preserving the natural bushland (119.05 hectares or 87.2%).

Q2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

The Planning Proposal is the best means of achieving the objectives and intended outcomes for the following reasons:

- The site is located close to established dwellings and local services, providing the opportunity for new residents to integrate with existing residents, utilise existing utility services infrastructure and enhance existing pedestrian connections to the adjoining National Park for the broader community benefit.
- Detailed technical studies and investigations have demonstrated the proposed rezoning and future use will not have any unacceptable environmental impacts. The indicative subdivision layout has been designed to facilitate an integrated design solution which respects the ecological features, mitigates potential adverse impacts and effectively manages stormwater to avoid downstream effects.
- The R2 Low Density Residential zoning will enable the delivery of detached dwellings that is consistent with the built form with the surrounding area, meets the needs of the existing and future local community and enables the implementation of protection measures to mitigate the potential bushfire risk.
- The rezoning will enable the economic and efficient use of land owned by the MLALC to benefit the Aboriginal community by residential sales and investment in housing, education and employment.

The Planning Proposal has been subject to a rigorous assessment process since its lodgement and will be the most effective manner to realise the objectives and intended outcomes.

Section B – Relationship to strategic planning framework

Q3. *Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?*

A Plan for Growing Sydney was released in December 2014 to guide development of the metropolitan area over the next 20 years. The proposal is consistent with the primary goals and directions as outlined below:

- *Goal 2: A city of housing choice, with homes that meet our needs and lifestyles*
 - *Direction 2.1: Accelerate housing supply across Sydney:* the proposal will deliver additional housing and increased housing choice within the Northern Beaches LGA. The site benefits from access to existing social infrastructure and public transport and can be serviced at no cost to government.
 - *Direction 2.3: Improve housing choice to suit different needs and lifestyles:* the rezoning to R2 Low Density Residential is appropriate as it will provide increased housing supply that meets the needs and demands of the local market, including families with children.
- *Goal 3: A great place to live with communities that are strong, healthy and well connected*
 - *Direction 3.1: Revitalise existing suburbs:* the proposal will provide additional housing adjacent to an established suburb with existing infrastructure, public transport and services. The proposal will benefit the existing community through delivery of additional infrastructure, including public open space, fitness equipment, bicycle paths and improved access to the National Park.
 - *Direction 3.2: Create a network of interlinked, multipurpose open and green spaces across Sydney:* the rezoning will improve linkages between the existing residential areas and the National Park. It will provide additional public open space and recreational facilities to benefit incoming and existing residents. Most of the site will be retained as natural bushland in accordance with the E3 zone.
 - *Direction 3.3: Create healthy built environments:* the proposal will contribute to a healthy built environment through delivery of local infrastructure, including multi-use paths, connections to the National Park, public open space and recreation facilities. The site is within proximity of local retail facilities and public transport, encouraging walking and cycling as means of access.
- *Goal 4: A sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources*
 - *Direction 4.1: Protect our natural environment and biodiversity:* the majority of land will be retained as natural bushland and protected by its rezoning to E3 Environmental Management.

- *Direction 4.2: Build Sydney's resilience to natural hazards:* the proposal has rigorously assessed regarding bushfire risk. The updated *Bushfire Protection Report* and *Fuel Management Plan* demonstrate that the natural hazards can be appropriately managed to provide safe evacuation beyond the acceptable solutions provided within *Planning for Bushfire Protection 2006*.
- *Direction 4.3: Manage the impacts of development on the environment:* the rezoning and indicative subdivision layout has been designed in consideration of potential building massing and orientation and BASIX compliance. The road layout can accommodate large vehicles, allowing for potential expansion of existing bus services, waste collection and recycling services vehicles.

The Draft District Plan for the North District includes priorities and actions relevant to the Planning Proposal. Each of these is identified and briefly discussed below:

- *A Liveable City*

- *Improve housing choice:* the proposed rezoning will deliver additional housing close to existing infrastructure and public transport services. The site can accommodate 156 additional residential dwellings while managing its potential environment impacts. The low density zoning will provide for detached residential dwellings and increased variety of new housing types within the LGA.
- *Create great places in the North District:* the proposal will create a high quality residential area with excellent amenity based on its location, outlook and access to public recreation. The new public open space, pedestrian/cycle paths and National Park access will promote safe and healthy places and benefit both incoming and existing residents.
- *Foster cohesive communities in the North District:* the Planning Proposal (and draft VPA) will deliver recreation and community facilities, including public open space, recreation equipment, green spaces and connections, which will be accessible to the broader community. The site layout will integrate the new and existing community by new and improved connections, including local roads, cycleways and pedestrian paths, improving access to the surrounding bushland through the site and encouraging existing and future residents to adopt an active lifestyle.
- *Respond to people's need for services:* the proposal will deliver public benefits for the local community and services that benefit the Aboriginal community, including housing, education and employment. Specific consideration is given to the provisions of the draft District Plan which state:

4.8.5 Support the Aboriginal community

Engagement with the Aboriginal community, built on trust and integrity, should be founded on a framework of self-determination and Aboriginal control, particularly in terms of the management of assets and cultural heritage, and the development of policies and strategies for economic and social opportunities.

Equity of access to appropriate whole-of-life social infrastructure can improve the Aboriginal community's health, wellbeing and economic participation. In particular, we see targeted health and education services and child care and aged care services as priorities, but would collaborate with the diverse Aboriginal communities of the North District to determine appropriate priorities

Federal and State agencies are working with Aboriginal communities, local government and service providers to deliver high quality educational and health outcomes. We support the provision of appropriate local and district social infrastructure as identified by these providers.

The proposal is a significant opportunity for the MLALC to fund and deliver programmes which meet the economic and social needs of the Aboriginal community. This is a fundamental component of the rezoning proposal and a key driver in realising the intended outcomes of the Planning Proposal.

- *A Sustainable City*

- *Protecting the District's waterways:* the *Infrastructure Services Strategy* prepared by Warren Smith & Partners and submitted with the original Planning Proposal includes a stormwater management strategy that manages stormwater quality to avoid potential impacts. Water sensitive urban design measures will reduce potential run-off volumes and pollution loads discharging from the site. The

residential subdivision will incorporate rainwater tanks, on-site detention, stormwater bio-retention systems and permeable pavements to achieve water quality and quantity targets.

- *Protecting and enhancing biodiversity:* the proposal seeks to rezone 119.05 hectares of land to E3 Environmental Management, allowing for retention of the natural bushland and provision of Asset Protection Zones and recreation trails adjacent to the future residential land.
- *Delivering Sydney's Green Grid:* the Planning Proposal will improve community access to recreation, including new pedestrian and cycle connections and public access to natural bushland and adjoining National Park. The visual amenity will be protected by retention and protection of natural bushland and restrictions on the maximum building height for future residential dwellings.
- *Creating an efficient North District:* the original Planning Proposal dated April 2013 demonstrated that the site can be serviced to accommodate low density residential development with on-site stormwater management will reduce run-off and potable water use. The site is within walking distance of existing services, including public transport. The indicative layout has been designed to accommodate the extension of the existing bus service, if considered necessary and appropriate.
- *Planning for a resilient North District:* the subdivision layout has been designed for safe evacuation of residents in the event of a bushfire. The proposed road layout and APZs have been designed to manage potential bushfire risks and the ecological values of the site. The proposal satisfactorily addresses *Planning for Bushfire Protection 2006*, the Section 117 Ministerial Directions and Australian Standard AS3959 'Construction of bushfire prone areas'.

The Planning Proposal is consistent with the goals and actions for 'A Sustainable City' in accordance with the Draft District Plan. Consideration has also been given to the *Assessment Criteria* listed within the Department guidelines as outlined below:

a) Does the proposal have strategic merit? Is it:

- ***Consistent with the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment; or***
- ***Consistent with a relevant local council strategy that has been endorsed by the Department; or***
- ***Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls.***

The proposal has strategic merit as demonstrated by its consistency with a range of key objectives, actions and intended outcomes from the draft District Plan. This includes:

- Delivery of additional housing with a high level of amenity and walking distance of existing services.
- The public open space and recreational facilities will benefit both existing and proposed future residents.
- Integration of new residents with the surrounding community, including extension of local roads and new pedestrian and cycling links, including public access through the site to the National Park.
- Funding and delivery of programmes which meet the economic and social needs of the Aboriginal community, including housing, employment, training and health.
- Environmental, social and economic sustainability measures to minimise potential impacts on the surrounding locality, manage potential risks and provide opportunities for land ownership to be more than symbolic by enabling Aboriginal people to develop their own land.

Each of these matters has been addressed in detail within the updated Planning Proposal and the previous sections of this report.

b) Does the proposal have site-specific merit, having regard to the following:

- ***the natural environment (including known significant environmental values, resources or hazards) and***
- ***the existing uses, approved uses, and likely future uses of land in the vicinity of the proposal and***

- ***the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.***

The Planning Proposal has site-specific merit in accordance with the above matters and outlined below:

- The future residents will benefit from a high level of environmental amenity from the retention and protection of the surrounding natural bushland. The bushfire management and ecological issues have been comprehensively assessed and can be satisfactorily managed to avoid any unacceptable impacts or risk to human life or safety.
- The indicative subdivision layout has been carefully designed to integrate with the surrounding locality. The proposal includes the extension of existing local roads, pedestrian connections and infrastructure that will meet the likely future demand generated by the additional residents.
- There will be adequate services and infrastructure to meet the needs of the proposed development, including utility services, daily convenience needs and public transport. The proposal can be delivered at no cost to Government with significant public benefits arising from the proponent's investment in local infrastructure as outlined within the draft VPA.

Each of these matters has been addressed in detail within the *Updated Planning Proposal* and by way of the Gateway determination issued by the Department in January 2015.

Q4. *Is the planning proposal consistent with a council's local strategy or other local strategic plan?*

The *Draft Warringah Housing Strategy* is based on dwelling targets in *Metropolitan Plan for Sydney to 2031* which was released in December 2005. This strategy was replaced by the *Metropolitan Plan for Sydney 2036* in December 2010 and *A Plan for Growing Sydney* in December 2014.

Warringah Council resolved in June 2011 to cease any exhibition or further work on the *Draft Housing Strategy* until the NSW Government confirms the reduced dwelling target proposed by Council and commits to funding arrangements for the additional infrastructure required to accommodate the additional dwellings and future residents.

Based on the above, the Draft Strategy is not considered relevant to the Planning Proposal and does not warrant further consideration within the assessment process.

Q5. *Is the planning proposal consistent with applicable State Environmental Planning Policies?*

The proposal is consistent with relevant State Environmental Planning Policies (SEPPs) as outlined below.

Table 2 – Consistency with State Environmental Planning Policies

SEPP	Proponent Response
SEPP 19 Bushland in Urban Areas	The updated <i>Ecological Assessment</i> prepared by Travers (Appendix D) demonstrates the proposed impacts can be addressed by way of mitigation measures.
SEPP No 44 - Koala Habitat Protection	The updated <i>Ecological Assessment</i> (Appendix D) confirms there are no koala habitats within the area affected by the proposed rezoning.
SEPP 55 Remediation of Land	The Environmental Investigations report lodged with the original Planning Proposal dated April 2013 confirmed the potential for contamination is low, with only minimal sampling/testing required in areas affected by illegal dumping. The potential contaminants can be managed so that the site is suitable for the proposed residential use.

SEPP	Proponent Response
SEPP (Buildings Sustainability Index: BASIX) 2004	The envisaged development concept has been designed with building massing and orientation to facilitate future BASIX compliance, which will be documented at the development application stage
SEPP (Infrastructure) 2007	The <i>Infrastructure Services Strategy</i> prepared by Warren Smith & Partners lodged with the original Planning Proposal confirmed that minor upgrades to the existing utility services can accommodate the additional residents. A new connection would be made to the existing DN100 Sydney Water main at the junction of Ralston and Elm Avenue to service the proposed development. A minor amplification of the existing water main was identified by Sydney Water in their Feasibility Letter dated 20 June 2012. The amplification includes upgrading the DN100 to a DN150 service for approximately 130m between Elm and Windrush Avenue. The indicative site layout has been designed to allow for the adjoining electricity substation, including management of bushfire risk and safe evacuation.

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The Planning Proposal is consistent with the relevant s117 Ministerial Declarations as outlined below.

Table 3 – Consistency with s117 Ministerial Directions

Direction	Proponent Response
1. Employment and Resources	
1.1 Business and Industrial Zones	This direction is not applicable to the Planning Proposal
1.2 Rural Zones	This direction is not applicable to the Planning Proposal
1.3 Mining, Petroleum Production and Extractive Industries	This direction is not applicable to the Planning Proposal
1.4 Oyster Aquaculture	This direction is not applicable to the Planning Proposal
1.5 Rural Lands	This direction is not applicable to the Planning Proposal
2. Environment and Heritage	
2.1 Environment Protection Zones	The proposal seeks to rezone 119.05 hectares (or 87.2% of the site) to Zone E3 Environmental Management The zone provisions are as per the JRPP recommendation and will not reduce the

Direction	Proponent Response
	environment protection measures that apply under the current LEP.
2.2 Coastal Protection	This direction is not applicable to the Planning Proposal
2.3 Heritage Conservation	An <i>Aboriginal Archaeological Heritage Impact Assessment</i> was undertaken and submitted with the original Planning Proposal. The assessment concluded that the proposal was unlikely to have an adverse impact upon Aboriginal archaeological heritage values and that there are no 'clear or obvious' archaeological constraints. Mitigation actions are to be implemented during the future construction to mitigate potential impacts.
2.4 Recreation Vehicle Areas	This direction is not applicable to the Planning Proposal
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	This direction is not applicable to the Planning Proposal
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	The proposal seeks to rezone 17.19 hectares (or 12.6% of the total site area) to R2 Low Density Residential which would allow for approximately 156 residential lots with a minimum size of 600m ² . The proposal will create increased housing choice within the locality. The site enjoys access to existing social infrastructure and public transport and will provide a high quality design outcome. Utility services can be provided to enable the site to be developed for residential purposes.
3.2 Caravan Parks and Manufactured Home Estates	This direction is not applicable to the Planning Proposal
3.3 Home Occupations	The Zone R2 Low Density Residential provisions prescribe ' <i>home occupations</i> ' as a mandatory use without development consent.
3.4 Integrating Land Use and Transport	The site is in walking distance of existing social infrastructure and public transport. Regional bus services provide access to and from the Sydney CBD, Chatswood and nearby suburbs. The proposed road layout allows for large vehicles and could accommodate expansion of existing bus services, if considered appropriate.

Direction	Proponent Response
3.5 Development Near Licensed Aerodromes	This direction is not applicable to the Planning Proposal
3.6 Shooting Ranges	This direction is not applicable to the Planning Proposal
4. Hazard and Risk	
4.1 Acid Sulfate Soils	The <i>Preliminary Geotechnical Advice</i> submitted with the original Planning Proposal confirms the developable area is on top of a sandstone ridge with topsoil underlain by a thin residual soil layer and sandstone. No acid sulphate soils exist on site.
4.2 Mine Subsidence and Unstable Land	The <i>Preliminary Geotechnical Advice</i> submitted with the original Planning Proposal states there was no evidence of instability within the developable area.
4.3 Flood Prone Land	This direction is not applicable to the Planning Proposal
4.4 Planning for Bushfire Protection	The Planning Proposal has been subject to a rigorous assessment of potential bushfire impacts and measures required to protect life, property and the environment. The updated <i>Bushfire Protection Assessment (Appendix B)</i> and <i>Fuel Management Plan (Appendix C)</i> respond to matters raised by the RFS and address the provisions of <i>Planning for Bushfire Protection 2006</i> . The reports include a set of detailed recommendations which will be implemented in the future subdivision and dwelling construction phases, including APZs, hazard reduction, access roads, water supply measures and the like.
5. Regional Planning	
5.1 Implementation of Regional Strategies	This direction is not applicable to the Planning Proposal
5.2 Sydney Drinking Water Catchments	This direction is not applicable to the Planning Proposal
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	This direction is not applicable to the Planning Proposal
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	This direction is not applicable to the Planning Proposal

Direction	Proponent Response
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked 18 June 2010)	This direction is not applicable to the Planning Proposal
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	This direction is not applicable to the Planning Proposal
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	This direction is not applicable to the Planning Proposal
5.8 Second Sydney Airport: Badgerys Creek	This direction is not applicable to the Planning Proposal
5.9 North West Rail Link Corridor Strategy	This direction is not applicable to the Planning Proposal
5.10 Implementation of Regional Plans	This direction is not applicable to the Planning Proposal

Section C – Environmental, social and economic impact

Q7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

The updated *Ecological Assessment* prepared by Travers includes a comprehensive assessment of potential ecological impacts of the Planning Proposal. The report concludes that the planned future development has the potential to result in ecological impacts, however, the proposed biodiversity certification process would provide offset areas that are well located adjacent to the National Park. Recommendations are provided to minimise potential adverse impacts of the proposal on the surrounding terrestrial and aquatic ecosystems

Q8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

The potential environmental effects have been assessed in detail within the original Planning Proposal lodged in April 2013 and within this updated report. The likely effects can be managed or mitigated through implementation of the recommendations within the technical reports and including:

- **Bush fire hazard:** the updated *Bushfire Protection Assessment* and *Fuel Management Plan* provide a comprehensive assessment of the potential bushfire risk and the way in which these risks are proposed to be managed. Recommendations are provided to enable the future residential development to comply or exceed the relevant bushfire protection requirements, including APZs, fuel management, building construction standards, public access roads, fire trails and utility service delivery. The implementation of these measures, including the delivery and regular maintenance of the APZs, will provide public benefits by way of increased bushfire protection to existing public and private assets within the locality.
- **Aboriginal cultural heritage:** an *Aboriginal Archaeological Heritage Impact Assessment* was submitted with the original Planning Proposal. The assessment concluded the rezoning was unlikely to have an adverse impact and there were no 'clear or obvious' constraints. Mitigation actions to be implemented during construction include briefing site contractors, monitoring vegetation clearance, potential cessation of works, education of legislative requirements and land title restrictions.
- **Stormwater and flooding:** the *Infrastructure Services Strategy* prepared by Warren Smith & Partners with the original Planning Proposal includes a stormwater management strategy that seeks to manage stormwater quality and avoid potential impacts from the future residential development. The water sensitive urban design measures will reduce potential run-off volumes and pollution loads discharging from the site. The provision of rainwater tanks, on-site detention, stormwater bio-retention systems and permeable pavements will achieve water quality and quantity targets. The implementation of these measures will provide a positive environmental impact as it will resolve the existing unmanaged stormwater run-off from the Transgrid asset area and the unformed road corridor.

- **Geotechnical issues:** preliminary geotechnical advice was also submitted with the original Planning Proposal. This advice included a range of measures to minimise potential impacts on the natural landform and comply with relevant Australian Standards and other relevant requirements. The site was considered geotechnically suitable for low density residential development.
- **Site contamination:** an environmental site assessment was prepared by Environmental Investigations and submitted with the original Planning Proposal. The report confirmed the site is suitable for residential development. Some minor sampling and testing will be required prior to development of land affected by dumping of rubbish. The proposal will also have a positive environmental impact as it will reduce the existing occurrence of illegal dumping within the unformed road corridor and the undeveloped land.
- **Traffic generation:** an *Assessment of Traffic Implications* report was prepared by Transport and Traffic Planning Associates and submitted with the original Planning Proposal. This report concluded the proposal was satisfactory having regard to road and intersection capacity, traffic related environment implications and traffic management and safety. The reduction in the potential dwelling lots would reduce potential traffic generation and impact on the local road network.

Overall, the assessment has concluded that the proposal will not result in any significant environmental effects that would preclude it from being rezoned and redeveloped for residential purposes.

Q9. *Has the planning proposal adequately addressed any social and economic effects?*

The original Planning Proposal provided a comprehensive assessment of the potential social and economic effects of the proposal. It was considered that the overall effects would generally be positive, including:

- Additional retail expenditure available to be captured by existing local centres such as Ralston Avenue Belrose, Glenrose Small Village Centre and Sorlie Road Frenchs Forest Neighbourhood Centre.
- Supporting jobs in local centres and potential to create additional retail floorspace.
- Significant direct and indirect capital investment in the (former) Warringah LGA, (former) North East Subregion and the Sydney Metropolitan Area.
- Creation of approximately 1,825 jobs directly and indirectly during the construction process.
- Employment generation during the post-construction phase including APZ maintenance.
- Social and economic benefits to the Aboriginal community through reinvestment of funds generated from the release and sale of residential lots.

The Social Impact Assessment prepared by Hill PDA (and submitted with the original Planning Proposal) found the proposal would result in positive and negative social impacts. The positive impacts included:

- Improvement in housing supply, choice and affordability.
- Improved transport accessibility and options through new roads, pedestrian/cycle paths and potential public transport expansion.
- Provision of public open space and recreation facilities, including improved access to natural bushland and the nearby National Park.

The perceived negative impacts mainly related to the construction phase, including construction vehicle traffic and temporary access restrictions. These impacts were deemed insignificant and could be mitigated and/or managed through development of a Construction Management Plan at the DA stage.

The modifications to the original proposal have reduced the Zone R2 Low Density Residential land and increased the Zone RE1 Public Recreation and E3 Environmental Management land. However, the modifications are unlikely to have any significant impacts on the findings of the original assessment. Overall, it is considered that the *Updated Planning Proposal* has adequately considered the potential social and economic effects and there will be a net benefit arising from the proposed rezoning and redevelopment of the land for residential and recreational purposes.

Section D – State and Commonwealth interests

Q10. *Is there adequate public infrastructure for the planning proposal?*

There is adequate public infrastructure available to support the proposed rezoning of the site as outlined with the original and updated Planning Proposal and as summarised below:

- **Traffic infrastructure:** the *Assessment of Traffic Implications* report submitted with the original Planning Proposal concluded the proposed rezoning was satisfactory. Additional consultation with the RMS acknowledged the proponent's offer to enter a VPA for delivery of a seagull intersection treatment at the junction of Forest Way and Ralston Avenue. The design and construction of the seagull intersection has been incorporated into the draft VPA, providing for all works to be undertaken at full cost to the proponent/developer and at no cost to government.
- **Public transport:** existing bus services within walking distance provide access to the Sydney CBD, Chatswood and nearby suburbs. Route 271 provides access from the City to Belrose via Forestville, Frenchs Forest and Glenrose, while Route 283 provides a Chatswood to Belrose loop via Ralston Avenue. The indicative subdivision layout provides for significant upgrades to the existing local infrastructure, including extension and upgrades to local roads, cycleways and pedestrian connections. The proposed residential subdivision has been designed to accommodate large vehicles and could allow for an expansion of existing bus services, if considered appropriate.
- **Stormwater management:** the *Infrastructure Services Strategy* prepared by Warren Smith & Partners and submitted with the original Planning Proposal includes a range of on-site infrastructure to achieve water quality and quantity targets.
- **Utility services:** the *Infrastructure Services Strategy* also demonstrated that adequate services can be made available to enable the site to be developed for residential purposes.
- **Waste management:** the proposed rezoning could allow for approximately 156 residential lots. The site is adjacent to an established residential area and will not result in unacceptable impacts for waste collection and recycling services.
- **Social infrastructure:** the site is well located close to established social infrastructure, including schools, public open spaces and the like. The 156 additional dwellings will not place a significant burden on existing services.

In summary, the site is well located with access to existing infrastructure and provides opportunity for improved efficiencies through the efficient use of infrastructure by the broader community.

Q11. *What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?*

The views of the State government agencies and authorities consulted prior to the public exhibition of the Planning Proposal and in accordance with the Gateway determination are documented in detail within **Section 3**.

The proponent has provided a comprehensive response to each of the matters raised in the submissions, including modifications to the original Planning Proposal as documented within **Section 4**. Detailed assessments have been provided which demonstrate that the proposed development complies with the relevant requirements, including *Planning for Bushfire Protection 2006*.

5.4. PART 4: MAPPING

The proposed changes to the Land Use Zoning and Height of Building Maps are identified within **Section 5.2** and attached as **Appendix F**. It is understood that Northern Beaches Council will produce the final maps for the public exhibition process in accordance with the Department's *Standard Technical Requirements for Spatial Datasets and Maps* and the requirements of the Gateway determination dated 28 January 2015.

5.5. PART 5: COMMUNITY CONSULTATION

The Gateway determination requires community consultation is to be undertaken in accordance with Sections 56(2)(c) and 57 and as follows:

- (a) *the planning proposal must be made publicly available for a minimum of 28 days; and*
- (b) *the relevant planning authority must comply with notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning and Environment 2013).*

The Gateway determination also required consultation to be undertaken with certain Government agencies prior to the exhibition of the Planning Proposal. This consultation has been completed and is outlined in detail within **Section 3**.

Section 5 of the Gateway determination states that a public hearing is not required to be held.

5.6. PART 6: PROJECT TIMELINE

The Gateway determination issued by the Department on 28 January 2015 provided a 12 month timeframe for the completion of the Local Environmental Plan. This timeframe has not been achieved due to the extensive consultation undertaken by Northern Beaches Council with the Government agencies listed in Sections 3 and 4 of the Gateway determination, as well as the review of additional information provided by the proponent in response to the agency submissions.

Council sought an extension to the timeframe specified within the Gateway determination by way of formal written correspondence to the Department dated 22 December 2015. Council's correspondence stated that an extension was required due to the complexity of the proposal, consultation with public authorities and seasonal nature of the field analysis and reporting for the ecological assessments. Council's letter indicated that an updated exhibition package was to be received from the application prior to the end of 2015, enabling the public exhibition of the Planning Proposal in mid-January 2016.

The proponent lodged an updated Planning Proposal in December 2015 to facilitate public exhibition from 16 January 2016. However, Council resolved to consult further with the nominated Government agencies, including TfNSW. The Planning Proposal was then required to be further updated to incorporate the additional submission and the proposed response by the proponent.

The proponent lodged a further updated Planning Proposal in June 2016 to facilitate public exhibition from mid-July. However, Council advised that further consultation was required with the OEH regarding the measures to off-set the potential ecological impacts. Since that time, Council and the proponent have met on a number of occasions to respond to additional issues raised by Council and the RFS as outlined within this report.

It is understood that the submission of this *Supplementary Planning Report and Updated Planning Proposal* will now enable the formal exhibition by Northern Beaches Council and the final assessment process in accordance with the Gateway determination.

6. SUMMARY AND CONCLUSION

This *Supplementary Planning Report and Updated Planning Proposal* provides an updated assessment of the Planning Proposal to rezone land at Ralston Avenue, Belrose.

The report has provided a comprehensive update of the planning process that has occurred since the original Planning Proposal was lodged with Warringah Council in April 2013, including issue of the Gateway determination by the Department of Planning and Environment on 28 January 2015.

The Planning Proposal has been updated to respond to each of the matters raised by the RFS, OEH, RMS and TfNSW during the required pre-exhibition consultation. The updated proposal has also been assessed in accordance with the current guidelines of the Department.

The *Supplementary Planning Report and Updated Planning Proposal* and the attached specialist reports have fully addressed the requirements of the Gateway determination. Accordingly, the Planning Proposal can now be publicly exhibited in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

DISCLAIMER

This report is dated 23 February 2017 and incorporates information and events up to that date only and excludes any information arising, or event occurring, after that date which may affect the validity of Urbis Pty Ltd's (**Urbis**) opinion in this report. Urbis prepared this report on the instructions, and for the benefit only, of Metropolitan Local Aboriginal Land Council (**Instructing Party**) for the purpose of Updated Planning Proposal for Public Exhibition and Final Assessment (**Purpose**) and not for any other purpose or use. To the extent permitted by applicable law, Urbis expressly disclaims all liability, whether direct or indirect, to the Instructing Party which relies or purports to rely on this report for any purpose other than the Purpose, and to any other person which relies or purports to rely on this report for any purpose whatsoever (including the Purpose).

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All surveys, forecasts, projections and recommendations contained in or associated with this report are made in good faith and on the basis of information supplied to Urbis at the date of this report, and upon which Urbis relied. Achievement of the projections and budgets set out in this report will depend, among other things, on the actions of others over which Urbis has no control.

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This report has been prepared with due care and diligence by Urbis and the statements and opinions given by Urbis in this report are given in good faith and in the reasonable belief that they are correct and not misleading, subject to the limitations above.

APPENDIX A GATEWAY DETERMINATION

APPENDIX B

BUSHFIRE PROTECTION ASSESSMENT

APPENDIX C FUEL MANAGEMENT PLAN

APPENDIX D ECOLOGICAL ASSESSMENT

APPENDIX E

INDICATIVE SUBDIVISION PLAN

APPENDIX F

PROPOSED AMENDMENTS TO LEP MAPS

APPENDIX G DRAFT VPA AND EXPLANATORY NOTES



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