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25 October 2017

Ms Suzy Lawrence
Senior Strategic Planner
Northern Beaches Council
by email: Suzy.Lawrence@northernbeaches.nsw.gov.au

Dear Suzy,

RESPONSE TO SUBMISSIONS | PLANNING PROPOSAL FOR RALSTON AVENUE, BELROSE

This *Response to Submissions* has been prepared on behalf of the Metropolitan Local Aboriginal Land Council ('the MLALC') and in association with a Planning Proposal for Ralston Avenue, Belrose. It responds to key issues raised during the stakeholder consultation and public exhibition of the Planning Proposal. The relevant sections are listed below:

- Section 1: State Government Authorities and Agencies
- Section 2: Utility Service Providers
- Section 3: Public Submissions

The technical matters are addressed in further detail within specialist documentation attached to this correspondence, which include:

- Emailed correspondence prepared by the NSW Office of Environment and Heritage and dated 4 September 2017
- Correspondence prepared by Travers Bushfire & Ecology and dated 25 October 2017
- *Ralston Avenue Belrose Planning Proposal: Review* prepared by Eco Logical and dated 16 August 2017
- *Noise Impact Assessment of TransGrid Substation* prepared by TTM and dated 24 October 2017
- *Revised Transport, Traffic and Accessibility Report* prepared by Transport and Traffic Planning Associates and dated September 2017

We would appreciate Council's detailed review of the proponent responses outlined within this letter and the attached documentation. Further, it would be appreciated if Council confirm next steps within the assessment process, including confirmation of the date for the matter to be reported to Council.

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1. STATE GOVERNMENT AUTHORITIES AND AGENCIES

The Planning Proposal was provided to each of the State government authorities and agencies listed on the Gateway determination dated 28 January 2015 including:

- NSW Office of Environment and Heritage
- NSW Rural Fire Service
- Transport for NSW
- Roads and Maritime Services

Each of the referral responses received from the above authorities and agencies and the proponent's response to each of their issues is outlined within the following sections of this correspondence.

1.1. NSW OFFICE OF ENVIRONMENT AND HERITAGE

The NSW Office of Environment and Heritage (OEH) provided their referral response by way of reply correspondence dated 26 June 2017. The key issue identified within the OEH correspondence related to the resolution of the biodiversity impact assessment. The concluding comments within the correspondence state:

> *OEH continues to support a biodiversity certification approach for this proposal to satisfactorily address the biodiversity issues in a strategic and systemic way. It is recommended that if biodiversity certification is to be pursued the most immediate issue requiring resolution is determining who will be the applicant for the biodiversity certification application, noting that under the current system this must be a relevant planning authority.*

The proponent agrees with the OEH that a biodiversity certification approach is the preferred mechanism to address the potential biodiversity issues associated with the proposed rezoning and future residential redevelopment. The proponent has continued to seek support from the Northern Beaches Council (in their role as the Relevant Planning Authority) to pursue a biodiversity certification approach. To date, Council has been unwilling to commit to such a process.

The *Biodiversity Conservation Act 2016* ('the Act') commenced on 25 August 2017 and there are now two potential pathways for biodiversity certification. The Act and the *Biodiversity Conservation (Savings and Transitional) Regulation 2017* ('the Regulation') include savings and transition provisions, enabling existing matters to be considered under the pre-existing requirements where the OEH considered the assessment process to be significantly advanced. Alternatively, a new application can be submitted under the provisions of the new legislation.

The OEH confirmed in emailed correspondence dated 4 September 2017 that the Planning Proposal could be considered under the savings and transition arrangements as significant assessment has been completed in accordance with the Biodiversity Certification Assessment Methodology (BCAM). The site would need to be nominated under Clause 37(2) of the Regulation within three months of commencement of the Act (by 25 November 2017). The Relevant Planning Authority would need to be the applicant and the application would need to be determined within two years of commencement of the new Act (by 25 August 2019).

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The proponent is committed to working with the Northern Beaches Council to deliver a biodiversity certification solution under the savings provisions. However, in the event that Council does not agree to be the applicant, the MLALC is now able to lodge an application directly with the OEH in accordance with the new legislation.

Additional detailed issues identified within the OEH correspondence and the proponent's response to each of these matters are addressed below:

- *Approximately 30 hectares of native vegetation is to be cleared, plus a further area for bushfire asset protection and will be substantially modified*

  The Planning Proposal seeks to rezone 17.57 hectares of land to Zone R2 Low Density Residential and Zone RE1 Public Recreation. The 17.27 hectares of R2 zoned land includes both the proposed 156 residential lots as well as the local road network to service those lots.

  The remaining 119.05 hectares of the total site area of 136.16 hectares is proposed to be Zone E3 Environmental Management. Most of the E3 zoned land is to be retained as natural bushland. Less than 10% (or 10.15 hectares) of the E3 zoned land is expected to be managed as Asset Protection Zones (APZs). The *Fuel Management Plan* prepared by Travers Bushfire & Ecology notes:

  > *Habitat retention will be a key priority for the fuel management works given the dual role that the APZs play in buffering the impacts of development on the urban/ bushland interface. Retention of trees, shrubs and surface fuels will be targeted for their intrinsic ecological value with ongoing management specified through a legally applied 'fuel management plan'.*

  Overall, the Planning Proposal seeks to redevelop 17.57 hectares of land (not 30 hectares) with a further area of 10.15 hectares to be managed as APZs in accordance with the requirements of the Fuel Management Plan, including targeted retention of vegetation to minimise potential ecological impacts.

- *The extent of clearing will result in significant impacts on threatened species and their habitat. These species are the Eastern Pygmy Possum, Red-crowned Toadlet, Giant Burrowing Frog, Rosenberg's Goanna,* Grevillea caleyi *and* Tetratheca glandulosa

  The *Ecological Assessment* prepared by Travers Bushfire & Ecology dated April 2017 provides a comprehensive assessment of the potential ecological impacts of the proposed rezoning, including those listed above. The report noted the following:

  – Eastern Pygmy Possum: there is adequate habitat within the National Park and offset area to support a viable local population, subject to implementation of the mitigation measures.

  – Red-crowned Toadlet: 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: 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.

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- Rosenberg's Goanna: there is adequate surrounding habitat to maintain a viable population and the proposed future residential development is not likely to have a significant impact.
- *Grevillea caleyi*: four specimens were recorded (alive) with no direct impacts expected from the proposed rezoning and redevelopment of the site (ie 100% conservation of observed specimens).
- *Tetratheca glandulosa*: 151 specimens were recorded, with 138 of these specimens likely to be impacted through development or by APZ management. 91% of this loss is to be offset, representing a potential impact on 0.01% of the regional population.

The proponent is seeking to implement a biodiversity certification approach to address the potential ecological impacts associated with the proposed rezoning and future residential subdivision. Further, the recommended mitigation measures, including the implementation of stormwater quality and quantity measures, can be accommodated within the future subdivision (if the rezoning proceeds to gazettal).

- *The clearing will result in impacts on ROTAP species (*Eucalyptus luehmanniana *and* Angophora crassifolia*)*

  The *Ecological Assessment* prepared by Travers Bushfire & Ecology dated April 2017 acknowledges the potential impacts on each of the above species:

  - *Eucalyptus luehmanniana* – the estimated population of 3,796, of which 1,100 will be impacted by the development and APZ, equating to an approximate 29% loss.
  - *Angophora crassifolia* – the estimated population is 1,208, of which 254 will be impacted by the development and APZ, equating to an approximate 23.7% loss.

  A *Biodiversity Assessment Report and Biodiversity Certification Strategy and Expert Report* have been prepared by Ecological Australia to address the provision of offset areas by way of a biodiversity certification process. It is anticipated that each of these documents will be publicly exhibited once it has been clarified as to whether Council wishes to be the applicant for the biodiversity application.

- *The strategy for compensating for loss of biodiversity and proposed conservation measures (ie as proposed under biodiversity certification) remains unclear, despite references to possible biobanking of land and transfer of lands to the OEH estate or co-management of the land. The Biodiversity Certification Strategy is not up to date and it does not form part of the e xhibition package*

  As noted above and outlined in detail within the Planning Proposal, the proponent is seeking to lodge an application for a biodiversity certification process. However, the Northern Beaches Council (as the relevant planning authority) is yet to resolve as to whether they will agree to be the applicant to enable the formal commencement of the assessment process. Once this matter has been resolved, the proponent will update all relevant documentation and seek the formal lodgement of an application with the OEH for their assessment.

- *OEH has not been consulted about the possible transfer of lands or co-management and no agreement has been reached*

  The biodiversity certification application is yet to be formally lodged with the OEH as outlined earlier within this report. It is intended that the off-set land area would remain within MLALC ownership and management, however, this would need to be resolved by way of further discussions and assessment of the biodiversity certification application.

- *Aboriginal cultural heritage issues identified in previous advice have not been adequately addressed*

  Dominic Steele Consulting Archaeology has continued to advance the assessment of the Aboriginal cultural heritage issues in line with the progression of the Planning Proposal, including its formal public exhibition from 27 May 2017 to 25 June 2017.

  Ongoing Aboriginal community consultation (in accordance with the OEH '*Consultation Requirements for Proponents*') with five registered Aboriginal parties (RAPs) is nearing completion. This included an on-site meeting to explain the proposal and a presentation of findings of the preliminary due diligence archaeological assessment of the land. A draft *Aboriginal Archaeological and Cultural Heritage Assessment* (AACHA) was provided to the five RAPs for review and comment, following the site meeting and distribution of minutes.

  No significant Aboriginal archaeological constraints have been identified in the draft AACHA. No previously recorded Aboriginal heritage sites will be affected and no specific areas of potential archaeological sensitivity have been identified. The most archaeologically sensitive landforms on the property comprise cliff lines and cliff tops around the site perimeter, outside of the proposed subdivision area. No significant Aboriginal cultural heritage impacts or issues have been identified through the course of consultation with the project RAPs to date.

  An updated AACHA will be submitted to Council for referral to the OEH as required for further consideration. It is anticipated that all relevant tasks will be completed by 30 October 2017.

- *Adjoining park issues (Garigal National Park) have not been addressed including unauthorised access into the park and bushfire management*

  The draft Voluntary Planning Agreement (VPA) includes a range of public benefits which address existing unauthorised access through the site to the adjoining Garigal National Park, as well as bushfire protection measures.

  This includes an upgrade to approximately 1.5 kilometres of existing walking trails/paths (valued at approximately $162,500) as well as public access to the proposed Warringah Aboriginal Nature Reserve, with direct access to Garigal National Park and cultural interpretative signage (valued at approximately $50,000 including insurance and heritage costs).

  Further, the draft VPA includes bushfire protection management of the APZ within the Zone E3 Environmental Management land (valued at approximately $350,000).

Overall, it is considered that each of the matters raised by the OEH can be addressed by way of the biodiversity certification process or have already been addressed within the additional supporting documentation lodged with the Planning Proposal, including the updated *Fuel Management Plan* and the draft VPA.

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1.2. NSW RURAL FIRE SERVICE

The proponent has continued to actively engaged with the NSW Rural Fire Service (RFS) throughout the preparation and assessment of the Planning Proposal. Ongoing meetings have been held between the MLALC (and their project team), the RFS, Northern Beaches Council and/or the Department of Planning and Environment to understand the strategic and statutory assessment issues relevant to bushfire risk and management, including their potential implications for the proposed rezoning.

The NSW Rural Fire Service ('RFS') provided their referral response by way of reply correspondence dated 18 October 2017. The RFS has advised that the proposed rezoning is not supported based on the bush fire risk to potential future residents and consistency with the S117(2) Ministerial directions. The referral response also cites concerns regarding the conceptual subdivision design and layout to meet the future requirements of PBP. Overall, the RFS considers the Planning Proposal should not proceed in its current form as it would be likely to result in unsustainable and problematic bush fire management and would place firefighting resources under increased pressure and unacceptable risk.

Detailed correspondence has been prepared by Travers Bushfire & Ecology dated 25 October 2017 which responds to each of the issues identified within the RFS referral letter. A copy of the Travers correspondence is attached to this letter, with the key matters summarised as follows:

- The RFS response does not acknowledge the significant benefit outlined with the Ecological Australia report (attached to this correspondence) which includes an improvement to the urban bushland interface should the development proceed with appropriate bushfire protection measures.
- The RFS response is a major departure from the advice previously provided by the RFS prior to the Gateway determination which stated '*The RFS has no objection in principle to the proposed rezoning of the site to allow for residential development*'. The RFS Rezoning Assessment Report stated '*There is no objection to the proposed rezoning providing the future residential subdivision complies with the requirements of PBP*'.
- Post-gateway correspondence and discussions between the proponent and the RFS focussed on technical matters, including slope and vegetation data. The RFS reconfirmed their position by correspondence to Council dated 20 February 2015 which stated '*The RFS is not opposed to the development of the site in principle*' providing the PBP matters could be addressed. Each of these matters was addressed by way of a site inspection in August 2015 and the additional assessment reports provided with the updated Planning Proposal.
- The previously stated position expressed by the RFS was revised in September 2016, when concerns were raised regarding the strategic suitability of the site. This change in approach has not been accompanied by any detailed assessment which justifies the position of opposition.
- The Planning Proposal has addressed each of the S117(2) directions and policy matters raised by the RFS as follows:

RFS Comments	Proponent Response
Not increase the risk to life from bus fires, including fire fighters	It has been demonstrated that both APZ and strategic outer fire zones can be managed to reduce the risk to new and existing dwellings and major public assets, while providing a better overall outcome for the existing Belrose interface.
Not place inappropriate development in areas exposed to an unacceptable bush fire risk	The rezoning proposes low density residential which limits inappropriate development that could introduce either more density or a need for early evacuation.
Ensure that appropriate bush fire protection measures can be afforded to properties at risk	All six of the RFS bushfire measures fully comply. APZs and perimeter roads are designed to be significant passive protection measures whilst internal roads have been designed to enable vehicle movement through the middle of the development and two separate exit routes.
Minimise negative impacts on the surrounding environment	It has been demonstrated that both APZ and strategic outer fire zones can be managed to address ecological values.
Ensure that provision is made for adequate evacuation for the community	The proposal includes two main exit routes with multiple additional road exits off Ralston Avenue. All evacuation routes have been planned to have APZs to enable safe evacuation should it be required.
Ensure that development is capable of complying with Planning for Bush Fire Protection 2006 (PBP)	The Planning Proposal complies with PBP as outlined in detail within the supporting reports. The Fuel Management Plan outlines the way in which hazard management will be undertaken in a highly detailed and fully costed manner.
The proposal requires APZs on land steeper than 18 degrees where on-going management practices are difficult. Clearing of large areas of vegetation destabilises the slope causing	This is incorrect. The development precinct has been informed by the land topography and it has been demonstrated that the APZ are not on land steeper than 18 degrees. The Fuel Management

RFS Comments	Proponent Response
erosion and the advantage of an APZ is reduced as the canopy fuels are more readily available to a fire.	Plan outlines the way in which the APZ can be managed without relying on RFS resources.
Some dwellings will be located on the interface where slopes exceeding 20 degrees. The current building standards do not provide deemed-to-satisfy provisions for the determination of the maximum desired bushfire attack level (BAL 29) in these situations.	This is incorrect. Detailed mapping has been provided to demonstrate compliance, with a site inspection in August 2015 confirming the slopes were less than 18 degrees.
The site is vulnerable at several pinch points along the perimeter road, potentially isolating the peninsular in the event of wild fire. Safe evacuation may not be readily available and with no refuge space.	It has been demonstrated that APZ are provided in the nominated locations with management procedures outlined within the Fuel Management Plan.
The proposed mitigation works to reduce bush fire risk to the site would place increased demand on resources and would not be sustainable.	The works are to be funded by the community title arrangements (similar to existing developments) and would reduce reliance on RFS resources by providing more regular maintenance of APZ area, avoiding the need for extreme hot burns which could have adverse ecological impacts. All works are fully costed and are not considered to be unsustainable.
The proposed construction of new fire trails linking with existing fire trails is not supported as the extensive engineering works would further impact the development.	There are no extensive engineering works required. The new fire trails would be constructed in accord with RFS guidelines. The fire trails are located within the APZ and would link with existing fire trails and create a better overall network which adds to better management bushland areas.

The Travers correspondence concludes:

> *The Planning Proposal has demonstrated that the S117 Directions objectives have been comprehensively addressed in the overall design. Indeed it is through this exhaustive assessment approach that enables the low density residential subdivision to be the appropriate land use for this landscape as it complies with the the S117 Directions, PBP 2006*

and the draft PBP through the significant bushfire design elements which have been proposed to be implemented.

1.3. TRANSPORT FOR NSW

Transport for NSW (TfNSW) provided their referral response in correspondence dated 20 June 2017 which included the following:

- *The provision of extending bus services through the site would be dependent on:*
  - *The delivery of bus capable roads within the site and all adjoining external connections to existing bus routes along Ralston Avenue and Wyatt Avenue; and*
  - *Funding and relevant criteria being met under the TfNSW Growth Services program.*
- *Approval of the subdivision application should be subject to the plans demonstrating the following within the public road reserve:*
  - *Transit lanes of 3.5m width;*
  - *Kerbside/parking lane of 3.0m width for bus parking;*
  - *Road widths to permit 14.5m bus turning without crossing the centreline; and*
  - *A shared pathway of 2.5m width including appropriate clearances from the roadway*
- *The draft Voluntary Planning Agreement should be revised to include the upgrade of Wyatt Avenue such that all roads along the potential bus route can be accessed by buses.*

The proponent has reviewed the above and the additional detailed information within TAB A (attached to the cover letter response). Each of the requirements listed by TfNSW can be accommodated within an updated draft VPA and the future development application for the residential subdivision of the land (assuming the rezoning proceeds to gazettal).

1.4. ROADS AND MARITIME SERVICE

The Roads and Maritime Services (RMS) provided their referral response to Northern Beaches Council by way of reply correspondence dated 18 July 2017. A copy of the RMS correspondence was forwarded to the proponent on 30 August 2017.

The RMS correspondence confirmed that they did not raise objection to the Planning Proposal. It was noted that the previous RMS advice dated 10 March 2015 which included a requirement for a seagull treatment at the Ralston Avenue/Forest Way intersection has been addressed by way of the draft VPA.

The RMS has requested that the developer/proponent be requested to enter into a Works Authorisation Deed (WAD) with the RMS for the construction of the required works. Further the draft VPA should be entered into with the Consent Authority prior to the making of the LEP and/or the DA stage.

The proponent has reviewed the RMS correspondence and confirmed that each of their requirements can be addressed within an updated draft VPA and the future development application for the residential subdivision of the land (assuming the rezoning proceeds to gazettal).

2. UTILITY SERVICE PROVIDERS

2.1. SYDNEY WATER

Sydney Water is a State Owned Corporation owned by the NSW Government which is responsible for the delivery of water and wastewater services to the Sydney metropolitan area, Blue Mountains and Illawarra region. Sydney Water provided their response by correspondence dated 21 August 2017. Each of their comments regarding water and wastewater are provided below:

> ***Water***
>
> - *The proposed site is outside of the existing water supply zones.*
> - *However, the trunk water systems from the adjacent Belrose Water Supply zone have adequate capacity to serve the proposed development of 156 low-density residential lots.*
> - *Detailed requirements will be provided when the development applications on the rezoned sites are referred to Sydney Water at Section 73 application phase.*
>
> ***Wastewater***
>
> - *The proposed site is outside of the existing wastewater servicing areas.*
> - *However, the adjacent Belrose Scamp system has adequate capacity to serve the proposed development.*
> - *Detailed requirements will be provided when the development applications on the rezoned sites are referred to Sydney Water at Section 73 application phase.*

The proponent has reviewed each of the matters listed above and has confirmed that the future development of the site can occur in accordance with Sydney Water requirements.

2.2. AUSGRID

Ausgrid is responsible for the distribution of electricity to residents and businesses via poles and wires. Their referral response was provided by reply correspondence dated 12 July 2017 and included the following statement:

> *Ausgrid requires that due consideration be given to the compatibility of proposed development with existing Ausgrid infrastructure, particularly in relation to risks of electrocution, fire risks, Electric and Magnetic Fields (EMFs), noise, visual amenity and other matters that may impact on Ausgrid or the development.*

The correspondence also confirmed that Ausgrid has granted their consent to the proposal subject to the imposition of conditions relating to a range of matters, including:

- **Supply of electricity:** a preliminary enquiry should be made to Ausgrid regarding the connection of the future development to the adjacent electricity network.
- **Conduit installation:** the need for additional electricity conduits in the adjacent footway will be assessed and documented in Ausgrid's Design Information.
- **Vegetation:** all proposed vegetation beneath overhead power lines and above underground cables will need to comply with relevant requirements.
- **Proximity to existing network assets:**
  - **Overhead power lines:** the developer will be responsible for complying with the minimum safety separation distances during the construction process, with any associated costs being borne by the developer.
  - **Underground cables:** the developer will be responsible for ensuring that construction vehicles and activities will not result in any damage to Ausgrid infrastructure and all work will comply with relevant requirements.
  - **Bushfire mitigation and access constraints with fallen conductors:** Ausgrid strongly recommend a second path of egress (such as the Wyatt Avenue extension) be suitably designed, constructed and maintained to allow the community to evacuate the area and emergency services be able to access the development at the same time.
- **Activities within or near to the electricity easement (proposed extension of Ralston Avenue):** the Ausgrid easement was acquired to protect the 132kV transmission assets and provide adequate working space along the route of the cables for construction and maintenance work. It also enables work to be controlled to avoid unsafe situations for workers or the public or a reduction in the security and reliability of Ausgrid's network. The correspondence includes 19 conditions which are proposed to apply to any activities within the electricity easement.

The proponent has reviewed each of the listed conditions and has confirmed that the future development of the site can occur in accordance with the requirements of Ausgrid.

2.3. TRANSGRID

TransGrid is responsible for the main high voltage transmission network which carries bulk electricity for delivery by distribution networks (such as Ausgrid). TransGrid provided their referral response by way of reply correspondence dated 13 July 2017, noting their site-specific interests in the proposed rezoning as follows:

> *Trangrid operates the NSW high voltage transmission line network to which the subject site is constrained by the Sydney North – Sydney East 330 kV transmission lines (Nos 1-3) and easements that are located to the north and the Sydney East substation which is adjacent to the site's eastern boundary. Transgrid's network and key assets are essential for supplying electricity to NSW and consideration must be given to any developments that are proposed to occur adjacent to those assets.*

TransGrid has objected to the Planning Proposal based on the potential risk to Transgrid's infrastructure and the safety of the public. The proponent has actively sought to engage with Transgrid

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to address their concerns, noting that the proposed future subdivision design addresses Transgrid requirements and avoids unacceptable impacts on their assets and property interests. Each of the issues raised by TransGrid and the proponent's response are outlined in the following dot points:

- **Registered easements and access:** TransGrid has raised concerns regarding the consideration given to the TransGrid easements which provide for the safety and security of the public and access to transmission lines for operation and maintenance purposes. This includes the easement for access along the centreline of the fire trail (E5), Feeder 27 (E2), access to the northern transmission line structures, satisfactory load capacities for accessways and safe clearance distances to transmission lines along the proposed road extension (E2-E6).

  The proponent has confirmed that the proposed future subdivision satisfactorily addresses the TransGrid easements. Detailed consideration has been given to each of the issues raised by TransGrid as outlined below:

  – The new public roads will be constructed in accordance with Council requirements and relevant Australian Standards, allowing for access by any registered road vehicle and/or plant and equipment.

  – A registered land surveyor was engaged to complete a survey of ground levels and existing conductor heights to confirm that adequate clearance distances are available for safe access below the transmission lines, including allowance for any potential sag during heat or heavy electrical loading.

  – The existing Heath Trail will be connected to the new public road, providing for improved access for TransGrid vehicles and associated plant and equipment.

  – The proposed future residential lots are well setback from the TransGrid easements, exceeding authority requirements by providing minimum setbacks of 30 metres to residential lot boundaries.

- **Potential for major loss of electricity supply due to bushfire:** TransGrid has advised a requirement by the RFS to shutdown the four supply lines crossing the northern road access to allow safe egress of residents in a bushfire scenario would cause significant operational issue and consequences. TransGrid would oppose any development which could increase its maintenance costs through APZ management.

  Eco Logical Australia was commissioned to review the Planning Proposal in July 2017, including a comparison of the existing bushfire risk of the urban-bushland interface with the bushfire risk of the future interface under the Planning Proposal. The *Ralston Avenue Belrose Planning Proposal: Review* prepared by Eco Logical Australia states the following regarding the TransGrid facility:

  > *If fuel management were to occur within the bushland within the TransGrid property (to lower risk to the sub-station and neighbours) the BAL exposure would drop significantly in both the existing and proposed interfaces. A detailed assessment by TransGrid of its substation bushfire risks and the potential impact of its fuel management on the existing urban interface would highlight these benefits.*

Even without TransGrid fuel management the 'shielding' associated with the planning proposal would likely decrease the severity and frequency of bushfire attack on the existing urban interface.

The TransGrid substation is substantially better protected from fire attack by the planning proposal and if fuel management were also to occur within its boundary it is possible for the radiant heat exposure to decrease well below 10 kW/m^2. It is not possible for a <10 kW/m^2 exposure without the shielding provided by the planning proposal. Given the significance of this specific substation (servicing a large part of the Sydney population and potentially thousands of houses under bushfire attack) the planning proposal is considered NOT to increase the risk to life; rather it lowers that bushfire risk.

The recommendations included within Section 8 of the report include the following:

ii. The following strategic level improvements to the planning proposal be considered:

a. The understorey and ground level fuels within the TransGrid property be maintained at an APZ standard e.g. in a management agreement between community title and TransGrid

Based on the above, it is considered that the Planning Proposal has the potential to provide a safer urban interface, including bushfire shielding benefits enhanced by in-perpetuity fuel management within the TransGrid Sydney East Substation lands. The required maintenance works could be undertaken by way of a management agreement between the community title and TransGrid to avoid increased maintenance costs to TransGrid.

- **Noise levels and proximity to critical infrastructure:** TransGrid has advised that the separation distance between the proposed residential subdivision and the substation is inadequate and may not be able to accommodate a suitable noise buffer. Further concern is raised regarding the proximity of the substation to the "bushland park" and backyards, with ball games, kite flying, etc, potentially damaging TransGrid's essential infrastructure and causing danger to the public.

  TTM was engaged to undertake an assessment of the potential acoustic impacts of the existing substation on the proposed residential properties. A copy of the *Noise Impact Assessment of TransGrid Substation* dated 24 October 2017 is attached to this letter. The report includes a detailed assessment of existing noise levels based on attended and unattended noise monitoring and analysis of relevant noise criteria. The report concludes '*The proposed residential subdivision is expected to comply with the relevant guidelines and standards with no additional noise mitigation measures required*'.

  The "bushland park" is proposed facilitate the retention and protection of the Duffys Forest in the eastern part of the site. The retention of the natural bushland means that the site will not be used for active recreation and will not pose any danger to TransGrid's essential infrastructure or a risk to public safety. The residential properties are well setback from the TransGrid boundary, with separation distances exceeding 30 metres and comprising natural vegetation and soil berms.

- **Drainage:** TransGrid has advised that there is currently a drainage issue from the stormwater and secondary oil containment tank on the southern side of the switchyard (132kV side) onto Ralston

Avenue. The drainage arrangement across Ralston Avenue is to be modified to rectify this issue. Drainage from the stormwater tank on the northern side of the switchyard (132kV side) will also need to be investigated.

The Planning Proposal recognises the importance of stormwater management to avoid, mitigate and/or manage potential impacts on the downstream waters having regard to both stormwater run-off quality and quantity. The draft VPA includes provision for the design and construction of water management facilities, including maintenance. The detailed design of the proposed stormwater management system would be undertaken as part of the development application for the residential subdivision, considering relevant Council requirements at the time of lodgement.

Overall, it is considered that the issues raised by TransGrid can be satisfactorily addressed to avoid, mitigate or manage the potential impacts to the transmission line work and the safety of the future residents and local community. The proposed rezoning and future subdivision provides an opportunity to address the existing unauthorised use of the site and improve the existing security and safety issues associated with the TransGrid assets.

3. PUBLIC SUBMISSIONS

Submissions were received from residents and land owners, special interest groups and the broader community during the public exhibition of the Planning Proposal and accompanying draft Voluntary Planning Agreement (VPA) from 27 May 2017 to 25 June 2017.

Council provided a spreadsheet on 28 June 2017 which detailed each of the submissions received via Council's on-line lodgement portal at http://yoursay.northernbeaches.nsw.gov.au/your-say-northern-beaches. The spreadsheet categorised each of the submissions regarding their relevance to the Planning Proposal and/or the draft VPA.

Copies of the lengthy on-line submissions (relating to both the Planning Proposal and draft VPA) were also provided within a Word document emailed by Council on 29 June 2017. A separate package of documentation was provided to the proponent by email on 14 July 2017 which included scanned copies of the submissions received by post or the consultation sessions run by Council during the public exhibition process.

The following section of the report summarises the key issues raised within the public submissions and outlines the proponent's response to each of these matters, having regard to both the Planning Proposal and the draft VPA.

3.1. COMPLIANCE WITH STRATEGIC PLANNING POLICY

The strategic justification for the Planning Proposal was raised regarding the relevance of *A Plan for Growing Sydney*, *Draft District Plan for North District* and the *Draft Warringah Housing Strategy*. Queries were also raised regarding the consistency of the proposal with the Section 117 Ministerial Directions and the objects of the Environmental Planning and Assessment Act 1979 (EPAA).

Each of these matters was addressed in detail within the original and updated Planning Proposal and in the decision made by the Joint Regional Planning Panel and the Minister for Planning to issue the Gateway determination on 28 January 2015. It has been clearly demonstrated that the proposed rezoning is consistent with strategic planning policy, including:

- Increasing housing supply and the diversity of new housing stock by delivery of low density residential dwellings, supplementing the medium and higher density housing options being provided within the town centres.
- Delivery of positive environmental, social and economic benefits to the Aboriginal community, including planned upgrades to land owned by the MLALC, funding for Aboriginal services and creation of employment and training opportunities.

The Planning Proposal has also been reviewed in accordance with Draft Greater Sydney Region Plan *Our Greater Sydney 2056: A Metropolis of Three Cities – Connecting People*. The Draft Plan was only recently released by the Greater Sydney Commission on 22 October 2017 (ie following issue of the Gateway determination). The Planning Proposal is clearly aligned with the following statement within the Liveability section of the Draft Plan which states:

> *Engagement with Aboriginal communities should be founded on self-determination and economic participation and mutual respect. This includes facilitating the ability of Local Aboriginal Land Councils to more readily derive economic, community and cultural use of Aboriginal land acquired under the Aboriginal Land Rights Act 1983.*

Further, the proposed rezoning and potential future residential subdivision addresses the relevant Directions and Objectives listed within the updated metropolitan plan as:

- The proposal will provide greater housing supply within 30 minutes of employment, including the Frenchs Forest Health and Education Precinct and Mona Vale Strategic Centre.
- Public and active transport links have been incorporated into the future development, including potential upgrades to existing bus services, cycleways and improved pedestrian connections between green spaces.
- The proposed biocertification approach will facilitate the preservation of natural bushland and avoid unacceptable ecological impacts.
- The maximum building heights for future dwellings have been proposed to protect existing scenic and cultural landscape values.
- Public open spaces have been designed to maintain existing public access across the site and provide additional recreation opportunities to be enjoyed by both current and future residents.
- A comprehensive assessment of potential bushfire issues has been completed, with a suite of avoidance, minimisation and management measures proposed to avoid unacceptable risks to existing and proposed residential dwellings and/or surrounding public assets.

The resident submissions also raised the inconsistency of the Planning Proposal with the Locality C8 – North Belrose provisions under *Warringah Local Environmental Plan 2000* (WLEP2000) and the strategic studies undertaken for the Deferred Lands under *Warringah Local Environmental Plan 2011* (WLEP2011).

The existing WLEP 2000 provisions for Locality C8 are not relevant to the Planning Proposal. These controls are out-dated and are proposed to be replaced with new controls under the provisions of WLEP 2011. The updated Planning Proposal acknowledged the work that had been undertaken by the former Warringah Council and the Department of Planning regarding the strategic review of the

Deferred Lands. However, this Planning Proposal provides a more comprehensive analysis of the specific characteristics of this site to demonstrate its suitability for the proposed land use activities.

Overall, the original and updated Planning Proposal and the associated Gateway determination have clearly demonstrated the strategic justification for the proposed rezoning having specific consideration to the strategic planning policies relevant to the site and its local and regional context.

3.2. LAND USE ZONES

The appropriateness of the R2 Low Density Residential land use zoning was raised by land owners and residents. Some submissions suggested that the proposed future redevelopment of the site should accommodate a greater variety of housing options, including medium density housing to provide increased affordability for young families or older single people wishing to downsize within the local area. Conversely, other submissions suggested that the density of the proposed development should be reduced to be more compatible with the larger rural-residential lots within the surrounding locality.

Concern was also raised regarding the types of uses that are permitted within Zone R2 Low Density Residential and the opportunity for denser types of development to be proposed within the future residential subdivision, including affordable housing or seniors living developments. Other issues were raised regard the location, size and functionality of the proposed Zone RE1 Public Recreation land and the appropriateness of the Zone E3 Environmental Management land use provisions to achieve environmental protection.

Each of the issues raised has been addressed within the updated Planning Proposal and as summarised below:

- *Zone R2 Low Density Residential*: the proposed R2 zone will enable the delivery of detached dwellings consistent with the built form with the surrounding area and with relevant protection measures to mitigate the potential bushfire risk. Consideration was given to the potential opportunity to accommodate medium density housing within part of the developable area of the site. However, the final scheme was limited to Zone R2 Low Density Residential with a minimum subdivision size of 600m^2 to provide a scale and character compatible with the existing low density residential dwellings to the east.
- *Zone RE1 Public Recreation*: one of the earlier proposed residential subdivision schemes included several smaller pocket parks throughout the residential subdivision. This proposal was amended at the request of Council to provide an amalgamation of the smaller open spaces with a single large public open space centrally located within the proposed residential subdivision. The final location and configuration of the RE1 Public Recreation zone was proposed to take advantage of existing views and proposed pedestrian and cycle linkages between the established residential areas to the west and the informal access trails to the retained bushland areas and National Park to the west.
- *Zone E3 Environmental Management*: the original Planning Proposal dated April 2013 was updated to replace the E3 Environmental Management zoning with Zone E2 Environmental Conservation. However, the Joint Regional Planning Panel would not support the proposed E2 zone due to concerns regarding the potential implications for land acquisition. The Gateway determination by the Department issued on 28 January 2015 required the removal of all

references to the E2 zone and its replacement within the E3 Environmental Management zone. The subsequent expansion of the E3 Environmental Management zone is considered appropriate to enable the retention and protection of the Duffys Forest in the eastern part of the site.

In summary, the proposed land use zoning provisions are entirely consistent with the Gateway determination and the findings of the additional ecological investigations undertaken in response to the pre-exhibition consultation with the NSW Office of Environment and Heritage.

3.3. URBAN DESIGN AND BUILT FORM

A range of urban design and built form issues have been identified within the public submissions, including the indicative layout of the future residential subdivision, the scale, character, materials/finishes and visual impacts of the future dwellings and the compatibility of the proposal with the established residential suburbs.

The Planning Proposal includes LEP provisions appropriate to address the siting and layout of the proposed future residential development, including land use zoning, minimum lot size and maximum building height controls. If necessary, site-specific detailed requirements could be prepared to guide the future subdivision and dwelling designs upon the gazettal of the proposed rezoning.

However, *Warringah Development Control Plan* already includes a comprehensive set of controls to guide the built form of future development and detailed measures to mitigate or minimise the potential impact on the natural environment. It is likely that the existing development controls would be sufficient to satisfactorily address each of the concerns raised within the resident submissions.

3.4. TRANSPORT, TRAFFIC AND ACCESSIBILITY

The public submissions raise concerns regarding transport accessibility and local traffic congestion, including the cumulative effects arising from the existing and approved developments within the locality. Specific examples cited within the submissions included the increased capacity of John Colet Public School, the redevelopment of Glenrose Shopping Centre and the significant infrastructure works associated with the Northern Beaches Hospital.

Concerns are also raised regarding the adequacy of the proposed seagull intersection and the potential need for a signalised intersection to Forest Way. Local specific issues were also identified regarding the width of the proposed Wyatt Avenue extension to accommodate emergency vehicles and parked cars and the connectivity between existing residential areas and adjoining bushland, including the need for upgrades to the existing footpaths. The potential benefits of the bus link were recognised within several resident submissions, however, concerns were raised regarding the lack of certainty associated with its delivery.

Transport and Traffic Planning Associates were engaged to prepare an updated transport and traffic impact assessment to respond to the concerns raised within the public submissions. A copy of the *Revised Transport, Traffic and Accessibility Report* dated September 2017 has been submitted to Council in association with this *Response to Submissions* report. An extract from Section 9 which outlines the conclusions of the updated assessment are provided below:

- *the envisaged development will not result in any adverse traffic implications (subject to the formalisation of a "seagull" arrangement at the Forestway/Ralston Avenue intersection)*

- *the envisaged access road system will accommodate all vehicles requiring to access including buses*
- *the "traffic" issues raised by the authorities and the community have been addressed and suitably responded to*

Further to the above, the draft VPA includes the design and construction of approximately 800 metres of new Council footpaths along the existing Ralston Avenue and Wyatt Avenue road reserves, plus an additional 3,700 metres of new footpaths within the development site. The new footpaths will improve the existing access from the established residential suburbs to the natural bushland to be retained on the MLALC owned land and the adjoining Garigal National Park.

Transport for NSW (TfNSW) has advised that the proposed extension of the bus services through the site would be dependent on the design of the local roads within the future subdivision and funding and relevant criteria being met under the TfNSW Growth Services program. Approval of the future development application for the residential subdivision would depend on the plans demonstrating compliance with a range of criteria, including land widths, parking lanes and shared pathways. TfNSW has also advised that the draft VPA should be revised to include the upgrade of Wyatt Avenue so that all roads along the potential bus route can be accessed by buses.

3.5. PUBLIC RECREATION AND ACCESS

Local residents, land owners, special interest groups and the broader community have raised issues regarding the retention of access to bushland. The resident and land owner submissions are generally focussed on walking, dog walking and jogging, while the special interest groups and the broader community are particularly concerned about access to mountain biking and horse riding trails. Submissions from individuals and groups associated with mountain biking have requested provision is made for biking trails within the draft VPA.

The Planning Proposal and accompanying draft VPA include a range of public benefits, including improved access to the natural bushland on the MLALC site and the adjoining Garigal National Park. The approximately 1.5 kilometres of existing walking trails on the MLALC owned land which provide access to the National Park will be upgraded at an estimated cost of $162,500. Public access will also be provided to the Warringah Aboriginal Reserve which provides direct access to the adjoining National Park. The new public recreation facilities will include a 3,000m^2 public park with an outdoor gymnasium, running track and pedestrian/cycle paths.

Detailed consideration has been given to the issues raised by local residents and the broader community within the submissions received during the public exhibition of the Planning Proposal. Provision has been made within the draft VPA for public access through the future residential subdivision and part of the MLALC land which is to be retained as natural bushland. However, the conflicting views of the OEH and Northern Beaches Council regarding mountain bike access will need to be resolved during the final assessment of the Planning Proposal and updates to the draft VPA, as considered appropriate and necessary.

3.6. BUSHFIRE PROTECTION

The public submissions raise concerns regarding the potential bushfire risk associated with the residential rezoning, including the proximity of the site to the electricity substation and the potential

impact on safe evacuation routes. Concerns are also raised regarding the future maintenance of the Asset Protection Zones and the potential implications for the existing residential dwellings, particularly with the potential impacts of climate change and the likelihood of more extreme bushfire events.

Each of the issues raised within the submission has been addressed in detail within the Planning Proposal documentation, including the updated technical studies prepared by Travers Bushfire & Ecology (*Bushfire Protection Assessment* dated April 2017 and *Fuel Management Plan* dated April 2017), and the updated draft Voluntary Planning Agreement prepared by the proponent.

A further report was commissioned and prepared during the preparation of the response to submissions. The *Ralston Avenue Belrose Planning Proposal: Review* prepared by Eco Logical includes a comparison of the existing bushfire risk of the urban-bushland interface with the bushfire risk of the future interface under the Planning Proposal. This report concludes (in part):

> *The highest risk to life and property in the locality is not associated with new development, but with older housing stock and the existing urban interface. It is rare that that the bushfire risk to a problem older interface can be improved to the extent that this proposal offers. This review shows that under an FFDI 100 and in unmanaged vegetation, a bushfire attack from as far away as Mona Vale Road would place at extreme risk about 270 lives who would need to refuge in 104 'non-compliant' dwellings at the current urban interface. Also the failure of the TransGrid substation and the Telstra communication tower in a bushfire attack would significantly extend the loss of life. A reduction of these risks is unlikely achievable by any other means than a planning proposal similar to that reviewed.*

Detailed correspondence has also been prepared by Travers Bushfire & Ecology dated 25 October 2017 which responds to the potential bushfire risks. A copy of the Travers correspondence is attached and described in detail within Section 1.2 of this correspondence.

3.7. ECOLOGICAL IMPACTS

Further to the above bushfire matters, many of the public submissions also raise concerns regarding the potential ecological impacts arising from the proposed rezoning and future residential development, including:

- Impacts on flora and fauna and bushland connectivity
- Impacts on Garigal National Park arising from increased public access and weed invasion
- Roadkill from increased traffic movements and conflicts between native fauna and domestic pets
- Lack of detail and certainty on biodiversity off-sets

The potential ecological impacts of the proposal have been comprehensively addressed within the *Ecological Assessment* prepared by Travers Bushfire & Ecology dated April 2017 and ongoing dialogue with the NSW Office of Environment and Heritage since the issue of the Gateway determination in January 2015. The following specific comments are made in response to each of the specific issues listed above:

- The potential impacts of the proposed rezoning and potential future residential development were considered in detail within the *Ecological Assessment* dated April 2017. The assessment indicated that connectivity through the local surrounding bushland will remain and isolation and fragmentation of habitat is not expected.
- The *Ecological Assessment* considered the direct, indirect and cumulative impacts of the proposed rezoning, including the potential effects on the adjoining bushland and Garigal National Park. Stormwater management measures are to be implemented to control the quality and quantity of stormwater runoff. The proposed upgrades to the existing walking trails/paths to the Garigal National Park and the Warringah Aboriginal Nature Reserve considered the competing interests and contrary views of the local and broader community. The proposal represents a balanced response which facilitates ongoing enjoyment of the natural bushland, with appropriate measures to minimise potential ecological impacts.
- Perimeter fencing is proposed to be installed along the external boundary of the Asset Protection Zone. The proposed fencing will reduce the likelihood of native fauna crossing the new public roads, as well as the opportunity for introduced species (domestic pets) to enter the natural bushland. Further, the residential subdivision is proposed to be a Community Title arrangement which will allow for site-specific controls to be imposed on future land owners regarding the ownership and/or management of domestic pets.
- The proponent is committed to pursuing a biodiversity certification approach and has continued to seek support from the Northern Beaches Council to commence the formal application process using the BCAM procedures. Council is still required to be the applicant under the new legislation using the savings and transition provisions. Alternatively, the MLALC may lodge an application directly with the OEH in accordance with the new requirements.

Overall, it is considered that the potential impacts can be satisfactorily mitigated and/or managed through the biodiversity certification process and the ongoing management of the residential lots by way of the Community Title scheme.

3.8. OTHER AMENITY IMPACTS

A range of other potential amenity impacts were raised by nearby land owners and residents in their submissions, including:

- Health impacts from adjoining electricity substation
- Noise impacts from additional residents on existing residential suburbs
- Construction impacts on local community including noise and traffic

Each of the above matters is responded to as follows:

- The separation distance between the future residential properties and the electricity substation exceeds the minimum setback requirements.
- It is considered unlikely that the proposed rezoning and potential future residential development would have a significant detrimental noise impact on the locality.

- Any potential impacts associated with the construction process associated with the residential subdivision and dwelling construction would be temporary and managed as part of the development application assessment process.

Overall, it is considered that the proposed rezoning and potential future low density residential subdivision would be unlikely to have a significant impact on the amenity of the existing residential dwellings within the locality.

3.9. ECONOMIC AND SOCIAL IMPACTS

The public submissions include a broad range of views on the potential economic and social impacts of the proposed rezoning and potential future residential development, including both positive and negative views. The issues raised within the submissions have included:

- Recognition of the positive financial outcomes and associated benefits to assist with housing, employment and education for Aboriginal people
- General objections to the development of land that was subject to an Aboriginal Land Claim and/or land that is owned by the Metropolitan Local Aboriginal Land Council
- Concerns regarding the potential for the proposed rezoning to set a precedent for the rezoning and redevelopment of other non-urban land within the locality
- Lack of diversity of housing to meet the changing needs of the local population and/or affordable housing for key workers
- Social infrastructure demands and potential capacity issues associated with proposed dwellings and future population (eg public schools, sporting fields, etc)
- Implementation of Crime Prevention Through Environmental Design principles, including siting and design of public open space, street lighting and the like

Each of the potential economic and social benefits and impacts has been considered in detail within the updated Planning Proposal and draft VPA. The key responses to the issues identified above are summarised below:

- The key purpose and intended outcomes from the rezoning proposal are to achieve positive economic and social outcomes for Aboriginal people. This includes the achievement of a positive financial return on a small portion of the land owned by the MLALC, as well as direct and indirect benefits associated with the redevelopment and sale of the residential housing lots.
- The *Aboriginal Land Rights Act 1983* enables Aboriginal Land Councils to make a claim for certain Crown lands as compensation to the Aboriginal people for past injustices, including the dispossession of their land by European colonisation. There is no requirement within the *Aboriginal Land Rights Act 1983* to establish a cultural association with lands when making land claims as suggested within the public submissions. Further, the transfer of land subject to a successful claim is made by way freehold title, enabling the Aboriginal Land Council to decide whether to sell, redevelop and/or retain land under their ownership.

The Planning Proposal seeks to facilitate an economic return on a small component of their land, while retaining the majority as natural bushland, including biodiversity off-sets to mitigate the potential ecological impacts of the potential future residential development. This is considered entirely appropriate and in accordance with the intended purpose and detailed provisions of the *Aboriginal Land Rights Act 1983*.

- As previously discussed within Section 5.2 of this report, the Zone R2 Low Density Residential provisions were considered appropriate based on the compatibility with the scale and character of existing dwellings within the locality and to minimise potential bushfire risk. The final proposal represents a balance between achieving a satisfactory financial return for the MLALC and minimising the potential impacts on the surrounding established suburbs.
- The potential social infrastructure demands associated with the proposed rezoning were addressed in detailed within the original Planning Proposal dated April 2013, including the *Open Space and Recreation Study* prepared by Gondwana Consulting, the *Housing Needs Study* prepared by Hill PDA and the *Social Impact Assessment* prepared by Hill PDA.

  Each of the supporting studies was considered in the pre-gateway review assessment process undertaken by the Joint Regional Planning Panel and the decision by the Department of Planning to issue a Gateway determination for the Planning Proposal in January 2015. The updated draft VPA which accompanies the Planning Proposal includes a range of public benefits for both existing and likely future residents, as well as the payment of Section 94A Contributions to meet the likely social infrastructure demands generated by future residents.
- It is likely that the proposed residential dwellings would result in a reduction (rather than an increase) in any existing anti-social behaviour through increased passive surveillance. However, detailed consideration will be given to CPTED principles during the preparation and assessment of any future development application for the residential subdivision of the site.

Overall, it is considered that the proposed rezoning and future residential subdivision would result in significant social and economic benefits for Aboriginal people in accordance with the objectives of relevant legislation. The potential impacts of the proposal on the immediate locality have been assessed in detail and the public benefits outlined within the draft VPA would off-set any increased demand for services, as well as providing infrastructure upgrades to benefit existing and likely future residents.

3.10. DRAFT VOLUNTARY PLANNING AGREEMENT AND PUBLIC BENEFITS

Some submissions received in response to the public exhibition of the draft VPA raised concerns regarding the level of community benefit outlined within the proponent's offer and the level of detail regarding the infrastructure upgrades, including the proposed roadworks and Aboriginal Nature Park.

The proponent has reviewed each of the submissions and considers that the public benefits provided within the draft VPA are significant and will enhance the amenity of the site and facilities within the locality. The proposed offer includes a new 3,000m^2 public park, local road upgrades, bus shelters, public paths and lookouts, bike paths, trail biking paths/bush walking tracks, an outdoor gymnasium and cash contributions. It also provides public benefits for the Aboriginal community within the Northern Beaches LGA and the broader metropolitan area.

A value schedule is provided to outline the budget estimates for the various components of the draft VPA. Further detail regarding the infrastructure upgrades will be provided at the DA stage, including detailed design of the proposed public park, local roadworks and the like. This is entirely appropriate and consistent with standard planning processes.

If you have any questions please don't hesitate to contact me on (02) 8233 9931.

Yours sincerely,

Jennifer Cooper
Director