

## **Attachment 3 – Part B –**

### **Submissions received on the Draft Strategic Review Report**



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# Submission to the E3 Strategic Review committee by Warringah Urban Fringe Association

## 2 December 2012

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## **Executive Summary**

The Warringah Non-Urban Lands Study (NULS) carried out by Warringah Council classified all land in the proposed E3 area into one of four categories based on the Environmental Value of the land. In the NULS report, almost none of the privately owned land (excluding land owned by the Metropolitan Local Aboriginal Land Council [MLALC]) was classified as having high environmental value. As the Department of Planning's Practice Note (PN09-002) states that "The Environment Protection zones E2 through to E4 are applied where the protection of the environmental significance of the land is the primary consideration", there would appear to be no valid reason that any of the privately owned land (excluding land owned by the MLALC) in the proposed E3 area should be zoned as either E2, E3 or E4. Many land parcels in the proposed E3 area were categorised in the NULS as "having potential for higher intensity development and land uses". Some of the land covered by the NULS has since been rezoned as residential.

The residents of the E3 Strategic Review area do not want to be zoned as E3 (Refer to the results from WUFA's survey on page 30 of this report). The residents would like their land zoned as a combination of Rural (RU4), Large Lot Residential (R5), Low Density Residential (R2) and Medium Density Residential (R3).

## **Background of WUFA**

On 27 July 2011 there was a community meeting where all owners of land were invited to attend and discuss the proposed zoning of their land as E3. Our Local Member of Parliament, Local Councillors, staff from the Department of Planning, staff from Council and land owners affected by the E3 zoning were invited to attend. John Holman presented a summary of the E3 issues and then Malcolm Ryan (Deputy General Manager, Environment, Warringah Council) presented Council's position, followed by a presentation by Juliet Grant (Regional Director - Sydney Region East, Department of Planning). There were 150 landowners that attended this meeting. After all of the presentations, a vote was taken and 98% of landowners voted that E3 was not an appropriate zoning for the area.

Warringah Urban Fringe Association (WUFA) was formed soon after this meeting in August 2011. WUFA advocates for the views of all owners of land in the E3 area to be taken into consideration in deciding the correct zoning for all land in the proposed E3 area. WUFA represents over 150 landowners.

## **The E3 Strategic Review Process**

### **Community Consultation**

The process of community consultation undertaken with LEP2009 over E3 was unacceptable. The only acceptable process for the community engagement is that the E3 Strategic Review committee liaise with the community, carry out individual site visits and negotiate what planning controls are to be used prior to formulating any formal document for public approval.

WUFA intends to keep this Strategic Review honest and facilitate the community's views on the zoning of our properties. We will not let the community consultation phase of the E3 Strategic Review be a tick the

box community consultation. We are going to ensure the community is involved and agrees on the outcomes of this Strategic review. WUFA wants a shared vision by all stakeholders.

### **Ingleside and Terrey Hills**

When the Minister for Planning (Brad Hazzard) deferred the E3 area from LEP2009, we believe the whole E3 area should have been deferred. Instead only the localities of Oxford Falls Valley and Belrose North were deferred. This left approximately 12 properties that were zoned E3 in WLEP2011 where property owners did not want to be zoned E3.

We believe this may be a simple oversight because the E3 area is often referred to as affecting Oxford Falls and Belrose North. The E3 area includes a small number of properties in Terrey Hills & Ingleside, namely:

- five (5) lots along the Southern side of Mona Vale Road, Terrey Hills
- two (2) lots in Kamber Road, Terrey Hills and
- five (5) lots on Kimbriki Road, Ingleside.

The above properties should be analysed for correct zoning as part of the E3 Strategic Review process.

## History

### History of Planning in the proposed E3 area

Prior to 1974 the proposed E3 area was zoned Rural. The minimum lot size was 5 acres. In 1974, the majority of the land in the area was owned by two major landowners, Hawker-Siddeley owned 2,394 acres and the Department of Lands owned 2,096 acres. Hawker-Siddeley proposed subdividing their land into a large quantity of small lots (which was allowable under the then current zoning). Because of concerns about the effect of stormwater flowing into Narrabeen Lagoon from the increased development, the NSW State Government put in place Interim Development Order 51 (IDO51) to temporarily stop development in the area “until such time that detailed planning of the area could be undertaken”. Refer to Appendix A for articles from the Manly Daily about IDO51.

In 1974 Elected Councillors from Warringah Council were against the provisions of IDO51. In a negotiated settlement with Hawker-Siddeley, Hawker-Siddeley handed over the majority of their land to public ownership in return for the permission to build the Austlink Business Park at Belrose. The majority of the land once owned by Hawker-Siddeley has now become Garigal National Park.

When IDO51 was put in place (1974), residents were told that it would take about 6 months to carry out a detailed plan into what should happen to the area. The majority of the reasons for having the restrictions of IDO51 have now gone (as the majority of land it was seeking to protect is now Garigal National Park, and “Warringah Non-Urban Lands Study Stage 2: Impacts on Water Quality of Narrabeen Lagoon” document concluded that Urban release will in fact improve the quality of water in Narrabeen Lagoon).

IOD51 was repealed by Warringah LEP 1985, but most of the provisions from IDO 51 were carried forward into LEP1985, then subsequently into LEP2000.

LEP2000 was translated into LEP2009, which when passed into law became named LEP2011. Before passing LEP 2011 into law, the Minister for Planning (Brad Hazzard) deferred the majority of the E3 area from LEP2011, leaving the deferred area to operate under the existing LEP2000. The Minister for Planning did this because of the outcry from residents about their land being downzoned to E3.

### How was the zoning change from LEP 2000 to LEP 2009 meant to be handled?

In 2009 Warringah Council put together a new Local Environment Plan (LEP2009 which became known as LEP2011) which put all areas of Warringah into one of the State Government standard zones (This process was referred to by Warringah Council as a “Translation” process). Warringah Council published some Plain English explanatory notes for LEP2009. Below is an extract from the Plain English explanatory notes for LEP 2009:

“Permissible and prohibited land uses:

In translating Warringah LEP 2000, for the purposes of determining the permissibility status of land uses in the new LEP, a rule of translation was applied whereby Category One and Category Two land

uses are (subject to development consent) permissible, and Category Three and Prohibited land uses are prohibited.”

The translation from LEP2000 to LEP2009 in the proposed E3 area did not follow the above “rules”, as Housing for Older people and people with disabilities was a category 2 land use under LEP2000 and became prohibited instead of permissible under LEP2009.

### **What is E3 zoning intended for?**

Practice Note PN 009 (refer to Appendix E for extracts of this practice note) states:

“The Environment Protection zones E2 through to E4 are applied where the protection of the environmental significance of the land is the primary consideration. Their importance for visitation, tourism and job creation should also be carefully considered. Prior to applying the relevant zone, the environmental values of the land should be established, preferably on the basis of a strategy or from an environmental study developed from robust data sources and analysis. This is particularly important where land is identified as exhibiting high ecological, scientific, cultural or aesthetic values outside national parks and nature reserves.”

“the zone is generally not intended for cleared lands”

As Warringah Council’s Non Urban Land’s Study did not classify any of the privately owned land (excluding land owned by the MLALC) as having high environmental value, none of the E zones (including E3) are an appropriate zoning for the privately owned land.

### **What was the motivation for Council to zone land as E3?**

The motivation to change Seniors living from permissible (under LEP2000) to prohibited (if the land had been zoned E3) would appear to have come from Council’s desire to stop the large scale seniors’ developments which had been proposed at various stages. E3 is one of the few zones that categorically prohibits Senior’s Housing.

Below is an interesting extract from a Council meeting held on 27 September 2011:

Minutes from Council meeting held on 27 September 2011:

5.0 MAYORAL MINUTES

5.1 Mayoral Minute No 24/2011

Warringah LEP – E3 Gazettal of Red Hill and Oxford Falls

256/11 RESOLVED

Cr Regan

That Council write to the Minister for Planning and Infrastructure in the following terms:

A. Council reiterate its previously stated position:

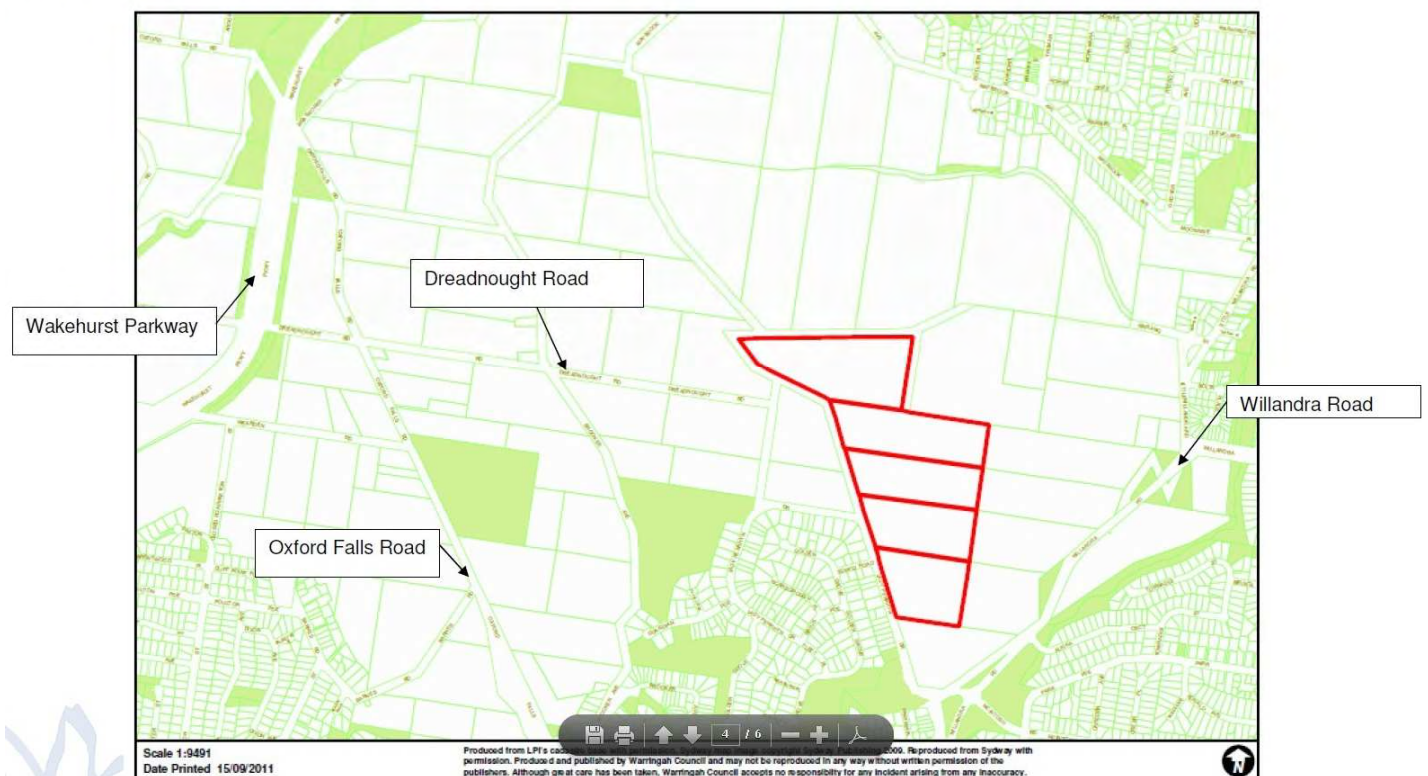
.

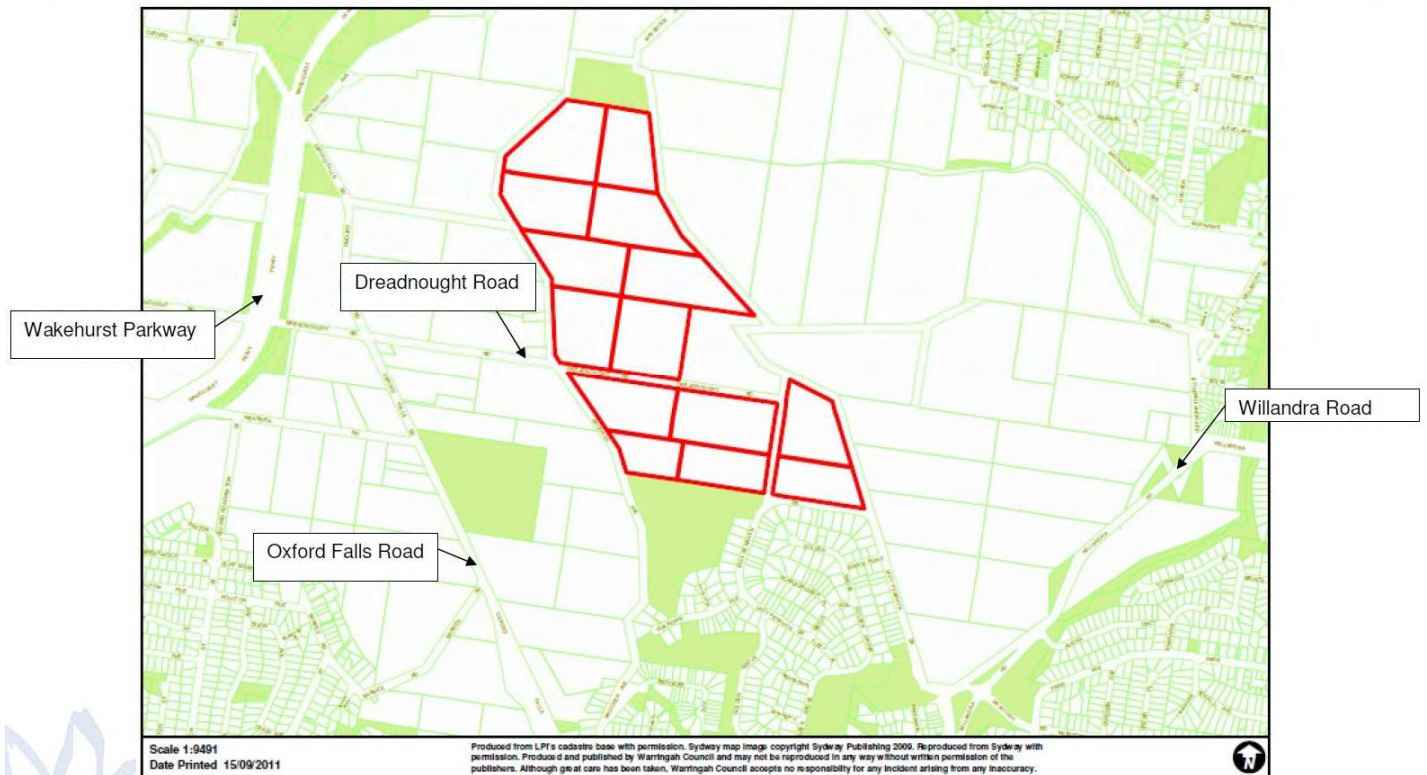
c) noting that not all land that is to be zoned E3 Environmental Management (under draft Warringah LEP 2009) will be deferred, and in order to protect non urban land from unsuitable development, the Minister also includes the following land in the new Warringah LEP (to be zoned E3 Environmental Management as currently proposed by Council) when it is published:

- i. Land located generally at the south eastern extent of the B2 Oxford Falls Locality and owned by the Trustees of the Sisters of the Good Samaritan being: Lots 808, 809, 812, 813, and 817 DP752038 (see Attachment 1); and
- ii. Land also located generally at the south eastern extent of the B2 Oxford Falls Locality and owned by the Trustees of the Roman Catholic Church being: Lots 4, 5 and 6 DP789407 and Lots 908, 909, 910, 911, 912, 913, 914, 915, 916, 917 and 918 DP752038 (see Attachment 2); and
- iii. Land located generally at the southern extent of the B2 Oxford Falls Locality and subject of a previous Part 3A proposal under the Environmental Planning and Assessment Act, 1979, being: Lots 1108, 1110, 1111, 1113 and 1336 DP752038; Lot 20 DP842523 and Lot 80 DP846099 (see Attachment 3).

The three maps from Attachment 3:

B2 Oxford Falls Locality Lots 808, 809, 812, 813 and 817 DP752038





From this we can clearly see that Warringah Council was trying to use E3 as a tool to protect non-urban land from Senior's development.

## **What is the difference between zoning for Senior's Living and Residential?**

Under LEP2000, Housing for Older people and people with disabilities (Seniors Living) is allowable along with Housing as a Category 2 land use on land which "adjoins a locality primarily used for urban purposes". Under this land use (Seniors Living), there is no maximum housing density. Typical density of Seniors Living facilities currently in the E3 area is around 158m<sup>2</sup> per unit (Based on Belrose Country Club having 228 retirement units on 36,000m<sup>2</sup> of land). This density is far higher than typical residential lot sizes (450m<sup>2</sup> and 650m<sup>2</sup>) in the area.

Under Residential zoning there is a minimum lot size (therefore maximum density) which is allowable. Some of the residents who overlook, or are adjacent to, proposed seniors living facilities don't want high density living in their area. WUFA suggests that the areas that are currently zoned for Seniors Living are rezoned as Residential with minimum lot sizes ranging from 450m<sup>2</sup> to 5,000m<sup>2</sup> (as outlined further in the later sections of this submission). Conventional Urban release is more palatable to the community than high intensity aged care.

It is interesting to note that Seniors living is a prohibited land use under R2 residential zoning under Warringah's LEP2011. The residents would be happy to give up the right to be able to build seniors housing with no density restriction (their current zoning) for the right to be able to build conventional residential housing (under the proposed zoning) with a minimum lot size (ie density restriction).

## **What have the Dept. of Planning and Warringah Council thought about zoning land in the area as residential?**

In 1998 a proposal was put to Warringah Council to rezone non-urban land in Perentie and Dawes Road Belrose area to residential. Council agreed to this concept and subsequently prepared a draft LEP for Perentie and Dawes Road. This proposal was then submitted to the Department of Urban Affairs and Planning for approval.

Below is the response from the Department of Urban Affairs and Planning (Extracted from Warringah Council Report to Strategy Committee Meeting on 25 August 1998):

"The land proposed for a 2(a) Residential "A" zoning (approx. 8ha) is supported on the basis that it permits its highest and best use (medium density housing). However, there is concern about whether the proposed 1(c) Non Urban "C" zoning is the highest and best use for the adjoining 20ha [of] land lying immediately to the east".

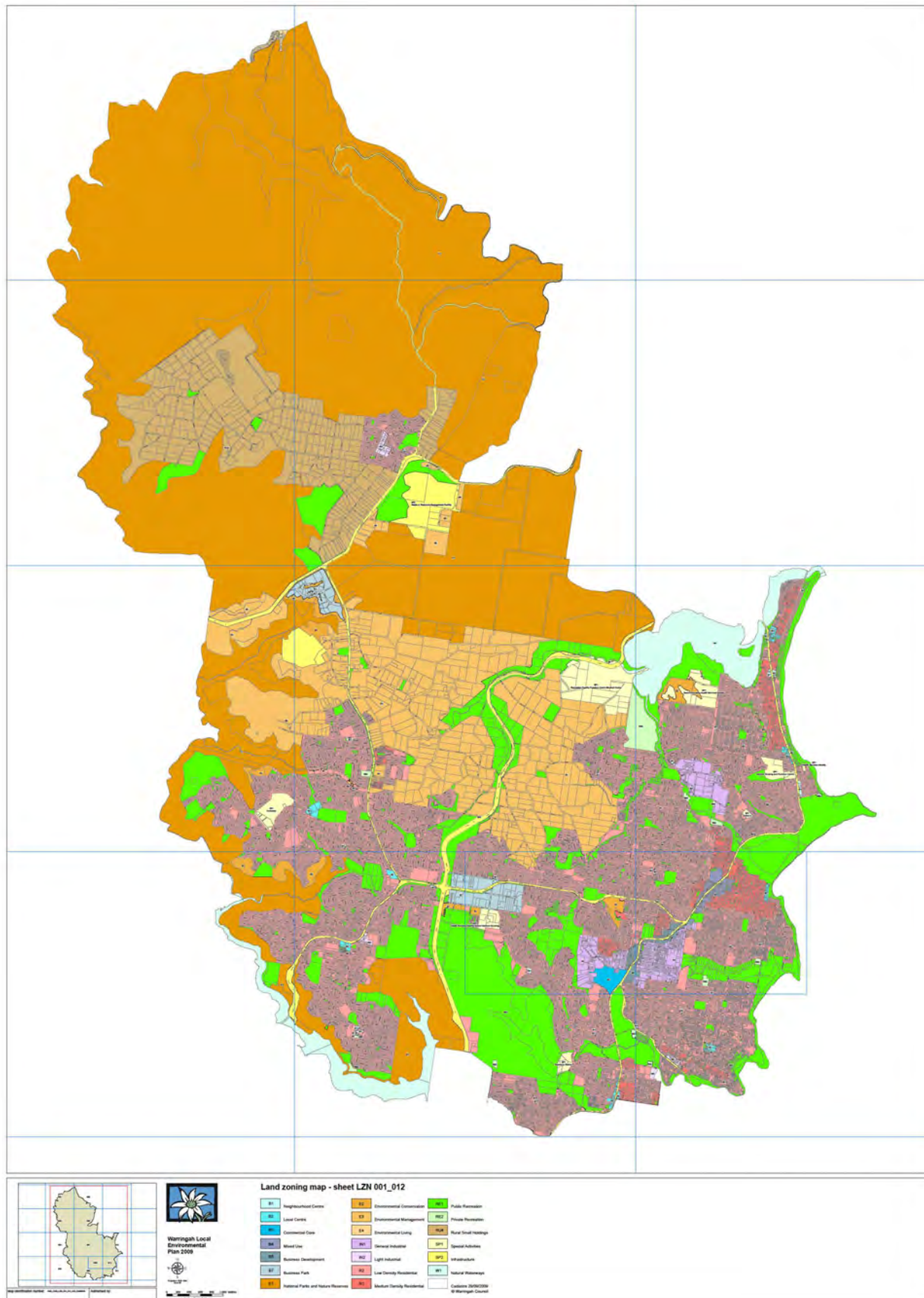
"In view of the above, the Department would like Council to review the provisions and zonings proposed under this draft LEP so that the highest and best use [of] all the land in question can be achieved. The Department would be prepared to certify a revised draft plan that enables residential development across the whole of the site"

What did Warringah Council think of this idea?

The Recommendation of Warringah Council's Acting Director Strategy was "That Council resolve to amend the draft LEP to replace the proposed 1(c) Non Urban "C" zone with a 2(a) Residential "A" zone. The development at Perentie and Dawes Road, Belrose subsequently went ahead and is mostly zoned medium density residential with a minimum lot size of 450m<sup>2</sup>.

## What were similar areas zoned under LEP 2009?

Under LEP2009, all of Duffys Forest and all of Terrey Hills (North of Mona vale Rd and North of the corner of Forest way and Mona Vale Rd) were zoned as Rural (RU4). Most of the area across the road from the proposed E3 area was zoned residential (R2).



## **What Reports and Studies have been done into the planning of the area?**

### **Non Urban Lands Study (NULS)**

In March 1998 Warringah Council appointed PPK Environment and Infrastructure to undertake the Non Urban Land Study (NULS). The project objectives in undertaking the Non Urban Land Study were to:

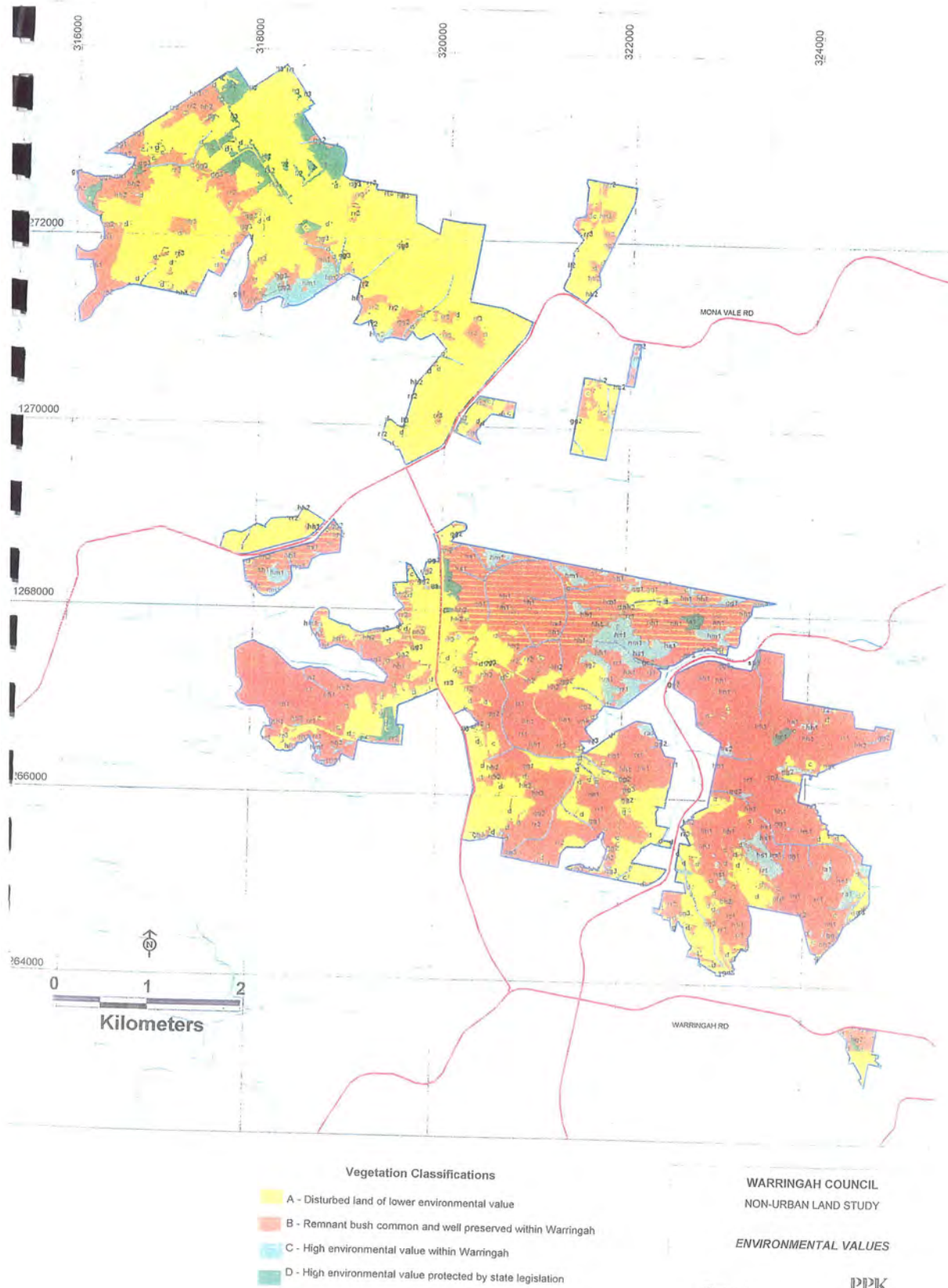
1. investigate and identify likely future uses of non urban land;
2. identify the role of non urban land;
3. review the capability of non urban land to support identified future land uses;
4. review recommendations of earlier non urban land studies;
5. identify what planning controls are appropriate and provide direction for future use of the area;
6. formulate a draft policy and long term planning objectives based on the results of the Study, to guide planning decisions for the Study area within a twenty (20) year planning framework; and
7. respond to the needs of the community in regard to non urban land.

The final copy of the Warringah Non Urban Land Study, incorporating community and stakeholder submission amendments, was submitted to Council on 7 April, 2000.

The NULS recommended that some of the areas be investigated for higher intensity development.

## Environmental Value of the land

Below is a map from page 32 of the NULS showing the environmental value of land in the area:



Below is the description of the Class A, B, C & D classifications (ie the four colours on the map on the previous page) of land from the NULS report:

**Class A - Disturbed land of lower conservation value.**

Areas where the existing land is highly disturbed, cleared of native vegetation or where vegetation is degraded to the point that environmental values have been severely degraded. Environmental values are therefore a minor consideration when planning to develop provided that appropriate planning controls have been satisfied. Approximately 41 percent of the land within the study area were categorised into class A.

**Class B - Remnant bush which is common and well preserved within Warringah.**

Areas with remnant native vegetation communities which are well represented throughout Warringah and in National Parks. These areas include vegetation communities identified by Smith and Smith (1998) as being of third priority for conservation. Provided that appropriate planning controls have been satisfied and an ongoing management plan is adopted to ensure the sustainability of the proposed activity these lands could support a moderate level of development in terms of potential environmental impact. Approximately 49 percent of the land within the study area was categorised as being in Class B.

**Class C - High environmental value within Warringah.**

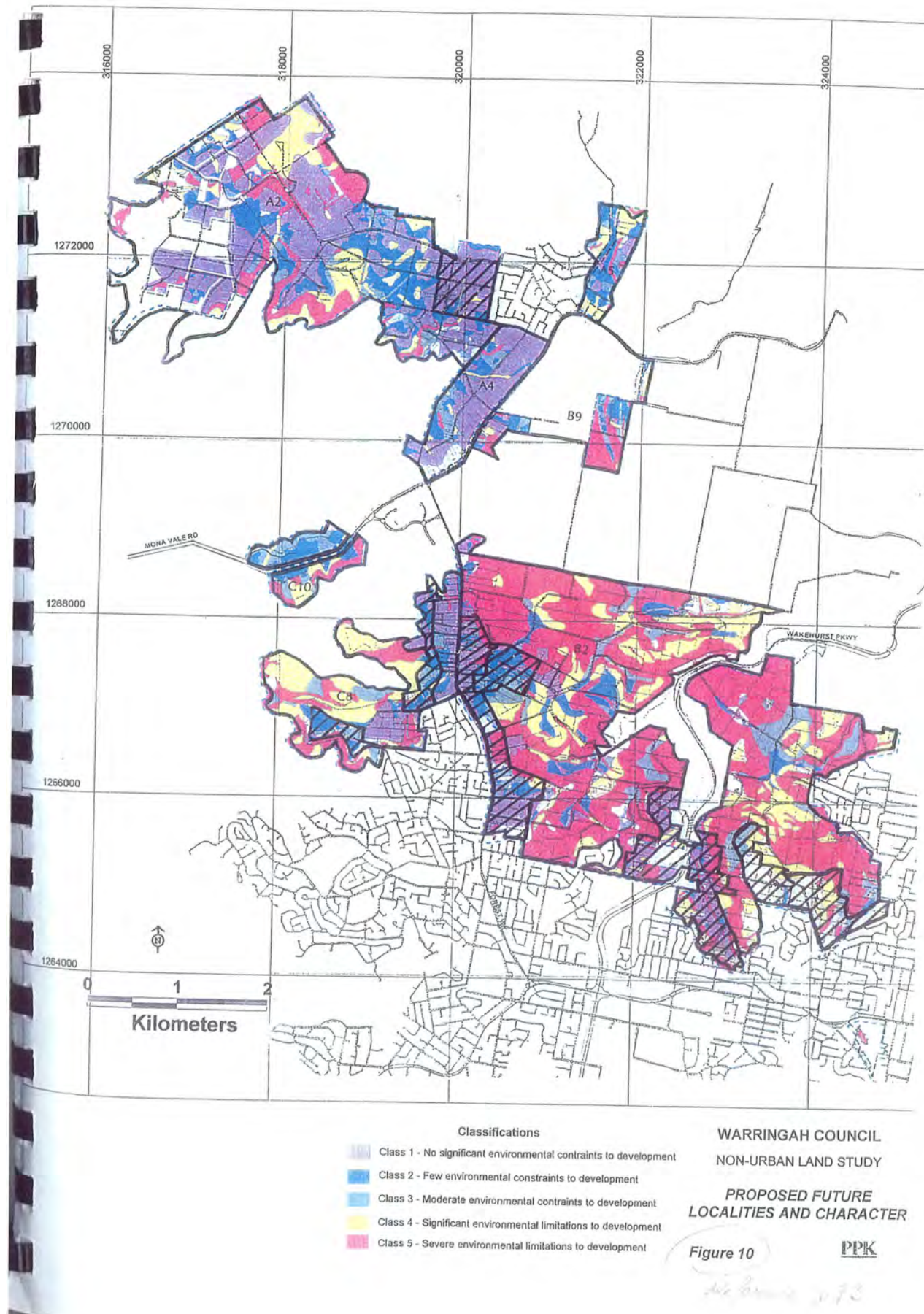
Areas with significant environmental values which are important for maintaining the local biodiversity and catchment values. This class includes vegetation communities categorised by Smith and Smith (1998) as being of second priority for conservation. This class also includes areas identified as being important habitat corridors and buffer zones to creeklines. Proposals for these areas must be demonstrated to have no significant negative impacts on the existing environment and detail an ongoing plan of management to be adopted to ensure the sustainability of the proposal. Approximately 7 percent of the study areas was categorised as Class C.

**Class D - High environmental value protected by state legislation.**

Areas which support communities or species which are important for conservation of biodiversity in NSW and support species protected under state legislation to be conserved. These lands support vegetation communities categorised by Smith and Smith (1998) as having the highest priority for conservation. While these areas are considered the most appropriate for protection, there may be opportunities for sustainable development of these lands depending on the use and the site conditions. These areas will require detailed assessment in the development process and the application of appropriate planning controls and management practices to ensure conservation of biodiversity. As illustrated in *Figure 3*, this category covered only a small proportion of the study area, approximately 3 percent of non-urban land.

It is interesting to note that 90% of the land falls into Class A and Class B land, and only Class C and Class D land is of high environmental value (ie could be considered as meeting the E zone requirement that “protection of the environmental significance of the land is the primary consideration”).

## Environmental Constraints of land in the proposed E3 Area



Below is recommendation 3 out of the NULS (Figure 10 is on the previous page):

*Recommendation 3: That the hatched areas identified in Figure 10 as having potential for higher intensity development and land uses (as outlined in Chapter 11), be further investigated with particular regard to the respective areas':*

- *transport and sewerage infrastructure constraints;*
- *bushfire hazard constraints;*
- *the cumulative effects on environmental values (for example Narrabeen Lagoon); and*
- *the regional demand for land generally.*

The E3 Strategic Review is the perfect opportunity to address recommendation 3 of the NULS.

### **Planning Assessment Commission (PAC) Report**

In 2009 The Planning Assessment Commission carried out a report into the possible rezoning of four parcels of land in the area. This is referred to as the PAC Report. This report recommended that further studies be carried out.

## **What Reports should and shouldn't be used for the E3 Strategic Review**

### **Biodiversity Study**

In 2012 Warringah Council carried out a Biodiversity study and put in on public exhibition. WUFA raised concerns about the Study in a letter to Warringah Council dated 13 March 2012 (Appendix B). Subsequent to our concerns being raised, Warringah Council held more information sessions and extended the consultation period. The major concerns of residents as expressed through the information sessions and many submissions may be summarised as follows:

- 1) That the Study had not been carried out in a scientifically sound way (i.e. It had been done without carrying out site visits) and therefore should not apply to privately owned land.
- 2) Inaccuracies of rankings of biodiversity value of private land must be rectified.
- 3) That the information contained in the Study would be used to disadvantage landowners through planning controls or planning decisions.

At the information sessions, Council staff assured landowners that the purpose of the study was only to allocate resources to the care of the natural environment for which the Council was responsible, and that in no way would the study be used for planning controls or to control development in any way (Please refer to the letter from Todd Dickerson, Warringah Council dated 26 March 2012 for written confirmation of this fact, which can be found in Appendix C).

The Biodiversity study was found to be inaccurate. As an example, some of the author's property was classified as "Very high conservation rating" (even though no site inspection had been carried out). The author engaged an Environmental Scientist (with a PhD) to carry out a site inspection and he found that there was nothing of high environmental value on the land. Appendix D of this report contains the letter to Council and the expert report.

The Biodiversity Study must not be used for any part of the E3 Strategic Review.

### **Riparian Land Zones**

In 2010 Warringah Council publically exhibited a Waterways and Riparian Land Policy. During the public exhibition period, the areas identified as riparian lands were found to be inaccurate. The map showed Riparian Land existing on the author's property. After insisting Council officers carry out a site inspection, the Council officers found there was no riparian zone on the property. This demonstrates the inaccuracy of the Riparian Land Policy and the information that Warringah Council currently has regarding Riparian lands.

The Riparian Land Policy must not be used for any part of the E3 Strategic Review.

## **Bushfire Prone Land**

The Bushfire prone map should only be used as a guide as we believe it has not been produced through individual site visits.

## **Environmental Constraints Map**

We believe the Environmental Constraints map provided by Warringah Council has not been produced using individual site visits or accurate scientific information. The Environmental Constraints Map is inconsistent with the Environmental Values map in the Non-Urban Lands Study (refer to page 14 of this submission for the Environmental Values map from the NULS).

The Warringah Council Environmental Constraints map must not be used for any part of the E3 Strategic Review.

## **Narrabeen Lagoon catchment**

Some of the areas in the proposed E3 zone drain to Narrabeen Lagoon. We all wish to preserve this beautiful area. Warringah Council has approved many major developments since 1974 (ie IDO51) which all drain to Narrabeen Lagoon, some of them are:

- Kimbriki Tip
- Dawes Road and Perentie Road, Belrose
- Red Hill
- Oxford Heights
- Cromer Rd
- Maybrook Avenue at Cromer
- Wearden Road at Frenchs Forest
- Maybrook Manor
- Willandra Bungalows
- Bolta place Cromer

In regards to the above developments, most of them had a desired future character statement that stated “Development in the locality will not create siltation or pollution of Narrabeen Lagoon”. As Warringah Council approved the above developments presumably they were happy that the developments met this desired future character statement.

Stormwater drainage has changed a lot since 1974. In 1974 developments could get away with no stormwater retention and no treatment of stormwater. These days there are stringent standards on both retention and treatment of stormwater for any new developments. The retention of stormwater by any properties that do drain to Narrabeen Lagoon would reduce the flooding on the Wakehurst Parkway by

storing and slowly releasing stormwater during periods of high rainfall. The treatment of stormwater prior to release would increase the quality of stormwater that drains to Narrabeen Lagoon.

Kimbriki Tip began operating in 1974, and has expanded greatly since opening. It drains to Narrabeen Lagoon. Warringah Council is one of the four council owners of Kimbriki Tip.

The proposed Frenchs Forest Hospital will most likely drain to Narrabeen Lagoon.

Below is an extract out of the “Warringah Non-Urban Lands Study Stage 2: Impacts on Water Quality of Narrabeen Lagoon” document:

“This investigation, recommended in Stage 1 of the NULS, aims to determine the water quality controls required within the areas identified as suitable for development, such that the water quality within Narrabeen Lagoon will not be further degraded, or will in fact be improved.”

“It has been determined that development of the areas identified as suitable from Stage 1 of the NULS (PPK, 2000) [figure 10], which drain to Narrabeen Lagoon, can be undertaken without a subsequent reduction in water quality in Narrabeen Lagoon, and in most cases an increase in water quality can be achieved.”

When this report talks about areas identified for urban release in the NULS, that drain to other catchments it says:

“Based on the similar features of the site, the results for this study undertaken for the Narrabeen catchment can be extrapolated directly to these additional areas located outside the Narrabeen Lagoon catchment based on the proposed developed area and capital and maintenance costs estimated for the Narrabeen Lagoon catchment areas”.

## Warringah's Housing Strategy

Below are quotes from Warringah Council's website:

"The NSW Government set a target for **10,300** new dwellings to be accommodated in Warringah Local Government area by 2031. Current zoning laws allow for an anticipated growth of **5,325** new dwellings, this includes Dee Why Town Centre, apartments in already zoned areas such as Narrabeen, Collaroy, Brookvale and Manly Vale as well as shop-top developments throughout Warringah."

### "Objectives of Warringah's Housing Strategy

The following objectives have been established to ensure the outcomes of this Strategy are consistent with State Government Policy and the expectations of the Community.

- Ensure that an adequate supply of appropriate land is appropriately zoned for residential development;
  - Plan for housing in accessible location to transport and services;
  - Provide a more contained and efficient pattern of urban development with an emphasis on efficient and effective use of existing and new facilities, services and infrastructure;
- Optimise the use of existing infrastructure, services and facilities;
- Facilitate a diversity of housing options through the provision of a greater mix of housing, in terms of type, density and affordability, to accommodate an increasing and diverse population;
  - Minimise the impacts of residential growth on the natural environment; and
  - Encourage development that will enhance the amenity of residential areas, and ensure that new housing relates to the character and scale of existing residential development."

This submission provides real solutions to Warringah Council's shortfall of new dwellings whilst meeting the objectives of the housing strategy, and acknowledging the wishes of the landowners.

### **Should some areas be changed from E3 to residential zonings?**

Warringah Council resolved at its meeting of 24 August 2010 “That council staff prepare a Planning Proposal for an amending Warringah Local Environmental Plan 2011 (WLEP2011) to zone land (as identified in Attachment No.1) R2 Low Density Residential.” The land referred to in attachment 1, is the land around Dawes Rd, which is currently the subject of a “Planning proposal to re-zone land in the vicinity of Dawes and Perentie Roads, Belrose, R2 Low Density Residential”, which went on public exhibition from 3 – 30 November 2012.

The owners of land in the proposed rezoning area do not want low density residential (R2) zoning, they want medium density residential (R3) zoning. There was no consultation with landowners prior to council deciding to rezone this land. The land in the subject area is sandwiched between medium density residential (R3), and the largest section of the proposed rezoned area is currently Belrose Country club which is also a medium density type development. It appears inappropriate that Council rezone this land as Low Density Residential (R2).

This land should be treated in the same way as all other land in the proposed E3 area, and be part of the Strategic Review process which takes into consideration the views of the community.

## What criteria need to be met for new urban release outside of the identified growth centres?

None of the land proposed to be E3 is currently in an identified growth centre. In order for land to be released that is not in a growth centre the following needs to be met (extract from the “Environment and Resources Strategy for Sydney” by the NSW Government):

### **E3.1.2 Apply sustainability criteria for new urban development outside of the identified growth centres. (refer to Table G2)**

No new land will be released outside of identified growth centres unless it substantially meets strict sustainability criteria.

The sustainability criteria (Table G2) in the Implementation and Governance Strategy form the basis for decision making on the addition of new land to the Metropolitan Development Program (MDP). The criteria are based on those developed by NSW Sustainability Commissioner to assess the performance of the growth centres.

The criteria will filter out inappropriate development proposals for rezoning land early in the decision making process to minimise unrealistic expectations, and to protect the Government's infrastructure priorities in strategic locations.

The criteria will assist with this process, and will guide strategic land use planning through the regional strategies.

In the past, the MDP has only applied to greenfield sites exceeding 1000 dwellings, unless regional infrastructure requirements had been identified and an appropriate assessment of development contributions had been undertaken.

The sustainability criteria will now apply to any site planned for urban rezoning, regardless of scale or lot production. This includes rural residential and employment developments, and applies to government surplus sites.

There are three situations in which sites may be added to the MDP under this revised process, if the:

- locality or site has been identified in a regional strategy; or
- locality or site substantially meets all the endorsed sustainability criteria; or
- proposal is considered significant for employment generation by Government.

TABLE G2: SUSTAINABILITY CRITERIA FOR NEW LAND RELEASE

# actions

## IMPLEMENTATION AND GOVERNANCE

TABLE G2 SUSTAINABILITY CRITERIA FOR NEW LAND RELEASE

DEVELOPMENTS MAY BE APPROVED IF THEY SUBSTANTIALLY MEET THE CRITERIA BELOW AFTER A MERITS ASSESSMENT

| Threshold Sustainability Criteria for listing of site on MDP                                                                                                                | Measurable explanation of criteria                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1 Infrastructure Provision</b><br>Mechanisms in place to ensure utilities, transport, open space and communication are provided in a timely and efficient way.           | <ul style="list-style-type: none"> <li>• Development is consistent with any relevant residential development strategy, subregional strategy, regional infrastructure plan and Metropolitan Strategy.</li> <li>• The provision of infrastructure (utilities, transport, open space, and communications) is costed and economically feasible based on Government methodology for determining infrastructure contribution.</li> <li>• Preparedness to enter into development agreement.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>2 Access</b><br>Accessible transport options for efficient and sustainable travel between homes, jobs, services and recreation to be existing or provide.                | <ul style="list-style-type: none"> <li>• Accessibility of the area by public transport and appropriate road access in terms of: <ul style="list-style-type: none"> <li>— Location/land use, to existing networks and related activity centres.</li> <li>— Network: the areas potential to be serviced by economically efficient public transport services.</li> <li>— Catchment: the area's ability to contain, or form part of the larger urban area which contains adequate transport services. Capacity for land use/transport patterns to make a positive contribution to achievement of travel and vehicle use goals.</li> </ul> </li> <li>• No net negative impact on performance of existing subregional road, bus, rail, ferry and freight network.</li> </ul>                                                                                                                                                                                                              |
| <b>3 Housing Diversity</b><br>Provide a range of housing choices to ensure a broad population can be housed.                                                                | <ul style="list-style-type: none"> <li>• Contributes to the geographic market spread of housing supply, including any government targets established for aged, disabled or affordable housing.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>4 Employment Lands</b><br>Provide regional/local employment opportunities to support Sydney's role in the global economy.                                                | <ul style="list-style-type: none"> <li>• Maintain or improve the existing level of subregional employment self containment.</li> <li>• Meets subregional employment capacity targets: <ul style="list-style-type: none"> <li>— Employment related land is provided in appropriately zoned areas.</li> </ul> </li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>5 Avoidance of Risk</b><br>Land use conflicts, and risk to human health and life, avoided.                                                                               | <ul style="list-style-type: none"> <li>• Available safe evacuation route (Flood and Bushfire).</li> <li>• No residential development within 1:100 floodplain.</li> <li>• Avoidance of physically constrained land: high slope; highly erodible.</li> <li>• Avoidance of land use conflicts with adjacent, existing or future land use and rural activities as planned under regional strategy.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>6 Natural Resources</b><br>Natural resource limits not exceeded/ environmental footprint minimised.                                                                      | <ul style="list-style-type: none"> <li>• Demand for water does not place unacceptable pressure on infrastructure capacity to supply water and on environmental flows.</li> <li>• Demonstrates most efficient/suitable use of land. <ul style="list-style-type: none"> <li>— Avoids identified significant agricultural land.</li> <li>— Avoids impacts on productive resource lands; extractive industries, coal, gas and other mining, and quarrying.</li> </ul> </li> <li>• Demand for energy does not place unacceptable pressure on infrastructure capacity to supply energy; requires demonstration of efficient and sustainable supply solution.</li> </ul>                                                                                                                                                                                                                                                                                                                   |
| <b>7 Environmental Protection</b><br>Protect and enhance biodiversity, air quality, heritage, and waterway health.                                                          | <ul style="list-style-type: none"> <li>• Consistent with Government approved Regional Conservation Plan (if available).</li> <li>• Maintains or improves areas of regionally significant terrestrial and aquatic biodiversity (as mapped and agreed by DEC and DPI). This includes regionally significant vegetation communities; critical habitat; threatened species; populations; ecological communities and their habitats.</li> <li>• Maintain or improve existing environmental condition for air quality.</li> <li>• Maintain or improve existing environmental condition for water quality and quantity. <ul style="list-style-type: none"> <li>— Consistent with community water quality objectives for recreational water use and river health (DEC and CMA).</li> <li>— Consistent with catchment and stormwater management planning (CMA and local council).</li> </ul> </li> <li>• Protects areas of Aboriginal cultural heritage value (as agreed by DEC).</li> </ul> |
| <b>8 Quality and Equity in Services</b><br>Quality health, education, legal, recreational, cultural and community development and other government services are accessible. | <ul style="list-style-type: none"> <li>• Available and accessible services. <ul style="list-style-type: none"> <li>— Do adequate services exist?</li> <li>— Are they at capacity or is some available?</li> <li>— Has Government planned and budgeted to further service provision?</li> </ul> </li> <li>• Developer funding for required service upgrade/access is available.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

Addressing the threshold sustainability criteria as outlined in table G2 above for all land that the residents would like released as residential land:

1. Infrastructure provision:

The infrastructure required for urban release is currently either in place or can be easily put in place for all precincts who want urban release. The owners of land have expressed their preparedness to enter into a development agreement.

Precincts wanting urban release generally have access to all residential utilities including town water, sewerage, electricity, telephone, ADSL and Foxtel.

There is plenty of open space in the form of both Public Parks with play equipment, and plenty of natural bush with walking/cycling and horse riding tracks

2. Access

The area is very well serviced by a well-established bus service, existing roads, a lot of schools in very close proximity, and is very close to businesses (eg Austlink Business Park).

3. Housing Density:

Urban release in all areas requested by owners would contribute to market spread of housing supply.

4. Employment lands

The release of land in this area would increase the level of sub regional employment self containment due to the close proximity of Austlink and other business parks.

5. Avoidance of Risk

There are plenty of safe available evacuation routes in case of bushfire as the areas wanting urban release have existing road networks that provide multiple escape routes in case of bushfire.

None of the land is within a floodplain. None of the land is physically constrained land. There are no land use conflicts with adjacent, existing or future land use.

6. Natural Resources

The demand for water does not place unacceptable pressure on infrastructure. Sydney water has advised us that there is enough available capacity in the existing system to be able to accommodate urban release of the scale proposed by the residents.

In the majority of cases where precincts are wanting urban release, there is enough capacity on the sewerage system to allow for urban release of the scale proposed by the residents.

None of the land requesting urban release is identified as significant agricultural land, or productive resource lands. All of the land requesting urban release has ample access to electricity.

## 7. Environmental protection

The proposed urban release is for land that is not rated as high environmental significance by the Warringah Non Urban Lands Study.

The release of land will increase the quality of water because it will allow professionally designed stormwater filtration to be integrated into any new development. Professional designed stormwater systems will also provide retention of stormwater, thus decreasing peak flows into the water system.

There could be an improvement in hazard reduction to the extent that any new housing adjoining the buffer zones would most likely be built to a higher fire-protection standard than housing presently adjoining these zones.

All land proposed to be released for residential development is of no aboriginal cultural heritage value.

## 8. Quality and equity of services

There are plenty of adequate services in the proposed release areas.

- a) There are several schools in the area (Oxford Falls Grammar School, John Colet, Belrose Public, Covenant Christian School and Kamaroi).
- b) There are supermarkets, hairdressers, restaurants, car repair centres, car wash and many other services close to any proposed urban release.

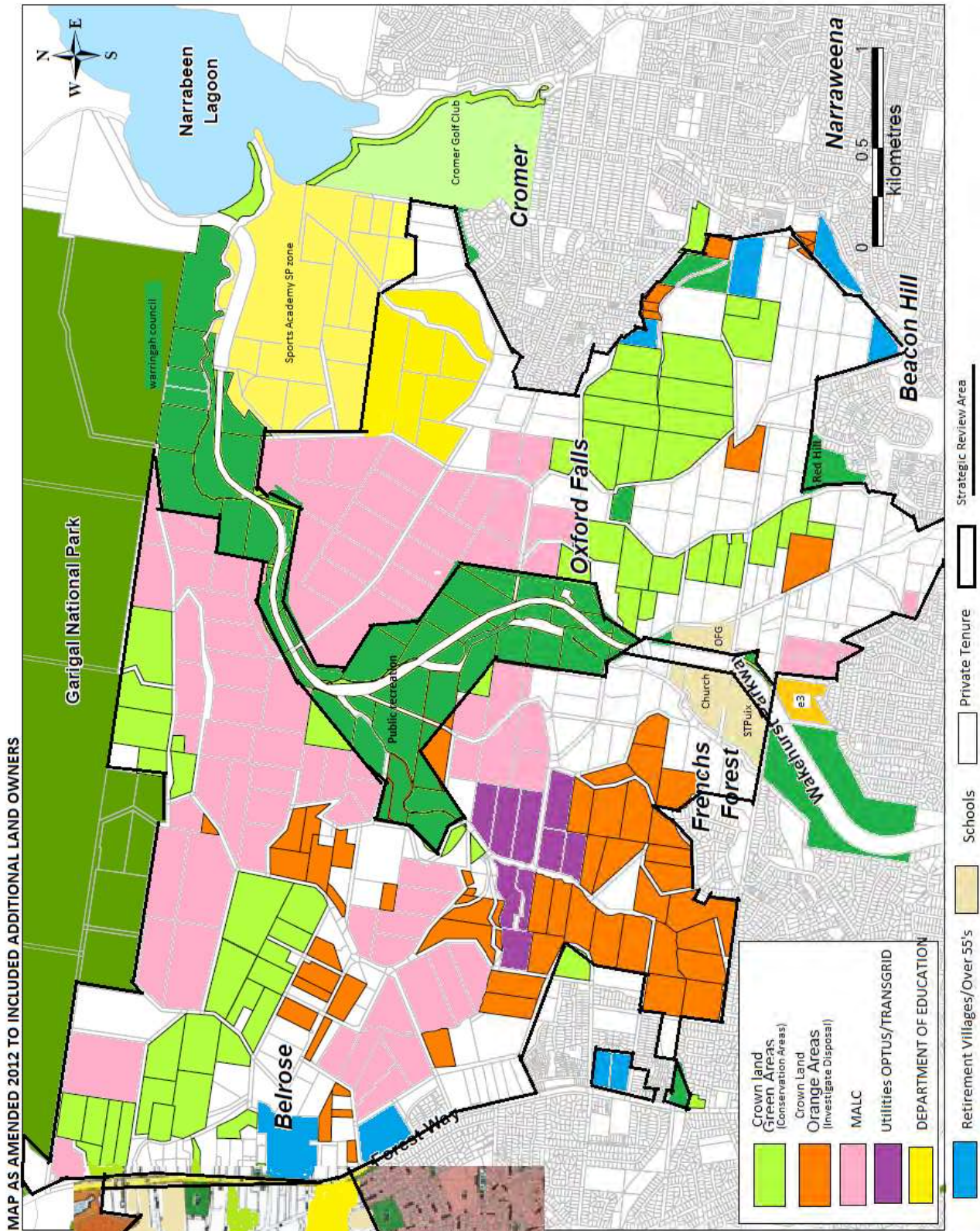


FIGURE 1.3  
PREFERRED LAND USE  
(After DoL, 2005)

J:\ENV\LJ2800 - Oxford Falls PoM\Figures

The E3 Strategic Review area is approximately 1400Ha. We can divide this area into three types of land ownership:

1. General Community owned land – 630 Ha, Land owned by the Government and Infrastructure organisations (ie Crown Land, Dept of Education, Telstra and Optus). This area forms almost half of the E3 Strategic Review Area. It is mostly Oxford Falls Regional Reserve – 520 Ha
2. Metropolitan Local Aboriginal Land Council owned land - 500 Ha - over 1/3 of the E3 Strategic Review area.
3. Privately owned land - 270Ha in 210 parcels. Less than 20% of the E3 Strategic Review Area. (average parcel size is 1.28Ha).

#### **General Community Owned Land:**

This is land owned by the government and infrastructure organisations. The major part of this land category is the Oxford Falls Regional Crown Reserve, forming over 80% of this land category. According to the 2010 Plan of Management for the Oxford Falls Regional Crown Reserve, 25% of the Oxford Falls Regional Crown reserve is earmarked for disposal (Refer to page 3 of the plan of management).

#### **Metropolitan Local Aboriginal Land Council (MLALC) Owned Land:**

This land is mostly virgin bush. This submission provides no opinion on the proposed zoning of this land.

#### **Privately Owned Land:**

This is land which is owned by private individuals (ie not the MLALC). It forms less than 20% of the E3 Strategic Review area, and is made up of approximately 210 parcels of land. WUFA has divided this privately owned land into sixteen precincts. Each precinct is a contiguous parcel of land typically separated by major roads. Each precinct could logically be different zones if required. We have carried out a survey of private land owners in the E3 area, which is addressed later in this document.

Under current zoning, most of Terrey Hills and all of Duffys Forest is zoned as Rural (RU4). You only have to go for a drive through this area to realise that a lot of this land is natural bush and the whole suburb is surrounded by National Park. Warringah Council chose to zone this area as Rural. We can see no justification for our private land to be zoned as the much more restrictive environmental protection zone of E3. Current Practice Notes issued by the Department of Planning specifically state that the E3 zoning:

1. Is to be used for “areas of special ecological, scientific, cultural or aesthetic attributes that require management”.

2. "E3 zone is generally not intended for cleared lands including land used for intensive agriculture". We should point out that a lot of activities that currently happen on land in the E3 area, are intensive agriculture, like growing irrigated crops, horticulture, animal boarding, horse riding schools, and plant nurseries.

## **What Residents want**

### **Overview**

We don't want to be unfairly restricted with what we can do with our land because of IDO51 which was meant to be lifted in 6 months in 1974 and all of the reasons for having it have gone (as the majority of land it was seeking to protect is now Garigal National Park).

We want the proposed E3 area to be properly investigated once and for all. The planning review that was supposed to be done in 6 months time in 1974 now needs to be done.

There has been community backlash at some of the High Density Seniors Living proposals, some of which were approved and some of which were not approved. The fact is Seniors Living is allowed under LEP 2000 on land that adjoins residential land. If the community doesn't want high density Seniors Living, then the most practical option is to rezone the land which is adjacent to existing residential as residential. Land that is not adjacent to residential should be considered for release as residential or as a minimum be zoned as rural.

With the approval of the new Hospital it is logical that the area be considered for some form of expansion.

Since IDO51 the minimum lot size has been 50 acres (200,000m<sup>2</sup>). This ridiculous minimum lot size was put in place to stop Hawker-Siddeley subdividing their land. As the Hawker-Siddeley land is now a combination of Garigal National Park and Austlink business park, this ridiculous minimum lot size is no longer appropriate for the area. This needs fixing.

Different parts of the E3 area need to be zoned as different zones. The proposed E3 area needs to be zoned as a combination of Environmental Management (E3), Rural (RU4), Large Lot Residential (R5), Medium Density Residential (R3) and Low Density Residential (R2). Land owners must be consulted about what is appropriate for their land.

## **The WUFA survey**

WUFA recently conducted a survey of land owners in the proposed E3 area. This survey can be found in Appendix F.

We received responses from over 100 of the 210 lots. The respondents to the survey represent over 45% of land owners affected by E3.

Of the responses, only one lot had E3 as their preferred zoning.

## Survey Results from residents

| No | Precinct Name              | RU4<br>(Rural) -<br>Primary<br>Producti<br>on Small<br>Lots | RU5<br>(Rural)<br>-<br>Village | RU6<br>(Rural)<br>-<br>Transiti<br>on | R2<br>(Resident<br>ial) -<br>Low<br>Density<br>Residenti<br>al | R3<br>(Reside<br>ntial) -<br>Mediu<br>m<br>Density<br>Reside<br>ntial | R5<br>(Reside<br>ntial) -<br>Large<br>Lot<br>Reside<br>ntial | B1<br>(Busine<br>ss) -<br>Neighb<br>ourhoo<br>d<br>Centre | B2<br>(Busine<br>ss) -<br>Local<br>Centre | B4<br>(Busine<br>ss) -<br>Mixed<br>Use | B5<br>(Busine<br>ss) -<br>Busines<br>s<br>Develo<br>pment | B6<br>(Busine<br>ss) -<br>Enterpr<br>ise<br>Corrido<br>r | SP2<br>(Special<br>Purpos<br>e) -<br>Infrastr<br>ucture | E2<br>(Enviro<br>nment<br>al<br>Protect<br>ion<br>Zone) -<br>Environ<br>mental<br>Conser<br>vation | E3<br>(Enviro<br>nmenta<br>l<br>Protect<br>ion<br>Zone) -<br>Environ<br>mental<br>Manag<br>ement | E4<br>(Enviro<br>nmenta<br>l<br>Protect<br>ion<br>Zone) -<br>Environ<br>mental<br>Living |
|----|----------------------------|-------------------------------------------------------------|--------------------------------|---------------------------------------|----------------------------------------------------------------|-----------------------------------------------------------------------|--------------------------------------------------------------|-----------------------------------------------------------|-------------------------------------------|----------------------------------------|-----------------------------------------------------------|----------------------------------------------------------|---------------------------------------------------------|----------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|
|    |                            |                                                             |                                |                                       |                                                                |                                                                       |                                                              |                                                           |                                           |                                        |                                                           |                                                          |                                                         |                                                                                                    |                                                                                                  |                                                                                          |
| 1  | Dawes Rd                   | 5.0                                                         | 5.0                            | 5.0                                   | 3.3                                                            | 1.6                                                                   | 5.0                                                          | 6.0                                                       | 6.0                                       | 6.0                                    | 6.0                                                       | 6.0                                                      | 6.0                                                     | 5.0                                                                                                | 5.0                                                                                              | 5.0                                                                                      |
| 2  | Forestway South East       | 4.0                                                         | 4.0                            | 3.7                                   | 2.3                                                            | 2.0                                                                   | 3.3                                                          | 4.7                                                       | 4.3                                       | 4.3                                    | 4.3                                                       | 4.7                                                      | 4.7                                                     | 4.7                                                                                                | 5.0                                                                                              | 5.0                                                                                      |
| 3  | Wyatt Ave                  | 4.0                                                         | 4.6                            | 4.0                                   | 1.0                                                            | 2.0                                                                   | 2.6                                                          | 6.0                                                       | 6.0                                       | 6.0                                    | 6.0                                                       | 6.0                                                      | 6.0                                                     | 5.0                                                                                                | 5.0                                                                                              | 5.0                                                                                      |
| 4  | Forestway North West       | 3.4                                                         | 4.0                            | 3.4                                   | 3.0                                                            | 3.7                                                                   | 3.6                                                          | 3.7                                                       | 3.0                                       | 2.3                                    | 2.6                                                       | 1.6                                                      | 5.8                                                     | 5.2                                                                                                | 5.2                                                                                              | 5.2                                                                                      |
| 5  | Forestway North East       | 4.0                                                         | 5.7                            | 5.7                                   | 2.4                                                            | 2.8                                                                   | 3.0                                                          | 5.3                                                       | 5.3                                       | 5.3                                    | 5.3                                                       | 5.3                                                      | 5.3                                                     | 5.0                                                                                                | 5.0                                                                                              | 5.0                                                                                      |
| 6  | Belrose North              | 4.7                                                         | 4.7                            | 5.0                                   | 2.0                                                            | 1.7                                                                   | 2.2                                                          | 3.5                                                       | 4.0                                       | 2.8                                    | 4.0                                                       | 3.0                                                      | 4.7                                                     | 5.0                                                                                                | 5.0                                                                                              | 5.0                                                                                      |
| 7  | Morgan Rd                  | 2.8                                                         | 2.8                            | 4.6                                   | 3.2                                                            | 4.0                                                                   | 2.3                                                          | 5.3                                                       | 5.3                                       | 5.3                                    | 5.3                                                       | 5.3                                                      | 5.6                                                     | 5.0                                                                                                | 4.7                                                                                              | 4.0                                                                                      |
| 8  | Kelly's Way                | 1.0                                                         |                                |                                       |                                                                |                                                                       |                                                              |                                                           |                                           |                                        |                                                           |                                                          |                                                         |                                                                                                    | 5.0                                                                                              |                                                                                          |
| 9  | Oxford Falls Rd West       | 2.0                                                         | 3.0                            | 2.8                                   | 2.5                                                            | 3.0                                                                   | 2.1                                                          | 4.8                                                       | 4.4                                       | 4.4                                    | 4.4                                                       | 4.4                                                      | 4.4                                                     | 5.0                                                                                                | 5.0                                                                                              | 4.9                                                                                      |
| 10 | Spicer Rd South            | 4.3                                                         | 4.0                            | 3.3                                   | 1.8                                                            | 2.6                                                                   | 2.4                                                          | 5.5                                                       | 5.5                                       | 5.5                                    | 5.5                                                       | 5.5                                                      | 5.5                                                     | 5.3                                                                                                | 5.0                                                                                              | 5.0                                                                                      |
| 11 | Oxford Falls Rd North East | 2.7                                                         | 4.0                            | 3.0                                   | 2.0                                                            | 2.7                                                                   | 1.7                                                          | 5.3                                                       | 5.3                                       | 5.3                                    | 5.3                                                       | 5.3                                                      | 5.7                                                     | 5.0                                                                                                | 5.0                                                                                              | 5.0                                                                                      |
| 12 | Oxford Falls Rd South East | 3.6                                                         | 4.8                            | 4.6                                   | 2.9                                                            | 3.6                                                                   | 1.6                                                          | 5.4                                                       | 5.4                                       | 5.4                                    | 5.4                                                       | 5.4                                                      | 4.8                                                     | 5.0                                                                                                | 4.8                                                                                              | 4.8                                                                                      |
| 13 | Red Hill                   | 5.3                                                         | 5.3                            | 3.8                                   | 1.0                                                            | 4.7                                                                   | 2.3                                                          | 6.0                                                       | 6.0                                       | 4.4                                    | 6.0                                                       | 5.7                                                      | 6.0                                                     | 5.1                                                                                                | 5.0                                                                                              | 5.0                                                                                      |
| 14 | Cromer                     | 3.8                                                         | 5.3                            | 4.4                                   | 3.1                                                            | 4.1                                                                   | 2.3                                                          | 6.0                                                       | 6.0                                       | 6.0                                    | 6.0                                                       | 6.0                                                      | 6.0                                                     | 5.3                                                                                                | 4.3                                                                                              | 5.2                                                                                      |
| 15 | Ingleside                  | 3.0                                                         | 4.7                            | 4.7                                   | 3.3                                                            | 3.3                                                                   | 3.0                                                          | 5.3                                                       | 5.3                                       | 4.7                                    | 5.0                                                       | 5.3                                                      | 5.3                                                     | 5.0                                                                                                | 5.0                                                                                              | 4.7                                                                                      |
| 16 | Terrey Hills               | 2.0                                                         | 5.7                            | 5.7                                   | 3.0                                                            | 4.0                                                                   | 4.0                                                          | 5.0                                                       | 5.0                                       | 4.0                                    | 5.0                                                       | 5.0                                                      | 5.7                                                     | 5.0                                                                                                | 5.0                                                                                              | 5.0                                                                                      |

1= 1<sup>st</sup> Preference

2= Very Desirable

3= Desirable

4= Not as Desirable

5= Definitely Not

6= Not Applicable

Minimum Lot Sizes:

| Precinct No | Precinct Name              | 1. 450 m <sup>2</sup> (Typical Medium Density Residential)<br>2. 600 m <sup>2</sup> (Typical Low Density Residential)<br>3. 740 m <sup>2</sup><br>4. 800 m <sup>2</sup><br>5. 4,000 m <sup>2</sup> (1 acre)<br>6. 5,000 m <sup>2</sup><br>7. 20,000 m <sup>2</sup> (5 acres)<br>8. 200,000 m <sup>2</sup> (50 acres) |
|-------------|----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|             |                            |                                                                                                                                                                                                                                                                                                                      |
| 1           | Dawes Rd                   | 1.2                                                                                                                                                                                                                                                                                                                  |
| 2           | Forestway South East       | 2.3                                                                                                                                                                                                                                                                                                                  |
| 3           | Wyatt Ave                  | 2.3                                                                                                                                                                                                                                                                                                                  |
| 4           | Forestway North West       | 4.0                                                                                                                                                                                                                                                                                                                  |
| 5           | Forestway North East       | 1.8                                                                                                                                                                                                                                                                                                                  |
| 6           | Belrose North              | 2.4                                                                                                                                                                                                                                                                                                                  |
| 7           | Morgan Rd                  | 5.4                                                                                                                                                                                                                                                                                                                  |
| 8           | Kelly's Way                | 7.0                                                                                                                                                                                                                                                                                                                  |
| 9           | Oxford Falls Rd West       | 4.3                                                                                                                                                                                                                                                                                                                  |
| 10          | Spicer Rd South            | 2.8                                                                                                                                                                                                                                                                                                                  |
| 11          | Oxford Falls Rd North East | 4.0                                                                                                                                                                                                                                                                                                                  |
| 12          | Oxford Falls Rd South East | 4.7 (A lot of people wanted 2,000 m <sup>2</sup> )                                                                                                                                                                                                                                                                   |
| 13          | Red Hill                   | 3.0                                                                                                                                                                                                                                                                                                                  |
| 14          | Cromer                     | 5.3                                                                                                                                                                                                                                                                                                                  |
| 15          | Ingleside                  | 5.0                                                                                                                                                                                                                                                                                                                  |
| 16          | Terrey Hills               | 6.3                                                                                                                                                                                                                                                                                                                  |

## Precinct based discussion for each Precinct

### Precinct 1 - Dawes Rd (Forestway West up to Perentie Rd and Dawes Rd)

This area was the subject of a Council motion which was passed to change the zoning of this area from E3 to R2. The areas directly to the North and South of this area are currently R3 under WLEP2011, with a minimum lot size of 450m<sup>2</sup> or less. The residents of this precinct want to be zoned Medium Density Residential (R3), with a minimum lot size of 450m<sup>2</sup>.

Warringah Council had a Planning proposal for this precinct to be zoned R2 on public exhibition at the time of writing this submission. WUFA has put a separate submission about the Dawes Rd Planning Proposal into Warringah council.

The map below shows the subjected sites (ie Precinct 1):

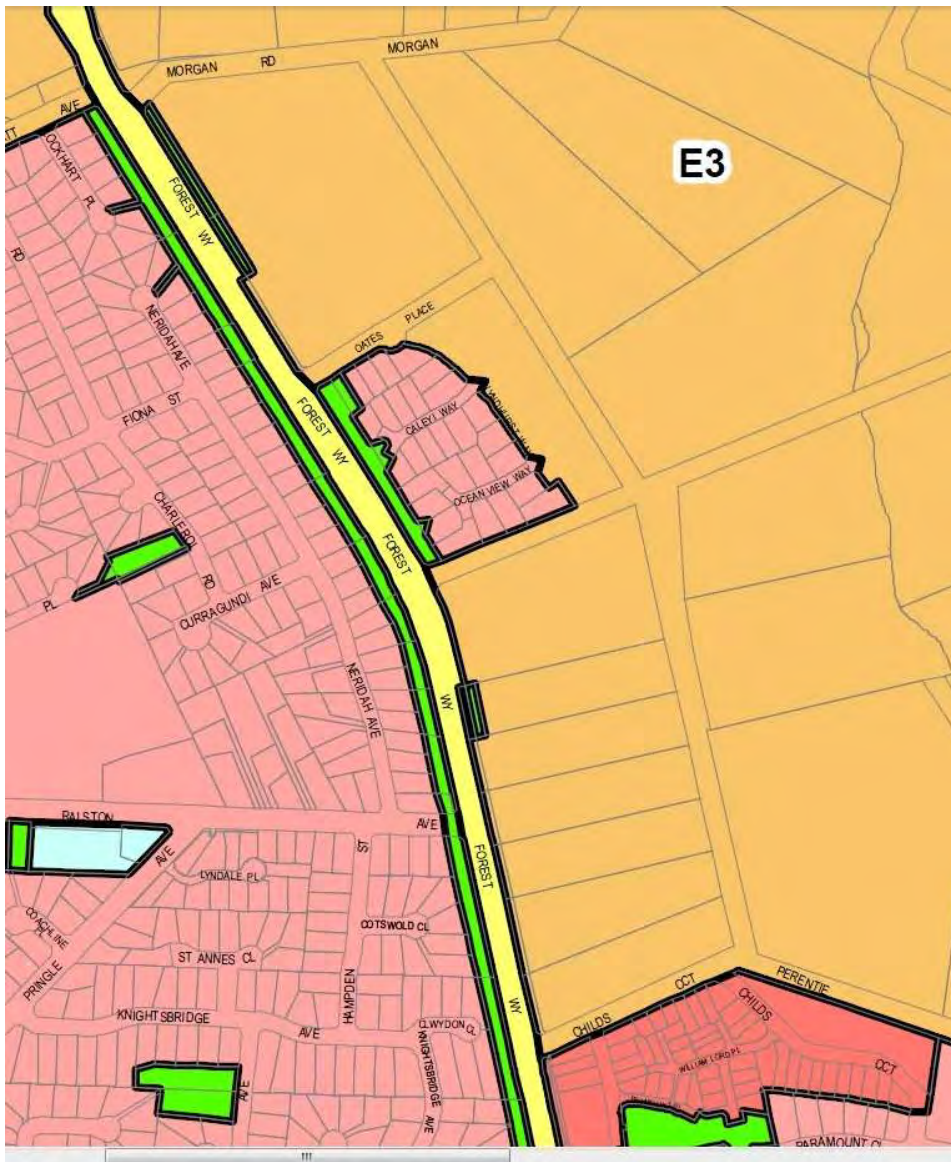
The subject land identified for zoning R2 Low Density Residential under WLEP2011



## Precinct 2 - Forestway South East (Forestway South East from Perentie Rd to Morgan Rd)

The residents of this precinct want to be zoned Medium Density Residential (R3). The area to the South of this Precinct is zoned R3, and the area to the North of this precinct is zoned R2. Other factors that support the resident's request are:

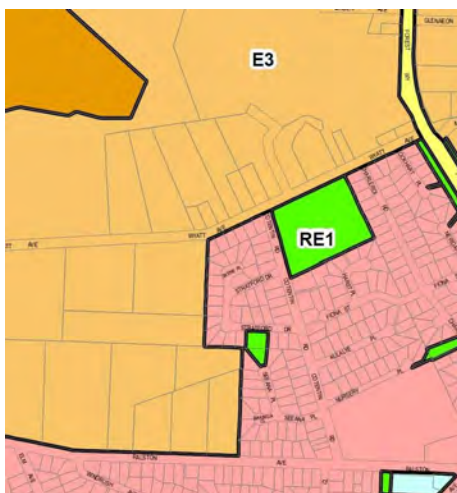
- This area is all part of the hatched area of figure 10 in the NULS, which is classified as "having potential for higher intensity development".
- This area is serviced by a major bus route.
- There are direct school buses which stop at a bus stop within 200m of this area to and from many schools.
- There is a supermarket (including bottle shop), hairdresser, two restaurants, car repair centre, car wash and many other services within 600 meters walking distance of this area.
- The area is currently connected to town water, sewerage, electricity, telephone, ADSL and Foxtel.
- The area is on a main road.



### Precinct 3 - Wyatt Ave (Northern side of Wyatt Ave)

The residents of this precinct want the land to be rezoned either Low Density Residential (R2) or Medium Density Residential (R3). The reasons why this zoning is appropriate are:

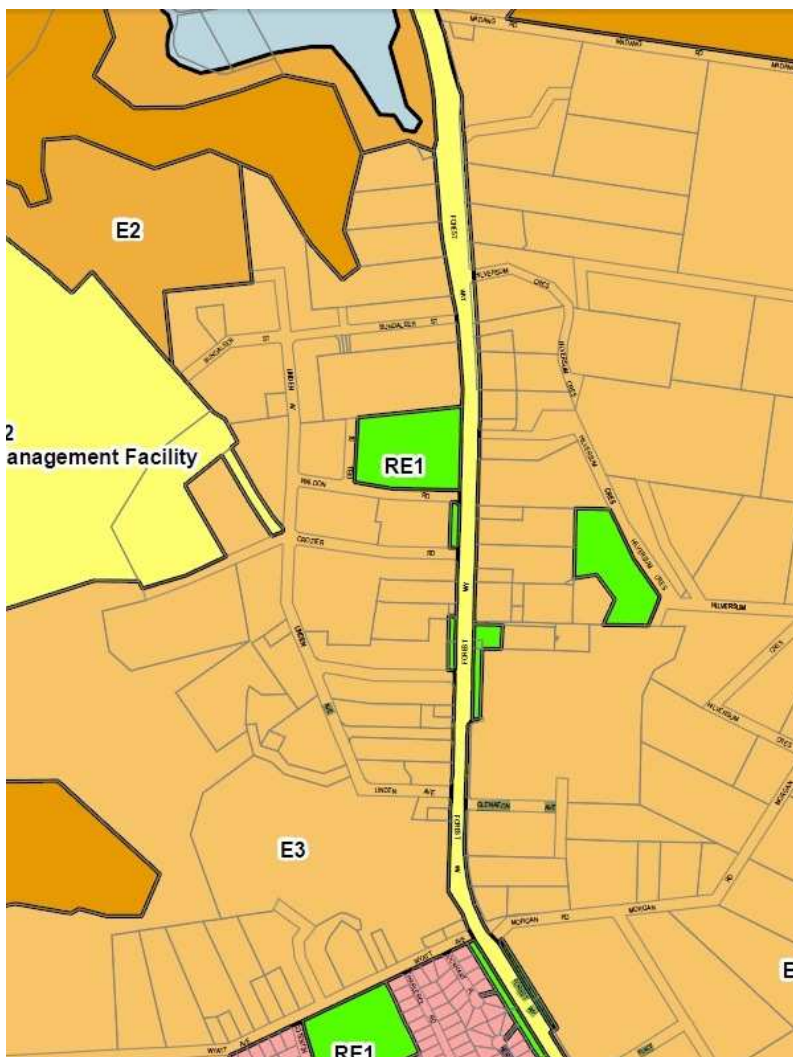
- This area is all part of the hatched area of figure 10 in the NULS, which is classified as “having potential for higher intensity development”.
- This area is serviced by a major bus route. There are 94 public buses that stop at a bus stop within 100m of this area heading to and from Town Hall on any given weekday. There are 77 public buses that stop at a bus stop within 400m of this area heading to and from Chatswood Station on any given weekday. This gives a total of 171 public busses servicing this area on any given weekday.
- There are direct school buses which stop at a bus stop within 100m of this area to and from Brigidine College, Covenant Christian School, Davidson High School, Kambora Public School, Northern Beaches Christian School, Oxford Falls Grammar School and Wakehurst Public School.
- There are three schools (John Colet, Belrose Public and Covenant Christian School) within 500 meters walking distance of this area.
- There is a supermarket (including bottle shop), hairdresser, two restaurants, car repair centre, car wash and many other services within 600 meters walking distance of this area. There is a concrete footpath all the way from the precinct to these services.
- There is a Public Park (Wyatt Park) with play equipment 100m away from this area (on the other side of the road to the precinct).
- The area is currently connected to town water, sewerage, electricity, telephone, ADSL and Foxtel.
- The area drops off to the North giving environmentally friendly North facing aspects.
- The area is in a street which has vehicular access directly onto Forest Way (at a set of traffic lights).
- There is a school located on the Northern side of Wyatt Ave (John Colet) which has gone from a sparsely built on property to a property with many large buildings over the last few years.
- The Southern side of Wyatt Ave is current zoned R2.



### Precinct 4 - Forestway North West (Properties fronting Forestway North of Wyatt Ave)

The residents of this precinct want the land to be rezoned B6 (Business Enterprise Corridor). This area currently consists mainly of business premises and garden centres. Below is an extract describing the B6 zone from the Practice Note Titled “Preparing LEP’s using the Standard Instrument”:

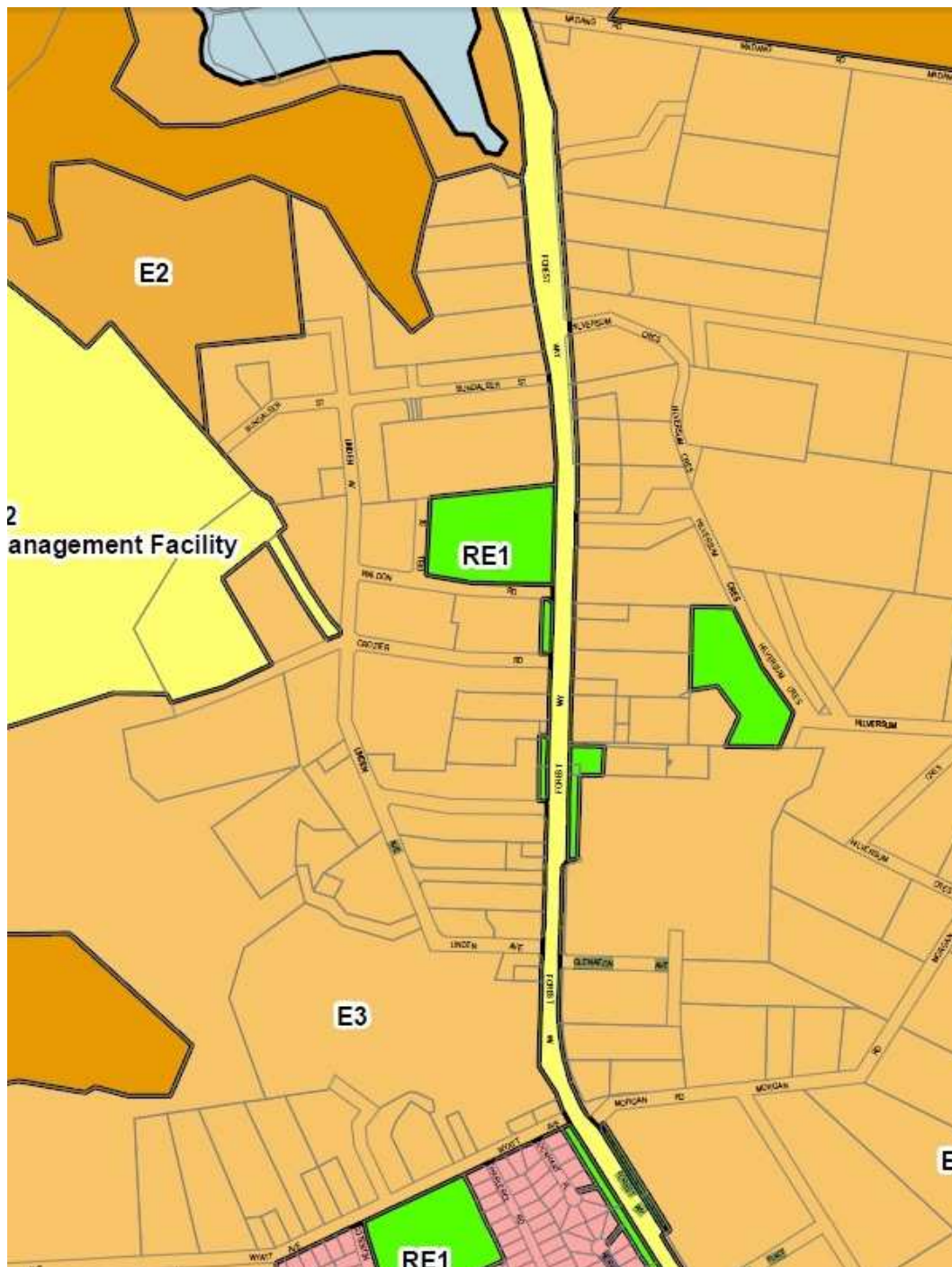
The zone is generally intended to be applied to land where commercial or industrial development is to be encouraged along main roads such as those identified by the metropolitan, regional and subregional strategies. The zone provides for uses such as ‘business premises,’ ‘hotel or motel accommodation’, ‘light industries,’ ‘hardware and building supplies,’ ‘garden centres’ and ‘warehouse or distribution centres.’ Retail activity needs to be limited to ensure that Enterprise Corridors do not detract from the activity centre hierarchy that has been identified or planned. Opportunities for urban consolidation along busy roads may be pursued and some residential accommodation uses may be included in this zone, if considered appropriate. In 2011, a zone Direction was included to clarify that where any type of residential accommodation is included in the Land Use Table, an additional zone objective must also be included relating to the provision of residential uses ‘only as part of a mixed use development.’



### Precinct 5 - Forestway North East (Properties fronting Forestway North of Morgan Rd)

The residents of this precinct want the land to be rezoned Low Density Residential (R2). The reasons why this zoning is appropriate are:

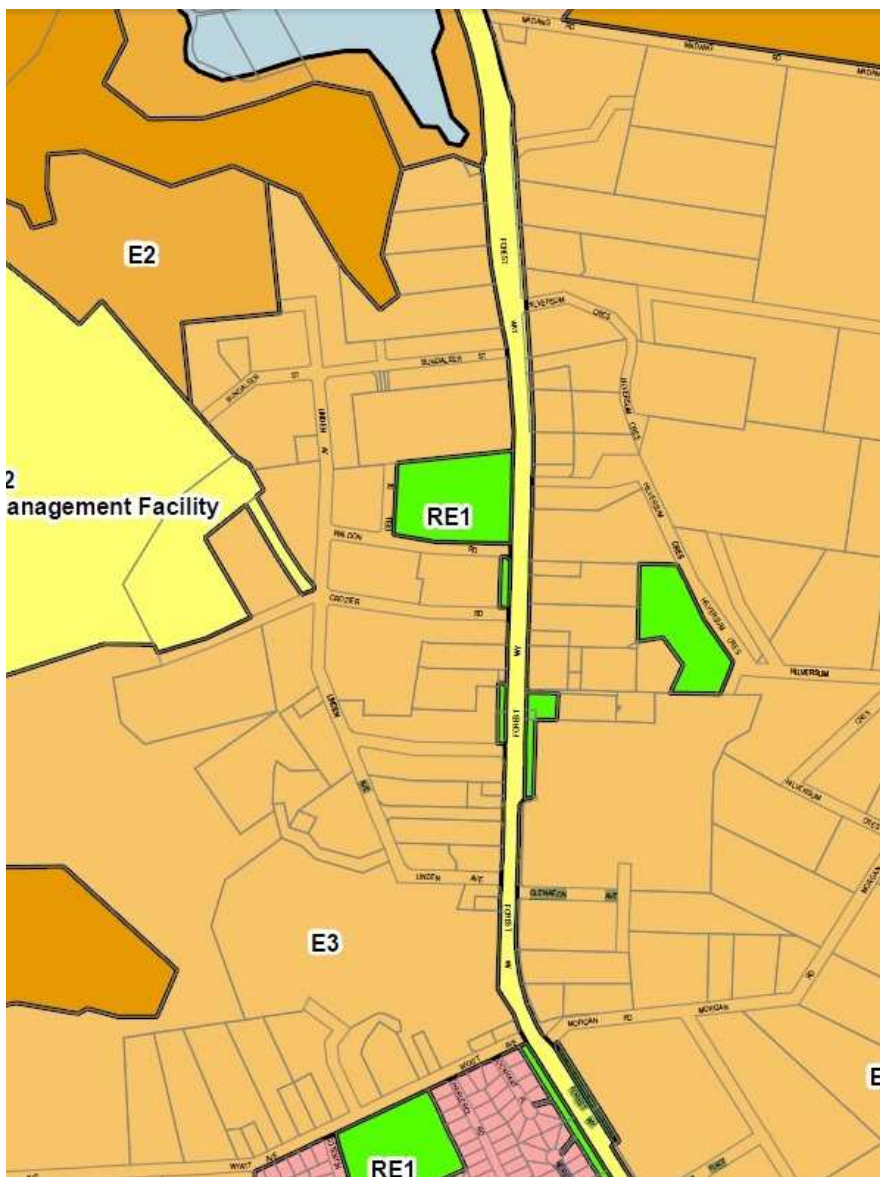
- This area is all part of the hatched area of figure 10 in the NULS, which is classified as “having potential for higher intensity development”.
- This area is serviced by a major bus route.
- There are direct school buses which stop at a bus stop within 100m of this area
- There are schools within walking distance of this area.
- The area is currently connected to town water, electricity, telephone and ADSL.



## Precinct 6 - Belrose North (Everything north of Wyatt Ave, west of properties fronting Forestway)

The residents of this precinct want the land to be rezoned either Medium Density Residential (R3) or Low Density Residential (R2). The reasons why this zoning is appropriate are:

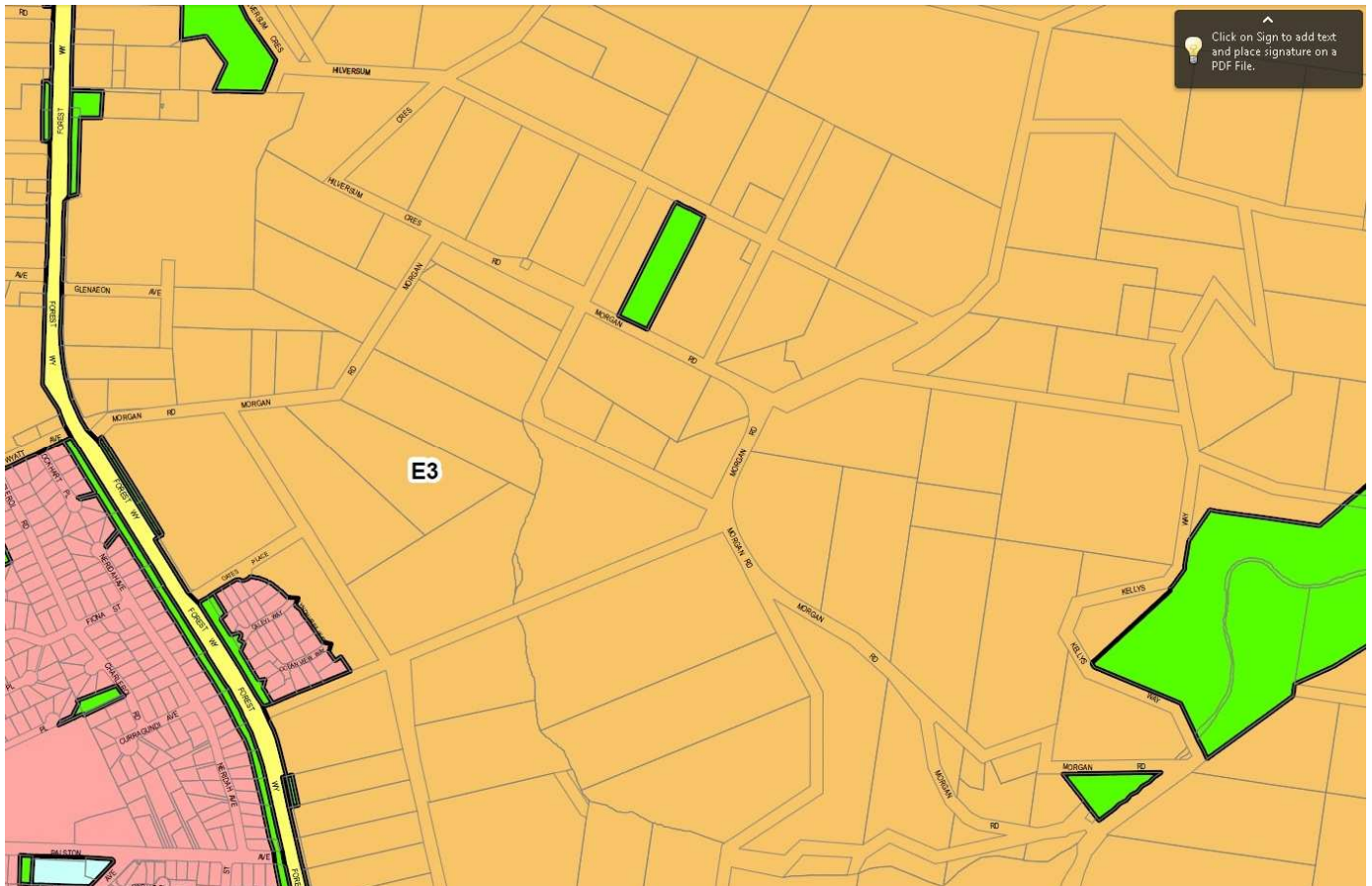
- This area is all part of the hatched area of figure 10 in the NULS, which is classified as “having potential for higher intensity development”.
- This area is serviced by a major bus route.
- There are direct school buses which stop at a bus stop within 100m of this area
- There are schools within walking distance of this area.
- The area is currently connected to town water, electricity, telephone and ADSL.
- The area is sandwiched between residential south of Wyatt Ave and industrial park (AustLink) to the North.



## Precinct 7 - Morgan Rd (Morgan Rd and Hilversum Cres)

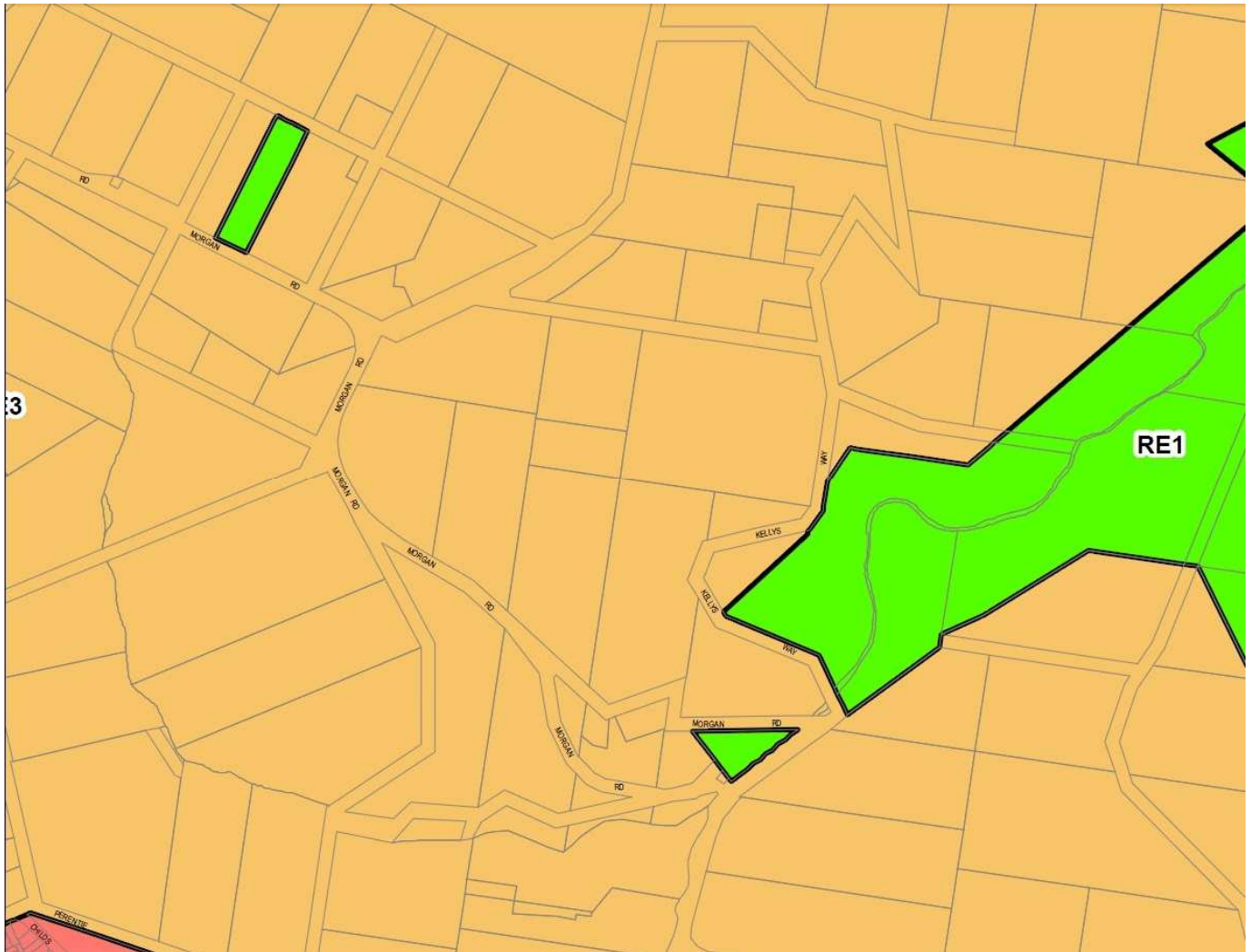
The residents of this precinct want the land to be rezoned Large Lot Residential (R5), with a 4,000m<sup>2</sup> (1 acre) minimum lot size. The reasons why this zoning is appropriate are:

- This area is all part of the hatched area of figure 10 in the NULS, which is classified as “having potential for higher intensity development”.
- Properties are currently connected to town water, Electricity and Telephone.
- Sewer capacity runs down Morgan Rd very close to many of these properties.
- Schools within walking distance.



## Precinct 8 - Kelly's Way (Kelly's Way)

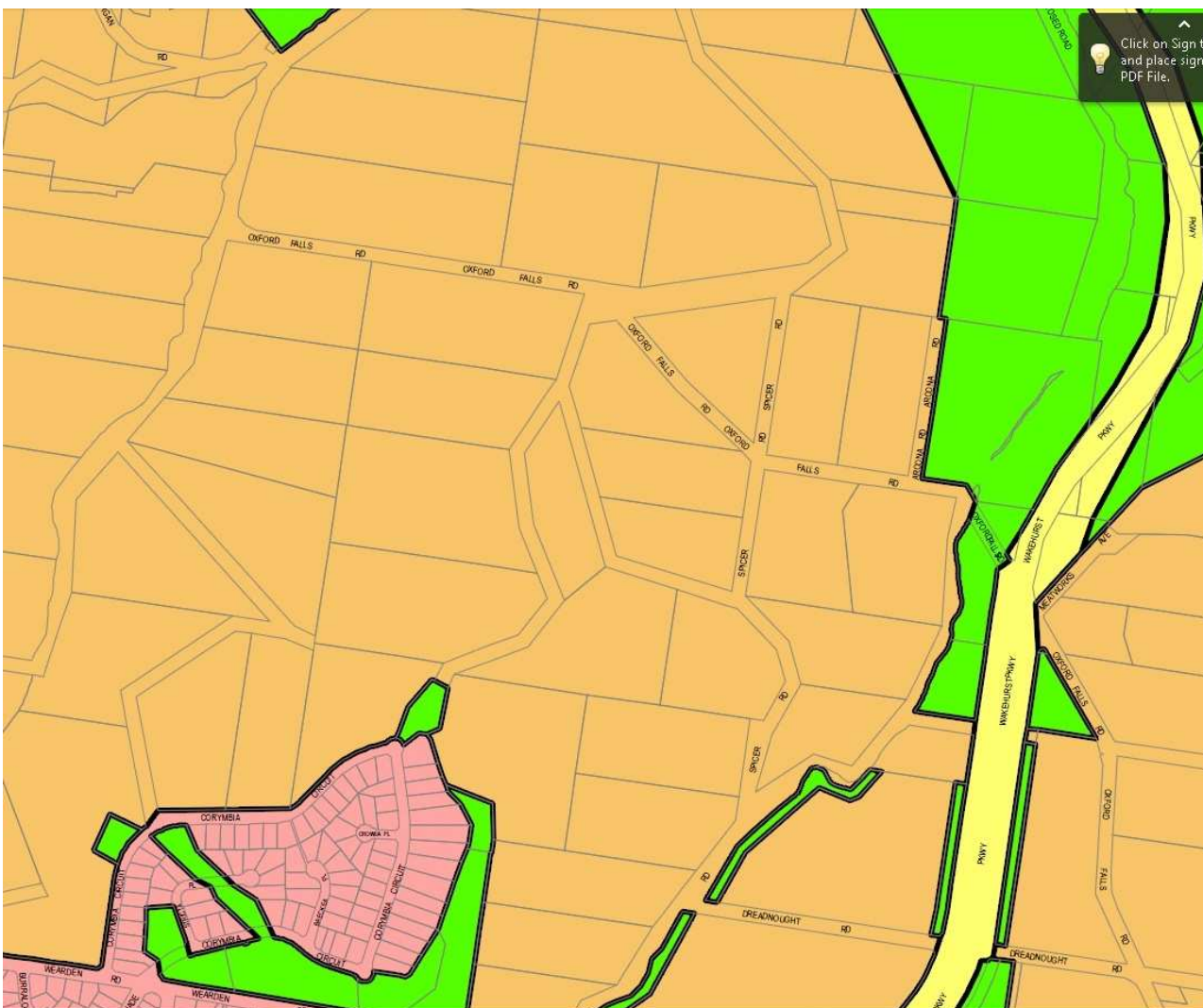
The residents of this precinct want the land to be rezoned Primary Production Small Lots (RU4), with a 20,000m<sup>2</sup> (5 acre) minimum lot size.



## Precinct 9 - Oxford Falls Rd West (East of Snake creek to Wakehurst Parkway)

The residents of this precinct want the land to be rezoned a combination of Large Lot Residential (R5), Primary Production Small Lots (RU4) and Residential Low Density (R2). The reasons why this zoning is appropriate are:

- This area is all part of the hatched area of figure 10 in the NULS, which is classified as “having potential for higher intensity development”.
- Most of the privately-owned land is cleared.
- About 7 years ago a paper was prepared which showed the historical usages of all of the properties covered by Precincts 9, 10 and 11. Virtually all of these properties were used for chicken farms, pig farms, abattoirs, one large pottery producing domestic-ware from locally-extracted clay, and several quarries. Some of these usages date back to the late 1800's. As well, most of the topsoil was extracted and sold off in the 1950's. Most current soils are from brought-in material since the 1960's. Warringah Council is in possession of this document, and we are happy to supply a copy to this review.
- Currently there is a wholesale nursery, a sizeable horse-boarding establishment and several hobby-farms operating here, as well as a Council-approved 60-place childcare centre still under construction, with a series of additional buildings apparently, including a gardeners cottage, a staff quarters cottage, in addition to a large privately-occupied 3-level dwelling.

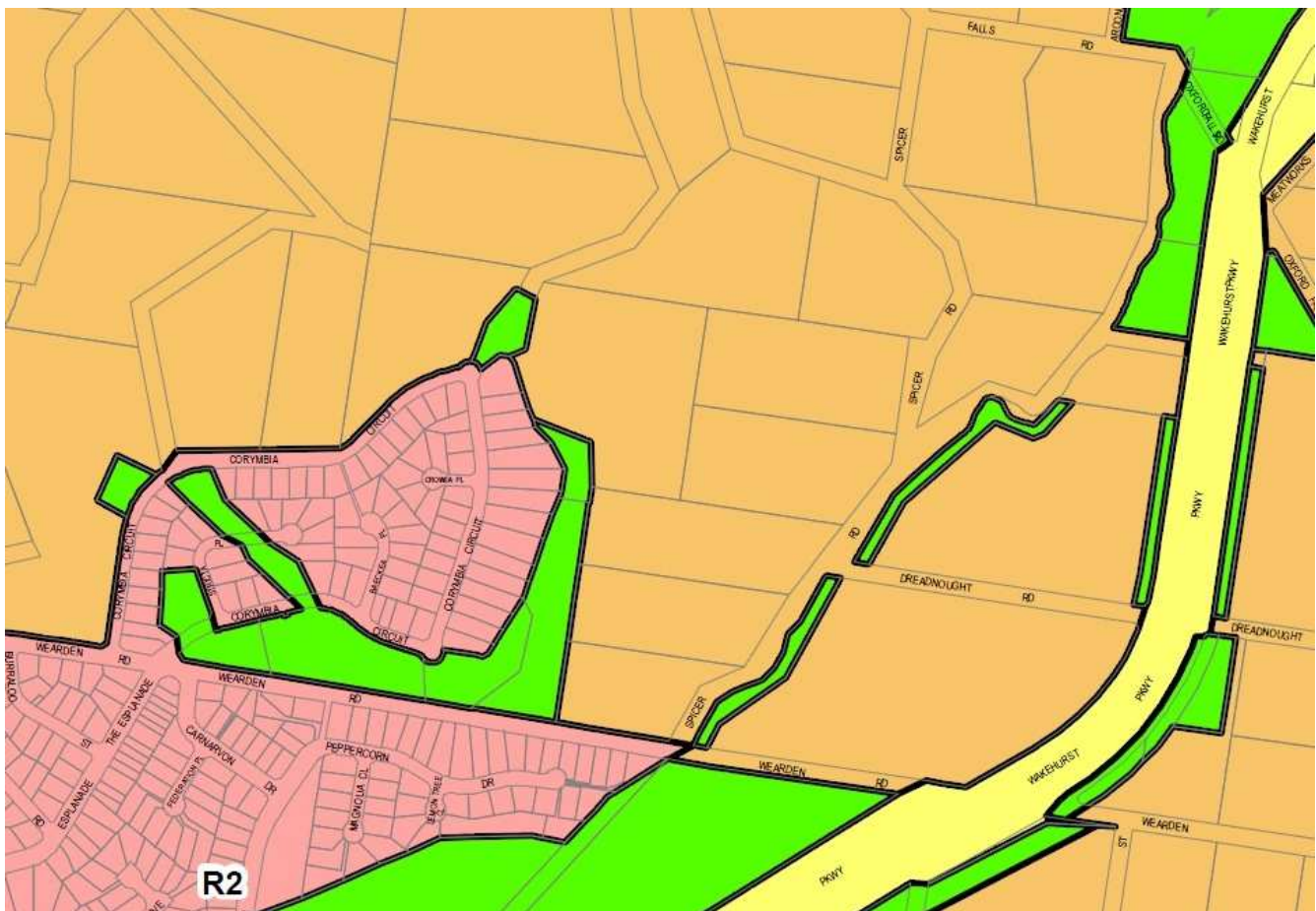


## Precinct 10 - Spicer Rd South (Spicer Rd South including C3 & St Pius)

The preferred outcome for the owners in this area is a zoning of R5 with a 2,000m<sup>2</sup> minimum lot size. It is important for the C3 church that Places of Public Worship are listed as permitted with consent for the R5 zoning. It is also important for C3 church that the C3 land can also be used for educational purposes (eg preschool and bible college), as well as being allowed to have a café and bookshop.

The reasons why this zoning is appropriate are:

- This area is all part of the hatched area of figure 10 in the NULS, which is classified as “having potential for higher intensity development”.

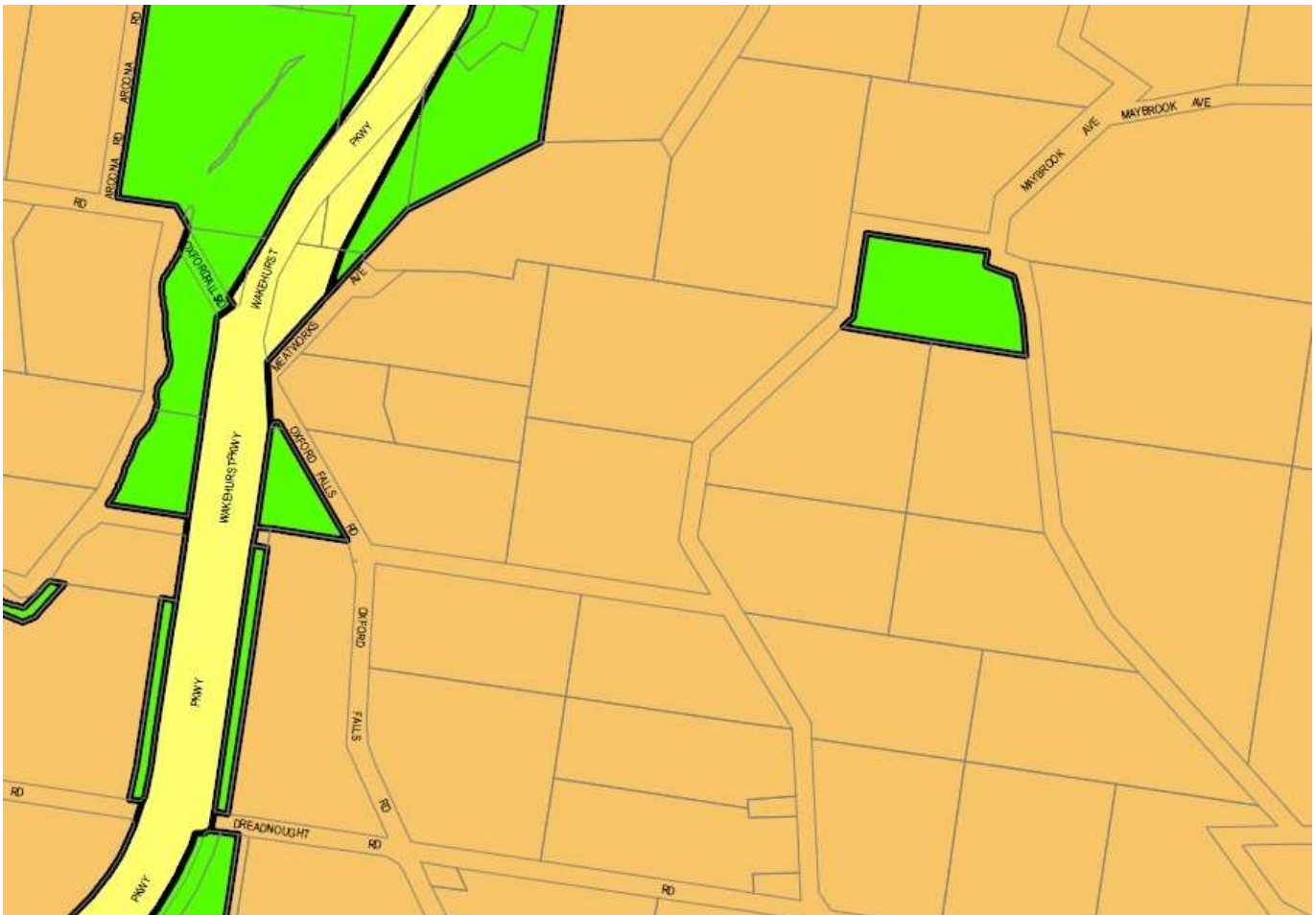


## Precinct 11 - Oxford Falls Rd North East (Everything East of Wakehurst Parkway, North of Dreadnought Rd)

The residents of this precinct want the land to be rezoned a combination of Large Lot Residential (R5), Residential Low Density (R2). The reasons why this zoning is appropriate are:

- This area is all part of the hatched area of figure 10 in the NULS, which is classified as “having potential for higher intensity development”.

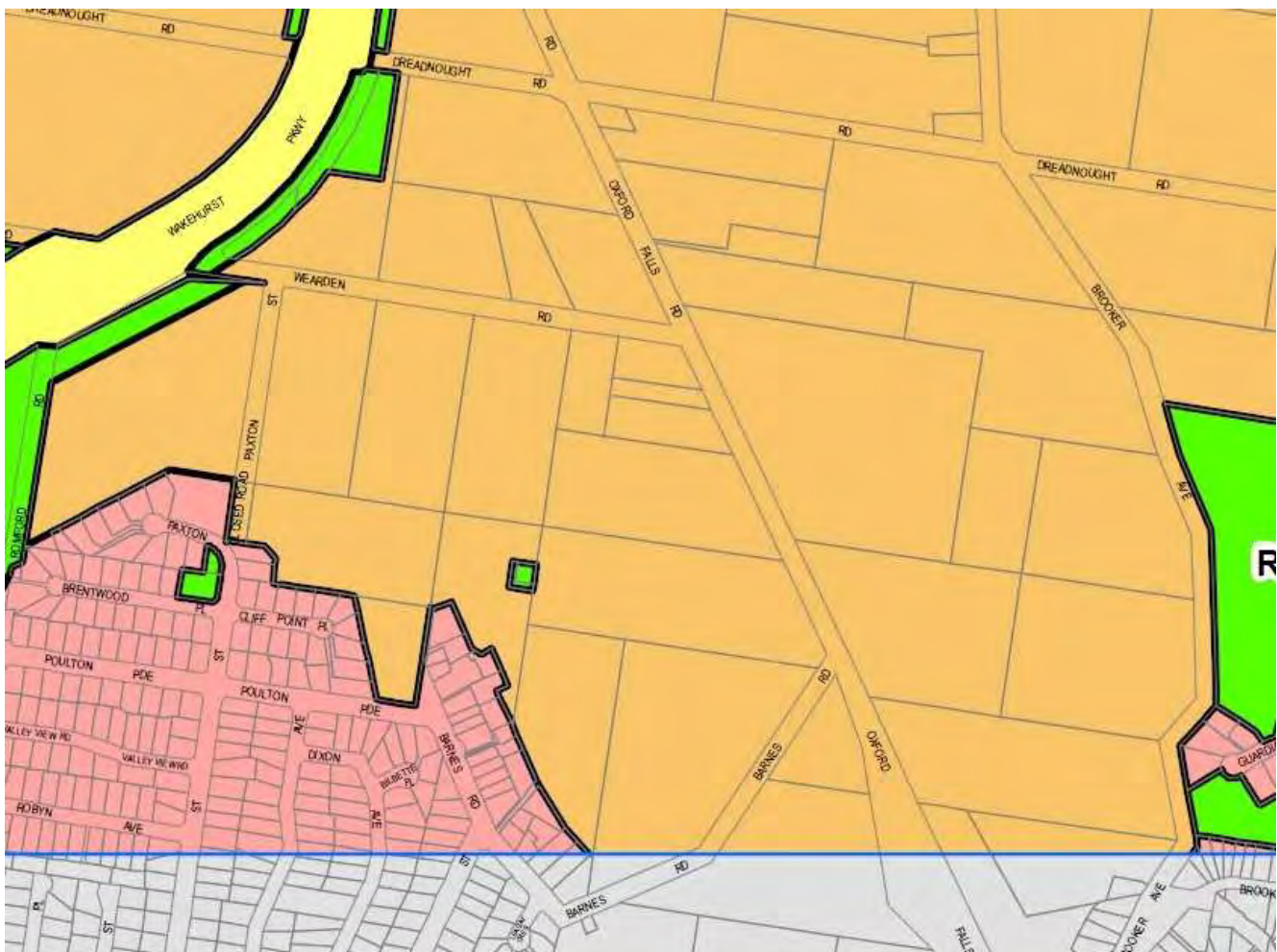
It is important to Oxford Falls Grammar School that whatever zoning is given to their land, and the land surrounding it, the school must be able to expand (beyond the 10% allowable under existing usage rights).



## Precinct 12 - Oxford Falls Rd South East (Everything East of Wakehurst Parkway, South of Dreadnought Rd)

The residents of this precinct want the land to be rezoned Large Lot Residential (R5), with a minimum lot size of 2,000 m<sup>2</sup> (1/2 acre). As per the LEP practice note PN 07-001, the objective of the R5 zone is to provide residential housing in a rural setting. The area is mainly Cleared Land. The current usage is predominantly Rural Residential with some hobby farms. Minimum size lots of 5000m<sup>2</sup> are concentrated in Oxford Falls Rd at Wearden Rd. One Commercial Development exists, known as the Australian Tennis Academy (Falls Retreat), on approximately 21,600m<sup>2</sup>. The Rural holdings in this precinct are mainly in the floor of a valley and any new residential buildings would be well below ridge tops. Direct road access is available to Iris St and to Wakehurst Parkway via traffic lights. Oxford Falls Grammar School is within walking distance. This Precinct south of Wearden Rd is bounded to the east, south and west by R2 Residential development (Beacon Hill and Frenchs Forest). Existing services include school buses, town water, electricity, telephone, ADSL and Foxtel. The Australian Tennis Academy has a rising main to the Boards sewer in Barnes Rd. and there is the potential for other properties to have access at this point.

This area is all part of the hatched area of figure 10 in the NULS, which is classified as “having potential for higher intensity development”.

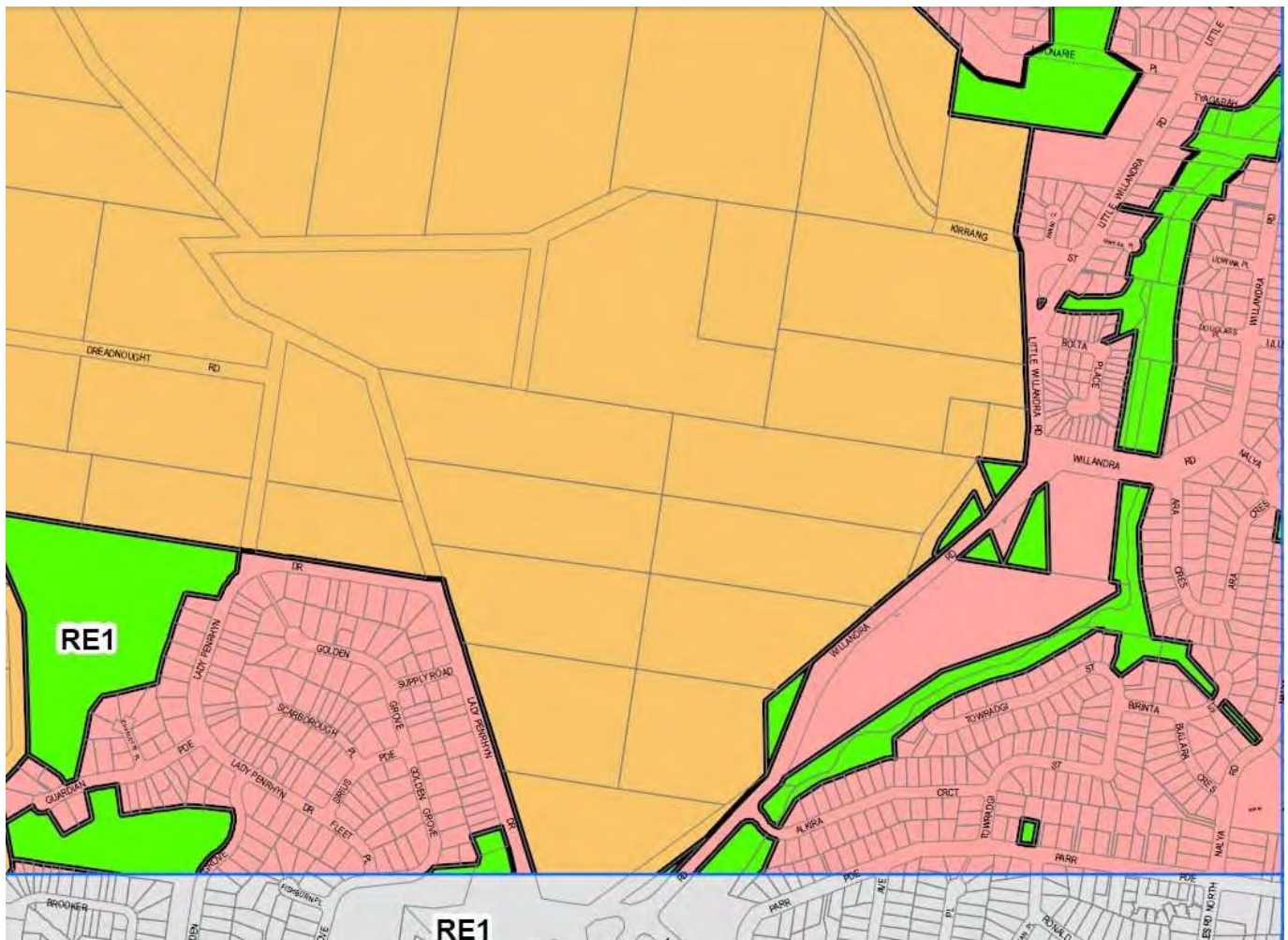


## Precinct 13 - Red Hill (Red Hill)

The residents of this precinct want the land to be zoned Residential Low Density (R2).

The reasons why this zoning is appropriate are:

- This area is all part of the hatched area of figure 10 in the NULS, which is classified as “having potential for higher intensity development”.



## Precinct 14 - Cromer (Cromer)

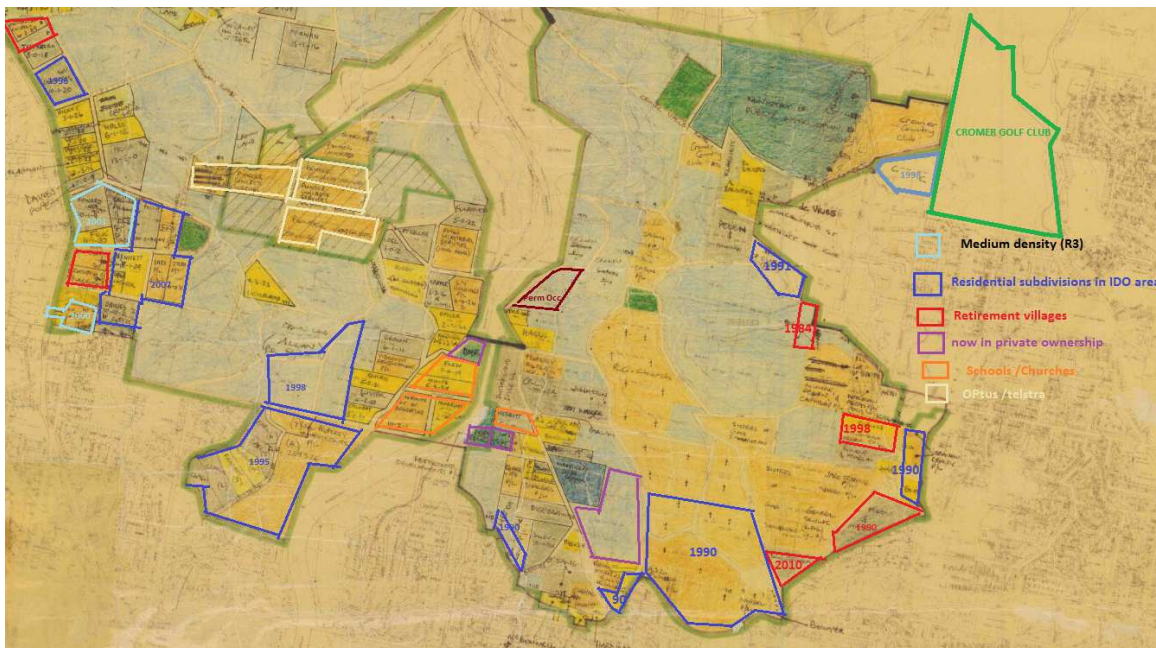
Properties at Cromer deferred from LEP 2011 predominately adjoin residential subdivisions zoned R2 Low Density Residential under the Current Warringah LEP. Lots sizes vary from 1 acre to 7 acres. The area is serviced for town water, sewer, electricity, telephone and ADSL.

The areas adjoining residential lots could be appropriately developed into R2 or R5. As per PN 11-02 lot sizes could vary from 600sqm to 1acre-5acre lots.

This zone is intended to cater for development that provides for residential housing in a rural setting, often adjacent to towns or metropolitan areas. The allocation of large lot residential land should be justified by council's housing/ settlement strategy prepared in accordance with planning principles set out in regional and subregional strategies, s.117 directions and relevant SEPPs. Access to reticulated sewerage and water systems should be considered when determining appropriate minimum lot sizes. Lot sizes can be varied within the zone depending on the servicing availability and other factors such as topography, native vegetation characteristics and surrounding agricultural land uses.

As late as the 1970's this area was predominately poultry farms and nurseries. The end of Northcott Rd was a quarry up to the late 1980's and only ceased due to the death of the proprietor. Cromer Golf club was established in 1929 and continues to provide recreational and social activities to the public.

Land in Cromer has been developed into small residential lots in the late 1990's despite IDO 51 restrictions. Development has included residential subdivision at Pinduro place, Cromer Rd, Bolta place. Retirement villages include Maybrook Manor, Cromer bungalows, Willandra Village. All other areas of Cromer outside the IDO 51 mapped area has been developed into small residential lots.



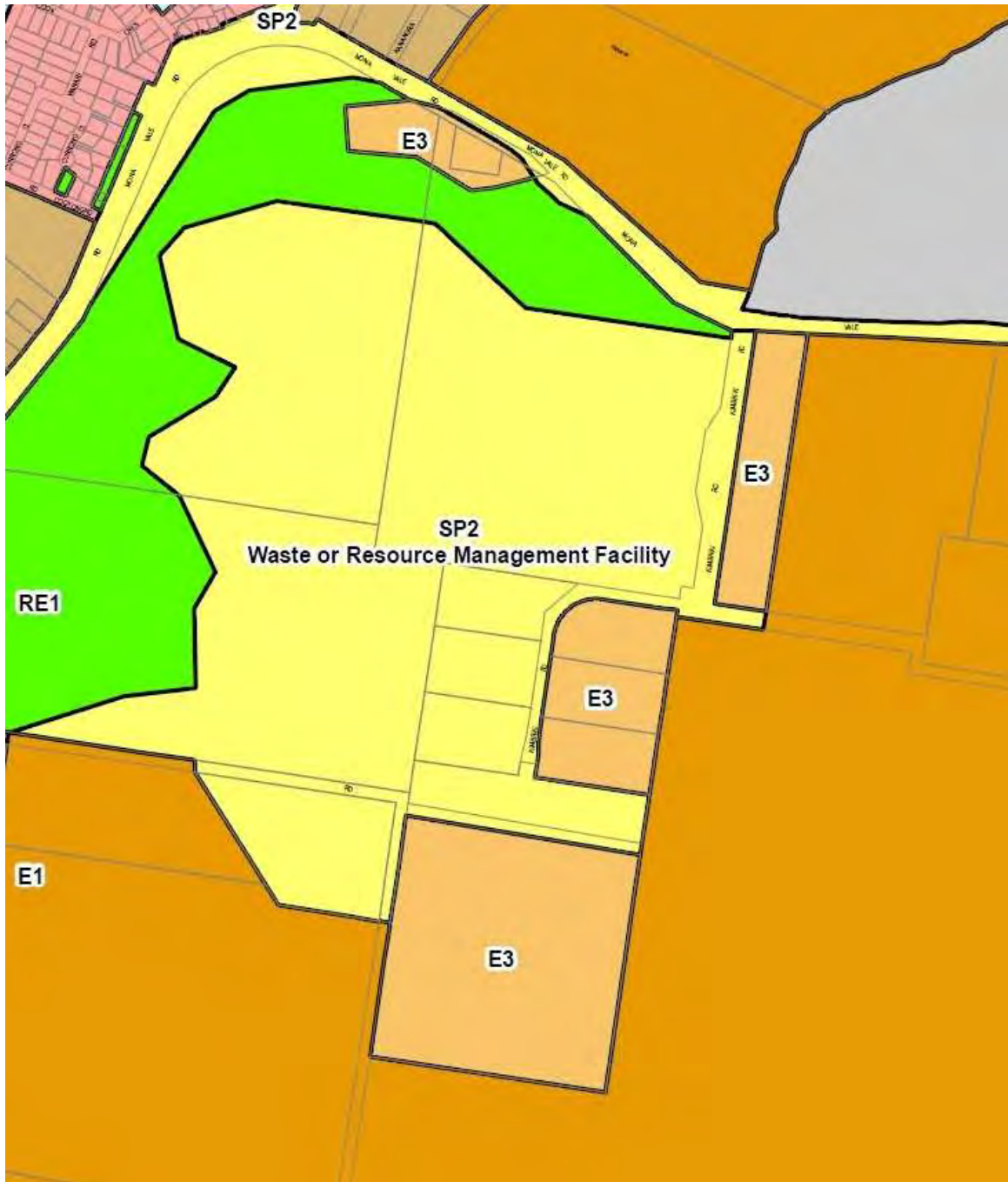
This area is serviced by a major bus route, including direct city buses.

Cromer has a primary school and High school as well as school bus facilities for private and public schools on the northern beaches. St Mathews farm, Cromer Park and 15 other parks/reserves are located in the Cromer suburb.

### Precinct 15 – Ingleside (Ingleside)

The residents of this precinct want the land to be zoned either Primary Production Small Lots (RU4) or Large Lot Residential (R5), with a minimum lot size of 4,000 m<sup>2</sup>. The reasons why this zoning is appropriate are:

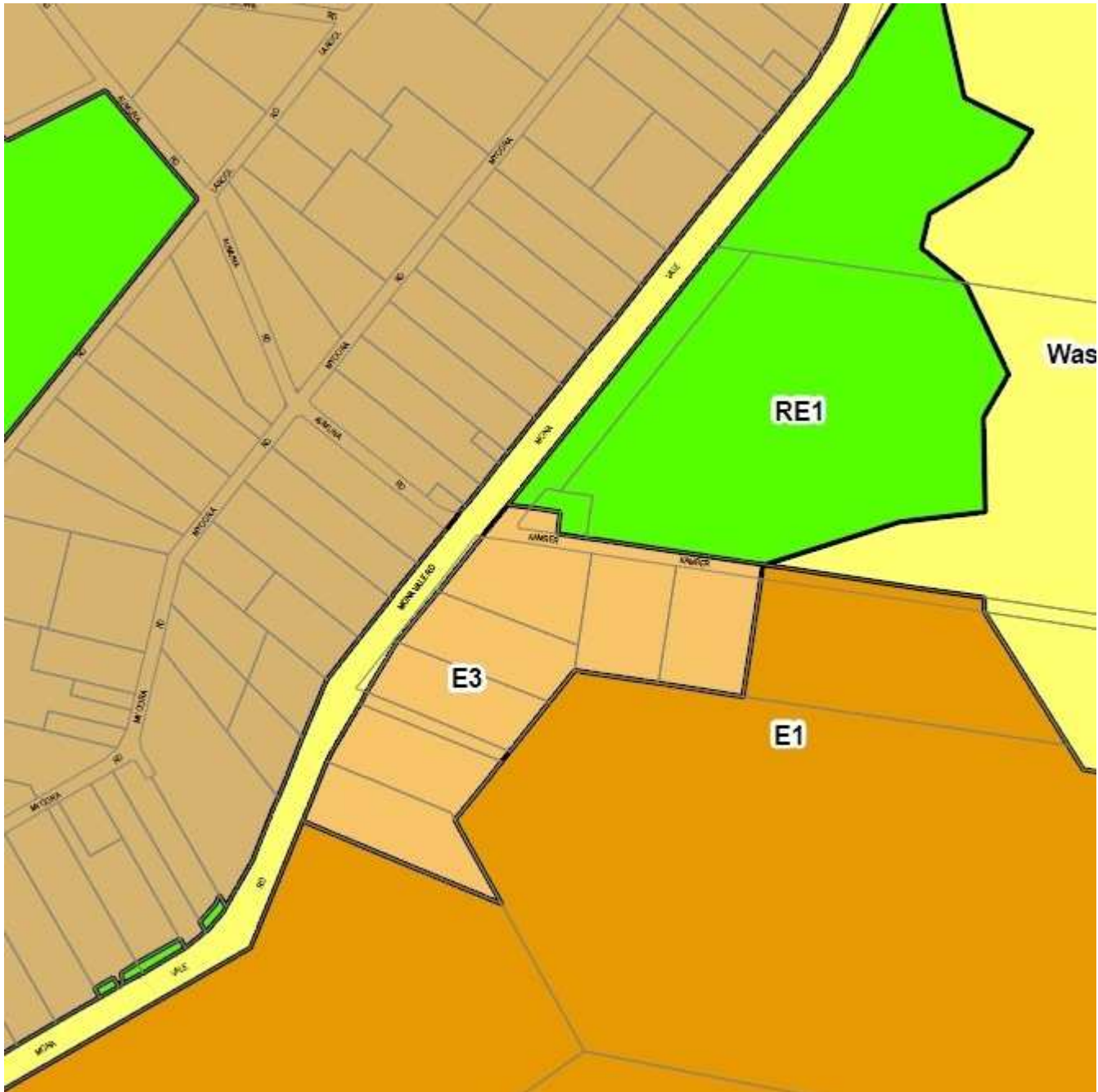
- This area is mostly used for horse activities.
- Most of the privately owned land is cleared.



## Precinct 16 - Terrey Hills (Mona Vale Rd, Kamber Rd)

The residents of this precinct want the land to be zoned Primary Production Small Lots (RU4) with a minimum lot size of 5,000 m<sup>2</sup>. The reasons why this zoning is appropriate are:

- Most of the privately owned land is cleared.



# Lagoon area restriction is rejected

A proposed 50-acre development restriction in the Tarabean Lagoon catchment area was rejected by Warringah Shire Council this week.

After a series of public hearings and a series of new decisions, C. Couriel placed the restriction on the agenda. The Northern Beaches Council's plan was rejected. The Minister for the Environment has asked the Government for an extension on the area. All existing dwellings in the catchment area to be removed from the proposed restriction. The plan was forwarded by Cr. J. Legg, while the application to the Minister was at the discretion of Cr. C. S. Couriel. The council was asked to plan by its town clerk, Mr. P. S. Nicholas, and last September. Cr. Legg said this had been done with only seven sites present and without a map. He said the council had made a mistake in September. But it should not be compounded and the proposed area should be looked at so

a balanced judgment could be formed.

Cr. K. E. Regard claimed the 50-acre restriction meant additions could not be made to existing dwellings in five acres or less.

Cr. P. M. Beckman supported the northern committee's plan as a practical way of preserving the lagoon without causing hardship.

He said the 50-acre proposition should be thrown out and instead when the lagoon is developed, the area should be open space and would become available.

Answering Cr. Huntington, Mr. Winson said effort would be given to the northern committee's plan rather than suspension action that would take "some months" or by inclusion in a varying scheme that could take a "couple of years".

Cr. Couriel then added suspension action to his motion.

The acting town planner, Mr. L. Winson, urged re-consideration of the September decision adopting his department's plan.

Cr. D. S. Saintsbury, whose amendment for an inspection was lost, said the council might have made a mistake in September.

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## Fledgling Eagle



A fledgling Sea Eagle was his "wings" on Harbour Beach yesterday. He tried out with Manly Warringah's kangaroo centre Bobby Fulton, who proclaimed the young bird a pretty good prospect. His name: Scott Fulton, aged 12 months. Father and son were enjoying a relaxing time together on the beach when staff photographer Dave Follger caught the "action". For a story on football families, see page 5.

## RESCUE BOATS ROW ON AGENDA

Availability of power and rescue boats is to be discussed by Warringah Shire Council next Monday night with the SLSSA Liaison Committee.

This follows charges at last week's talks and reserve committee meeting of boats being used for "everything but rescue".

It was also stated the boats, one of which is authorised by the council, were not always available for use by the council's beach inspectors.

The decision set aside a recommendation that the council spend \$6150 on its own power boat.

Cr. K. E. Regard moved at this week's council meeting for the talks with the council's beach superintendent, Mr. G. Mullins, also present.

He first moved for the talks to be with the committee, but agreed with Cr. P. M. Beckman for the matter to be listed for next Monday night's special council meeting.

Cr. C. S. Huntington seconded the motion, which was agreed to without dissent.

Cr. P. Couriel commented yesterday on statements he had made at the committee meeting to persons entering the pool after the beach had been closed.

"My reference to the closing of beaches was to occasions when the beach is closed by beach inspectors as surf conditions become dangerous conditions."

"If individuals blatantly ignore signs and verbal warnings and still enter the surf, action should be taken against them."

"All too often however, at peril to their own lives, have to rescue young fools who take no notice of clear warnings and get into trouble in mindless seas."

## 'INCIDENT' IS NOW CLOSED

The "McClelland incident" at Warringah Council is now closed.

Members on Monday closed a closed session with the closure of the "McClelland incident" at Warringah Council. The incident, which was the subject of a motion by Mr. J. B. McClelland, was closed after the council had heard the evidence of the council's officers.

Mr. McClelland said the council had been misled by the council's officers and that the council should be told the truth.

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## Sites for centres

Sites for child care centres at Dee Why and Brookvale were approved by Warringah Shire Council on Monday night.

The Federal Government will fund the money for the land, the buildings and furnishings.

The sites are in Pacific Parade, Dee Why, and Rosel Street, Brookvale. Each centre will house about 30 children.

The Australian Department of Education recommended the sites to Council.

## The Missing KIDS

The Daily's series of "The Missing Kids" today features two teenage girls who may be together.

As a result of earlier articles, the Missing Persons Bureau has received about 30 calls from peninsula residents.

The bureau (31 0277, extension 5139) believes that many of the missing teenagers — up to 70 per cent —

have substantial contact with the Manly district during their time away from home.

Bureau officials say there are a combination of attractions — other young people

with similar interests and life style, beaches and low-cost accommodation.

Arguments with parents are the most common cause of young people leaving home.



Jennifer Anne Douglas, 14, was last seen by her mother when she left home at Blacktown at 7.30 a.m. on September 20 last year, to go to school.

Police believe Jennifer and Katherine Mary Burford may be together.

Jennifer returned to her home later in the day after her mother had gone shopping and took a quantity of clothing.

"She is 1.3 metres tall, medium build, olive complexion, brown hair and brown eyes. She has a noticeable scar on her right ankle."



Katherine Mary Burford, 16, was last seen at her home at 7 a.m. on September 20 last year.

Her father told police he thought she was going to work.

Katherine worked as a shop assistant in a Blacktown store.

Mr. Burford said there had been no argument or domestic upset in cause her to leave home.

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Vol. 67. No. 16,099.

SATURDAY, MARCH 9, 1974.

PRICE 5c



WARM AND HUMID  
20-26 degrees

## Students may have to learn a new ABC

at Pittwater High may soon have to learn a new ABC.

There are considerable considerations in introducing a system which some students may be excluded from, regarded as too much to teach efficiently.

The system is envisaged based on students' names in alphabetical order.

Human for Teachers' union members at school, Mrs. E. ... said the views of ... would be sought

before the scheme was implemented.

"It means that if a class has 40 students, seven will be excluded to bring the number down to the 33 maximum recommended by the federation for junior high school classes," she said.

"The excluded students will remain outside the classroom or in the playground with minimum supervision, for the duration of the lesson."

"It will be a different group excluded at each lesson."

At a meeting on Thursday,

teachers from Manly-Warringah schools indicated that they were prepared to take direct action, possibly strike action if need be, over the issue of class sizes.

The meeting set up a co-ordinating committee for direct action if their requests for additional staff are not met.

This is in line with the policy adopted by the NSW Teachers' Federation, the executive of which has threatened strike action if the NSW Minister for Education,

Mr. Willis, does not come up with a workable solution to the staffing problem by next month.

Mr. Willis has indicated that the problem cannot be solved by just adding a teacher or two to schools claiming to be understaffed.

The area meeting on Thursday referred specifically to two district high schools, two district primary schools and an infant's department as having staff problems detrimental to the education of students.



MR. WILLIS.

## SHOCK LAGOON RULING

A 50-acre development restriction has been imposed on the Narrabeen Lagoon catchment area.

This was announced in the Government Gazette yesterday in a proclamation by the Minister for Planning and Environment, Sir John Fuller.

The Minister acted on the advice of the State Planning Authority.

The shock decision negates Warringah Shire Council's resolution last Monday night and is contrary to the wishes of local residents.

The effect of the proclamation also is that only one dwelling may be erected on an existing five-acre block.

But in the case of, say, three five-acre blocks in the one ownership, and adjoining, only one dwelling may still be erected.

The Shire president, Cr. R. J. Legg, said yesterday it seemed the only course now open for the council would be to make representations to the Minister to alter his requirements.

### Support

The council last Monday adopted a new plan for the catchment area prepared by the Northern Beaches and Bushland Preservation Committee.

The plan had the support of Oxford Falls Progress Association.

The council reversed its decision of last September taken with only seven councillors present — to adopt the 50-acre restriction.

It had intended dealing with the matter at a special meeting on Monday night when representatives of all interested organisations were to have addressed the council.

However, Cr. P. Couvret persuaded the council to go ahead and adopt the northern committee's plan.

## Beware bogus appeal callers

Members of the collection crew in Manly and Warringah for the annual Cross Calling Appeal taking extra precautions and bogus collectors.

The organisers fear that a collector operating in the district on the pretext of being outstanding accounts for a Dee Why department store may take advantage of the appeal day.

Collectors are looking for a man, who is reported to have collected hundreds of dollars from unsuspecting Manly residents who did in fact have outstanding accounts to be stored.

Red Cross Shire committee first the Red Cross Appeal has called to the 21 area leaders asked them to contact nearest police station and identify themselves to the police.

With the Manly and Warringah committees have notified the District Inspector of Police at Manly that there are about 500 authorised collectors knocking on doors asking for donations.

**Precaution**  
Gavin Anderson, chairman for the Warringah appeal, said yesterday that a normal procedure was to advise the Inspector of Police of the appeal day.

At the precaution of the police, police will be on routine procedures, Anderson said.

"We feel we must take extra care," Cr. Anderson said.

Any householder suspicious of a collector should call the nearest police station.

Then the police in that area will know the leader of his or her team of collectors and will have a good chance of establishing immediately whether or not it is a genuine collector," Cr. Anderson said.

Cr. Anderson said householders should be on the alert against people producing Red Cross literature as a ploy to collect.

## NOW YOU SEE IT... NOW YOU DON'T



The Beacon Hill radar antenna, a local landmark for almost 20 years (left), has been removed and an empty skyline (right) remains. The antenna was removed following the closure of the radar station three weeks ago as part of the Federal Government's defence cuts. It is not known where the antenna is relocated.



## 'New look' surf pavilion project

A plan of the proposed conversion of the Manly Surf Pavilion at South Steyne will be studied shortly by the special committee formed last year for the altered use of the building that won the Solman prize for design in 1938.

A meeting of the council sub-committee will be called within two weeks to look at the plan drawn by the architect for the original building, Mr. Eric Andrew, of Balgowlah.

The conversion of the pavilion, built nearly 40 years ago for dressing sheds, is expected to be financed by a \$400,000 loan to Council, to be recovered through the leasing of restaurant space in the building.

One third of the area will be for restaurant space, one third for public halls and the remainder for dressing facilities.

Tenders will be called for the conversion if the sub-committee and the council approve the plan.

It provides for a large first-class restaurant on the top level of the building, commanding a panoramic view of the ocean and up and down the coast.

There will be another food outlet on the lower floor, a take-away bar which may be operated by the same company running the restaurant.

The three public halls in the plan include one with a stage for concerts, dance and drama shows, which will seat 270.

Two smaller halls will be suitable for meetings, arts and crafts exhibitions and similar functions.

The present space for dressing sheds and the storing of surf club equipment will be reduced to half.

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# The age of chivalry is not dead!



Traditional male chivalry shone through at the height of yesterday's deluge. This cab driver, stalled by rising flood waters in Golf Parade, Manly, got his passengers to high, dry land and so to work on time. Picture by Bob Martin.

## Another slide into Newport Plateau home

Tons of mud and rock slid down Newport Plateau early yesterday and crashed into a home in Goodwin Street.

The house, which has been damaged previously by slides, is now beyond repair.

The house is owned by Mr. and Mrs. Paul Gordon-Smith.

During yesterday's avalanche, caused by persistent and heavy rain since Saturday night, a huge boulder crashed into the living room.

The garage, the floor of which was covered with a thick layer of mud after the last slide, is now ruined.

Reporters at the scene yesterday said they could hear the house cracking under the pressure of mud and rock.

The last avalanche in the area was on January 10.

The Gordon-Smiths were overseas on holiday at the time.

They returned after hearing the news while in Hong Kong.

Nobody was injured in the accident, but extensive damage was caused to the house.

Mr. Neil Schneider, 50, of Epping Street, Manly Vale, told police he was driving his truck from a milk depot in Vineyard Street at 8.35 a.m. when his brakes failed, approaching the Pittwater Road intersection.

He suffered extensive injuries when his motor cycle was hit by a car in the bus lane.

He was taken to Manly Hospital and later transferred to Royal North Shore Hospital, where he died.

His death brought the number of people killed in Manly-Warringah floods this year to four.

A young motor cyclist died yesterday from injuries he received in a crash at Manly on Friday.

He was Christopher Seymour, aged 20, of West St., Balgownie.

He suffered extensive injuries when his motor cycle was hit by a car in the bus lane.

He was taken to Manly Hospital and later transferred to Royal North Shore Hospital, where he died.

His death brought the number of people killed in Manly-Warringah floods this year to four.

## DEPUTATION TO GOVT. ON LAGOON

Irate Oxford Falls residents will seek a deputation this week to the Minister for Planning and the Environment, Sir John Fuller, and the Minister for Local Government, Sir Charles Cutler.

They stood in the rain on Sunday to protest against last Friday's proclamation imposing a 50-acre development restriction on the Narrabatten Lagoon catchment area.

Mr. P. M. Beckman told the gathering "it seems something has happened behind the scenes" and promised to ask questions at last night's special council meeting.

The council meeting was still in progress when this edition of The Daily went to press.

The president of Oxford Falls Progress Association, Mr. J. Clifford, referred to the "black report" in Saturday's Daily.

"This is how we got our information," he said, referring to the Government Gazette proclamation by Sir John Fuller of interim development order No. 51 applying to the catchment area.

He said residents were shocked because their land would not have been involved in the Northern Beaches and Bushland Preservation Committee's plan adopted by Warringah Shire Council on March 4.

"We were happy with the adoption of the plan by the council," he said.

Mr. D. C. Kelly said the Shire president, Cr. R. J.

Legg, had stated on TV on Saturday night he "totally approved the proclamation."

Cr. C. S. Harrington said "Cr. Legg doesn't have the numbers on this one."

Cr. Harrington said the council did not act on matters on land, but could make recommendations to the State Planning Authority, which it had done.

Cr. Legg is entitled to his opinion, it is not that of the council," he said.

"Council can now make representations to the Minister through local Members of the Legislative Assembly."

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Cr. Legg is entitled to his opinion, it is not that of the council," he said.

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ments that more power should be given to councils in planning matters.

"Planners have too much power over what you can do with your land. We must take a stand."

"I don't know why members are not at this meeting. It is their duty to protect your interests."

Cr. Beckman said the BPA could control Hawkesbury land but it was different with land on which residents had lived for years.

He described arguments about pollution of the lagoon as "irrelevant" and asserted residents the council would support them.

Mr. Clifford said residents feared what went with the 50-acre restriction, such as local uses.

They had fears about security of tenure.

He said not one bid had been made for a parcel of land fronting Wakehurst Parkway at a recent auction.

Mr. J. Vennema said the proclamation was a disaster.

He estimated the average value of a five-acre lot had dropped by \$30,000 as a result.

The motion, by Mr. N. Dwyer-Bennett, to seek a deputation was carried without dissent.

## Death of cyclist

A young motor cyclist died yesterday from injuries he received in a crash at Manly on Friday.

He was Christopher Seymour, aged 20, of West St., Balgownie.

He suffered extensive injuries when his motor cycle was hit by a car in the bus lane.

He was taken to Manly Hospital and later transferred to Royal North Shore Hospital, where he died.

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He suffered extensive injuries when his motor cycle was hit by a car in the bus lane.

He was taken to Manly Hospital and later transferred to Royal North Shore Hospital, where he died.

## High voltage love affair?

Ornithologists were at a loss yesterday to explain how two magpies caused widespread blackouts in French's Forest and Beacon Hill on Sunday.

"It is quite possible this could have happened, especially if they were holding a stick in something which was tracing two power lines," a Forensic Park Zoo expert said.

And an expert from the Australian Museum said, "It is a specimen of how far apart the lines were."

Whatever the cause, the facts are that power lines at the corners of Dixon Ave. and Myra Street, French's Forest, came down at 1.30 p.m.

The short circuit led to a transformer blow-up at nearby Javerney Ave.

The blackout lasted 40 minutes before Mackellar County Council workmen were able to restore power to the affected areas.

Police said the birds were sitting on separate 11,000-volt lines above Dixon Street.

Witnesses said there was an explosion and bright flashes before the transformer fused and power lines dropped to the ground.

The two magpies were found together dead at the foot of the transformer pole.

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# 'Misconception on Lagoon re-zoning'

The Minister for Planning and Environment, Sir John Fuller, said last night a "good deal of misconception seemed to have arisen" over the decision to rezone a substantial area of land in North Warringah.

He added the zoning change which had been made would limit subdivision to lots of a minimum of 50 acres which would minimise the possibility of further fragmented development until such time as detailed planning of the area could be undertaken.

Sir John said the area was of very high quality in terms of total environment and it was necessary to protect the natural features of the area until full-scale environmental planning, in accordance with the Government's Environmental Impact and Planning Policy, was put in train.

The new zoning order should be viewed as a holding action aimed at preserving the natural beauty of the area, the Minister said.

He added the Order preserved all the rights to the erection of a dwelling on existing parcels of land with

an area of five acres or more.

All land use rights had been preserved, including developments already in existence.

"The new zoning order does not involve resumption of any of the affected land, although in the ultimate planning of the area there will, no doubt, be areas identified for public purposes which, in the long term, will need to be acquired," Sir John said.

He added the area concerned comprised about 5900 acres, the bulk of which formed the catchment area for Narrabeen Lagoon.

It was mostly rugged bushland with limited and scattered occupations on cleared sections of the plateau.

Former zoning of the area was non-urban with the possibility of subdivision into five acre sites for the erection of single dwellings.

Sir John said the bulk of the area was owned by two major landholders, H. D. H. Holdings and the Lands Department.

H. D. H. Holdings, a wholly-owned subsidiary of the British-based company, Hawker-Siddeley Limited, owned 2394 acres and the Lands Department 2096 acres.

This represented 77 per cent of the total area rezoned.

The Minister added that in response to a request by the member for Davidson and Minister for Youth and Community Services, Mr. R. O. Healey, he had agreed to meet a deputation representing local interests at an early date.

## Proclamation

The proclamation by Sir John, published in the Government Gazette, says:

Local Government Act, 1919:

Notification of Rescission of Interim Development Order No. 32—Shire of Warringah and Suspension of the Provisions of the Warringah Planning Scheme in Respect of Certain Land and the Making of Interim Development Order No. 51—Shire of Warringah—

All that piece or parcel of land situated in the Shire of Warringah, in the vicinity of Oxford Falls, Belrose, shown by red edging on plan catalogued number 245:2073 in the office of the State Planning Authority of New South Wales.

All those pieces or parcels of land situated in the Shire of Warringah, in the vicinity of Oxford Falls, Belrose, shown by red edging on plan catalogued number 245:1326 in the office of the State Planning Authority of New South Wales, but excluding the land shown by blue edging on the said plan.

1. This Order may be cited as "Interim Development Order No. 51—Shire of Warringah".

2. The provisions of sub-clauses (6), (8), (9) and (10) of clause 2, and clauses 3, 4, 5 and 8 contained in the set of standard or model provisions adopted by the Minister for Local Government, on the recommendation of the State Planning Authority of New South Wales, and published in Government Gazette No. 88 of the 17th July, 1970, are adopted, by reference, for the purpose of this Order.

3. In this Order: "Agriculture" has the meaning ascribed to it in section 514A of the Act.

"Country dwelling" means a dwelling-house occupied in conjunction with land having an area not less than 20 hectares, on which land there are no other buildings except for buildings ordinarily incidental to the use and enjoyment of a country



SIR JOHN FULLER

dwellings or to the use of the land for agriculture.

"Dwelling-house" means a building intended for use as a dwelling for a single family, together with such out-buildings as are ordinarily used herewith.

"Educational establishment" means a building used or intended for use as a school, college, technical college, academy, lecture hall, gallery, or museum, but does not include a building used or intended for use wholly or principally as an institution.

"Public utility undertaking" means any of the following undertakings carried on or permitted or suffered to be carried on by or by authority of any Government Department or under the authority of or in pursuance of any Commonwealth or State Act, that is to say—

(a) railway, road transport, water transport, air transport, wharf or river undertakings; (b) undertakings for the supply of water, hydraulic power, electricity or gas or the provision of sewerage or drainage services;

And any reference to a person carrying on any public utility undertaking shall be deemed to include a reference to a council, county council, Government department, corporation, firm or authority carrying on such undertaking.

4. Interim development may be carried out only with the consent of the Council for the following purposes:

Agriculture other than keeping or poultry farming; country dwellings; educational establishments; drainage; open space; roads; subdivision.

5. (1) Land shall not be subdivided creating any lot containing an area of less than 20 hectares.

(2) The provisions of clause (1) shall not apply to the creating of any lot to be developed for the purpose of an educational establishment.

6. (1) Notwithstanding the provisions of clause 4, the Council may consent to the erection and use of a dwelling-house on an existing parcel of land having an area of not less than 20 hectares but less than 200 hectares.

(2) For the purposes of this clause an "existing parcel of land" means a parcel of land held in the same ownership on the day on which the Order takes effect.

7. The Council shall consent to any development under this Order unless the Council is satisfied that the development will not—

(a) create siltation in Narrabeen Lagoon; (b) alter the landscape or land use, especially in the environs of Narrabeen Lagoon; (c) alter the waterways by way of drainage disposal.

8. Notwithstanding the provisions of clause 4, the Council, in the exercise of its powers, may, with the consent of the Council, be subdivided into allotments having an area of not less than 20 hectares and a dwelling-house may be erected and used on each allotment.

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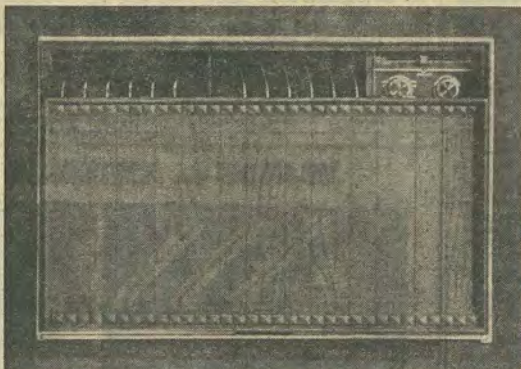
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## Appendix B – Letter from WUFA to Warringah Council about the Biodiversity Study



Warringah Urban Fringe Association Incorporated  
(WUFA),

PO Box 125,  
Belrose, 2085

Ph: 0419 777 502

[www.warringahurbanfringeassociation.org.au](http://www.warringahurbanfringeassociation.org.au)

---

13 March 2012

Mr Rik Hart,  
General Manager,  
Warringah Council,  
725 Pittwater Rd,  
Dee Why, 2099

Dear Mr Hart,

**Subject: Warringah's Wonderful Wildlife**

Warringah Council currently has on its website a draft Biodiversity Conservation Study for public comment. This document seeks to apply a conservation layer over land which includes private properties.

I became aware of this draft Biodiversity Conservation Study on 6 March 2012. I did not receive anything in the mail about this document or its public exhibition. Submissions close on 19 March 2012. I sent some questions to Council by email on 6 March, and a reminder email on 12 March, but still have not had a response to my questions from Council.

I have received correspondence from a lot of our members who were alarmed to find out about the Biodiversity Conservation Study through WUFA. The general concerns are:

1. Warringah Council has not sent letters to the landowners that are having a conservation layer applied to their properties through the Biodiversity Conservation Study. This is inconsistent with good community consultation practice. This also seems inconsistent with the fact that it is council policy to send out letters to neighbours when a DA is submitted.
2. Warringah Council has put under the title of "Warringah's wonderful wildlife", a biodiversity conservation study that seeks to apply a conservation layer to land which includes privately owned land. The title appears deceptive as a typical person reading "Warringah's wonderful wildlife" would not think this contained a report which could apply a conservation layer over their property.

We feel the only way this study can have any validity is to have a proper community consultation process. This needs to include the following:

1. Extend the public consultation period for another 3 months.

2. Hold another two public meetings about the study.
3. Write a letter to every landowner that is having a conservation layer applied to their property advising of the study and the new meeting details. You would need to ensure that the letter is received by residents at least one month prior to the first new meeting being held.

I look forward to your response to this request.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'John Holman', written in a cursive style.

John Holman  
BE (Hons), MBA  
President  
Warringah Urban Fringe Association Inc. (WUFA)

CC All Warringah Councillors

## Appendix C – Response from Council to our concerns about the Biodiversity Study



**Warringah  
Council**

Civic Centre 725 Pittwater Road  
Dee Why NSW 2099  
DX 9118

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(02) 9971 4522

**Website**  
**Email**  
**ABN**

www.warringah.nsw.gov.au  
council@warringah.nsw.gov.au  
31 565 068 406

26 March 2012

Mr John Holman  
President  
Warringah Urban Fringe Association Inc  
PO Box 125  
Belrose NSW 2085

Dear Mr Holman

**Re: Draft Warringah Biodiversity Conservation Study**

Thank you for your correspondence to the General Manager and Councillors on behalf of the Warringah Urban Fringe Association Incorporated, dated 13 March 2012. The Mayor has asked me to respond on his behalf. I note that an earlier personal submission was emailed to staff on 6 March 2012, with an email response provided on 13 March 2012, and that we discussed this matter further during a phone call on 16 March 2012.

In relation to the specific points raised in your Association's 13 March 2012 letter, I can provide the following response.

The consultation process developed for the exhibition was done so with reference to Council's Community Engagement processes. In this instance, it was not considered necessary to send letters to property owners whose land is referenced in the Study as the Study does not incur or obligate private land owners, and has no role in development controls or planning. Council will use the study as a tool in auditing and reporting the effectiveness of bushland management and prioritising expenditure (particularly for operational bushland management on public land).

Notification of the exhibition was via three Manly Daily notices, Council's web page, and two group emails to a general Council register. Council's resolution required the Study to be exhibited for 28 days as is often typical during exhibition periods and is consistent with Council policy. Council staff maintain that this consultation approach, including the notification was sufficient.

With reference to the title on Council's webpage, the heading "Warringah's Wonderful Wildlife" was intended to be used for advertising purposes. The heading was used to try and attract people to the information, and was amended when it was reported that people were having difficulty finding the information. I note that with the exception of the title, all other wording and associated documentation on that webpage accurately referenced the draft Warringah Biodiversity Conservation Study.

Council staff are in the process of organising an additional information session and will advise you of details of the session closer to the time.

Should you have any further queries please contact myself or Adrian Turnbull, Environmental Strategy Manager on 02 9942 2111.

Yours faithfully

Todd Dickinson  
Group Manager Natural Environment

## Appendix D – Letter to Warringah Council regarding inaccuracies in the Biodiversity Study

16 Wyatt Ave,  
Belrose, 2085  
18 March 2012

Council's Senior Environment Officer – Biodiversity,  
725 Pittwater Rd,  
Dee Why, 2099  
Email: [council@warringah.nsw.gov.au](mailto:council@warringah.nsw.gov.au)

Dear sir/madam,

Re: Submission on Warringah Biodiversity Conservation Study

We are the owners of 14 & 16 Wyatt Ave, Belrose. After looking at the Warringah Biodiversity Conservation Study, we realised that our land has incorrectly been identified as having a "very high" conservation significance ranking. We sought the expert opinion of a highly qualified environmentalist on this matter and he has found that our property should not be classified as being of high conservation significance. Please find attached a copy of the letter from ACS Environmental outlining this fact.

Could you please ensure that all records at Warringah Council that indicate that any part of our property is of high conservation significance are amended to reflect the fact that no part of our property is of high conservation significance.

Yours faithfully,

Handwritten signatures of Jenny and John Holman in black ink.

Jenny & John Holman



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Email: [acs@actinotus.com](mailto:acs@actinotus.com); Web: [www.actinotus.com](http://www.actinotus.com)

### **TO WHOM IT MAY CONCERN**

#### **Re 14-16 Wyatt Ave Belrose.**

The Draft Study on Warringah's Biodiversity has mapped a small portion of this property, together with undisturbed vegetation to the north as being of high conservation significance (attached Figure 1).

At the request of the owner, Mr John Holman, I visited the site on Thursday 15<sup>th</sup> March 2012 and a cursory inspection was made of the subject area down slope from the residence, being the portion of land shown as being of high conservation significance.

The northern rear of the land was observed to be fenced off as an active horse paddock, and for most of its area has been totally cleared of all indigenous vegetation. Only along the northern boundary have some trees been retained that would have been components of the original vegetation type. These trees included the species *Angophora costata*, *Eucalyptus piperita*, *Eucalyptus sieberi* and a number of individuals of *Banksia serrata* and *Banksia spinulosa*. Almost all of the indigenous shrub layer and ground stratum plants have been cleared.

From the remnant vegetation on the site, together with that beyond the rear fence, the vegetation community closely resembles Coastal Sandstone Apple-Peppermint Gully Forest (S\_DSFO9)(DECCW, 2009). This community is widely distributed along the eastern extent of the Sydney sandstone plateau. It occupies sheltered aspects on infertile Hawkesbury Sandstone geology in areas that receive in excess of 1000mm of mean annual rainfall. Sydney Peppermint (*Eucalyptus piperita*) and Smooth-barked Apple (*Angophora costata*) form a moderately tall open forest (DECCW 2009). It occurs in association with rocky environments and includes a diverse mix of heath and shrub species such as banksias, tea-trees and wattles in the understorey.

Whilst no comment is made here on the conservation significance or otherwise of the community beyond the northern boundary of this private residence, it is considered the

remnant vegetation on site at 14-16 Wyatt Avenue is not representative of that ranked as being of high conservation significance for the following reasons:

- The community has a wide distribution along the eastern extent of the Sydney sandstone plateau.
- The community is not listed as having conservation significance under state legislation (Threatened Species Conservation Act 1995) or Commonwealth legislation (Environmental Protection and Biodiversity Conservation Act 1999).
- The ground and shrub strata have been largely cleared.
- The site, although rocky in parts, is an “in-use” horse paddock.
- The habitat potential for threatened species of fauna known to occur within a 10km radius is sub-optimal.
- Ground-truthing of the depiction of vegetation of conservation significance occurring along part of the eastern boundary in the Draft Study on Warringah’s Biodiversity indicates that the vegetation is actually branches overhang from the adjoining property (attached Figure 2).



Dr Anthony Ross Smith-White BSc., MSc., PhD.  
Director & Principal Ecologist  
ACS Environmental P/L  
14.03.2012

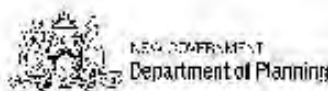
Attached Figures



**Figure 1** The Draft Study on Warringah's Biodiversity has mapped a small portion of 16 Wyatt Avenue, Belrose, as being of high conservation significance (deep green shading).



**Figure 2** The eastern boundary is defined by a fence and concrete pathway. Apparent vegetation in this area depicted as being of high conservation significance in the Draft Study on Warringah's Biodiversity is actually a number of branches of trees overhanging from the adjoining property.



## LEP practice note

### STANDARD INSTRUMENT FOR LEPs

#### Standard zones

|         |               |
|---------|---------------|
| Note    | PN 09-002     |
| Date    | 30 April 2009 |
| Related |               |

## Environment Protection Zones

The purpose of this practice note is to provide guidance to councils on the environment protection zones in the standard instrument and how they should be applied in the preparation of local environmental plans.

### Overview

The standard instrument for principal local environmental plans (LEPs) contains four environment protection zones specifically for land where the primary focus is the conservation and/or management of environmental values. The zones provide for varying levels of environmental protection from zone E1 to E4:

- **E1 National Parks and Nature Reserves**  
This zone is for existing national parks, nature reserves and conservation areas and new areas proposed for reservation that have been identified and agreed by the NSW Government.
- **E2 Environmental Conservation**  
This zone is for areas with high ecological, scientific, cultural or aesthetic values outside national parks and nature reserves. The zone provides the highest level of protection, management and restoration for such lands whilst allowing uses compatible with those values.  
It is anticipated that many councils will generally have **limited areas** displaying the characteristics suitable for the application of the E2 zone. Areas where a broader range of uses is required (whilst retaining environmental protection) may be more appropriately zoned E3 Environmental Management.
- **E3 Environmental Management**  
This zone is for land where there are special ecological, scientific, cultural or aesthetic attributes or environmental hazards/processes that require careful consideration/management and for uses compatible with these values.
- **E4 Environmental Living**  
This zone is for land with special environmental

or scenic values, and accommodates low impact residential development.

As with the E3 zone, any development is to be well located and designed so that it does not have an adverse effect on the environmental qualities of the land.

Additional considerations of each zone are located in Attachment 1.

### Application of environment protection zones

The environment protection zone E1 is only to be applied to existing areas identified under the *National Parks and Wildlife Act 1974* or areas identified as proposed for national park or nature reserves agreed by the NSW Government.

The environment protection zones E2 through to E4 are applied where the protection of the environmental significance of the land is the primary consideration. Their importance for visitation, tourism and job creation should also be carefully considered.

Prior to applying the relevant zone, the environmental values of the land should be established, preferably on the basis of a strategy or from an environmental study developed from robust data sources and analysis. This is particularly important where land is identified as exhibiting high ecological, scientific, cultural or aesthetic values outside national parks and nature reserves. For example, in most cases, council's proposal to zone land E2 needs to be supported by a strategy or study that demonstrates the high status of these values. Under such a strategy or study, zoning would need to be appropriate and land uses would need to be capable of being sustained.

The application of these zones is also to be consistent with relevant legislation, State and regional planning policies and subregional strategies.

The zones are to be applied consistently so that their value is not diminished by inappropriate application or by permitting incompatible uses.

The detailed zone guide attached to this practice note will assist council's application of the environment protection zones. In selecting additional uses, council is supported by the requirement that these be consistent with the mandatory zone objectives and any mandatory uses.

### Supplementary detail

Zones E2 to E4 will generally need to be supplemented by detailed provisions in the development control plan. These would most likely cover the design, construction and management of uses in these zones, particularly with respect to eco-tourism, tourist accommodation and dwellings (where permissible).

### Identification of areas for future acquisition

#### Land to be acquired for certain public purposes

Where council is aware of land to be reserved for future acquisition for certain public purposes, such land will be identified according to its intended future public purpose under the *Environmental Planning and Assessment Act 1979*.

The land reserved for future acquisition is to be identified on the Land Reservation Acquisition Map accompanying the principal LEP and the acquiring authority of the State shown in clause 5.1.2 of the principal LEP. Land listed in clause 5.1.2 requires the relevant authority to consent to the listing.

#### Other circumstances

The range of uses proposed to be permitted in the E zones is a consideration for council in consultation with the Department of Planning. In determining uses, council should be aware that the range of uses should not be drawn too restrictively as they may, depending on circumstances, invoke the *Land Acquisition (Just Terms Compensation) Act 1991* and the need for the Minister to designate a relevant acquiring authority.

Unless a relevant acquisition authority has been nominated and that authority has agreed to the proposed acquisition, council should ensure, wherever possible, that the range of proposed land uses assists in retaining the land in private ownership.

### Use of alternative zones

Where the primary focus is not the conservation and/or management of environmental values, a different zone type should be applied.

Such zones may be applied in conjunction with local environmental provisions and maps in the principal LEP to identify any special considerations.

### Local environmental provisions

Local environmental provisions may be applied where zone provisions need to be augmented in order to ensure that special environmental features are considered. For example, rural land that is still principally for agriculture but which contains environmentally sensitive areas may be zoned RU1 or RU2 and the environmental sensitivities managed through a local provision and associated ('overlay') map.

*The following points apply to local provisions.*

- The intended conservation or management outcomes for land can be clearly articulated in the LEP.
- Areas are clearly defined and controls streamlined.
- Sub-zones are not created. (These are not permitted under the standard instrument).

Provisions for environmentally sensitive areas may include multiple natural resource or other features such as acid sulfate soils and riparian land. A local provisions clause may include objectives and, where the sensitivity is a mappable attribute, a map would accompany the provision.

Any local provision will apply in addition to the objectives and land use table for zones. The local provision must be consistent with mandated objectives and permissible or prohibited uses of the relevant zone/s.

### Split zone considerations

Where council wishes to acknowledge different land capabilities on a single allotment, council may consider applying more than one zone across the land. For example, this approach may be considered appropriate over an allotment to distinguish between areas of environmental value and areas for agricultural purposes.

In choosing this approach, council needs to consider the implications of such splits. Appropriate minimum lot sizes and development standards are to be selected to support the intent of the zones and identify a suitable scale and intensity of development. Identifying appropriate minimum lot sizes at the same time as zone splitting would reduce the potential for future uncertainty if land is proposed for subdivision at a later stage.

## E3 Environmental Management

### Application

The following are examples of where the E3 zone may be applied:

- areas of special ecological, scientific, cultural or aesthetic attributes that require management in conjunction with other low-impact uses, e.g. scenic protection areas, areas with contiguous native vegetation or forest cover.
- as a transition between high conservation value land, e.g. land zoned E1 or E2 and other land such as that zoned rural or residential.
- where rehabilitation and restoration of its special environmental qualities are the primary purpose.
- highly constrained land where elements such as slope, erodible soils or salinity may have a key impact on water quality within a hydrological catchment.

There are instances where environmentally significant land has been zoned rural in the past but has not been used primarily for agriculture. Such lands should be zoned E3.

However, the zone is generally not intended for cleared lands including land used for intensive agriculture.

### Objectives

The mandatory zone objectives focus on protecting, managing and restoring areas with special ecological, scientific, cultural or aesthetic values and to provide for a limited range of development that does not have an adverse effect on those values.

Additional local objectives may be applied if they are compatible with the mandatory objectives and uses.

### Uses

#### Mandatory uses

Dwelling houses are a permitted use (with consent) in this zone. Home occupations may be carried out without consent.

In accordance with the direction for this zone, environmental protection works and roads must be permitted with or without consent.



A number of land uses considered to be inappropriate for this zone are listed as mandatory prohibited uses.

#### Additional uses

Councils can specify additional uses to be permitted in the zone at Items 2 and 3.

Councils may generally (but need not) permit, with consent, home industries, kiosks, cellar door premises, neighbourhood shops and roadside stalls in the zone. All other forms of retail premises and industries are prohibited in the zone.

Councils should choose uses that do not have an adverse effect on the special values of the land. Generally, if intensive forms of agriculture are proposed, a rural zone would be more appropriate (than an E zone). Additional uses that may be suitable (as permitted with consent) depending on location, include, but are not limited to:

- bed and breakfast accommodation
- building/identification signs and business identification signs, e.g. as exempt or complying development
- community facility
- dwelling house
- eco-tourism<sup>2</sup>
- environmental facility
- farm stay accommodation
- home business, home industry and home-based child care
- information and education facility
- kiosk
- recreation area
- water recreation structure
- wetland rehabilitation.

It is important that councils maintain the integrity of the E zones by including only uses consistent with the zone objectives. As well, councils should, wherever appropriate, retain existing uses that maintain conservation land capabilities.

Unless they are existing uses in the zone, the following uses are generally considered to be unsuitable:

<sup>2</sup> The draft definition of 'eco-tourism development' means nature-based tourism development with a primary focus on the education, interpretation, cultural understanding and appreciation of the natural environment that is managed to be ecologically sustainable.

## Appendix F - WUFA Survey



Warringah Urban Fringe Association

Warringah Council tried zoning some rural land in Belrose North, Terrey Hills, Ingleside, Cromer, Frenches Forest and Oxford Falls as E3 (Environmental Management, one of the Environmental Protection Zones). Brad Hazzard (Minister for Planning), stopped Warringah Council from doing this and requested that a Strategic Review be carried out on the land proposed to be zoned E3.

Under Instructions from Brad Hazzard, the Department of Planning and Warringah Council are jointly carrying out the Strategic Review into the E3 zoning that was proposed by Warringah Council.

This survey is being conducted by the Warringah Urban Fringe Association (WUFA) to allow the residents' wishes and desires to be delivered to the E3 Strategic Review Committee. If you change your mind at any time, just redo the survey and we will use the latest results that you have submitted. There are two documents that you should look at prior to filling out this survey, they are an overview on available zones and maps showing current lot sizes. Links to these documents are below:

[To see an overview of available zones click here \(5 pages\)](#)

[To see maps showing current lot sizes in Warringah click here \(11 Pages of maps\)](#)

1\* Your Name (s)

2\* Do you own or rent your property?

- ☐ Own  
☐ Rent

3 Property Address:

Street Number and Street

Suburb & Postcode

4 Email Address

5 Contact Phone Number (1)

6 Contact Phone Number (2)

7\* Are you happy for your contact details to be provided to the E3 Strategic Review Committee (If you are not happy for this to happen, we cannot send your wishes and desires to the committee).

- ☐ Yes  
☐ No

8 Your Land Size (m<sup>2</sup>)

9 Preferred Land Zoning

To see an overview of available zones click here (Sorry but this will clear the information that you have typed in the survey form so far)

|                                                                 | 1st Preference        | Very Desirable        | Desirable             | Not as Desirable      | Definitely Not        | Not Applicable        |
|-----------------------------------------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| RU4 (Rural) - Primary Production Small Lots                     | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| RU5 (Rural) - Village                                           | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| RU6 (Rural) - Transition                                        | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| R2 (Residential) - Low Density Residential                      | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| R3 (Residential) - Medium Density Residential                   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| R5 (Residential) - Large Lot Residential                        | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| B1 (Business) - Neighbourhood Centre                            | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| B2 (Business) - Local Centre                                    | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| B4 (Business) - Mixed Use                                       | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| B5 (Business) - Business Development                            | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| B6 (Business) - Enterprise Corridor                             | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| SP2 (Special Purpose) - Infrastructure                          | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| E2 (Environmental Protection Zone) - Environmental Conservation | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| E3 (Environmental Protection Zone) - Environmental Management   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| E4 (Environmental Protection Zone) - Environmental Living       | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

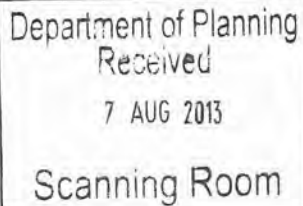
10\* What is your preferred minimum Lot size?

To see maps showing current lot sizes in Warringah click here (Sorry but this will clear the information that you have typed in the survey form so far)

- ☐ 450 m<sup>2</sup> (Typical Medium Density Residential)
- ☐ 600 m<sup>2</sup> (Typical Low Density Residential)
- ☐ 740 m<sup>2</sup>
- ☐ 800 m<sup>2</sup>
- ☐ 4,000 m<sup>2</sup> (1 acre)
- ☐ 5,000 m<sup>2</sup>
- ☐ 20,000 m<sup>2</sup> (5 acres)
- ☐ 200,000 m<sup>2</sup> (50 acres)

11 Any other Comments that you would like to make?

Finish Survey



August 2013

The Manager  
Oxford Falls and Belrose North  
Strategic Review

### **Oxford Falls and Belrose North Strategic Review**

Thank you for the opportunity to provide comments on this important review.

We refer to the recommendations in the Review which has now been accepted by the Department of Planning and Infrastructure for exhibition and Public Submissions.

We are concerned about the extensive area that is proposed for E3 Environmental Management. The uses that can be permitted in this zone with consent are not appropriate in many parts of the pristine bushland and riparian Zones in both Belrose North and Oxford Falls review areas.

A more appropriate zoning for most of these areas would be E2 Environmental Conservation and /or E1 National Parks and Nature Reserves.

This would ensure the conservation of these important bushland areas which have many threatened species.

We understand that this review is Stage 1 which only considers the most appropriate zoning to transfer the Planning controls in LEP2000 to the standard instrument zonings in LEP 2011.

We understand that Stage 2 will be undertaken after Stage 1 has been completed. We understand that Stage 2 will be the subject of many studies to determine if any of the lands can be rezoned for other uses e.g. urban development.

This is not understood by many residents and we consider that this is an important concept that needs to be reinforced in any future documents and correspondence.

In considering our response to this Stage 1 study we have studied the new planning proposals which are now defined in the White Paper and Draft Bills.

The White Paper recommends that the number of zones should be reduced and this will be achieved by the consolidation of existing zones.

With regard to E3 it is proposed to combine RU2 Rural Landscape, RU6 Transition and E3 Environmental Management to form a new zone 'Rural'.

If this is implemented it would mean that more development potential would be possible in these areas, which would result in further destruction of significant bushland.

It is essential to sustain our sensitive bushland areas in the ever expanding and increasing density of urban development in the Sydney basin.

It is essential to maintain our biodiversity and provide 'lungs' for our city.

Warringah Council undertook a Biodiversity study through the Council area. This was undertaken in consultation with the residents and was completed last year where the Council adopted the recommendations of the studies.

We submit that the review panel use this Biodiversity study to identify areas that should be zoned E1 or E2 to ensure that these sensitive bushland areas will be maintained. This would be closer to the existing planning controls for the purposes of transferring the controls to the new standard instrument.

It is also essential that the review take into consideration the proposal by the Metropolitan Aboriginal Land Council to create an Aboriginal Park on lands that they own and lands that they have made a claim on. E3 will not be suitable for these lands. E2 or E1 will be the appropriate zonings to ensure that these bushland areas are conserved.

With regard to the Proposed R5 zoning, again we are concerned that it is proposed in the new planning system White Paper, that R5 Large Lot Residential be consolidated with, R1 General Residential, R2 Low Density Residential, R3 Medium Residential, RU5 Village, E4 Environmental Living; to form a new zone 'Residential '.

If this is implemented, then R5 is not a suitable solution for transferring these lots into the LeP2011; this 'Residential 'zone will mean ~~the~~ the potential for further destruction of Native bushland.

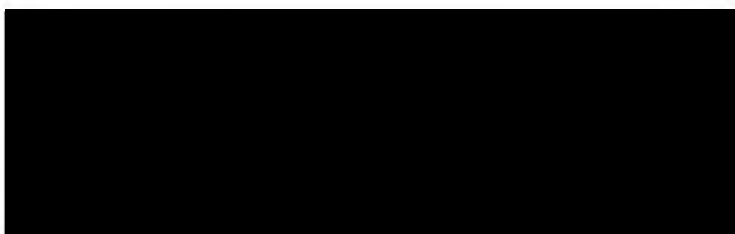
It is important that the Council Submission on the review of the consolidation of these zones is seriously considered together with Council's Biodiversity study and the existing LEP2000 where it states in Locality C8 North Belrose '**Bushland Setting; A minimum of 50% of the site area is to be kept as natural bushland or landscaped with local species.'**

The proposed R5 does not provide for any of these concerns and allows large lots to be completely cleared of all Vegetation.

We submit that the review panel reconsider this proposed zoning and provide a zoning that better reflects the existing planning controls for transferring these areas to the standard instrument.

Your serious consideration of our concerns would be appreciated.

Yours Sincerely

A large black rectangular redaction box covering the signature area.

**Submission Number: 81**

Sara Parris, Oxford Falls

I object to the 3 E Zoning applied to my land. I think RU4 is more appropriate use to our acreage. It then falls in line with similar styles of property in Duffys Forest and Terrey Hills.

**Submission Number: 82**

Anne Saxon, Belrose

I want to retain the current zoning of Non-Urban for my property and not be rezoned to E3.



7 August 2013

Our ref: RJC:LR/11-103

The Director-General  
NSW Department of Planning and Infrastructure  
33 Bridge St  
SYDNEY NSW 2000

Dear Sir,

**re: Draft Oxford Falls Valley and Belrose North Strategic Review – Submission prepared on behalf of the individual owners of Lots 1090, 1091, 1092 and 1093 Brooker Avenue, Beacon Hill**

We write on behalf of Mr James Liu, who is the owner of Lot 1092 Brooker Avenue, Beacon Hill, as well as on behalf of Dong Bin Yao, the owner of Lot 1090, Zhi Cheng Liu, the owner of Lot 1091 and Xue Qing Wong, the owner of Lot 1093. The four lots are all contiguous and are referred to herein as “the land”.

The location of the land is identified in Figure 1. It will be noted that the land adjoins (but for the Brooker Avenue road reserve) land occupied by and zoned for standard residential subdivision.

Aerial photographs of the wider area and the land itself are provided in Figures 2A and 2B. Figure 3 provides details of each of the four lots which together comprise the land, the land's relationship to Oxford Falls Road (to the west) and Brooker Avenue (to the south-east), and the topography of the land.

The areas of the four lots, as shown on Figure 3, are as follows:-

|          |   |                 |
|----------|---|-----------------|
| Lot 1090 | - | 3.167 ha        |
| Lot 1091 | - | 2.692 ha        |
| Lot 1092 | - | 2.704 ha        |
| Lot 1093 | - | <u>2.845 ha</u> |
| Total    |   | 11.404 ha       |

The land forms part of the B2 Oxford Falls locality, pursuant to Warringah LEP 2000. When Warringah LEP 2011 was gazetted in December 2011, the B2 locality (along with the C7 Belrose North locality) was deferred from the new LEP.

The decision for deferment was made by the Minister for Planning, in response to concerns which had been expressed about the proposed E3 Environmental Management zone, under what was then the Draft LEP.

By letter dated 8 November 2011, the Minister advised Warringah Council as follows:-

*"I note the Council resolution of 27 September 2011 to write to me requesting I make the draft LEP without any land deferred, or if land is to be deferred that lands owned by the Sisters of the Good Samaritan and the Roman Catholic Church, and land that was subject to a previous Part 3A proposal at the southern extent of the Oxford Falls Valley locality, be zoned E3 Environmental Management under the draft LEP.*

*While I support the protection of non urban land from inappropriate development, I believe it is important to review the suitability of the E3 Environmental Management zone for Oxford Falls Valley and Belrose North localities as a whole, which includes the three parcels of land mentioned above.*

*Accordingly, I reaffirm my previous advice to Council that I intend to defer all land proposed to be zoned E3 Environmental Management in the Oxford Falls Valley and Belrose North localities, which includes land owned by the Sisters of the Good Samaritan and the Roman Catholic Church and subject to a previous Part 3A proposal at the southern extent of the Oxford Falls Valley locality. Once the strategic review for Oxford Falls Valley and Belrose North localities has been completed, Council may lodge a planning proposal to include this land into the new LEP."*

Subsequently, work has been undertaken by officers of the Department of Planning and Infrastructure and officers of Warringah Council in the form of the "Draft Oxford Falls Valley and Belrose North Strategic Review" ("the Strategic Review") dated April 2013, which has now been placed on exhibition. Its purpose "has been to translate the planning controls under Warringah LEP 2000 (LEP 2000) into the best fit zones and land use controls under Warringah LEP 2011 and to engage the community in the process".

We note that the "Executive Summary" of the Strategic Review states as follows:-

*"The draft findings of the strategic review do not significantly change the urban development potential of land in Oxford Falls Valley and Belrose North. This is the role of a future review (Stage 2), which will involve commissioning major studies as recommended by the Planning Assessment Commission in its 2009 report of the Review of four sites in Oxford Falls Valley for Urban Development."*

Unsurprisingly, the overall finding of the Strategic Review is that "the best land use zone for the majority of the study area is the E3 Environmental Management zone", which is what the land and the great majority of other land in the B2 and C7 localities were to be zoned in the Draft LEP from which those same lands were deferred.

The Strategic Review can therefore essentially be seen as an exercise in justifying the previously zoned E3 Environmental Management zone, which is to apply to most of the deferred area, including our client's land, until such time as the "major studies", which were recommended by the PAC four years ago, are undertaken.

Our client's major issues with the Strategic Review are:-

- (i) that it recommends imposition of a highly restrictive zoning (E3 Environmental Management) which should only be imposed if justified by the type of detailed studies which are yet to be undertaken; and
- (ii) that, once imposed, it is unlikely ever to be reviewed, notwithstanding the findings of the abovementioned studies. (In other words, the E3 zoning will itself be the reason for not rezoning to permit higher and better uses.)

Reference to the Department of Planning's Practice Note PN 09-002 "Environment Protection Zones" shows that:-

*"The environment protection zones E2 through to E4 are applied where the protection of the environmental significance of the land is the primary consideration. Their importance for visitation, tourism and job creation should also be carefully considered.*

*Prior to applying the relevant zone, the environmental values of the land should be established, preferably on the basis of a strategy or from an environmental study developed from robust data sources and analysis. This is particularly important where land is identified as exhibiting high ecological, scientific, cultural or aesthetic values outside national parks and nature reserves."*

The Practice Note further states:-

*"The zones are to be applied consistently so that their value is not diminished by inappropriate application or by permitting incompatible uses."*

Under the heading "Use of alternative zones", the Practice Note states:-

*"here the primary focus is not the conservation and/or management of environmental values, a different zone type should be applied."*

These extracts clearly indicate that the E3 Environmental Management zone is not an appropriate zoning – long- or short-term – to apply to an area where the detailed studies which are required to be undertaken (and have been acknowledged as being required to be undertaken for a period of some four years) have not yet been carried out. In this regard, it can reasonably be put that the "Special ecological, scientific, cultural, or aesthetic attributes or environmental hazard/processes that require careful consideration/management" which are intended to characterise the E3 zone need to be the subject, and are to be the subject, of further detailed study to determine urban (or more urban) development potential.

Our clients land adjoins Brooker Avenue which, in turn, is adjoined by standard residential subdivision. Our clients land also benefits from a development consent for aquaculture and (separately) for the erection of a new dwelling and in this regard, there appears to have been no proper, or at least adequate, consideration of the RU4 Primary Production Small Lot zoning as an alternative to the E3 Environmental Management zone, pending the conduct of



the more detailed studies which are clearly required. Similarly, there has been no review of the minimum permissible lot size within the deferred area.

Our clients acknowledge that the outcome of the Strategic Review is largely dictated by its limited scope. However, any process whereby the detailed studies of urban development potential which are universally acknowledged to be needed can be indefinitely delayed, whilst in the meantime a highly restrictive zoning can be introduced, notwithstanding the absence of the studies on which that restrictive zoning is intended to rely, is one which is deeply flawed and cannot be supported.

Were it not for its limited scope, the Strategic Review should call for the carrying out of detailed urban development potential studies before the introduction of any new zoning of the area. Our clients would like an opportunity to meet with Project Control Group within the Department, possibly along with other owners of fringe lands within the area. On behalf of our clients we respectfully submit:-

- the urban development potential studies which the PAC recommended be undertaken in 2009 need to be carried out;
- there should be no removal of the areas "deferred" status until the necessary studies are carried out before any new zoning is introduced, particularly the E3 Environmental Management zone;
- inadequate consideration has been given to fringe lands, including our clients land;
- fringe lands have been previously identified as having potential for urban development;
- the failure of the Strategic Review to examine or review the 20 hectare minimum lot size requirement for the fringe lands is unreasonable and inequitable; and
- insufficient consideration has been given to the alternative of the RU4 zone for fringe lands, including our clients land.

Thank you for the opportunity to make this submission and look forward to hearing from you on the subject of the requested meeting.

Yours faithfully,  
**BBC Consulting Planners**

A handwritten signature in blue ink, consisting of a stylized 'R' followed by a long horizontal stroke that ends in a small upward flick.

**Robert Chambers**  
**Director**

Email [bob.chambers@bbcplanners.com.au](mailto:bob.chambers@bbcplanners.com.au)

**Submission Number: 84**

Oxford Falls Action Group

I write as chairman of the Oxford Falls Action Group to support the Warringah Urban Fringe Association's desire for low density housing in certain areas of the proposed E3 zoning for Oxford Falls and Belrose.

The Oxford Falls Action Group was formed due to a seniors living development application made with Warringah Council to house approximately 1,000 residents and initially be over 6 storeys in height. This proposal was rejected at every level, principally due to its complete inappropriateness for the area. Residents, media, Warringah Council and the NSW Dept. for Planning all rejected this application as it would dramatically change the desired future character of this semi-rural area.

What the Warringah Urban Fringe Association requests is appropriate and will not change or impact this area. I feel most residents within our group and Warringah generally would support some form of low density house within this zone.

Yours sincerely

Phil Jackson

**Submission Number: 85**

Garigal Landcare

This submission is on behalf of Garigal Landcare.

It seems bizarre that the community is asked to comment at this time on the deferred lands and their proposed zonings, when the overall framework to be set via the White Paper proposes to reduce the existing 35 zones into 13 zones. The zonings recommended by the review will be rolled into broad residential and rural zones. The outcome of which will create a conflict of land uses.

The zonings which resulted from the translation of the Warringah LEP 2000 represented zonings that primarily insured that the development rights were kept up. The zonings however, do not appropriately value the environmental assets. For example, areas of the Narrabeen Lagoon Catchment outside of Garigal National Park are host to 11 threatened vegetation communities in addition to 7 vegetation communities that are not represented in either Garigal or Ku-ring-gai National Park. One of these vegetation communities is classified as rare Australia wide, another is Australia wide threatened. Bushland of such high conservation value warrants E1, not an E3 zoning. Warringah's Biodiversity study should be used as an instrument to apply E1 and E2 zones rather than the overall E3 that was used.

The review has recommended an R5 zoning for some land which adjoin urban land. This zoning threatens the bushland adjacent to these properties and essentially a zoning such as R5 removes the existing buffer zone needed to protect high quality bushland. We note from the Departments website that clearing of native vegetation is classified as a land use permitted with consent in R5. We strongly oppose the use of a zone which identifies clearing of native vegetation as a permissible land use. We are delighted by and strongly support the Metropolitan Local Aboriginal Land Councils proposal to establish an Aboriginal National Park within the deferred lands. We recommend that the Department of Planning support this proposal to ensure the appropriate protection of these lands.

Yours sincerely,

Conny Harris

President

**Submission Number: 86**

Brendan McNally, Belrose

I agree with our proposed land rating as R5.

Thank you for considering our earlier formal submissions.

Brendan and Adrienne McNally.

**Submission Number: 87**

Tony Molyan

C3 Church, Oxford Falls

I write to object to the proposed zoning of our land on the basis that the methodology used to zone your land as E3 is not consistent with the translation that was done from LEP2000 for other properties in the Warringah Local Government area.

Regards

Tony Moylan

Business manager

SUBMISSION BY  
F.G. & D.M. HARE  
OF LOT 954 MORGAN ROAD, BELROSE  
TO THE E3 STRATEGIC REVIEW DRAFT REPORT  
(Oxford Falls Valley & Belrose North strategic review, Warringah)

As owners of Lot 954 in DP 752038, which is situated off Morgan Road Belrose, we wish to comment on the draft strategic plan for proposed E3 zoning for our property.

We purchased our property in June 1987. The area of the lot is 2.56 hectares. The property had been acquired by the vendor, Mr. & Mrs. Hales, by way of the Soldier Settlement Program after World War 2. (They later exercised their option to purchase, thereby the property converted to ownership under the Real Property Act.)

During the time of their ownership, they had cleared part of the property, built a small cottage and extensive gardens as well as sheds and stables. They grazed horses and had a shade house where they propagated plants in their small nursery business. They originally gained access to their property on foot and horse, by way of bush tracks, and later to obtain vehicular access, widened one of the tracks with the least terrain challenges that led to/from Morgan Road. At the time it was Crown Land, and is now owned by the M.L.A.L.C.

When we purchased the property, we were unaware that it did not have a legal access, despite normal surveys carried out that established that the improvements were contained within the property boundaries and the property did not encroach on the crown road that runs along the front of the lot. It was some years later, that we became aware that the track from Lot 953 to Morgan Road did not follow the Crown road reserve but crossed Lots 944, 945, and 948 then owned by the Crown, and now by the M.L.A.L.C., who, since acquiring the land and been made aware of the track, have since generously allow us continued use for access to our property.

We recently started negotiations with the M.L.A.L.C to legally acquire a right-of-way over the existing track, and **consequently have concerns that the proposed zone change of not just our property, but those lots owned by the M.L.A.L.C. may interfere with these negotiations and the hopefully positive outcome.**

The alternative of obtaining the Minister's consent to open the crown road reserve from Forestway has significant topography issues that would require a major road construction which would certainly be a costly and an excessive overkill to service two properties; i.e. Lot 954 and our neighboring property, Lot 955. Clearly the existing track represents the most suitable option for all concerned.

### Land usage:

At the time of acquiring our property, we had three young children, and it was our intention to continue the usage of grazing horses for our children. Unfortunately, due to extensive delays associated with gaining Council approval to build a new house, we made a decision to rent a house elsewhere for our family for some 3 years. This long period of absence from our property combined with the uncertainty of whether Council approval would ever be granted, ultimately served to diminish the joy of owning horses, and after many years, we decided to remove the stables and build a tennis court instead.

We should not be denied the right to run horses should we choose to do so. It is highly possible that, should we ever decide to sell the property, the new owners may want to have horses, etc. which they are entitled to enjoy under the current zoning, and we therefore object strongly to the proposed usage constraints under the E3 zoning.

We also object strongly to the restriction of the one dwelling per 20 hectares that currently exists and which is proposed to continue under the E3 zoning restriction. To not be able to erect another small dwelling; i.e. a "granny flat" on a block of land as large as ours is, in our opinion, truly draconian.

### Maps found on NSW Government Planning & Infrastructure website on Planning reviews and panels page:

We have studied the maps and comment as follows:

#### **Riparian Constraints Land Map:**

The area highlighted in yellow, on our property, when compared to the Slope Constraints Map, is excessive and requires reinvestigation. As shown, the riparian buffer covers approximately half our property in

distance from Snake Creek, covering an area of about 3 acres. That is a distance of about 100 metres from the back of the property (i.e. Snake Creek) rising to an elevation of about 80 metres.

**Wetland Buffers Constraints Land Map:**

From our observation, we do not believe that the area that is shaded blue over our property, Lot 954, and Lot 953 and two other properties that front Forestway, is not wetland. In fact the area is quite dry. This should be reinvestigated.

In summary:

In conjunction with the submission by Warringah Urban Fringe Association and our personal comments, we object to the proposed zoning of our land on the basis that the methodology used to zone our land as E3 is not consistent with the translation that was done from LEP2000 for other properties in the Warringah Local Government area. We believe the proper zoning for our property should be RU4.

F.G. (George) and Denise M. Hare  
Lot 954 Morgan Road,  
Belrose. NSW 2085  
Phone: 9451 3635

August 7, 2013.

**Submission Number: 89**

Confidential

Dear Sir,

I wish to lodge a very strong protest against the way my land at Kimbriki Road, Ingleside has been rezoned without proper notification or due process.

I would point out that I have very similar acreage on the urban fringe in Pittwater municipality, and that was unceremoniously transferred to the correct RU4 zoning.

I find it ludicrous that my land in Kimbriki, which is cleared and all grass, was zoned E3, when across the road, land Warringah council owns and well vegetated with native bush was zoned SP2.

The Kimbriki Recycling Centre has always expressed a strong interest in acquiring my land at some point in the future. There is a clear conflict of interest here. I think this is a matter for the Ombudsman, and or ICAC.

The first I knew about my rezoning was when I accidentally found a flyer for the formation of WUFA.

I immediately contacted my local member Rob Stokes and arranged a meeting on my property with him and my neighbour, who was equally concerned.

Rob assured me not to worry as it was a non-issue. Being a lawyer, he said I had not been properly notified, so they could not rezone it.

Because of our remoteness, we do not get Manly Daily deliveries, nor does Australia Post come down our street.

I then spoke to my local councillor, Michael Regan, and asked him if there was a conflict of interest. Their land was not E3, but mine was.

He looked me in the eye and said they had actually applied a higher E2 rating to their land. I thought, as he was the Mayor as well, he should know. When I mentioned it to somebody, they advised me to look again, as the council land was actually, industrial grade, SP2!

Subsequently, I attended a private meeting with Brad Hazzard, and two other land owners. We were assured that our exclusion from the Strategic Review was probably 'an oversight!' and not to worry. Warringah Council has a very large pecuniary interest in this matter and it WAS NOT AN OVERSIGHT, in my mind at least. If it truly was an oversight, there is even more reason to include my property in the review. In any event, I think something smells, and it's not the tip! Perhaps it is time ICAC had a look at this. Why is it always Warringah Council that gets involved in probity issues?

I will be writing to the ombudsman about this.

Regards,

**Submission Number: 90**

Harry Janakis, Oxford Falls

I would like to advise that the details in the site analysis done on my property are incorrect, for example, they have ticked domestic outbuildings. This is wrong as they are agricultural (house tractors etc.).

The site analysis was also not made available until 4 weeks after the comments period started.

I also enjoy a rural lifestyle, similar to that of the Terry Hills area.

E3 zoning will infringe on my property rights and also decrease the value of my property.

Under E3 I may also be required to "rehabilitate" the land, which has been cleared for more than a century.

I would also like to ask for an extension to the objection period to allow further consideration of information not provided from the beginning.

**Submission Number: 91**

Veronika Cosic, Oxford Falls

Dear Minister,

I apologise for taking up your time, but hope you can assist me by responding to my concerns regarding the Draft Oxford Falls Valley Review. The opportunity has been granted for residents to respond to the Review by 7 August 2013, but given the long history of having our written and verbal communications utterly ignored by Warringah Council, (while they pursue their own predetermined course), it seems to be just another exercise in futility. In fact, not only has Warringah Council intentionally disregarded our concerns and suggestions, it has seriously misrepresented the facts on the ground in its Review proposals. It ought to be noted that the 2012 Oxford Falls Valley & Belrose North Strategic Review Site Analysis upon which the Draft Review has been based, I fully appreciate that the current State Government came into power promising to decentralise and give more control to local communities to manage local issues. The major flaw with this well-intentioned aim is that, while Warringah Council goes through the minimal, required motions of consulting local residents, it does so only as a matter of form. They have selectively chosen the bits of information that support their already determined aims and, where our land is concerned, they have misrepresented the usage and nature of our land completely.

In December 2012 they prepared the arbitrary, one page, Site Analysis of our land which states that it is 50% uncleared. This is a blatant and barefaced lie. There is no other way to put it. It also makes the wild, unsubstantiated claim that the environmental constraints on our land are "60% Moderate, 80% Significant, 15% Severe and 5% Prohibitive". Where on earth did they come up with these determinations? I wish someone could show me where these percentages of environmentally sensitive areas of our land actually exist. They have literally pulled these environmental constraints out of thin air. Our land is (and has historically always been) at least 80% cleared and has historically always been used for rural purposes. There is no native bushland on our land. Just a small area of steeply ascending rock-face that rises to the housing developments which are about 80 metres to the west of us and upon which we have replanted most of the trees over the years. This part of our land is mostly sandstone rock, with some leafy ground cover and many of the trees were replanted by us to ensure our ongoing privacy. In fact, since the residential developments (which are between 300 to 400sqm blocks) sprung up 80 metres to the west of us and about 100 metres to the south of us, many of the trees we planted have started to die off because of the changes in water-flow the developments have caused. It is also difficult to understand how Council can deem the land along Spicer Road South is so environmentally sensitive given that it is surrounded by high intensity suburban housing and commercial developments. The same Site Analysis from December 2012 for our neighbours at 1068 Spicer Road South is similarly misleading and full of misrepresentations.

They claim their land is 70% cleared when, in fact, it is 100% cleared. Their land is given the environmental constraints of "60% Moderate and 40% Significant", again without justification. I, along with my fellow residents, am utterly at a loss to know how to counter the damaging policies and lies put forward by Warringah Council. As long-standing land owners and residents, we have been to countless meetings, seen numerous reports prepared and shelved from view, and despite our best efforts and intentions, we feel powerless, voiceless, and utterly marginalised.

By way of historical background, John Spiegel and I are the owners of Lot 1071 Spicer Road South, Oxford Falls (DP 752038). We purchased this land in 1988 from Mr and Mrs Quirk, when it was a flat, sand covered horse agistment property known as Wakehurst Stud (an image of the property at the time of purchase is available to prove this fact). The land the original Spicer brothers had carved up along Spicer Road South was not only cleared - it was virtually barren and surrounded by horse paddocks and chicken sheds. The entire area had, for many decades, been utilised for rural agricultural purposes. When we bought our land, it was a sand pit. Over the years, we had mountains of soil delivered to build up the land and to enable us to plant native trees and plants. We also built a large dam that today provides a resting place and breeding oasis for numerous species of wild water birds. We created a small eco-system of our own. We retained the 16 stables which we use to house our horses and we also have a handful of sheep on the property, as well as domestic ducks, geese and chickens. We plant our vegetables and we strive to be as self-sustaining as possible. We care for the health and prosperity of this land in a way that no Council bureaucrat could ever appreciate. The care and maintenance of a property such as this also involves actively eliminating pests such as foxes and feral cats whenever possible. Not only to protect our livestock, but to alleviate the devastating impact these animals have on our native fauna as well. We are also the people that do the jobs that Council refuses to do - such as clearing the rubbish and weeds from the banks of the creek across from our property. We are the people who fight to keep noxious weeds from consuming the flora both on and off our property because Council refuses or is unable or unwilling to do so. We understand that cities must grow in order to prosper, and we have accepted the changes around us and adapted to them. We pay our taxes and our rates and care for our land and environment. We have done nothing to warrant the blatant disregard and hostility meted out to us by Warringah Council.

The landscape immediately around us has radically changed over the last 20 years. We were unable to prevent the construction of the massive compound that is Christian City Church on our doorstep and in its wake came the St Pius sports fields, the Oxford Falls Grammar School and the substantial residential developments known as Peppercorn Ridge and Oxford Falls Heights. Christian City Church and the St Pius sports fields attract thousands of people who cram their vehicles along our small street every week. Our properties have not been surrounded by bushland for decades. In fact, our land is bordered by high intensity developments and commercial and educational facilities. Every weekend, Spicer Road South is one big parking lot. In the midst of all this change, the residents along this small strip of Spicer Road South have not changed at all. We have all been here for many, many years and continue to live the same rural lifestyles. Over the years we accepted that, given the current rate of change and development, our land may also, one day, be considered for subdivision. But not one of us settled or built a life here with that end in mind. What we did not foresee, however, or even consider a remote possibility, was that Council would one day attempt to arbitrarily remove all traces of human influence on our land and effectively classify it as uncleared land under stringent E3 environmental protection laws. This move not only has the potential to radically effect how we live our lives on our land, it also will have the immediate, and very real, effect of devaluing our land completely.

Despite Council's claims to the contrary, this rezoning has the potential to devastate our futures in a mindless and unjustifiable way. There is no valid, empirical reason why the zoning here should not

remain semi-rural. It is also highly hypocritical given the mass of urban development that Council have approved literally all around us. I will not now burden you with a complete list of all the negative impacts that these developments have had on us - suffice to say that the long-standing use of our land as semi-rural has not had an iota of impact on what little is left of the surrounding natural environment that these developments have had. Despite this, Council treats us as the enemy and any of my calls to them have been dismissed with rudeness and contempt. As if we, the long-standing caretakers of this land, are the enemy and it is their job to control and overpower us. Instead of appreciating that we are the people that have ensured that some greenery and flora exists here at all, they now want to penalise us after having themselves changed the entire landscape around us. To add insult to injury, when a Council representative came on our property to take pictures of the land, she ignored the entire property and only took pictures of the clumps of trees (which we had planted!) on the steeply ascending hill behind us - thereby (no doubt) proving to her fellow Council employees that the land here is, indeed, uncleared. It is nothing short of unprincipled and biased behaviour.

I have read the Draft Report and find it vague and evasive. It addresses none of the realities on the ground. It ignores the reality of the long-standing use of our land and the intense developments all around us. It fails to state why the zoning must be changed for us. Nor does it give reasons why some zonings are adopted and others ignored: as in, "the Warringah LEP 2011 does not currently use the R5 Large Lot Residential zone". Why? Why doesn't Council in clear and simple terms, explain the process by which it determines exactly which parcels of land are set aside for rezoning and why - based on empirical facts on the ground? By what process have they arrived at the conclusion that semi-rural zonings are no longer applicable to this land? Where is the evidence that our cleared land requires environmental protection? They present their arguments as if they are evidence based, which they palpably are not. No one came to interview us individually about the history or current use of our land. No one came to properly evaluate the extent of flora and fauna on our land. No one came to see us when the housing developments sprung up around us, or subsequently reviewed the impact they had on our land (which has been significant, particularly with respect to overflows of water). No one has ever consulted us about anything. And now we are cordially invited to make submissions that will, likewise, be ignored. That is why I am writing to you. I simply don't know what to do anymore, because I know all the traditional, 'accepted' channels of communication lead nowhere.

I know the Minister is in a difficult position and I am sure the Government does not wish to be seen as interventionist. But our Councils are a joke. Unfortunately, they are a joke that impedes our progress and has the potential to seriously disrupt our lives. I apologise that this email has become so long and if I seem somewhat frustrated and emotional, I trust you will be able to appreciate why. If you have any real suggestions for me whatsoever, I will accept and act on them, wholeheartedly. I know the Minister visited our area some time ago, but if he should wish to get a real sense of the place from the residents' perspective and see the truth on the ground, please know he would be welcome here at any time. This is not one of Sydney's wealthier suburbs, so I doubt we would have the collective resources to fight the E3 zoning through the Courts. But we simply must stop it. None of us want it. It can only cause harm and benefit no one other than Warringah Council itself by extending its already too intrusive powers.

I hope you can help or suggest what we can do. Council has historically always ignored our submissions and will continue to do so.

I await your response,  
Yours sincerely,  
Veronika Cosic

**Submission Number: 92**

Mauri Nowytarger, Oxford Falls

Objection to Draft LEP

Dear Sir.

I have not had adequate time to provide a complete submission to my satisfaction and at this stage it may be the case that I will be issuing an additional submission / objection to council regarding the Draft LEP in due course.

Lot 1068 Spicer Road was 100% cleared of any native fauna and all natural bush land over 60 years ago. This lot has had various commercial uses over the course of years for horse agistment, horse stud, battery egg farm, wine vineyard, fish farm, home business and commercial storage etc. I purchased this lot in 1979 and at the time it was used commercially by the prior owner, totally cleared and zoned rural.

At a recent meeting with a Council and State Planning at a hall at Forestville, I did suggest that these bodies should conduct an analysis of the lots as a spokesman for council stated that they were unaware of what the various lots consisted of.

Two people representing Council and State Planning attended my lot and spent possibly 5 to 10 minutes of investigation and took photographs of one paddock facing East.

The Site Analysis Report was not available nor was copy sent to me and it was only by the efforts by Mr. John Holman by applying through the Freedom of Information Act, that eventually about 3 weeks ago, the reports of the analysis became available. Having read this report I find it completely and totally inaccurate and strongly object to the use of this report being used as a guide to any decision being made on future zoning on this said lot.

I'm amazed at council's persistence of wanting to zone these lots as E3 when virtually all the lots in Spicer Road and surrounding areas have been cleared and used commercially long before Oxford Heights, Pepper Corn Drive, Frenchs Forest were cleared and become residential.

I do support any E3 zoning being applied to uncleared Crown Land. In order to protect the native fauna and wild life. I believe this to be the view of many of the local residents.

As state prior it is my intention to possibly lodge a further submission / objection.

Mauri Nowytarger.

**Submission Number: 93**

[REDACTED]

We do not believe our property should be rezoned to E3 based on the information we have been given by Council. We have attended the community forum's ran by both Warringah Council and the WUFA on this matter. Unfortunately we were unable to be at our home when our property was inspected by Council as we were away at the time.

I am therefore not aware of what facts that were taken regarding our property if any however what I can say is this about our property.

We have two homes (one of the homes is the original small cottage) on our property with a pool. The vast majority of our property is cleared land (at least 90%) and we have one 5 acre residential property adjoining to our rear boundary.

Our two side boundaries share a boundary with a small area of crown land which is not cleared. Our front boundary faces Morgan Road and we have maintained a native bush feel on our property along the nature strip to keep the look and feel of our beautiful surroundings. That said the majority of our property is cleared grass and we cannot see how this fits within the E3 definition.

Regards Angela

#### **Submission Number: 94**

Richard Chapman, Oxford Falls

Richard and Sandra Chapman object to the proposed zoning of our land on the basis that the methodology used to zone our land as E3 is not consistent with the translation that was done from LEP 2000 for other properties in the Warringah Local Government Area.

We are the owners and have been here for 37 years. We have 5 children and 12 grand children. Our property has always been used as a residential rural property, chooks, domestic horses, shelters, electric fences, outbuildings, irrigated fruit trees and vegetable garden for home use etc.

Our property should not be zoned E3. Terry Hills and Duffys Forest has the same constraints as Oxford Falls, we should be RU4

Why is the council so determined to downzone our land to E3. In the E3 practice notes, there are instances where environmentally significant land has been zoned rural in the past.

A rural zoning has to be considered (RU4) not E3 for our properties.

We fully support the Draft Submission by our Warringah Urban Fringe Association president to the E3 Strategic Review, submitted today.

Richard and Sandra Chapman.

7 August 2013

#### **Submission Number: 95**

Confidential

I wish to submit my objections to the Draft OFBN Strategic Review by having my property incorrectly translated into E3

My concerns include:

A Inaccuracies in my Site Analysis of my property (I believe 80% of my site analysis is incorrect)

B 60% loss of my property value (just look at the governor general valuations)

C Loss of existing uses (property was a quarry)

D 70% reduction in permissible uses (re LEP 2000 too many to list)

E reduction in the supply of houses on my property

F 1000% increase in costs of any development consent

G No exempt and complying development consent

H Constraints imposed on my land (No weed spraying, fertilizing, lawn mowing, landscaping, gardening etc.)

I Information used by the review group used mapping and documentation which was not indorsed by the council.

J No transparency in regard to the control group (panel are hiding their names on the report with documentation being withheld until the last minute)

K Land Acquisition (Just Terms Compensation) Act 1991 (council should be aware that the range of uses should not be drawn too restrictively as they may, depending on circumstances, invoke the Land Acquisition (Just Terms Compensation) Act 1991)

(A) Site Analysis Inaccuracies [REDACTED]

1. Land adjoins 7 residential properties (not noted)
2. Owner "Private" (not noted)
3. Vegetation Bushland ticked percentage cleared 10% indicated (inaccurate closer to 80% cleared property was used as a rock quarry for 30 years all top soil had been removed and land is 50% rock and 40% with less than 100mm of sandy soil)
4. Environmental constraints (incorrect evaluation. 5 year out dated maps used and information not endorsed by Council with no threatened species on site)

5. Building onsite- none (nothing ticked, ignores the fact that there are two buildings on site).
6. Use of site- none (nothing ticked, this site was a quarry up until 1985 and two separate approved DA/BA for two different dwellings)

My property has town water, sewer and telecommunication services and it adjoins 7 residential properties as well as being within 400m of a bus stop and local centre. We have had domestic stock onsite since 2000 up to a dozen sheep + chickens. There is no significant species or vegetation on site. We are surrounded by cleared properties all having residential buildings. If this property fits in your guidelines as E3 then half of NSW should be rezoned E3

(C) Existing use rights will only allow a 10% expansion and only within the current property. It does not allow you to expand to adjoining properties or expand greater than 10%.

(E) I currently have permissible land uses of granny flats and Housing for older or disabled people. Under an E3 zoning these uses are prohibited. Some of the land uses permissible under the LEP 1985 were translated into category 3 land uses in the LEP 2000. Category 3 uses have been approved including education, helipad, childcare centres under the LEP 2000, however these uses are prohibited under E3.

(H) My property is not constrained by the Draft LEP 2009 maps or the Development Control plan 2009 maps as endorsed by Council on the 7th June 2010.

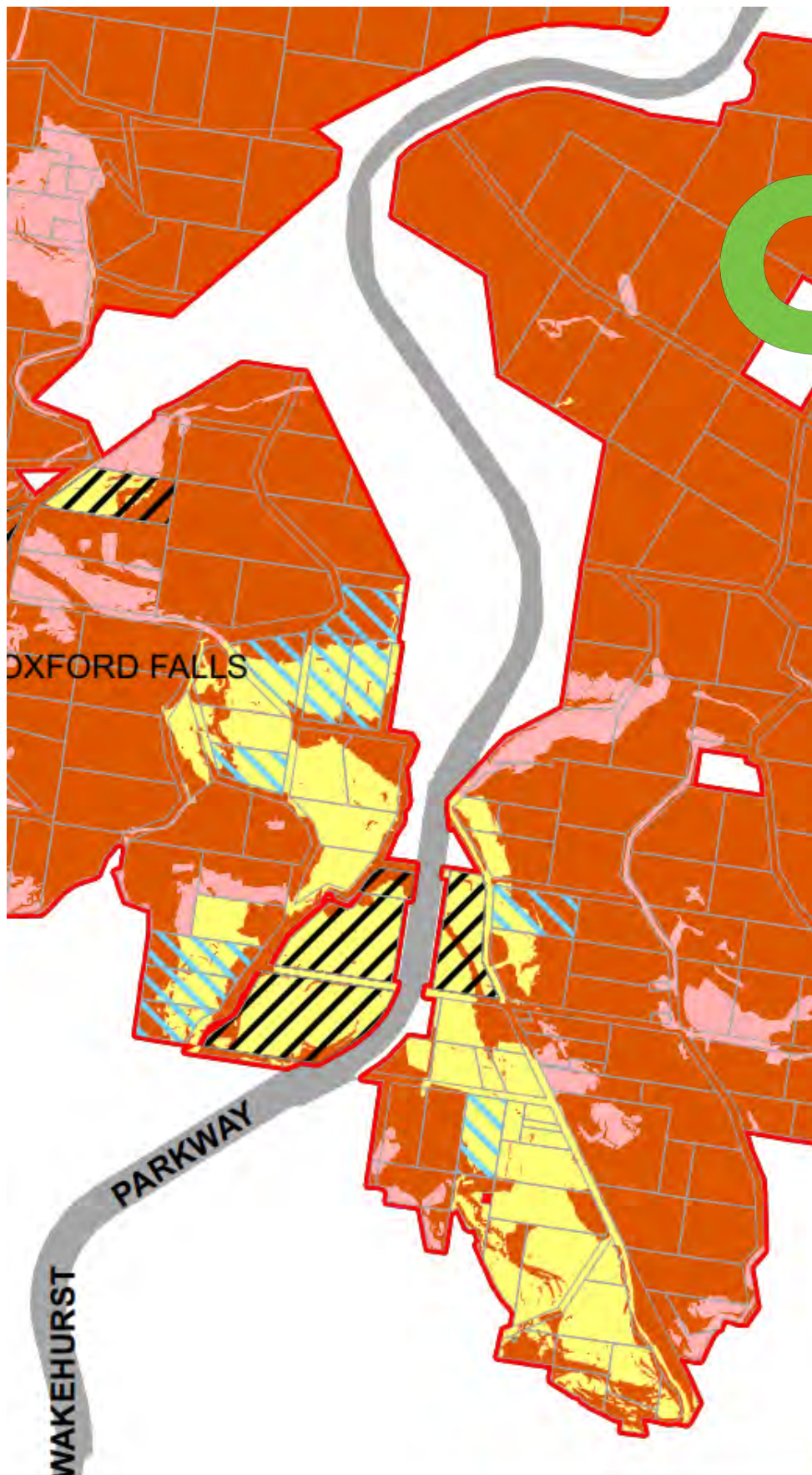
The PAC report released in 2009 commissioned independently to Warringah Council and The Department of Planning has 95% of my property with No Limitations to development

If the same environmental constraints and weighting used by this review was assessed on the New hospital site, Kimbriki tip, Terry Hills Duffys forest, Council owned land around Aquatic centre and Allambie Heights, all these areas would be weighted as prohibitive or severe environmental constraints to development.

In conclusion I find this exercise has been completely redundant as the review panel obviously used their own figures and mapping to come to a predetermined decision. Even with the fact the Planning Minister Brad Hazard had to intervene twice in this procedure to get a fair result. After discussions with the Planning department it became blatantly clear that 95% of the report was done by the Warringah Council who have their own agenda.

Since the council is imposing severe restrictions on my property taking away my property rights and decrease the range of uses proposed to be permitted in the E zone. Will it invoke the Land Acquisition (Just Terms Compensation) Act 1991 and the need for the Minister to designate a relevant acquiring authority for just compensation.

Thank you for considering my submission.



# **DRAFT OXFORD FALLS VALLEY AND BELROSE NORTH STRATEGIC REVIEW**

LAND OWNER SUBMISSION

7 AUGUST 2013

**CBRE**



**DRAFT  
OXFORD  
FALLS VALLEY  
AND  
BELROSE  
NORTH  
STRATEGIC  
REVIEW**

LAND OWNER SUBMISSION



# **DRAFT OXFORD FALLS VALLEY AND BELROSE NORTH STRATEGIC REVIEW**

LAND OWNER SUBMISSION

## **CBRE Town Planning**

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# DRAFT OXFORD FALLS VALLEY AND BELROSE NORTH STRATEGIC REVIEW

LAND OWNER SUBMISSION

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# DRAFT OXFORD FALLS VALLEY AND BELROSE NORTH STRATEGIC REVIEW

LAND OWNER SUBMISSION

## 1. INTRODUCTION

The Department of Planning and Infrastructure and Warringah Council have jointly prepared the Oxford Falls Valley and Belrose North Strategic Review following its deferral from Warringah's LEP when it was published in 2011, as directed by the Minister for Planning & Infrastructure.

Despite the report finding that some areas of land have been identified as of low environmental significance and therefore suitable for alternative zonings or uses, the report finds that *"the strategic review process is not intended to evaluate the future development potential"*. The Strategic Review Report found the majority of the area should be zoned E3 environmental management – because of, it states, *"its environmental values and relatively limited infrastructure"*.

This submission has been prepared on behalf of the following land owners in the southern part of the Study Area around Oxford Falls Road (Refer Figures 1 and 2 below). The land owners are:

- James Linklater and Anne Looby: 1111 Oxford Falls Road, Oxford Falls.
- Erik Bach Madsen and Cheryl Ann Madsen: 1336 Oxford Falls Road, Oxford Falls.
- Joseph and Helen Earl Lot 1108 Wearden Road, Oxford Falls.
- Anita Spalavero: 1113 Barnes Road, Oxford Falls.

The subject lands have been identified as having predominantly low environmental constraints to development. On the face of it, therefore, the development capacity of the lands have not been reduced when considering the objective of the strategic review was to inform the translation of planning controls from the LEP 2000 to the LEP 2011.

However, the E3 Environmental Management Zone brings with it a perception (in the least) that it is encumbered by environmental constraints, whilst the initial mapping for the site shows that it is not. Considering the Department has deferred the second stage, we believe that the E3 zoning will place an unfair and incorrect encumbrance on these properties, particularly as any future development will need to demonstrate compatibility with the objectives of the E3 zoning, which are heavily slanted towards environmental protection. We therefore suggest the lands should be, in the least, identified as 'deferred', pending completion of the second stage of the study.

We request that Council and the Department continue this study to inform the best possible fit for the zone rather than simply 'settle' at an E3 zone. It is both premature and misleading to enforce the E3 zone on lands that have already been identified from preliminary and secondary constraints analysis as being relatively unconstrained from future development. We are of the opinion that this is effectively a down zoning, particularly in light of the strategic directions recognised in the Metropolitan Plan and its recent Draft, that identify Warringah Council for additional dwellings, provided in a variety of dwelling typologies. Consideration of the Metropolitan Strategy is a Section 117 Ministerial Consideration that must be considered in any rezoning.

Regardless of whether the Department continues work on the second stage of the study, we are of the opinion that the subject lands are more suited to a Zone R5 – Large Lot Residential classification, which, whilst recognising the buffer nature of the lands and protecting environmental and scenic quality lands in the standard zone objectives, does not encumber the lands with an incorrect environmental overlay. The Department has identified other lands suitable for the R5 zone which carry a similar level of environmental constraints as the subject lands.



# **DRAFT OXFORD FALLS VALLEY AND BELROSE NORTH STRATEGIC REVIEW**

LAND OWNER SUBMISSION

This submission seeks two outcomes:

1. The continuance of the study in to Stage 2 to further analyse those sites identified as having low environmental constraints and continuing the deferred status of these under the Warringah LEP 2011 until such time as Stage 2 of the study has been completed;
2. Identification of sites for a R5 Large Lot Residential Zone.

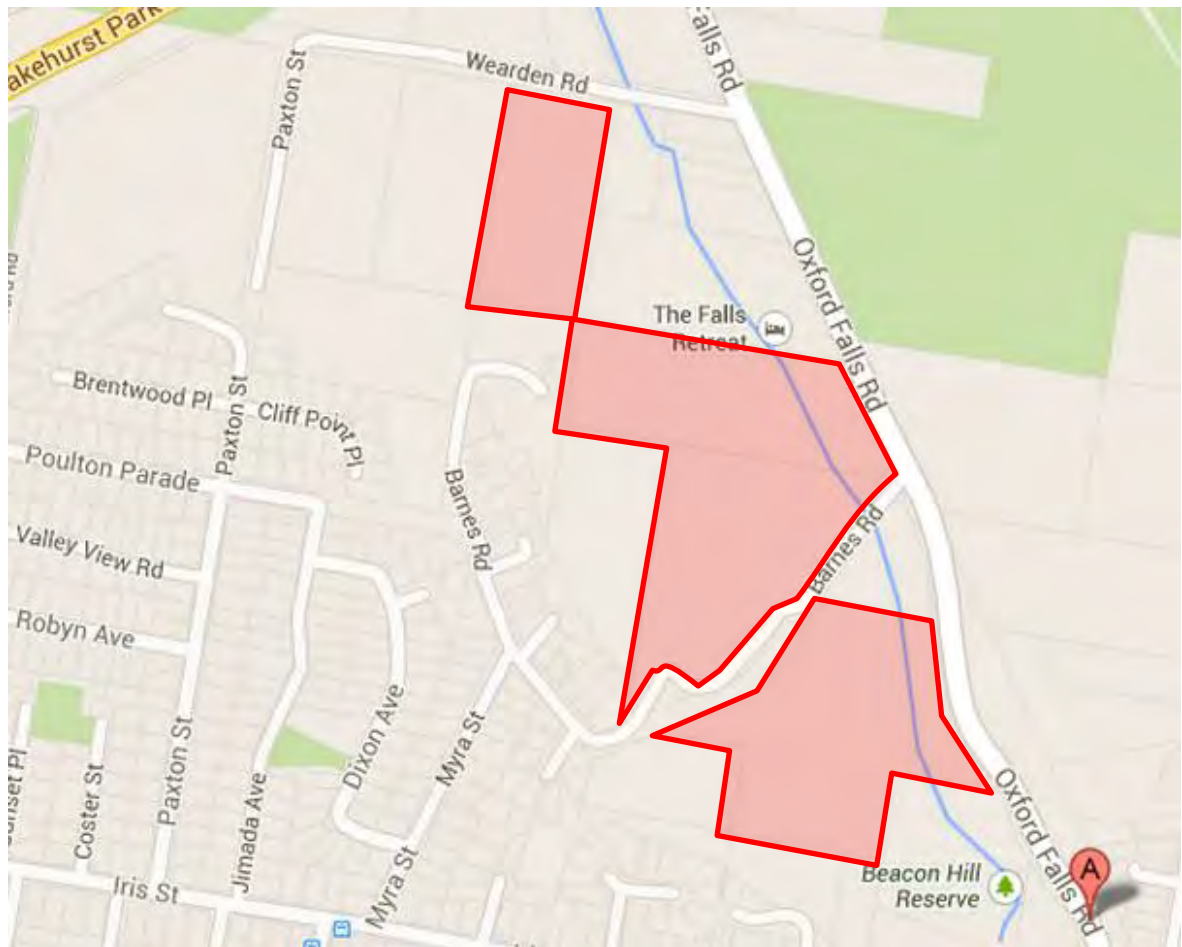


## 2. THE OWNERSHIP REPRESENTED

The ownership group represented is located toward the southern end of the deferred area and Oxford Falls Road. The location of the subject property is shown in Figure 1 & 2 below.

The subject sites are situated close to and within approximately 100 – 150 metres of existing urban development in Beacon Hill/Frenchs Forest East with public transport (State transit bus services) available along Iris Street as well as a bus stop outside the adjacent tennis academy. As can be seen from the aerial photograph in Figure 2, the subject property and those surrounding to the north and south are generally clear of vegetation, other than a relatively narrow corridor along the Oxford Falls road frontage.

Figure 1: Subject Sites



(source: Google Maps)



# DRAFT OXFORD FALLS VALLEY AND BELROSE NORTH STRATEGIC REVIEW

LAND OWNER SUBMISSION



The current land-use designation of the property is *B2 Oxford Falls Valley* under the Warringah LEP 2000. The desired future character or 'locality statement' made clear the intended semi-residential/rural outcomes for the precinct, however a diverse range of potential uses (including a number of commercial and housing types) were identified as Category 2 or 3 development under the LEP. That is, development or land-use types that are possibly permitted subject to a merits consideration by Council.

The subject lands are located within close proximity to existing urban development, being the residential areas of Frenchs Forest East and Beacon Hill, which are typified by single detached dwellings on 700 – 1,000sqm allotments. Further, the sites are within close proximity to existing public transport (State transit bus services) and road infrastructure (Warringah Road and Wakehurst Parkway) providing relatively direct access to nearby local centres in Beacon Hill, Frenchs Forest and Warringah Mall in addition to existing employment areas (north/south of Warringah Road) with direct linkages to other regional centres including Chatswood, St Leonards, North Sydney and the Sydney CBD.

Importantly, existing services within this area include town water, electricity and telecommunications. It is understood that the property adjacent to No.1111 Oxford Falls Road being the Australian Tennis Academy also benefits from a rising main to the nearest sewer connection in Barnes Road.



# DRAFT OXFORD FALLS VALLEY AND BELROSE NORTH STRATEGIC REVIEW

LAND OWNER SUBMISSION

## 3. SITE ASSESSMENTS

Both Council and the Department undertook site visits in December 2012 to understand land uses in the region and to verify technical information used in the review. All site reviews for the subject lands were taken from the street frontage only.

Analysis of the Department's review against mapping undertaken by CBRE is indicated in the following table:

Table 1: Site Assessment Review

| Site                                | Moderate |           | Significant |          | Severe |          |
|-------------------------------------|----------|-----------|-------------|----------|--------|----------|
|                                     | DPI      | CBRE      | DPI         | CBRE     | DPI    | CBRE     |
| Lot 1108 Wearden Road               | 80%      | 85% (↑5%) | 5%          | 7% (↓2%) | 15%    | 8% (↓7%) |
| 1111 Oxford Falls Road              | 100%     | 100%      | -           | -        | -      | -        |
| 1336 Oxford Falls Road <sup>1</sup> | 85%      | 90% (↑5%) | 10%         | 7% (↓3%) | 5%     | 3% (↓2%) |
| 1113 Barnes Road                    | 90%      | 90%       | 10%         | 10%      |        |          |

We provide the following in regards to the site assessments:

- 1111 Oxford Falls Road site assessment states 70% cleared and 30% uncleared which is inaccurate as it is probably closer to 85% cleared and 15% uncleared. Regardless, the land is clearly identified as not environmentally constrained. The land was previously used as a chicken farm and an unofficial tip. Therefore, an E3 Environmental Protection Zone is inappropriate.

Further, the Secondary Constraints Analysis is unsubstantiated and, at times, incorrect. It appears that the analysis is open for interpretation and subjective. For an important project such as this, we would assume that GIS or similar would be used to input and analyse the data objectively and empirically. For example:

- Heritage: rating of 1, but nothing of heritage value on the property. Neighbour at 1110 is rated 0.
- Centres: 3 – site is c. 2km from a proposed Specialised Centre (Northern Beaches Hospital). We question this assumption.
- Transport: 1 – there is a bus stop in front of 1110 (yet 1110 adjacent is rated a 2?).
- Infrastructure: 3. As discussed above, the sites are serviced.
- Corridor/ Habitat: 2 – however the adjacent 1110 is rated as 0. The land is mostly cleared apart from the component that fronts on to Oxford Falls Road and the adjacent land to the north is cleared. This effectively prohibits any opportunity for a corridor.
- Based on the above, we would rate the site a '10' rather than a '14' in terms of constraints severity. This throws into question the entire analysis undertaken by the Department and the rigour applied. We refer the Department to the Hawkesbury Residential Strategy that used GIS to analyse constraints similar to this process in a manner that was transparent and rigorous. The document can be found at:

<sup>1</sup> Noted as 1136 in Site Assessments, not 1336.



# DRAFT OXFORD FALLS VALLEY AND BELROSE NORTH STRATEGIC REVIEW

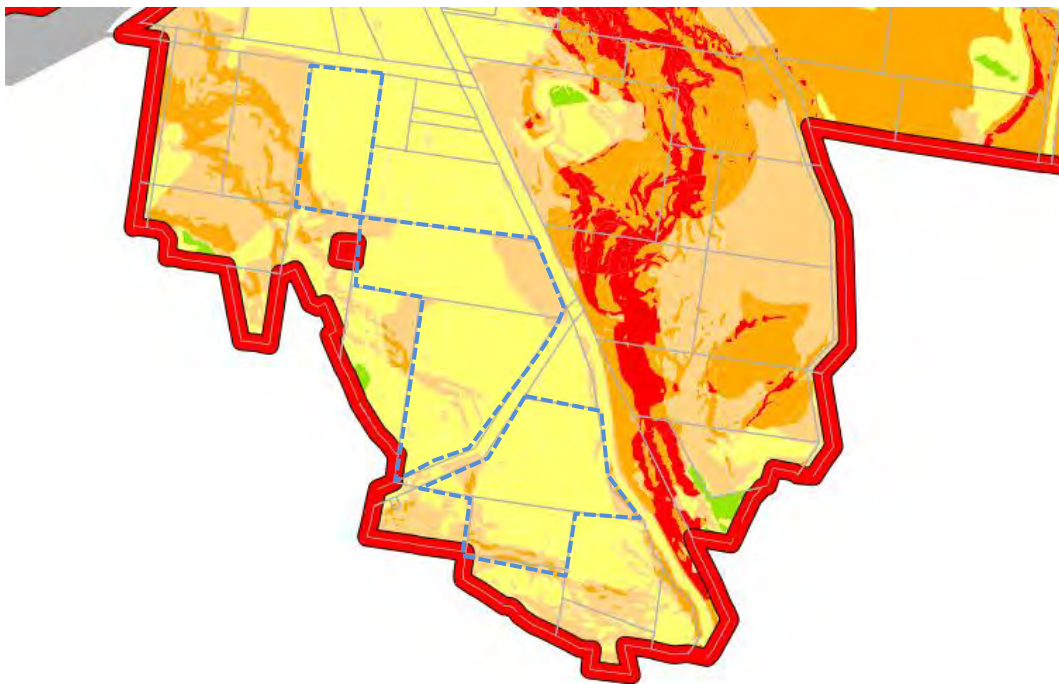
LAND OWNER SUBMISSION

[http://www.hawkesbury.nsw.gov.au/\\_data/assets/pdf\\_file/0008/37259/Final-HRLS.pdf](http://www.hawkesbury.nsw.gov.au/_data/assets/pdf_file/0008/37259/Final-HRLS.pdf)

- 1108 Oxford Falls Road was previously a chicken farm – clearly it is not of environmental significance. To now classify this site as having environmental significance is clearly incorrect. Therefore, an E3 Environmental Protection Zone is inappropriate.
- The 1336 Oxford Falls Road site assessment questions the apportionment moderately, but the Department's assessment of the site as only 65% cleared is incorrect. Our analysis shows it is c. 85%.
- The 1113 Barnes Road site assessment is not questioned, however our analysis shows it closer to 80% cleared than 70%.

The preliminary and secondary mapping is provided in Figure 2 below clearly shows the sites as predominantly unconstrained. Therefore, an E3 Environmental Protection Zone is inappropriate.

Figure 2: Cumulative Level of Environmental Constraints





## 4. STATUTORY PLANNING CONSIDERATIONS

Concern has previously been expressed at the E3 Environmental Management zoning proposed by the draft Warringah LEP 2011. These concerns included:

- The zoning and permitted range of land uses was considered highly restrictive relative to the current B2 locality designation.
- The Department of Planning's Practice Notes (PN 09-002) states that the E3 zone is for land where *'there are special ecological, scientific, cultural or aesthetic attributes or environmental hazards/processes that require careful consideration/management and for uses compatible with these values'*. Given the current physical characteristics of the cleared subject properties, the lack of environmental constraints and the urban nature of the surrounding lands, applying an E3 zoning to the area is inappropriate.
- It also noted that the circular (P7) states that the E3 zone *'is generally not intended for cleared lands including land used for intensive agriculture'*. The subject premises and lands to the north/south are not utilised for intensive agriculture and are largely cleared.

### 4.1. SUITABILITY OF THE ENVIRONMENTAL PROTECTION ZONE

The LEP practice note for Standard Instrument for LEPs – Standard Zones (PN 09-002; 30 April 2009) identifies that the E3 Environmental Management zone is for land where there are special items that require consideration/management and for uses compatible with these values. These items are:

- ecological,
- scientific,
- cultural or aesthetic attributes
- environmental hazards/processes

The DPI reporting clearly identifies that the sites in question are not affected by these items. The Practice Note goes on to state that:

*Prior to applying the relevant zone, the environmental values of the land should be established, preferably on the basis of a strategy or from an environmental study developed from robust data sources and analysis. This is particularly important where land is identified as exhibiting high ecological, scientific, cultural or aesthetic values outside national parks and nature reserves*

Clearly, in this instance, the Study shows that the sites are not affected by environmental constraints and that the identified zoning for E3 is therefore erroneous. Importantly, this is supported by the Practice Note that says:

*However, the zone is generally not intended for cleared lands including land used for intensive agriculture.*

Again, the subject sites are predominantly cleared and therefore not suitable to the E3 Zone.



# DRAFT OXFORD FALLS VALLEY AND BELROSE NORTH STRATEGIC REVIEW

## LAND OWNER SUBMISSION

The environmental constraints and development potential of the subject premises and surrounding lands in Oxford Falls were also investigated in the Non-Urban Lands Study prepared by PPK Consultants in 1998. The study mapped the subject area along Oxford Falls Road as:

- disturbed lands of lower environmental value;
- no significant environmental constraints to development; and
- having the potential for higher intensity development and land uses.

The PPK study recommended that the abovementioned areas be further investigated with particular regard to the transport, infrastructure constraints, bushfire, the cumulative effects on environmental values, and the regional demand for land generally with a view to their potential for more urban, or residential, purposes.

Based on the findings of these previous land-capability investigations, the area is considered relatively unconstrained and has the potential for higher intensity development, including residential uses or in the very least rural-residential subdivision. We note and generally concur with the recommendations of the submission by the Warringah Urban Fringe Association dated 2<sup>nd</sup> December 2012 particularly with regards to Precinct 12 (Oxford Falls Road South East). It states the preference of residents in this area is for a rezoning to R5 (Large Lot Residential), with a minimum lot size of 2,000sqm.

### 4.2. ALTERNATIVE ZONES CONSIDERED

CBRE have analysed the objectives of the Locality B2 Oxford Falls Valley as contained in the Warringah LEP 2000, against the objectives of the E3 Environmental Management and R5 Large Lot Residential zones as contained in the Standard LEP Template provided by the NSW Department of Planning and Infrastructure.

The breakdown is provided in Table 2 below.

**Table 2: Analysis of Zone Objectives**

| Locality B2 Oxford Falls Valley (LEP 2000)                                                                                                            | E3 Environmental Management (LEP 2011)                                                                                                                                                                                                     | Zone R5 Large Lot Residential                                                                                                                                 |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The present <u>character will remain unchanged</u>                                                                                                    | To protect, manage and restore areas with <u>special ecological, scientific, cultural or aesthetic values</u> .                                                                                                                            | To provide residential housing in a rural setting while <u>preserving, and minimising impacts on, environmentally sensitive locations</u> and scenic quality. |
| Future development will be limited to new detached style and <u>low intensity, low impact uses</u> .                                                  | To provide for a limited range of development that does not have an adverse effect on those values.                                                                                                                                        | To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.                                          |
| There will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen lagoon and the Wakehurst Parkway. | To ensure that development, by way of its character, design, location and materials of construction, is integrated into the site and natural surroundings, complements and enhances the natural environment and has minimal visual impact. | To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.                                    |
| <u>The natural landscape will be protected.</u>                                                                                                       | <u>To protect and enhance the natural landscape by conserving remnant</u>                                                                                                                                                                  | <u>To minimise conflict between land uses within this zone and land uses</u>                                                                                  |



# DRAFT OXFORD FALLS VALLEY AND BELROSE NORTH STRATEGIC REVIEW

## LAND OWNER SUBMISSION

|                                                                                                               |                                                                                                                           |                                |
|---------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|--------------------------------|
|                                                                                                               | <u>bushland</u> and rock outcrops and by encouraging the spread of an indigenous tree canopy.                             | <u>within adjoining zones.</u> |
| Buildings will be located and grouped in areas that will <u>minimise disturbance of vegetation.</u>           | To protect and enhance visual quality by <u>promoting dense bushland buffers adjacent to major traffic thoroughfares.</u> |                                |
| A <u>dense bushland buffer</u> will be <u>retained</u> or established along Forest Way and Wakehurst Parkway. |                                                                                                                           |                                |
| Development in the locality will not create siltation or pollution of Narrabeen lagoon and its catchment.     |                                                                                                                           |                                |

Our consideration of the zone objectives indicates that the sites are better suited to a Zone R5 Large Lot Residential than the Department's preferred E3 Environmental Management (LEP 2011) for the following reasons:

- The subject lands do not contain special ecological, scientific, cultural or aesthetic values however can adequately minimise conflict within adjoining zones as per the R5 zone. By way of example, if the environmental lands were industrial, would this mean that the Department would seek to zone all surrounding lands as industrial to act as a buffer?
- By being cleared, the sites will not enhance the natural landscape by conserving remnant bushland however the lands can aid the preservation and minimising impacts on, environmentally sensitive locations and scenic quality as identified in the R5 zone.

We acknowledge that a subsequent strategic review will consider in more detail the environmental capability of the study area, in addition to the proximity of existing urban development and infrastructure together with the demand for increased housing opportunities in the area. In this regard, the owner looks forward to reviewing the outcomes of the strategic review and making a more detailed submission during its public exhibition.

Considering the timeframe that has already elapsed since the Phase 2 study was recommended in the Planning Assessment Commission's 2009 report on Oxford Falls Valley, we stress the importance that any momentum on this Study is not lost and the Department commit to Stage 2 as soon as possible. There is great concern that once the sites have been 'encumbered' by an environmental related zone, it will be difficult to change perception or otherwise. We therefore seek that the lands remain identified as 'deferred' until such time that the subsequent study is undertaken.



## 5. STRATEGIC PLANNING CONSIDERATIONS

As advised under the Ministerial Direction (s177) under the Environmental Planning and Assessment Act 1979, any rezoning of land must consider a number of key considerations.

Direction 3.1 relates to Residential Zones and states as its objectives:

- to encourage a variety and choice of housing types to provide for existing and future housing needs,
- to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and
- to minimise the impact of residential development on the environment and resource lands.

We would consider that the subject lands have the potential for residential zoning with minimal impact on the nearby higher environmental value lands in the area, whilst providing residential development that is proximate to services and infrastructure and enabling a variety of housing choices in the area.

Allied to this direction, is the consideration that the Department must give to Direction 7 – Metropolitan Planning and the implementation of Metropolitan Plan for Sydney 2036.

The objective of the Direction is to give legal effect to the vision, transport and land use strategy, policies, outcomes and actions contained in the Metropolitan Plan for Sydney 2036 and states that Planning Proposals shall be consistent with the NSW Government's Metropolitan Plan for Sydney 2036 published in December 2010.

Considering the status of the Draft Metropolitan Strategy that has been publicly exhibited and is expected to be in force in early 2014, we submit that consideration should be given to the ambitious target of an additional 27,500 dwellings expected of the Draft Strategy across Metropolitan Sydney.

Analysis undertaken by CBRE shows that Warringah LGA will be expected to accommodate a total of 5,110 new dwellings to 2031, equating to approximately 284 dwellings annually, year on year. There is clearly a need to expand the rate of new dwellings in Warringah LGA region given that the LGA delivered approximately 149 dwellings per annum between 2006-11.

**Table 3: Analysis of Draft Metropolitan Strategy Dwelling Targets**

|                  | 2006 ABS Dwellings | Draft Subregion<br>2031 Target | 2006-2011<br>Additional p.a. | Draft Metro<br>Strategy LGA<br>Target | per<br>annum<br>delivery |
|------------------|--------------------|--------------------------------|------------------------------|---------------------------------------|--------------------------|
| <b>Warringah</b> | 54,465             | 10,300                         | 149                          | 5,110                                 | 284                      |

We note that Page 7 of the draft report states "Oxford Falls Valley and Belrose North are identified in the draft Strategy as non-urban land". Whilst this reflects Figure 16 in the Housing section, it is contrary to the Draft Strategy mapping for the North Subregion, as shown in Figure 4 below.



# DRAFT OXFORD FALLS VALLEY AND BELROSE NORTH STRATEGIC REVIEW

LAND OWNER SUBMISSION

Figure 3: Draft Metropolitan Strategy mapping excerpt - North Subregion



Allied to this is the consideration of the proposed Frenchs Forest Specialised Health Precinct. These sites sit c. 2km from this important infrastructure for the northern subregion, yet the Department's Study finds these lands as not suitable for urban development. We suggest that increasing residential land supply in and around this future Specialised Centre will be critical in its success, particularly mindful of the issues of housing affordability for key workers allied to such infrastructure.

We are of the opinion that persisting with a 'down zoning' of these lands is short sighted and does not consider the long term challenges and opportunities that will be created by the proposed new hospital.



## 6. SUMMARY AND CONCLUSIONS

For the reasons outlined below we believe that the subject premises and surrounding precinct along Oxford Falls Road should be considered for:

1. Deferral pending completion of the secondary Strategic Review to confirm the capacity of the lands for higher order uses, subject to impact analysis of the nearby environmental lands.
2. Consideration of a R5 Large Lot Residential Zone that better reflects the environmental capacity of the lands.

A higher order land-use zoning than E3 (Environmental Management) is suitable for the subject sites for the following reasons:

1. The subject lands are located within close proximity to existing urban development, being the residential areas of Frenchs Forest East and Beacon Hill, which are typified by single detached dwellings on 700-1,000sqm allotments.
2. The subject lands are also within close proximity to existing public transport, nearby local centres in Beacon Hill, Frenchs Forest and Warringah Mall and employment lands on Warringah Road, Chatswood, Brookvale, St Leonards, Chatswood, North Sydney and the Sydney CBD.
3. Existing services within this area include town water, electricity and telecommunications. The property adjacent to No.1111 Oxford Falls Road (the Australian Tennis Academy) also benefits from a rising main to the nearest sewer connection in Barnes Road.
4. Any future higher order development of the subject lands is considered to represent a logical and orderly extension to an existing urban area (north of Frenchs Forest East/Beacon Hill) thereby avoiding the financial and social inefficiencies often associated with the creation of isolated communities and/or fragmented residential development fronts.
5. The subject sites have been identified as not being environmentally constrained and therefore the application of the E3 Environmental Management zone is erroneous and will constrain the land unfairly.
6. The E3 zone is contrary to s117 Ministerial Directions as outlined in the EP&A Act.

We look forward to the Department's consideration of this submission. Should you wish to discuss any of the above, please feel free to contact Tom Goode on 9409 8339.

**Submission Number: 97**

Confidential

The land use analysis map identifies our property as "dwelling rural". The property is cleared, has stables and horse arena and horse paddocks, and is used for agisting horses and horse training. We submit a RU4 zoning is more appropriate than a E3 zoning.



**DUFFYS FOREST  
RESIDENTS ASSOCIATION INC**

**P.O. Box 567 TERREY HILLS 2084**

Department of Planning

7<sup>TH</sup> July 2013

Dear Mr Haddad,

**Re- Oxford Falls Valley and Belrose North Strategic Review**

DFRA would like to preface this submission by questioning the rationale of commenting on the recommendations outlined in the draft report, prior to the determination of the planning reforms outlined in the NSW White Paper and Draft Exposure Bills.

The NSW Planning review has been running parallel to this review and proposes to truncate 37 zones into 13. It is proposed to combine RU2, RU6 and E3 into a broad rural zone. R5 and RU4 will absorb into a broad residential and resource zone respectively.

The timing of the Strategic review process and public exhibition seems an exercise in futility and a waste of tax payers money given the recommended zones in the strategic review report are unlikely to exist once the White Paper and exposure bills progress through NSW Parliament.

We are concerned that once the reduction in zones is implemented and broad mixed zones adopted, lot sizes may decrease; more intense development potential will be possible in the review areas resulting in further destruction of significant bushland.

The White Paper advocates the benefits of fewer and broader zones thus it seems remarkable that as a result of intense lobbying the review panel have acquiesced to the very public demands of a recently established lobby group and rather than reduce the zones applied to the review lands, the review panel has introduced the previously unused R5 zone.

As a result of intense lobbying from vested interests the additional zones, which might apply to the deferred lands, were predetermined and as a consequence the Department has overlooked zones, which may have provided a more accurate translation from the WLEP2000.

The draft report recommends R5 zoning for areas of land located on the northern side of Wyatt Avenue and eastern side of Forest Way and notes *"This land is generally located at the interface of environmentally sensitive land along one boundary and urban land along the other."* The allocation of large lot 'rural' residential land must be justified by a strategy prepared in accordance with guidelines issued by the Department.

Department of Planning notes PN 09- 002, provide a possible alternative to the E3 zone and R5 zone. The practice notes state the E4 zone *" will be typically applied to existing low impact residential development. This may include areas already zoned for rural residential that have special conservation value ... Regional councils should distinguish carefully between the E4 Zone, the RU4 Rural Small Holdings and R5 Large Lot Residential Zones to address environmental, agricultural and residential land capabilities respectively.*

*Where small holdings undertake agricultural production such as viticulture or cropping such as growing berries, the RU4 Zone should be considered. If there are few environmental considerations, then R5 may be the appropriate zone."*

The primary and secondary constraints analysis map documents significant and severe environmental constraints to much of the land at Wyatt Avenue and a section of land east on Forest Way.

Given these well documented mapping of environmental constraints the report has not clarified why E4 was not considered for some of these lands. It is apparent that this is the first step toward future urban growth and erosion of Warringah non-urban lands.

DFRA does not support customized zonings for individual landholders of non-urban lands who seek to override environmental constraints and increase the existing density and permitted land uses of their holdings. It appears the lobbying will continue until the lot size maps for residential development are altered to support additional density. This is of particular concern given the aspirations of the NSW planning reforms which will incorporate R5 into a broad residential zoning and prioritises fast tracking development. There is little doubt in the wider community that this combination equates to further destruction of native bushland.

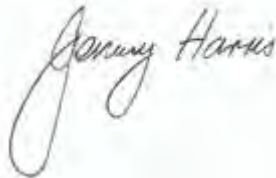
Furthermore the existing LEP2000 states in Locality C8 North Belrose **'Bushland Setting; A minimum of 50% of the site area is to be kept as natural bushland or landscaped with local species.'** The proposed R5 does not provide for any of these concerns.

A number of the land uses permitted with consent in the E3 zone are inappropriate for much of the land in the review areas and offer little protection to the conservation value of pristine bushland, threatened species and riparian zones.

DFRA strongly supports and applauds the initiative of the MLALC who seek for a large part of their lands in the study area to be reserved and leased as an Aboriginal Owned Park under Part 4A of the National Parks and Wildlife Act. We encourage the NSW Government to provide all necessary support to fast track this proposal.

The review panel should use the Biodiversity Study undertaken by Warringah Council to identify areas that should be zoned E1 or E2, given a number of documented vegetation communities are known exist in deferred lands but are not represented within Garigal or Ku-ring-gai Chase National Park. This would ensure that sensitive bushland areas will be maintained and would be closer to the existing planning controls for the purposes of transferring the controls to the new standard instrument.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'Jenny Harris', is written in dark ink on a light background.

Jenny Harris  
Secretary

7 July 2013

Juliet Grant  
Regional Director  
Sydney Region East  
GPO Box 39  
SYDNEY NSW 2001

Your Reference:  
Our Reference (TRIM): OUT13/21894  
EMAILED

Dear Ms Grant

**Re: Public Exhibition – Draft Oxford Falls Valley & Belrose North Strategic Review Report**

Thank you for the opportunity to provide advice on the Draft – Oxford Falls Valley & Belrose North Strategic Review and the proposed amendments to the Warringah LEP 2011. This is a response from the NSW Department of Trade & Investment (DTIRIS) – Mineral Resources Branch (MRB). The Department of Primary Industries, incorporating advice from Agriculture, Fisheries and Forests NSW may respond separately.

MRB previously supplied updated information regarding mineral resources in the Warringah Council LGA as a data package in August 2011. The information from this state-wide audit of mineral resources was in response to the *Environmental Planning and Assessment Act 1979 Section 117(2) Direction 1.3 – Mining, Petroleum Production and Extractive Industries*. A key aim of the audit was to protect resources from restriction of access (and possible sterilisation) by inappropriate zoning or development. Furthermore, it aims to maintain access to land over as much of the LGA as possible for mineral exploration in order to understand what significant mineral resources may exist.

There is only one identified resource within Warringah LGA, a sandstone quarry at Belrose that produces crushed and screened sandstone products including road base, washed sand, horticultural and other products. There are no mining titles within the Warringah LGA, however it is covered by a petroleum exploration licence PEL 463 granted to Macquarie Energy Pty Ltd. to assess the potential for coal seam gas resources.

A new State Environmental Planning Policy (mining, Petroleum Production and Extractive Industries) 2007 was gazetted in February 2007. It supersedes and combines SEPP No.37 (continued Mining and Extractive Industries), and SEPP No. 45 (Mining Permissibility) into one consistent set of rules. The Mining SEPP also introduces new provisions to improve and facilitate the sustainable management of the State's mineral, petroleum and extractive resources.

Please note that under the provisions of the SEPP, underground mining may be undertaken, with development consent, on any land. Open cut mining, petroleum production and extractive industry may be undertaken with development consent on land subject to pre-existing mining or petroleum production leases, or where development for the purposes of agriculture or industry may be carried out. The SEPP will prevail to the extent of any inconsistency within the LEP.

MRB has no concerns regarding the strategic review and the proposed amendments to the Warringah LEP.

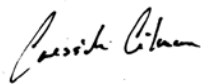
MRB notes that the majority of the area has a proposed '*E3 Environmental Management*' zoning and includes the Belrose Quarry site. Extractive industries are not specifically listed as being permitted (with consent) for the E3 zone in the Warringah LEP. In this instance however the Mining SEPP prevails and extractive industries are permitted with consent as extensive agriculture is permitted with consent.

Furthermore MRB acknowledges that the Belrose Quarry site is covered by land shown as 'Area 13' on the '*Additional Permitted Uses Map*'. The subject area is proposed to be added as item No. 20 to '*Schedule 1 - Additional Permitted Uses*' and the clause includes listing extractive industries as permissible (with consent).

MRB also notes that coal seams of the Illawarra Coal Measures underlie the area at depths of approximately 850m and although these seams are deeper than currently mined the proposed E3 zone will not preclude possible future coal or coal seam gas exploration.

Queries regarding the above information, and future requests for advice in relation to this matter, should be directed to the MRB Land Use team at [landuse.minerals@industry.nsw.gov.au](mailto:landuse.minerals@industry.nsw.gov.au).

Yours sincerely



Cressida Gilmore  
Team Leader Land Use

**Submission Number: 100**

Ruth Zalai, Belrose

I agree with the R5 zoning of my property. I disagree that they have not addressed minimum lot size.



Office of  
Environment  
& Heritage

Our reference: DOC13/29804  
Contact: Rachel Lonie, 99956837

Regional Director  
Sydney Region East  
Department of Planning and Infrastructure  
GPO Box 39  
Sydney NSW 2001

Dear Ms Grant

Reference is made to your correspondence dated 17 June 2013 inviting comment from the Office of Environment and Heritage (OEH) on the Draft Oxford Falls Valley and Belrose North Strategic Review Report.

OEH has reviewed the draft *Oxford Falls Valley and Belrose North Strategic Review* report and provides comments in Attachment 1. Overall, OEH supports that application of an E3 Environmental Management zone for the majority of the subject site and the proposal that there be no change to urban density (i.e. retain 1 dwelling per 20 hectares) at this stage for E3, RU4 or R5 zoned lands.

It is noted that this review is Phase 1 of the strategic review and that Phase 2 will examine the future urban development potential within the study area as a separate exercise supported by detailed specialist studies. OEH will seek to provide more detailed comment on biodiversity, Aboriginal cultural heritage and flooding matters once the specialist studies are provided during the public consultation period for Phase 2. As discussed in the Attachment it is anticipated that this will include the recommended Aboriginal cultural heritage assessment and advice on consultations.

OEH looks forward to future consultation on this matter. If you require further details or clarification on any matters raised in this response please contact Rachel Lonie, Conservation Planning Officer on 9995 6837 or by email at [rachel.lonie@environment.nsw.gov.au](mailto:rachel.lonie@environment.nsw.gov.au) (please note work days are generally Mondays and Wednesdays).

Yours sincerely

*S. Harrison 08/08/2013.*

**SUSAN HARRISON**  
Senior Team Leader Planning  
Regional Operations, Metropolitan  
Office of Environment and Heritage

## ATTACHMENT 1

### Office of Environment and Heritage (OEH) comment on the Draft Oxford Falls Valley and Belrose North Strategic Review Report.

#### 1. Proposed zonings

OEH supports that application of an E3 Environmental Management zone for the majority of the subject site and the proposal that there be no change to urban density (i.e. retain 1 dwelling per 20 hectares) at this stage for E3, RU4 or R5 zoned lands.

It is not clear why land to the west of Forest Way in the north west of the study area is proposed to be zoned to RU4 Primary Production Small Lots. The report states the zone is to be used for "*commercial primary industry production and not for land that is primarily residential in function*". The Landuse Analysis map shows this as predominantly education and residential use. The justification that the zone was chosen "*because of the land's geographical location, existing and desired future character and the level of environmental and infrastructure constraints*" provides inadequate explanation as to why this would be an appropriate zone.

#### 2. Environmental constraints mapping

OEH has reviewed the mapping identifying 'primary environmental constraints' and generally supports the approach of using map layers to develop a constraints analysis for strategic planning purposes. However, such an approach also has some inherent issues due to the use of modelled data and limitations on field validation.

There appear to be some discrepancies where, for example, sites mapped as containing Duffy's Forest vegetation in the Draft Sydney Metropolitan Catchment Management Authority (CMA) vegetation mapping are omitted. The CMA mapping for example describes Duffys Forest EEC as being much more widespread in the subject area for example along the road corridor east and west of Forest Way. Mapping by Smith and Smith undertaken for Warringah Council maps Duffys Forest as occurring in different locations such as in the north west section of the subject site west of the Forest Way.

The report refers to the most up to date mapping be used but this is not fully referenced. Appendix 6 states that "some field assessment was undertaken to clarify vegetation type and condition" but does not detail how or where this was done. OEH does not have access to GIS mapping data such as Council's 'Wildlife Corridors' mapping and the report does not include the individual map layers that were the basis for the constraints mapping. OEH therefore is unable to fully comment on the adequacy of the data sources used in this analysis or the resulting constraints analysis.

OEH recommends that discrepancies in the different map sources be explored and the report document what data source(s) were used, how discrepancies were addressed and the extent and results of ground truthing. Further ground truthing may be required to resolve these apparent discrepancies.

While most of the areas identified as having prohibitive, severe or significant environmental constraints appear to be proposed to be zoned E3 at this stage, OEH would recommend caution in the interpretation of 'constraints' mapping as it potentially flags areas as having no or only moderate environmental constraints to development but there may be some significant constraints (such as endangered ecological communities or Aboriginal cultural heritage values) that have not been adequately assessed.

The report states that the Project Control Group (PCG) determined that land classified as having 'moderate' or 'no' level of environmental constraint should be further assessed against secondary constraints. However, Map 006 includes areas that had 'prohibitive, severe or significant' constraints (i.e. areas mapped in red) as land for future zoning consideration (i.e. shown with a black hatch). Examples are the Transgrid Substation site on Wyatt Ave and another east site proposed to be zoned SP2 in the north east of the

subject site, a site east of Forest Way opposite Walder and Crozier Roads proposed to be zoned E3, and two sites proposed to be zoned R2 at Maybrook Ave and west of Little Willandra Road. If these sites were initially identified as having significant constraints it is unclear how they have now been identified as having potential for future development. These sites include some areas mapped as Duffy's Forest. OEH considers further explanation in the report is needed as to how these sites were selected and how the environmental constraints that have been identified are being addressed.

For the Phase 2 consultation, OEH recommends that the most up to date, fine scale and field validated map layers be used. OEH would appreciate access to the GIS data layers used for constraints mapping as part of this review. Also, OEH recommends that consideration be given to the development of a potential biodiversity layer (with accompanying biodiversity clause) as part of the strategic review process to be included in an update to the current Warringah LEP.

### 3. Aboriginal cultural heritage

Although Aboriginal cultural heritage values were partly considered in the constraints analysis (i.e. as recorded sites in Table 5 in Appendix 8 labelled 'Secondary Infrastructure and Environmental Constraints') Aboriginal cultural heritage values are likely to occur across the subject site but will not be adequately captured by individual site records. As OEH commented to the Planning Assessment Commission in 2009:

*"The subject areas are likely to have Aboriginal cultural heritage values. Some known Aboriginal cultural heritage sites are mapped in and near the areas identified for development. For example, Lizard Rock has a number of art (pigment or engraving) sites and there is at least one in the Oxford Falls West site. It is stressed that this does not represent the likely extent of Aboriginal cultural heritage values across the subject site but only survey effort that has been documented to date."*

OEH reiterates the recommendation that there needs to be an adequate assessment of Aboriginal cultural heritage values and consultation with relevant stakeholders should be undertaken for the subject area. This should address and document the information requirements set out in the *Aboriginal Cultural Heritage Standards and Guidelines Kit* and *Interim Community Consultation Requirements for Applicants*. These documents are available at the following websites.

[http://www.nationalparks.nsw.gov.au/PDFs/aboriginal\\_heritage\\_guidelines\\_kit\\_final.pdf](http://www.nationalparks.nsw.gov.au/PDFs/aboriginal_heritage_guidelines_kit_final.pdf)

<http://www3.environment.nsw.gov.au/npws.nsf/Content/Protecting+Aboriginal+objects+and+places>

It is recommended that:

1. A report be prepared that identifies the nature and extent of impacts on Aboriginal cultural heritage values across the project area.
2. The report should describe the actions that will be taken to avoid or mitigate impacts or compensate to prevent unavoidable impacts of the project on Aboriginal cultural heritage values. This should include an assessment of the effectiveness and reliability of the measures and any residual impacts after these measures are implemented.
3. The assessment report needs to clearly demonstrate that effective community consultation with Aboriginal communities has been undertaken in determining and assessing impacts, developing options and making final recommendations. Consultation should include local Aboriginal communities including, but not limited to, the local Aboriginal Land Council.



**Department of  
Primary Industries**  
Office of Water

NSW Department of Planning and Infrastructure  
GPO Box 39  
SYDNEY NSW 2001

Contact Janne Grose  
Phone 02 4729 8262  
Fax 02 4729 8141  
Email [janne.grose@water.nsw.gov.au](mailto:janne.grose@water.nsw.gov.au)  
Our ref ER20540  
Your ref

**Attention: Juliet Grant**

Dear Ms Grant

**Public Exhibition – draft Oxford Falls Valley and Belrose North Strategic Review  
Report**

I refer to your letter of 17 June 2013 to the NSW Department of Primary Industries requesting comments on the draft Strategic Review Report for the above.

The NSW Office of Water (a division within the Department of Primary Industries) comments on the draft Strategic Review Report are provided at **Attachment A** for consideration.

Should you require further information please contact Janne Grose, Planning and Assessment Coordinator on (02) 4729 8262 at the Penrith office.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'M Isaacs'.

**Mitchell Isaacs**  
**Manager, Strategic Stakeholder Liaison Unit**  
9 August 2013

## **Public Exhibition – draft Oxford Falls Valley and Belrose North Strategic Review report**

The NSW Office of Water has reviewed the draft strategic review report and provides the following comments:

Based on the 1:25 000 Mona Vale and Hornsby topographic maps, a number of watercourses occur within the study area. The draft strategic review report indicates eight primary constraints were considered including riparian, significant vegetation and wetland buffers. It is unclear if the constraints assessment considered the potential for groundwater dependent ecosystems to occur in the study area.

It would be helpful if the maps accompanying the Review Report (including Landownership map, Landuse Analysis map, cumulative level of Environmental Constraint map, Secondary Constraints Analysis map and Draft Land Use Zoning Map) overlaid the location of watercourses in the study area.

Section 4.1 indicates the E3 Environmental Management zone is proposed to apply to the majority of the review area on land that is significantly constrained by environmental and infrastructure factors (page 35). The E3 zone under Warringah LEP 2011 permits with consent a number of uses which are not considered appropriate to be located in the riparian corridors including dwelling houses, B & B accommodation, community facilities etc. The Office of Water's preference is for watercourses and riparian land to be zoned E2 as this zone would afford greater protection to these sensitive natural resource areas. Based on the Scope of the Review (see section 1.2, page 2) the review does not appear to have considered locations where the E2 zone could apply, although Appendix 2 indicates all zones (including E2) have been considered when undertaking the review (page 51).

If the riparian corridors in the study area are to be zoned E3 it is recommended a specific objective is included under the zone to maintain, protect and enhance the waterways and riparian land.

With respect to degraded riparian corridors in the study area, it is recommended the desired future character of riparian land aligns with state government natural resource policy to improve and rehabilitate riparian land and degraded riparian corridors are rehabilitated with native plant species from the relevant local vegetation community.

**End Attachment A**



Strategic Review Committee,  
Oxford Falls Valley and Belrose North Strategic Review,  
Department of Planning and Infrastructure,  
GPO Box 39,  
SYDNEY NSW 2001



This is a submission to the Draft Oxford Falls Valley and Belrose North Strategic Review Report.

The points we would like to raise are:

- 1) We agree with the zoning of our land as R5 (Large Lot residential) in stage 1 of this strategic review.
- 2) The minimum lot size has not been addressed and must be addressed.
- 3) The Site Analysis for our properties has not been done correctly
- 4) The Environmental Constraints shown on Warringah Council's records are wrong and need correcting.
- 5) Our properties must be considered for further zoning consideration.

Further information on these points is below.

## **2) Minimum Lot Size:**

The minimum lot size of one house per 50 acres (200,000m<sup>2</sup>) was put in place with IDO51 in 1974 as a temporary measure. Land owners were advised in 1974 that this temporary measure would be lifted in 6 months time. Our land is 2,276m<sup>2</sup> (14 Wyatt Ave) and 9,333m<sup>2</sup> (16 Wyatt Ave). A minimum lot size of 200,000m<sup>2</sup> is ridiculous.

The draft report states:

“The density control was developed in 1974 under an Interim Development Order 51 to respond to the water quality issues of the Narrabeen Lagoon Catchment impacted on by the residential development in the 1960s and 1970s within the study area. Revising the density control within the study area is therefore premature until water quality impacts for the catchment is considered in detail.” (Extract from Page 26)

Three points to do with this issue:

- 1) Our land does not drain to Narrabeen Lagoon.

- 2) Why spend all of this time and effort doing a strategic review if you don't revise the density controls (which were meant to be revisited in 6 months from 1974)
- 3) The Water Quality Study has been done by Warringah Council is titled "Warringah Non Urban Lands Study Stage 2 – Impacts on Water Quality of Narrabeen Lagoon" and is 66 pages long.

The conclusion of the Water Quality Study was:

#### **"CONCLUSIONS**

It has been determined that development of the areas identified as suitable from Stage 1 of the NULS (PPK, 2000), which drain to Narrabeen Lagoon, can be undertaken without a subsequent reduction in water quality in Narrabeen Lagoon, and in most cases an increase in water quality can be achieved."

We ask that the minimum lot size for all of the land proposed to be R5 on the Northern side of Wyatt Ave is 1,000m<sup>2</sup>.

#### **3) Site Analysis:**

We believe the two separate properties at [REDACTED] should have had a separate site analysis done for each parcel of land. [REDACTED] adjoins urban land, and does not adjoin bushland. No 16 adjoins urban land (front) and adjoins bushland (rear), as shown on the site analysis.

Appendix A of this submission contains the Site Analysis for our property.

The site analysis shows Environmental Constraints of moderate 85% and significant 15%. This is baseless and needs to be corrected.

#### 4) Environmental Constraints

Below is an extract from the Secondary Constraints Analysis:

| SECONDARY CONSTRAINTS ANALYSIS – OXFORD FALLS AND BELROSE NORTH – Any Constraints |         |          |          |         |           |                |          |          |         |                    |         |          |                |                  |          |          |          |
|-----------------------------------------------------------------------------------|---------|----------|----------|---------|-----------|----------------|----------|----------|---------|--------------------|---------|----------|----------------|------------------|----------|----------|----------|
| Site ID                                                                           | Address | Heritage | Bushfire | Centres | Transport | Infrastructure | Telecoms | Riparian | Sig Veg | Corridor / Habitat | Th Spec | Flooding | Wetland Buffer | Cumulative Score | Rating 1 | Rating 2 | Comments |
| A1                                                                                |         | 0        | 2        | 3       | 2         | 0              | 0        | 3        | 0       | 0                  | 3       | 0        | 0              | 13               | B        | B        |          |
| A2                                                                                |         | 0        | 2        | 3       | 2         | 0              | 0        | 3        | 0       | 0                  | 2       | 0        | 0              | 12               | A        | B        |          |
| A3                                                                                |         | 0        | 2        | 2       | 2         | 0              | 0        | 0        | 0       | 1                  | 2       | 0        | 0              | 9                | A        | A        |          |
| A4                                                                                |         | 0        | 2        | 2       | 2         | 0              | 0        | 3        | 3       | 1                  | 2       | 0        | 0              | 15               | B        | C        |          |
| A5                                                                                |         | 0        | 2        | 2       | 2         | 0              | 0        | 3        | 3       | 1                  | 0       | 0        | 0              | 13               | B        | B        |          |
| A6                                                                                |         | 0        | 2        | 2       | 2         | 0              | 0        | 0        | 3       | 1                  | 3       | 0        | 0              | 13               | B        | B        |          |
| A7                                                                                |         | 0        | 2        | 2       | 2         | 0              | 0        | 0        | 3       | 1                  | 3       | 0        | 0              | 13               | B        | B        |          |
| A8                                                                                |         | 0        | 2        | 2       | 2         | 0              | 0        | 0        | 0       | 1                  | 0       | 0        | 0              | 7                | A        | A        |          |

This has the following problems:

##### a) Riparian Land:

When Warringah Council put a riparian land report on public exhibition in 2010, we noticed our land was shown as having riparian land on it. At our request, Adrian Turnbull, Senior Environment Officer Natural Environment, Warringah Council carried out a site visit on 1st September 2010. Adrian inspected the property and concluded there was no Riparian land on our property. He advised that the Riparian land map would be amended as soon as possible to reflect the fact that there was no riparian land on our property. Our property is still shown on the maps as having Riparian land on it.

For the Constraints analysis, our property has been given a Riparian Rating of 3 instead of zero. Can you please amend your records to reflect the site visit carried out by Adrian Turnbull.

##### b) Significant Vegetation:

Significant vegetation was listed under the secondary constraints as 3 when the property is over 90% cleared paddocks (as shown on the site inspection report). Appendix B of this submission contains the Vegetation Classifications for our land from the Non Urban Lands Study. The Non Urban Lands Study listed our properties as the lowest possible vegetation classification.

Appendix D of this submission contains a report by Dr Anthony Ross Smith-White (ACS Environmental) outlining the fact that there is nothing of high conservation significance on our property.

This secondary constraints value for Significant Vegetation should have been zero. Can you please amend your records to reflect this.

##### c) Threatened Species:

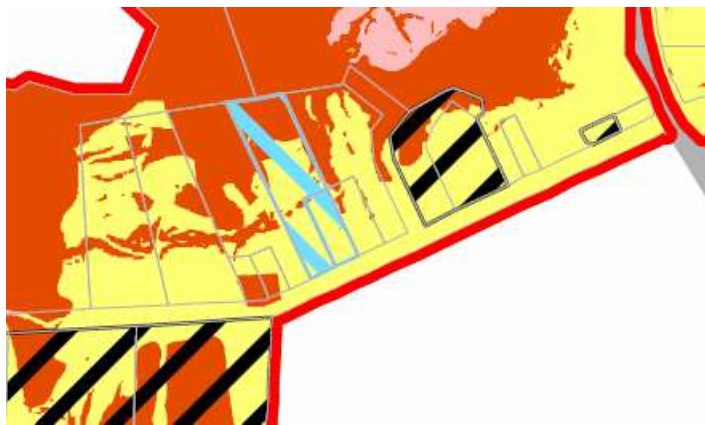
The threatened species is shown for our land as 2. There are no threatened species or wildlife corridors on our land. The rear of our land is all fenced and is horse paddocks. Please amend your records to reflect this.

## 5) Our properties must be considered for further zoning consideration

The Non Urban Lands study showed our land as having potential for higher intensity development. Appendix C of this report shows the maps from the Non Urban Lands Study and the description of the cross hatched area.

The Secondary Constraints analysis map (our property shown below) in the draft strategic review shows our land as having three classifications:

- 1) Light Blue Cross hatched: This is due to the inaccuracies explained above and should be removed.
- 2) Red (Primary Constraints): This is due to the inaccuracies explained above and should be removed.
- 3) Yellow cross hatched: The Yellow and Black Cross Hatched areas are ambiguous. All of the land which has been proposed by the draft report as being R5 should be unambiguously marked as “Land for further zoning consideration”.



### Legend

#### WLEP 2011 Land Application Map

-  Deferred matter (Study Area)
-  WARRINGAH
-  Major Roads
-  Cadastre

#### Secondary Constraints Analysis

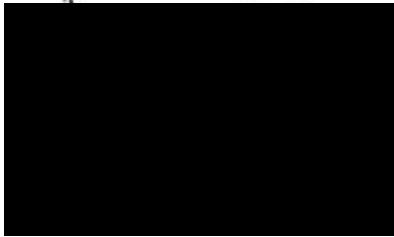
-  Secondary Constraint Analysis = E3 zoning consideration
-  Secondary Constraint Analysis = E3 zoning consideration
-  Primary Constraint Analysis = E3 zoning
-  Land for further zoning consideration
-  Land for further zoning consideration

Oxford Falls Valley and Belrose North Strategic Review

We trust that you will take the points raised in this submission into consideration.

We request that be given the opportunity to present our case to the Warringah Development Assessment Panel.

Yours sincerely,



## Appendix A - Site analysis for 14 & 16 Wyatt Ave



Planning &  
Infrastructure



Warringah  
Council

### OXFORD FALLS VALLEY & BELROSE NORTH STRATEGIC REVIEW SITE ANALYSIS

Date: 10/12/12

Precinct: A

SITE ID: 5

Property Address:

Lot/DP:

Inspection Officers:

Contact:

Owner's consent to access land: ☒ Yes ☐ No

Owner(s) present ☐ Yes ☒ No

Left calling card? ☐ Yes ☒ No

showed us around

#### DESKTOP ANALYSIS

Verified on  
site (Y/N)

##### Owner

- ☒ Private ☐ Warringah Council  
☐ Commissioner for Roads ☐ Metropolitan LALC  
☐ Minister for Education ☐ Ausgrid  
☐ Minister Administering the Sporting Venues Management Act ☐ Optus  
☐ State Planning Authority ☐ Sydney Water Corporation  
☐ Crown Land ☐ Telstra  
☐ NSW Electricity Transmission Authority

Adjoins an urban area ☒ Yes ☐ No

Adjoins bushland ☒ Yes ☐ No

##### Vegetation

- ☐ Bushland ☒ cleared paddocks Percentage cleared (~~85~~%) 90  
☐ Other

##### Proximity to a telecommunications facility

- ☐ < 500m ☒ 500-1,000m ☐ 1,000-1,500m ☐ 1,500-2,000m ☐ >2,000m

##### Environmental Constraints

- ☐ No env. Constraints (\_\_\_%) ☒ Moderate (85%) ☒ Significant (15%)  
☐ Severe (\_\_\_%) ☐ Prohibitive (\_\_\_%)  
☐ Bushfire ☐ Heritage

#### SITE VISIT ANALYSIS

Building on site ☒ Yes ☐ No ☐ Unable to determine

##### Type of buildings on site (if applicable)

- ☒ Dwelling (Seniors, attached, detached) ☐ Utilities e.g. sub station, satellite dishes  
☒ Domestic outbuildings - stables (domestic use) ☐ Storage  
☐ Agricultural ☐ Educational  
☐ Commercial ☐ Other

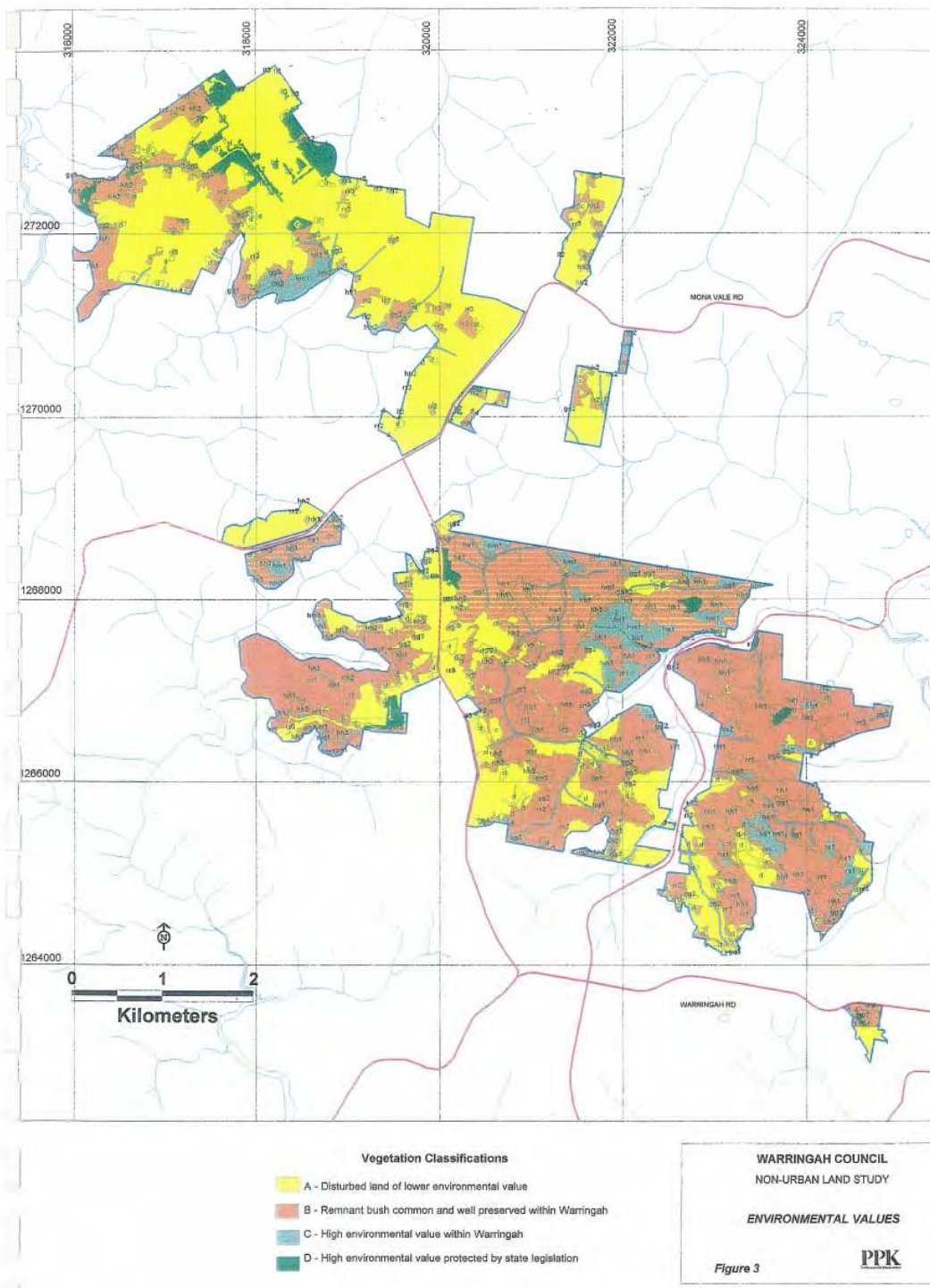
##### Use of site

- ☒ Residential ☐ Rural ☐ Commercial ☐ Educational  
☐ Industrial ☐ Infrastructure ☐ Retail ☐ Mixed ☐ Other

##### Additional comments/ observations

domestic stables

## Appendix B – Vegetation Classification from the Non Urban Lands Study



**Class A - Disturbed land of lower conservation value.**

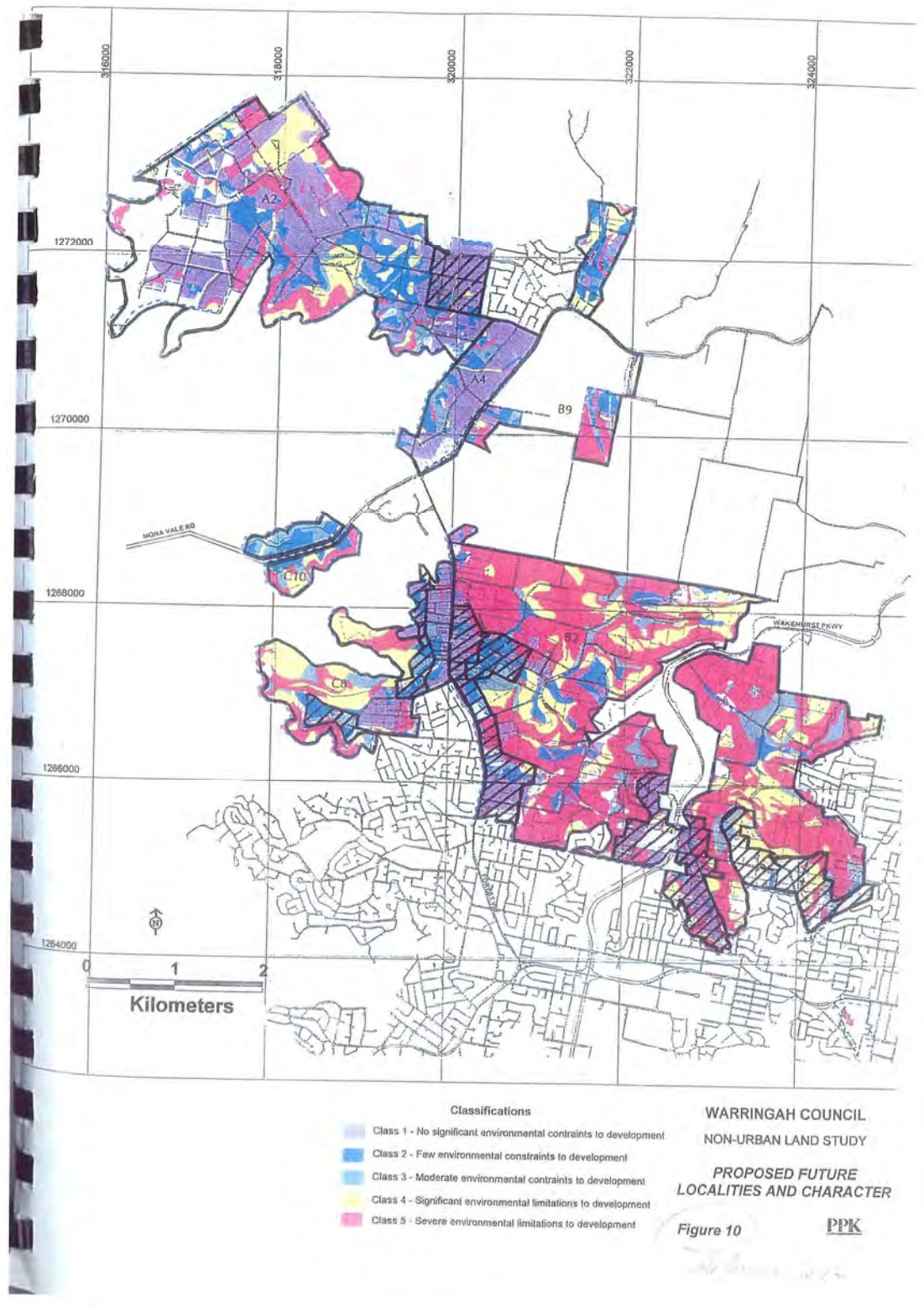
Areas where the existing land is highly disturbed, cleared of native vegetation or where vegetation is degraded to the point that environmental values have been severely degraded. Environmental values are therefore a minor consideration when planning to develop provided that appropriate planning controls have been satisfied. Approximately 41 percent of the land within the study area were categorised into class A.

**Class B - Remnant bush which is common and well preserved within Warringah.**

Areas with remnant native vegetation communities which are well represented throughout Warringah and in National Parks. These areas include vegetation communities identified by Smith and Smith (1998) as being of third priority for conservation. Provided that appropriate planning controls have been satisfied and an ongoing management plan is adopted to ensure the sustainability of the proposed activity these lands could support a moderate level of development in terms of potential environmental impact. Approximately 49 percent of the land within the study area was categorised as being in Class B.

## Appendix C – Land identified by the Non Urban Lands Study as having potential for higher intensity development

Below is an extract from the Non Urban Lands Study showing our land as cross hatched. The cross hatched area was identified as having potential for higher intensity development.



*Recommendation 3:*

*That the hatched areas identified in Figure 10 as having potential for higher intensity development and land uses (as outlined in Chapter 11), be further investigated with particular regard to the respective areas':*

- *transport and sewerage infrastructure constraints;*
- *bushfire hazard constraints;*
- *the cumulative effects on environmental values (for example Narrabeen Lagoon); and*
- *the regional demand for land generally.*

## Appendix D - Letter to Warringah Council regarding inaccuracies in the Biodiversity Study



Council's Senior Environment Officer – Biodiversity,  
725 Pittwater Rd,  
Dee Why, 2099  
Email: [council@warringah.nsw.gov.au](mailto:council@warringah.nsw.gov.au)

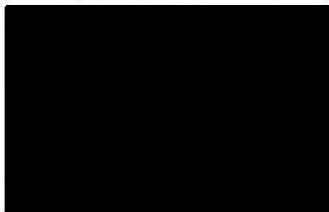
Dear sir/madam,

Re: Submission on Warringah Biodiversity Conservation Study

We are the owners of [REDACTED] After looking at the Warringah Biodiversity Conservation Study, we realised that our land has incorrectly been identified as having a “very high” conservation significance ranking. We sought the expert opinion of a highly qualified environmentalist on this matter and he has found that our property should not be classified as being of high conservation significance. Please find attached a copy of the letter from ACS Environmental outlining this fact.

Could you please ensure that all records at Warringah Council that indicate that any part of our property is of high conservation significance are amended to reflect the fact that no part of our property is of high conservation significance.

Yours faithfully,





## ACS Environmental Pty Ltd

(ACTINOTUS CONSULTANCY SERVICES)

**Flora and Fauna Surveys, Biodiversity and Ecological Impact Assessment  
& Bushfire Protection Assessment Services**

Australian Company Number (ACN) 154 491 120

Australian Business Number (ABN) 24 154 491 120

7 Townsend Avenue, Frenchs Forest NSW. 2086.

3/28 Tullimbar Road, Cronulla NSW. 2230

Tel: 9453 9397; 9527 5262. Mob: 0412 217 896; 0403 081 902.

Email: [acs@actinotus.com](mailto:acs@actinotus.com); Web: [www.actinotus.com](http://www.actinotus.com)

### TO WHOM IT MAY CONCERN

[REDACTED]

The Draft Study on Warringah's Biodiversity has mapped a small portion of this property, together with undisturbed vegetation to the north as being of high conservation significance (attached Figure 1).

At the request of the owner, [REDACTED] I visited the site on Thursday 15<sup>th</sup> March 2012 and a cursory inspection was made of the subject area down slope from the residence, being the portion of land shown as being of high conservation significance.

The northern rear of the land was observed to be fenced off as an active horse paddock, and for most of its area has been totally cleared of all indigenous vegetation. Only along the northern boundary have some trees been retained that would have been components of the original vegetation type. These trees included the species *Angophora costata*, *Eucalyptus piperita*, *Eucalyptus sieberi* and a number of individuals of *Banksia serrata* and *Banksia spinulosa*. Almost all of the indigenous shrub layer and ground stratum plants have been cleared.

From the remnant vegetation on the site, together with that beyond the rear fence, the vegetation community closely resembles Coastal Sandstone Apple-Peppermint Gully Forest (S\_DSFO9)(DECCW, 2009). This community is widely distributed along the eastern extent of the Sydney sandstone plateau. It occupies sheltered aspects on infertile Hawkesbury Sandstone geology in areas that receive in excess of 1000mm of mean annual rainfall. Sydney Peppermint (*Eucalyptus piperita*) and Smooth-barked Apple (*Angophora costata*) form a moderately tall open forest (DECCW 2009). It occurs in association with rocky environments and includes a diverse mix of heath and shrub species such as banksias, tea-trees and wattles in the understorey.

Whilst no comment is made here on the conservation significance or otherwise of the community beyond the northern boundary of this private residence, it is considered the

remnant vegetation on site at [REDACTED] is not representative of that ranked as being of high conservation significance for the following reasons:

- The community has a wide distribution along the eastern extent of the Sydney sandstone plateau.
- The community is not listed as having conservation significance under state legislation (Threatened Species Conservation Act 1995) or Commonwealth legislation (Environmental Protection and Biodiversity Conservation Act 1999).
- The ground and shrub strata have been largely cleared.
- The site, although rocky in parts, is an "in-use" horse paddock.
- The habitat potential for threatened species of fauna known to occur within a 10km radius is sub-optimal.
- Ground-truthing of the depiction of vegetation of conservation significance occurring along part of the eastern boundary in the Draft Study on Warringah's Biodiversity indicates that the vegetation is actually branches overhang from the adjoining property (attached Figure 2).



Dr Anthony Ross Smith-White BSc., MSc., PhD.  
Director & Principal Ecologist  
ACS Environmental P/L  
14.03.2012

Attached Figures



**Figure 1** The Draft Study on Warringah's Biodiversity has mapped a small portion of [REDACTED] Avenue, Belrose, as being of high conservation significance (deep green shading).



**Figure 2** The eastern boundary is defined by a fence and concrete pathway. Apparent vegetation in this area depicted as being of high conservation significance in the Draft Study on Warringah's Biodiversity is actually a number of branches of trees overhanging from the adjoining property.

**Submission Number: 104**

Confidential

Re: E3 Environmental Management Strategic Review

Properties: Lots X & Y Oxford Falls Road, Oxford Falls NSW 2100

With reference to this review I believe that should this rezoning go ahead it could have a detrimental impact on the property rights and values and also restrict what I can do here.

I have been using the subject land for agriculture for many years and would like to see it remain as it is and I do not support E2 or E3 zoning that has been classified as rural for many years.

## EVOLUTION PLANNING

Evolution Planning Pty Limited  
Suite 29, Level 6, 10 Help Street,  
Chatswood NSW 2067.

t: (02) 9911 4032 m: 0430 007 725  
e: [tonyrobb@aapt.net.au](mailto:tonyrobb@aapt.net.au)



27 November 2012

The General Manager  
Warringah Council  
Civic Centre 725 Pittwater Road  
DEE WHY NSW 2099

Dear Sir or Madam:

**RE: Exhibition of Proposed Amendment to Warringah Local Environmental Plan 2011 – Land in the vicinity of Dawes Road and Perentie Road, Belrose.**

Evolution Planning has been engaged by Caltex Australia (Petroleum) Pty Ltd to prepare a submission to Council, on their behalf, in response to the proposed LEP Amendment.

Caltex presently owns the land at the corner of Forest Way and Dawes Road, 157 Forest Way, Belrose, which it has operated as a service station since at least 1980, providing fuel and convenience goods to the community for over 30 years.

We understand that Council has decided to remove the land, referred to hereafter as the 'subject area', from the wider strategic study area related to the Deferred Land under the current LEP, and by way of a separate Planning Proposal, "fast-track" the re-zoning of the land to R2 Low-Density Residential.

Prior to the land being deferred, Draft LEP 2011 had the site zoned as E3 Environmental Protection. Caltex previously objected to the proposed zoning, principally due to the inconsistency of existing development and the E3 zone.

The main purpose of the amendment is to expedite the achievement of a single LEP across the Council. This is considered to be commendable, but not, as discussed further below, when inadequate consideration or justification has been given to the proposed zoning.

In summary, Caltex wishes to object to the proposed zoning of the site to R2, principally due to the site being continued to be treated as a 'non-conforming' use. As outlined in the submission below, it is preferred that the zoning of the site is considered as part of the wider strategic study for the area, in terms of the retail hierarchy and the availability of local services to residents.

### **Submission**

#### **1. Local Services - Strategic Context**

Excluding the non-residential uses in, or in close proximity to, the subject area, the Belrose and Frenchs Forest localities are serviced by the Glenrose and Frenchs Forest Shopping Centres, and smaller neighbourhood centres on Ralston Avenue and Sorlie Street. All of these sites are located to the west of Forest Way. Refer to Locality Plan below.

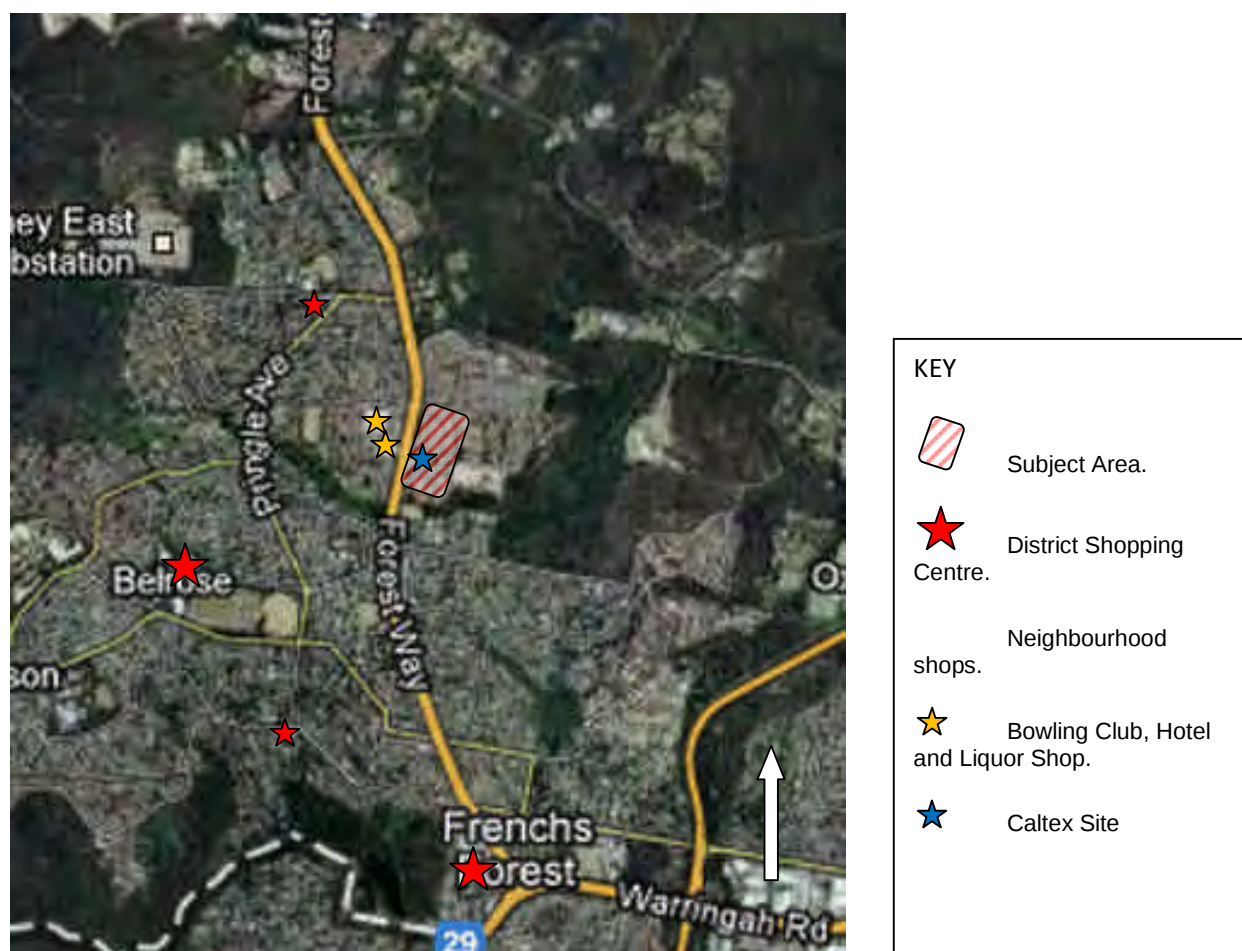


Figure 1: Locality plan

The subject area includes the Service Station, (with associated convenience retailing and workshop); and, a 'shop-top housing' development, (with associated café and convenience store), located immediately adjacent to the service station to the west.

Directly opposite the Caltex site on Forest Way lies the Belrose Bowling Club, with the Belrose Hotel and Liquor Shop to the north off Hews Parade. There are no other retail uses on the east side of Forest Way, despite the extent of existing and planned future residential development in this location.

We submit that the significant role the service station plays in the local retail hierarchy, and the extent by which the community relies on this local service, is highly relevant to the proper strategic planning of the area, and that further consideration should be undertaken in these respects in the context of the wider study.

The subject area, and other land further to the north, also comprises aged care development which benefits from having local services conveniently located, as recognized in the relevant State Policy. The



service station partly provides such services and should be recognised legitimately for doing so in the planning framework.

## 2. Non-conformity of Use

Under the DLEP, the site will continue to operate as a non-conforming use in accordance with s.106 of the Act. The recent Government review of the current planning system acknowledges the deficiencies with mechanisms related to existing use rights, and despite recommendations for Council to make declarations to confirm the extent of such rights, further review of this often complex piece of legislation is anticipated.

The proposal fails to recognize the service station as a long-established part of the urban fabric and its importance in the retail hierarchy, and once again is essentially excluded from the local planning framework. The service station has outlasted Council's last two comprehensive LEPs, and given the continued demand for fuel and convenience goods at this location, will likely outlast the life of the proposed LEP.

The service station is relatively dated and due to public expectations in terms of the availability of goods, was unable to satisfactorily accommodate storage requirements, without the use of shipping containers. A new separate storage room is presently under construction, but the development remains below Caltex retail standards and public expectations of a modern service station facility.

Despite the provisions of the Act allowing the redevelopment and enlargement of existing uses, the owners of the land should be able to redevelop this long established existing use to modern standards, like any other contemporary service station development, without the restraint of the proposed background R2 zoning, and the risk that Council may object to the modernization of the facility due to a likely increase in retail floor space, for such reasons.

Land zoned R3 Medium Density Residential located to the north and south of the subject area and comprises master-planned estates, within which local shops are permitted. As far as we are aware, none have been built, or are planned to be built in the immediate future. The service station and adjacent shop-top housing which only recently now includes a convenience store along with the established restaurant, are the only local convenience outlets serving residents at the east side of Forest Way, but the LEP treats them as undesirable uses.

In the case of the service station site, the failure to recognize this important local service, and impose a planning regime which will likely restrain any redevelopment to an outcome which would be substandard and below community and industry expectations is not considered to be in the public interest.

The Panel, in considering the "Gateway" outcome, resolved to allow the separate planning proposal to proceed to public notification subject to a number of conditions, one being, *"how the planning proposal will address the matter of non-conforming uses"*. The response given by Council does not address the non-conforming uses, as requested, but rather simply acknowledges that they have existing use rights.

## 3. Lack of justification for the proposed zoning

The proposal does not adequately justify the R2 zoning. The main reasoning for the zoning would appear to be for administrative purposes to remove this distinct non-conforming area to simplify the wider strategic study and expedite the achievement of a single LEP without adequate consideration to the zoning.



By area, approximately two-thirds of the existing approved land uses in the subject area, (service station, shop-top housing, and aged care housing), are not permitted in the R2 zone under LEP 2011 and it is difficult to understand why the R2 zone has been proposed. Refer to annotated plan below showing the extent of uses which would not be permitted in the subject area.

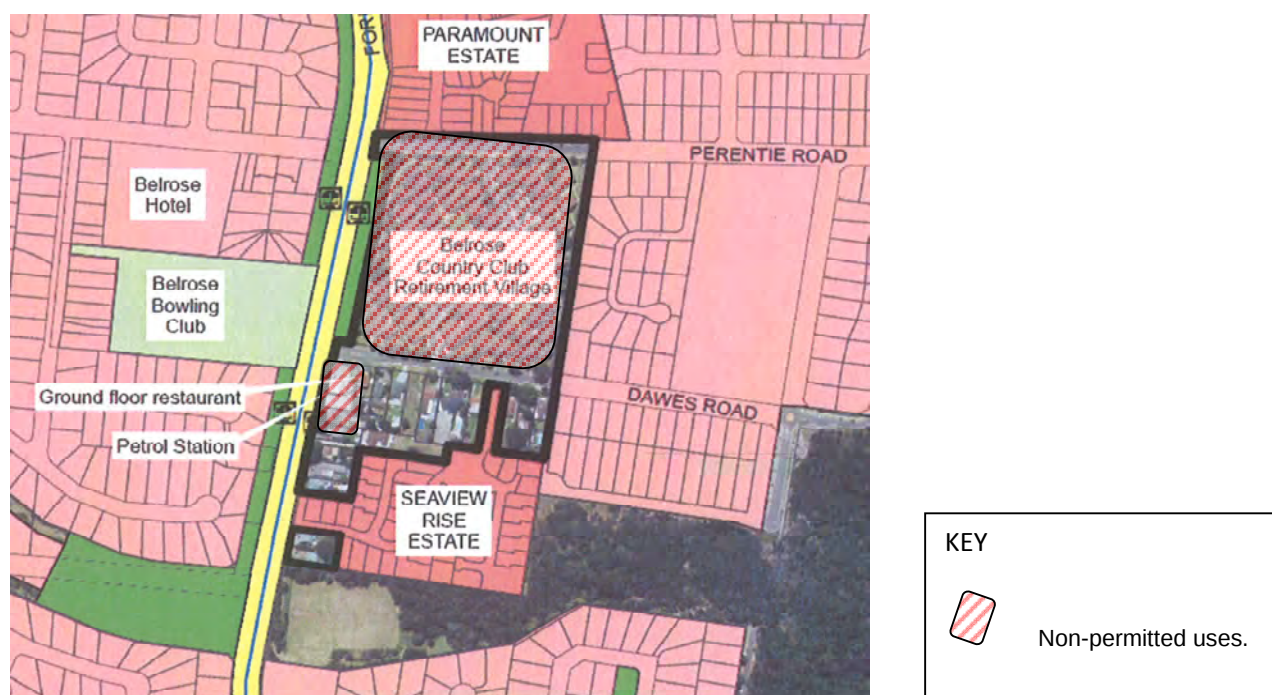


Figure 2: Extract from planning proposal showing extent of uses which are not permitted under R2 zoning

The density of residential development in much of the subject area is also higher than that anticipated in the R2 zone, with nearly 300 residential units located within the Belrose Country Club Retirement Village.

Given the inconsistencies of the existing uses and the density characteristics of the subject area and the R2 zone, and the proximity of R3 zoned land, immediately to the north and south of the site, the area would more appropriately be zoned as R3 Medium Density Residential, which would permit aged care housing and local shops.

This would not however rationalise the service station and shop-top housing uses which are not permitted in the R3 zone and we propose that consideration be given to zoning these sites B2 Local Centre or B1 Neighbourhood Centre, with an additional use clause inserted to permit service stations on the land.

In conclusion we submit that further consideration be given to the planning proposal for the following reasons:

- The proposed zoning is inappropriate to the current land use and development characteristics of the subject area and has not been adequately justified;
- The significance of the service station in the local retail hierarchy has been ignored;
- The continued treatment of the development as a non-conforming use has not been justified and will likely lead to unreasonable constraints on the owners to update the facility to modern standards;



- The service station site is better suited to development for non-sensitive purposes as recognised under SEPP (Infrastructure) 2007 with respect to development adjacent to classified roads, and is ideally suited for service station and convenience retailing purposes.

On behalf of Caltex, Evolution Planning would like to thank Council for this opportunity to contribute to the future planning of the area and would be pleased to work with Council to achieve a more appropriate zoning regime and development controls for the service site, perhaps by way of the preparation of a site specific DCP.

If we may be of further assistance or Council wishes to discuss these matters further, please contact the undersigned directly.

Yours sincerely,

Tony Robb  
Principal  
BA(Hons).UPS, Dip.UPS (Westminster).

12 August 2013

Sam Haddad,  
Director General,  
Department of Planning and Infrastructure  
GPO Box 39,  
Sydney NSW 2001

**Attention:** Sydney East Region

Dear Mr Haddad,

**Draft Oxford Falls Valley and Belrose North Strategic Review**

The Urban Taskforce understands that the Draft Oxford Falls Valley and Belrose North Strategic Review ("the strategic review") is to consider the development controls that currently apply to land under Warringah Local Environmental Plan (LEP) 2000 to allow this land to be brought into Warringah LEP 2011. We note that this land has been the subject of environmental assessment and the result of this has been the recommendation that the vast majority of the land be zoned E3 – Environmental Management.

The strategic review argues that the translation of existing planning controls to a standard template local environmental plan is to proceed on the basis that the E3 zone is the "best fit" with existing planning controls. Furthermore it is argued that environmental constraints impacting on the land warrants the application of such a restrictive land use zone.

While the Urban Taskforce is generally supportive of the LEP standardisation process, we are cautious with the application of a land use zone that may result in existing permitted land uses becoming prohibited. That is, we are advised that some land that is to be zoned E3 has been cleared for agricultural type uses and/or is currently used for such use. We argue that the application of an E3 zone in such circumstance is not an appropriate planning response. Furthermore, we are not supportive of planning reforms that will rely on existing use rights as the mechanism for permitting nonconforming land uses to continue.

We agree that standardisation of planning regulation will introduce much need consistency and simplification across local government areas. However, the standardisation process must not be used as a justification for the imposition of blanket land use restriction. In this regard, we suggest that sites that would rely on existing use rights be afforded certainty of future land use permissibility through appropriate identification within Schedule 1 of the LEP.

Notwithstanding the above, our recommendation would be to call for submissions from landowners to bring forward studies to determine the future urban development capability of land within the area prior to the imposition of a blanket E3 zone across the vast majority of study area.

Yours sincerely

**Urban Taskforce Australia**



Chris Johnson AM  
Chief Executive Officer

8 August 2013

Hon Brad Hazzard MP

office@hazzard.minister.nsw.gov.au

**RE: Inappropriate rezoning of Oxford Falls Valley to E3 Zone.**

May I say I have lived in Oxford Falls all my life i.e. 91 years. My father settled on the property, Lot 1101 Oxford Falls Road, Oxford Falls in 1911 which means that the MacGregor family has been here over 100 years.

My five children have grown up in the valley, two of whom have resettled on part of my Father's original holding.

My family's rural land has had such uses over the past 100 years as poultry farming (for over 50 years with approximately 800 fowls) fruit orchards, vegetable gardens (market products, plus Lucerne crops which were chaffed-up for the fowls, etc.) plus Christmas Bush plantations, goats for milk and other agriculturally based activities, and for approximately the last 45 years has had boarding stables for horses.

Actually, horses have been on the property since 1911. For many years they were my Father's means of transport especially for carrying farm produce to market. I can recall, for instance when I was quite young, going with him by horse and cart delivering eggs to AG Faulks, a large grocer at the time, located next to Campbell's Plumbing & Hardware store near the Southern end of the Corso in Manly. He supplied AG Faulks with eggs for a very long time.

Horses have continued to play a large part in the use on this property with two (2) of my children showing horses competitively at shows locally and in some country areas. They even obtained championship results over several years at the Sydney Royal Easter Show, one year a daughter's exhibit took out Supreme Champion in Australian stock Horse Mare class and in another year a son's exhibit took out Champion in the Australian Stock Horse Stallion class. Now their children are following in their footsteps having horses on my property and their own adjacent property.

On my property are 14 horse stables, a round yard, a dressage yard, a wash bay, feed sheds, float shed (for 2 floats) tack shed, storage sheds for the horses in addition to a double carport attached to the house. There are such other things as detached garage, a caravan port, a garden shed, citrus trees and Christmas Bush Plantation.

As already indicated I have had a lengthy time with the land in Oxford Falls. The property has always been classified as rural or B2 zone. So I must say I am very surprised and concerned to find that my property has been described as a residential dwelling and fallen under an environmental zone classification.

In my view it is fair and reasonable to say that my property hasn't been properly assessed by Council and I question how such an inappropriate conclusion about the land usage has been arrived at.

I strongly disagree with the analysis of my land and its classification of usage, one reason being that the site analysis form is virtually incomplete. I question the amount of consideration given to my property.

I request that my property remain under the rural zoning, as it has so clearly been over the years and still is used for rural purposes.

Yours sincerely,

Walter J MacGregor

02 9451 6125



Land used for market garden/plantation



Land used for equine activities



Figure 2 Incorrectly indicates my property and my neighbours as residential.

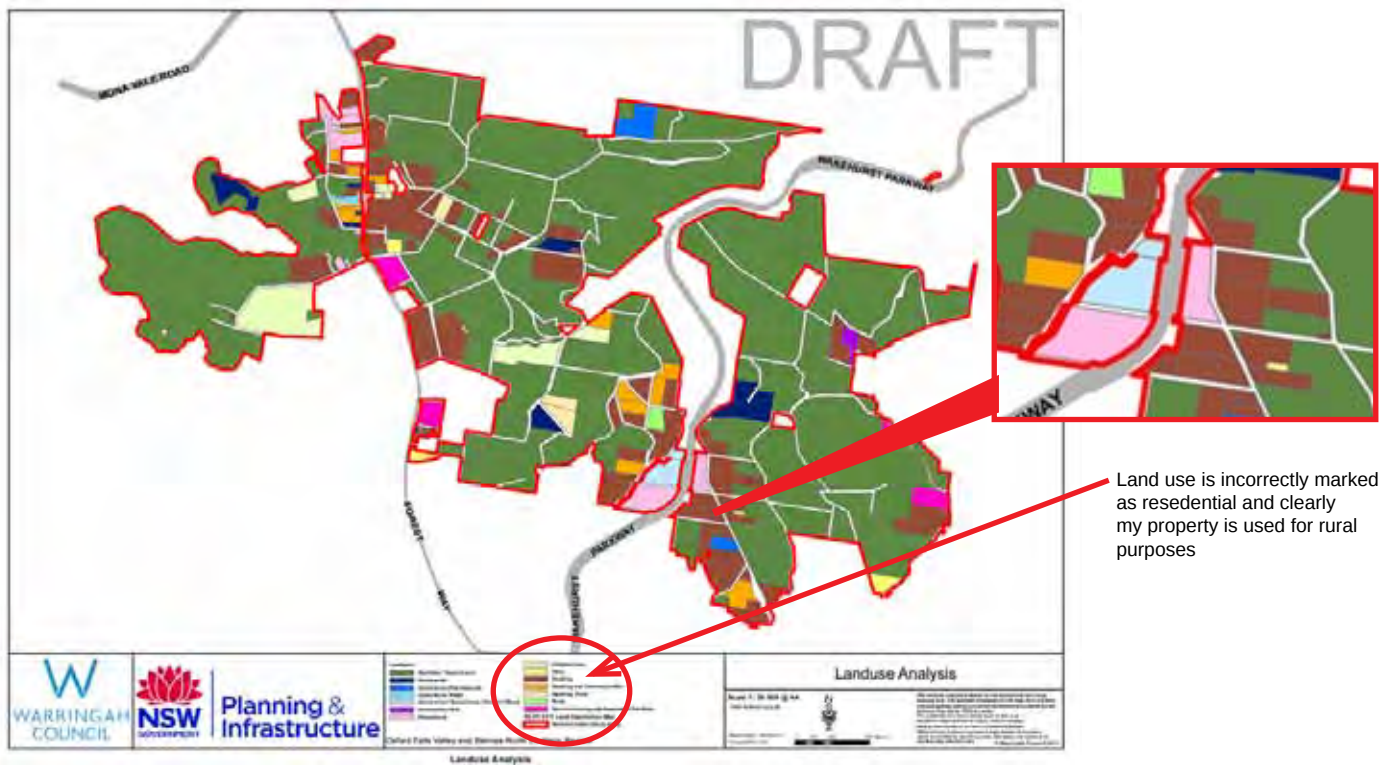


Figure 3 Shows the misleading map

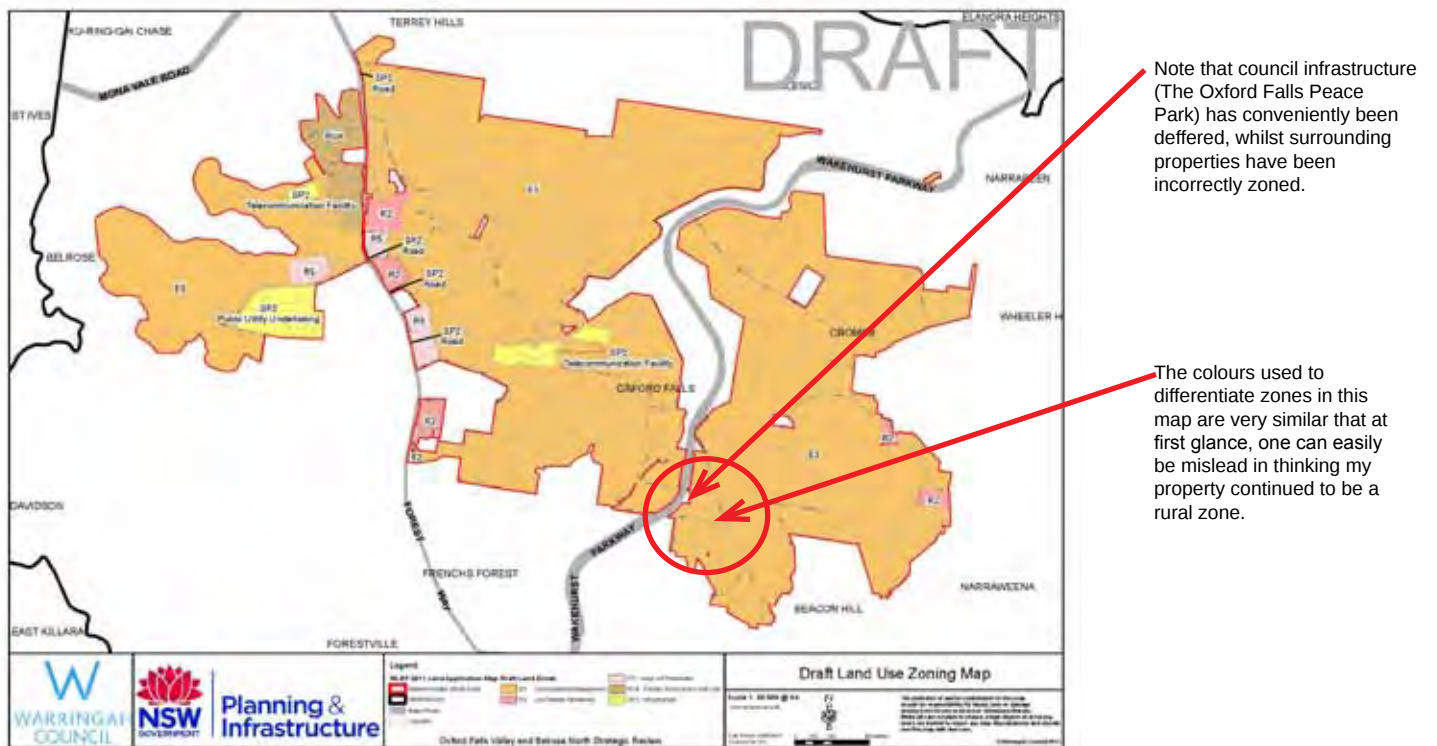


Figure 4 - 6 Recent photos of my property clearly showing rural land use.



Fenced horse paddocks



Feed Shed  
Float Shed  
Gear Storage

Dressage/ Working arena



14 Stables

**Submission Number: 108**

Confidential

The draft proposal reflects accurately the need to preserve the area as proposed by the original LEP and rezoning. The re zoning of parcels of the land as detailed likewise is common sense and I welcome this draft assessment.

It has a balance of preserving the environment in the Oxford Falls Valley whilst at the same time maintaining access to the area for recreational purposes, be that bike riding, bushwalking or horse riding.

Redevelopment and subdivision in this area should be restricted as proposed and the Draft Report affects the correct balance in this regard.

The preservation of the area needs to override the vested and financial aspirations of a few politically savvy owners who have sought to bring in redevelopment of the area to the detriment of rate payers and recreation users. The area has been described previously as a jewel on the Northern Beaches, it should remain as such.

**Submission Number: 109**

Confidential

Dear Sirs,

We wish to oppose the proposed E3 zoning on our property at Lot 1001 Oxford Falls Road as we believe the new zoning will take away our existing rights to build a residence on the land which we have just purchased. With the new zoning we see that one residence may only be built on a 20 hectare block which we do not have. We hope this request may be taken into account when a decision is made.

Thank you.

**Submission Number: 110**

Confidential

Our family has lived on this property for the past 56 years and in all that time have had cattle grazing on the land without having any detrimental effects on the ecology of the property.

With the new zoning to E3 we fear we will lose the existing rights to run these cattle as we have for all the past years and therefore we strongly oppose the rezoning to E3.

**Submission Number: 111**

David Fairless, Oxford Falls

We oppose the planned E3 zoning which is due to be placed on our block as it will preclude us from building a home on the land as it is below the 20 hectare threshold. Also we have used this block of land to graze cattle on it, with permission, for a number of years and if the existing rights are extinguished we will not be able to carry on this part of the family history of 50 years.



**METROPOLITAN LOCAL  
ABORIGINAL LAND COUNCIL**

36 – 38 George Street, Redfern NSW 2016  
PO Box 1103 Strawberry Hills, NSW 2012  
Telephone: (02) 8394 9666 Fax: (02) 8394 9733  
Email: [metrolalc@metrolalc.org.au](mailto:metrolalc@metrolalc.org.au)

29 August 2013

The Hon Brad Hazzard MP  
Minister for Planning  
Level 31, 1 Farrer Place  
SYDNEY NSW 2000

Michael Regan  
Mayor  
Warringah Council  
725 Pittwater Rd  
Dee Why NSW 2099

Dear Minister and Mayor

**Gai-Maraigal Aboriginal Owned Park  
Draft Oxford Falls Valley and Belrose North Strategic Review**

The Metropolitan Local Aboriginal Land Council (**MLALC**) thanks you for the opportunity to make a submission on the Draft Oxford Falls Valley and Belrose North Strategic Review. MLALC notes that the Strategic Review has failed to acknowledge that the vast majority of the land (nearly 1000 ha) is owned or claimed by MLALC. MLALC notes that at the date of lodging a land claim, MLALC has an inchoate property right in the lands claimed, and such land is granted as at the date claimed.

Therefore the impact of the planning review is much greater upon the members of the MLALC as landholders, each of whom is Aboriginal, than other landholders in the Warringah Shire. A planning outcome which fails to appropriately recognise the social and economic significance of rezoning almost all of the lands owned by MLALC within Warringah as E3 Environmental Management, has a disproportionate impact upon the Aboriginal people who constitute MLALC as compared to other non- Aboriginal land owners in Warringah.

Accordingly, it is important that the Strategic Review have regard to the objects of the Aboriginal Land Rights Act 1983 when considering the range of planning outcomes, and whether or not the outcome of the Review has had sufficient regard to the impacts of the proposed rezoning upon Aboriginal people. The current Review documentation is silent on this issue.

MLALC submits that the Draft Oxford Falls Valley and Belrose North Strategic Review has disappointingly failed to take the opportunity to progress the proposal of the Metropolitan Local Aboriginal Land Council (MLALC) to have nearly 1000 ha of the Strategic Review area declared as Sydney's first Aboriginal Owned park, Gai-mariagal (see enclosed Map).

We refer to our letter of 25 February 2013, and subsequent meetings with Council staff. MLALC confirms that the proposal is for an Aboriginal Owned Park pursuant to Part 4A of the National Parks and Wildlife Act 1974 (NSW). The Board of MLALC has determined, subject to member approval, that the most appropriate way to proceed is for the lands to be reserved and leased as an Aboriginal Owned Park under Part 4A of the National Parks and Wildlife Act: s 71C(3).

We are of the view that the lands are of both cultural and natural significance to Aboriginal people, and that such a park would be a very important addition to the local, national and international visitor experience within the Sydney Region. An Aboriginal Owned Park would provide a range of significant opportunities for our membership such as employment and cultural land management skills.

Council has queried whether the lands already granted can be accommodated within the Park. This issue has arisen previously in other Aboriginal owned parks reservations and can be dealt with pursuant to section 36A (4) of the Aboriginal Land Rights Act 1983 (NSW) and section 71BC of the National Parks & Wildlife Act 1974 (NSW). Alternatively as noted by Council other conservation arrangements can be entered into. This matter ultimately will be determined by the Minister on advice of NPWS.

Council has requested clarity regarding the offset area at Ralston Avenue, MLALC confirms that its preferred position is that these lands are incorporated into the Gai-Mariagal Aboriginal Owned National Park. There are a number of significant natural and cultural values on these lands, including endangered flora and fauna. It is the agreed position that these lands are most appropriately zoned E2.

The lots which do not form part of the proposal are:

- Subdivision Area (small portion of Lot 1 DP 1139826)
- Lot 2828 DP 1002480
- Lots 90 - 93, 176 - 178, and 944 -948 DP 752038
- Lot 10 DP 863387
- Lot 2876 DP 1052339

Finally MLALC note that the property known as Waratah Park, the location for filming Skippy, is scheduled to be handed back to MLALC in approximately 12 months' time. Rather than construct a new entry on the proposed Aboriginal Owned park area, MLALC is currently considering utilising this property as an Aboriginal Cultural Centre, and a hub for the proposed Aboriginal Owned Park, allowing for guides to take smaller groups of people into the park for a more intimate and appropriate cultural exchange. It will also allow MLALC to take visitors into adjacent parks such as Garigal and Ku-ring-gai Chase National Park for guided cultural walks.

MLALC has been liaising with Duffy's Forest Resident's Association, Wires, and Sydney Wildlife on a sustainable business plan for the site, including Aboriginal Science and Knowledge Centre, Native Wildlife Rescue and Rehabilitation Clinic and related café's and educational facilities. MLALC is

currently approaching project partners to invest in the maintenance and construction works, and to operate the venture jointly with MLALC.

A number of local conservation groups have written in support of the proposed Gai – Mariagal Aboriginal Owned Park, and MLALC seeks a firm commitment from Council and the Minister to progress the Aboriginal Owned Park proposal in a timely manner as a way of dealing with the disproportionate impact of the proposed LEP on the Aboriginal members of MLALC.

Yours faithfully,

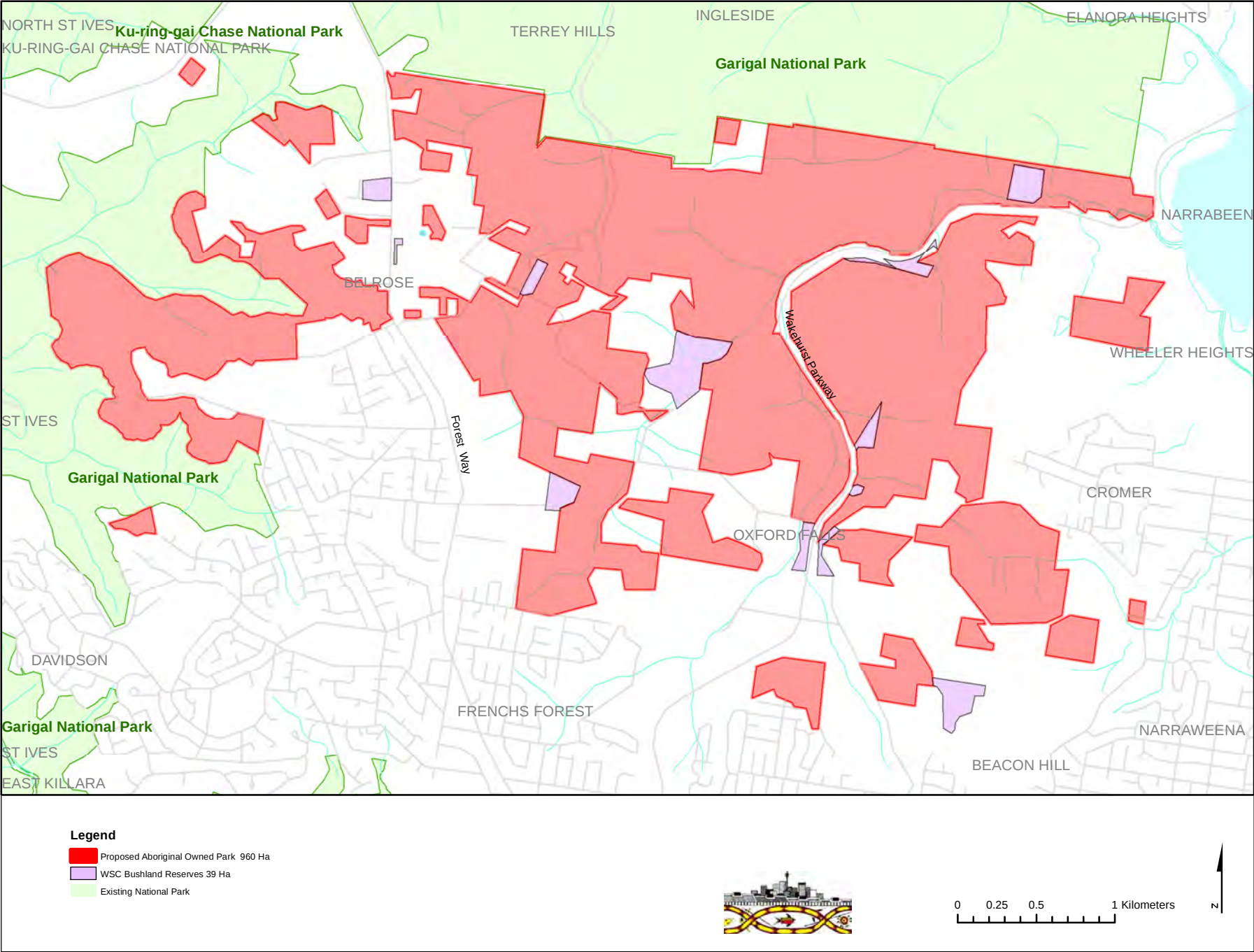
A handwritten signature in black ink, appearing to read 'Ricky Lyons', written in a cursive style.

Ricky Lyons

Chairperson

Enc.

# Gai-mariagal Aboriginal Owned National Park Proposal



# Friends of Narrabeen Lagoon Catchment



P.O. Box 845, Narrabeen NSW 2101

---

Mr Ricky Lyons,  
Chairperson  
Metropolitan Local Aboriginal Land Council  
PO Box 1103  
Strawberry Hills  
NSW 2012

13 August, 2013

Dear Mr Lyons,

Friends of Narrabeen Lagoon Catchment members were pleased to meet you last Wednesday at Narrabeen Lagoon and hear you speak about plans for Gai-mariagal National Park.

Seeking permanent environmental protection for the remaining bushland in the catchment of Narrabeen Lagoon is our mission.

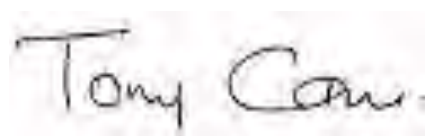
We support the concept of an Aboriginal owned National Park under Part 4A of the National Parks and Wildlife Act of NSW for the lands owned by Metropolitan Local Aboriginal Land Council.

We are keen to see a Plan of Management that would provide protection for the Aboriginal heritage of the lands in Narrabeen Lagoon catchment and welcome your plans to provide cultural tourism and education in this area.

We would support the inclusion of crown land in Gai-mariagal National Park pursuant to provisions in Section 36A of the Aboriginal Land Rights Act.

We look forward to working with members of the Metropolitan Local Aboriginal Land Council as this project proceeds.

Yours sincerely,



Tony Carr  
President

## SUN VALLEY REAL ESTATE PTY LIMITED

ABN 30 000 521 059

Suite 21, Level 2  
19-23 Bridge Street  
(PO Box 1105)  
PYMBLE NSW 2073  
Phn: 9983 1122  
Fax: 9983 1400  
Email:  
parkes.dev@bigpond.com

29 August 2013

RE: SUBMISSION TO THE E3 STRATEGIC REVIEW DRAFT REPORT  
OXFORD FALLS VALLEY AND BELROSE NORTH

The review that was undertaken was welcomed and warmly received. Council and Planning and Infrastructure joint co-operation suggested that a fair and reasonable approach was finally being taken to the questions that many residents had felt had not previously been given a clear and unbiased consideration.

Meetings, inspections were held points of view were given the opportunity to be presented and raised with the new partnership. It was suggested that the review would examine and consider the most appropriate zones and land use controls.

The draft Oxford Falls report found "the majority of the area should be zoned E3 because of its environmental values and relatively limited infrastructure". Some smaller areas were identified for alternative zonings or uses. The comments seemed to show that a way forward had been established until you got to the detail.

We have found that the site surveys are inaccurate and inadequate.

The methodology used was not consistent with the translation from LEP 2000 for other properties in the Warringah LGA.

The Environmental Assessment is false and weighted to previous studies which have been proven to be wrong

I am unable to dissect all the properties that were examined by the new partnership as this knowledge would be far too detailed (that was why the inspections were held). However if the site analysis of sites 3 & 4 in precinct F are an example, it is no wonder why the results are so incorrect.

We object to the E3 zone over our land as the basic research is flawed and conclusions drawn are wrong.

The hope for a fair assessment of the E3 zone was unfounded. The examination was just the same old with little change. The following comments are made about site analysis sheets, precinct F, site 4 – id as 72 Cromer Road Cromer.

The word adjoin – has a definition to be next to – Collins English Dictionary

Or next to and joined with – The Australian Concise Oxford Dictionary – the expectation is that an analysis would take into consideration all sides of a property – not a narrow or one sided view

Adjoins an urban area - no

If one side of a four sided property is considered the statement may be correct

Portion of the land adjoins Urban area – Macquarie Street, Fouveaux Place and Northcott Roads. Many people are living on adjoining blocks of land next door to this lot.

Adjoins bushland - yes this is correct if as said above, one side of the property is considered and you exclude the fact that it adjoins a Crown Road – Cromer Valley Road for two thirds of this boundary.

No access to the property

Reference to vegetation was not filled in

Environmental constraints was filled in – if information is available for the later why was the former not filled in – seems odd.

This property has been developed with a substantial home upon it including many adjoining buildings as well as a helipad.

The majority of land on the ridge has been cleared and cultivated. Portion of the site not cleared is located between the Urban edge of residential land and the house – in a smaller block This would be called living space.

Additional comments not filled in. Thus not giving the parties reviewing the analysis after seeing over 150 properties any trigger to recall – not easy to remember such detail for all the inspections of such a unique property

Precinct F Site 3

identified as 70 Cromer Road. This address is not correct. Council and the Land and Property Information do not recognise this reference, similar to site 4. Vegetation reference was not filled in, even though access was gained to the site which is 98% cleared.

In frequently asked questions “E3 Zone is not generally intended for cleared land” - can be transition area

This property is not transition - it is fully fenced with a 2 metre ringlock wire fence with an adjoining boundary site which is a residential home site. The other boundary has over eight homes and a common concrete driveway. This is excluding the other properties that are opposite in Cromer Road. The property is used by people from next door or nearby as a playground and unleashed dog exercise area.

Adjoins urban area is not filled in

Bushland is filled in yes - which the property does on one side - How inaccurate is this comment when you go back and try and remember the site. The property is an odd triangular shape where two to three sides adjoins urban residential homes

Environmental constraints show 95% moderate 5% severe. How could this be when 90% of the site has no constraints. The site 4 (adjoining) has 30% no environmental constraints and it has less cleared land than the total of our site.

Additional comments refers to row of way access - this reference should be applied to site 4, lot 229 has a right of way over it which provides access to 10 residential lots. The property has direct access to Cromer Road of 27.089 metres - the second comment in additional comments states 18 metres frontage to Cromer Road.

The third comment subdivided Foveaux 1969 states when the property was created. The property has not been developed as it is under sized to Warringah's IDO that was brought in a few years later.

As the review covered 176 properties accurate notes would have assisted the analysis not the standard that these two examples showed. Notes about lot 229 are as follows

- created in June 1969 as a result of a subdivision
- in the same ownership since this date, it is approx. 6861m<sup>2</sup>
- fan in shape with direct access to Cromer Road, fully serviced with water/sewer/gas/power/phone
- residential housing adjoins the complete western and south eastern boundary 240m
- on this boundary there is a concrete right of carriage way for its entire length providing access for 10 lots from Cromer Road
- the western boundary (approx. 97m) also has a concrete driveway adjoining it, providing access to the house on lot 31 located to the west on the ridge line. This property has an approved helicopter use to operate from the home which is in regular use
- the northern boundary (118m approx) adjoins land owned by Cromer Golf Club. Not used by the Golf Club is in a bushland state.
- the property is cleared with a slope to Cromer Road where it is steepest. In the north eastern corner there is a natural water course crossing the land before it joins a drainage structure in Cromer Road. This impacts on the property by about 12m<sup>2</sup> (.02%) of the total area of the block
- the boundary has been fenced to try to stop casual dumping, unauthorised camping and agricultural pursuits that have occurred on the land. It is presently used as an enclosed dog exercise and children's play area. The fences are slightly damaged. Ongoing access is obtained with a minimum of difficulty for those trying to access it. This is the best compromise for the site. Reducing the amount of dumping and visitations that we get.
- Council continuously incorrectly classifies the land.
- Recently the Biodiversity Conservation study put "very high" conservation ranking over our land. The land has fallen into two assessment units covering an area of 70.28ha. The ranking that the property got was incorrect because of the double counting

The secondary constraints analysis is flawed as well. The scale shows 3 under heritage - this should be 0. Centres has a score of 2. Not aware what this means, however shops are within a walking distance of the property transport - a bus stop is within 400m of the site - why such a score?

Services the block is fully serviced with all urban infrastructure

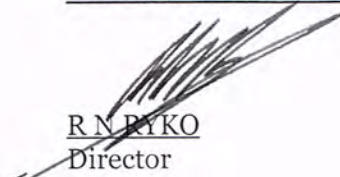
corridor habitat - the property is fenced completely. No corridor effect - unless you consider bird life and if this was considered every property would have a maximum score

Why is F4 not filled in while F8 which has a residence upon it is filled in - in both cases these properties had no access to the land.

There is a second reference to 70 Cromer Road under F6 why is F3 duplicated with a no filled in F6 reference?

The study is just a duplication of the mistakes and errors that Warringah Council has previously promoted. The Department should take note of the WUFA submission which presents the case for many affected owners and complete a fair assessment of the whole area.

Yours faithfully  
SUN VALLEY REAL ESTATE PTY LTD



R.N. RYKO  
Director

**Submission Number: 114**



As the owners of lot 145 we object to being zoned under a blanket 'E3', and submit that privately owned blocks (with dwellings or otherwise erected) should be classified under a rural or other as appropriate.

A blanket zoning such as this fails to consider changes which would make the land more accessible over time, such as:

- Future clearing and construction of access driveways on the block.
- The block sits alongside the long-planned extension of 'Hilversum Crescent', which has not been removed from local DPs. The non-construction of the link should not place us at a disadvantage in such a restricted zone class.
- In the absence of this road, future access to the existing Hilversum crescent/Morgan Rd area would require activities as outlined in point one, so opening up more of the land for use in any case and deem its E3 classification less relevant.
- The block lies next to no-purpose zoned Crown land to the West (adjoining Forest Way), and land currently the subject of 'deferred matter' to the south (as shown in the report maps). If developed in any way these would place the block directly between environmentally sensitive land and adjacent to R2/Urban (depending on its classification), which would align the block better as a Zone R5 or the like.

Finally, the maximum ratio of one house per 50 acres is grossly excessive considering the local environment which provides adequate privacy and scope for environmental management/integration. In any case our understanding is that this derives from a temporary policy which is long overdue for review.

In summary our view is that privately owned land in this corridor should be classified as a maximum R5, reserving E3 for completely undeveloped land such as adjoining the national park.

Thank you for this opportunity.



Strategic Review Committee,  
Oxford Falls Valley and Belrose North Strategic Review,  
Department of Planning and Infrastructure,  
GPO Box 39,  
SYDNEY NSW 2001



This is a submission to the Draft Oxford Falls Valley and Belrose North Strategic Review Report.

The points we would like to raise are:

- 1) We agree with the zoning of our land as R5 (Large Lot residential) in stage 1 of this strategic review.
- 2) The minimum lot size has not been addressed and must be addressed.
- 3) The Site Analysis for our properties has not been done correctly.
- 4) The Environmental Constraints shown on Warringah Council's records are wrong and need correcting.
- 5) Our properties should be considered for further zoning consideration.

Further information on these points is provided below.

## **2) Minimum Lot Size:**

The minimum lot size of one house per 50 acres (200,000m<sup>2</sup>) was put in place with IDO51 in 1974 as a temporary measure. Land owners were advised in 1974 that this temporary measure would be lifted in 6 months time. Our land is 2,276m<sup>2</sup> ( ) and 9,333m<sup>2</sup> ( ). A minimum lot size of 200,000m<sup>2</sup> is ridiculous.

The draft report states:

“The density control was developed in 1974 under an Interim Development Order 51 to respond to the water quality issues of the Narrabeen Lagoon Catchment impacted on by the residential development in the 1960s and 1970s within the study area. Revising the density control within the study area is therefore premature until water quality impacts for the catchment is considered in detail.” (Extract from Page 26)

Three points to do with this issue:

- 1) Our land does not drain to Narrabeen Lagoon.

- 2) Why spend all of this time and effort doing a strategic review if you don't revise the density controls (which were meant to be revisited in 6 months from 1974)
- 3) The Water Quality Study has been done by Warringah Council and is titled "Warringah Non Urban Lands Study Stage 2 – Impacts on Water Quality of Narrabeen Lagoon" and is 66 pages long. This report forms Appendix E of this submission.

The conclusion of the Water Quality Study was:

### **“CONCLUSIONS**

It has been determined that development of the areas identified as suitable from Stage 1 of the NULS (PPK, 2000), which drain to Narrabeen Lagoon, can be undertaken without a subsequent reduction in water quality in Narrabeen Lagoon, and in most cases an increase in water quality can be achieved.”

We ask that the minimum lot size for all of the land proposed to be R5 on the Northern side of Wyatt Ave is 1,000m<sup>2</sup>.

### **3) Site Analysis:**

We believe the two separate properties at [REDACTED] should have had a separate site analysis done for each parcel of land. [REDACTED] adjoins urban land, and does not adjoin bushland. [REDACTED] adjoins urban land (front) and adjoins bushland (rear), as shown on the site analysis.

Appendix A of this submission contains the Site Analysis for our property.

Appendix D of this letter contains an independent report titled “Comparative Environmental and Biodiversity Assessment for property at [REDACTED]” from ACS Environmental Pty Ltd which provides an accurate Site Analysis done by professional Environmental Consultants. This report was done in August 2013.

The site analysis done by Oxford Falls Valley and Belrose North Strategic Review for our property has many inaccuracies which need to be corrected as per the attached environmental report.

#### 4) Environmental Constraints

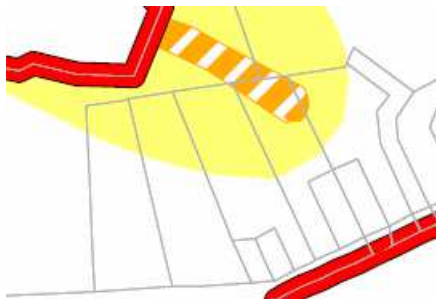
Below is an extract from the Secondary Constraints Analysis (Our property is Site ID A5):

| Site ID | Address | Heritage | Bushfire | Centres | Transport | Infrastructure | Telecoms | Riparian | Sig Veg | Corridor / Habitat | Th. Spec | Flooding | Wetland Buffer | Cumulative Score | Rating 1 | Rating 2 | Comments |
|---------|---------|----------|----------|---------|-----------|----------------|----------|----------|---------|--------------------|----------|----------|----------------|------------------|----------|----------|----------|
| A1      |         | 0        | 2        | 3       | 2         | 0              | 0        | 3        | 0       | 0                  | 3        | 0        | 0              | 13               | B        | B        |          |
| A2      |         | 0        | 2        | 3       | 2         | 0              | 0        | 3        | 0       | 0                  | 2        | 0        | 0              | 12               | A        | B        |          |
| A3      |         | 0        | 2        | 2       | 2         | 0              | 0        | 0        | 0       | 1                  | 2        | 0        | 0              | 9                | A        | A        |          |
| A4      |         | 0        | 2        | 2       | 2         | 0              | 0        | 3        | 3       | 1                  | 2        | 0        | 0              | 15               | B        | A        |          |
| A5      |         | 0        | 2        | 2       | 2         | 0              | 0        | 3        | 3       | 1                  | 0        | 0        | 0              | 13               | B        | B        |          |
| A6      |         | 0        | 2        | 2       | 2         | 0              | 0        | 0        | 3       | 1                  | 3        | 0        | 0              | 13               | B        | B        |          |
| A7      |         | 0        | 2        | 2       | 2         | 0              | 0        | 0        | 3       | 1                  | 3        | 0        | 0              | 13               | B        | B        |          |
| A8      |         | 0        | 2        | 2       | 2         | 0              | 0        | 0        | 0       | 1                  | 0        | 0        | 0              | 7                | A        | A        |          |

This has the following inaccuracies:

##### a) Riparian Land:

Below is a section of the Riparian Constraints Map provided by the E3 Strategic Review which incorrectly shows riparian land on our property:



Appendix D of this submission contains “Comparative Environmental and Biodiversity Assessment for property at 14 – 16 Wyatt Ave, Belrose” from ACS Environmental Pty Ltd. This report states “The code given in Table 2 for Riparian Land at the subject site is ‘3’ compared to that at No. 18 - 20 Wyatt Avenue where the indicative score index is ‘0’ and where water is similarly directed downslope via plastic piping (Table 2). This coding for riparian land at the subject site is considered anomalous as qualified above and should be changed to ‘0’.”

Can you please amend your records to reflect this.

##### b) Significant Vegetation:

Significant vegetation was listed under the secondary constraints as 3 when the property is over 90% cleared paddocks (as shown on the E3 Strategic Review site inspection report). Appendix B of this submission contains the Vegetation Classifications for our land from the Non Urban Lands Study. The Non Urban Lands Study listed our properties as the lowest possible vegetation classification.

Appendix D of this submission contains “Comparative Environmental and Biodiversity Assessment for property at 14 – 16 Wyatt Ave, Belrose” from ACS Environmental Pty Ltd. This report states “The code given in Table 2 for Significant Vegetation at the subject site is ‘3’ and this is considered anomalous and should be changed to ‘0’ as is the case for the similarly cleared properties in the locality”.

Can you please amend your records to reflect this.

**c) Wildlife Corridors and Core Habitat:**

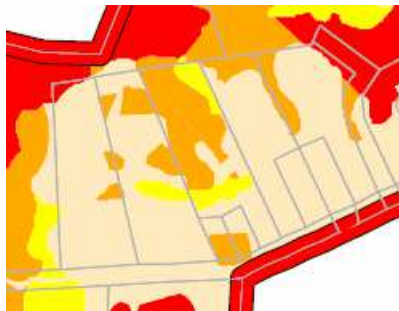
Appendix D of this submission contains “Comparative Environmental and Biodiversity Assessment for property at 14 – 16 Wyatt Ave, Belrose” from ACS Environmental Pty Ltd. This report states “The code given in Table 2 for Wildlife Corridors and Core Habitat at the subject site is ‘1’ and this is considered anomalous and could be changed to ‘0’.”

Can you please amend your records to reflect this.

**d) Threatened Species:**

The threatened species is shown for our land as 2. There are no threatened species or wildlife corridors on our land. The rear of our land is all fenced and is horse paddocks.

Below is a section of the threatened species habitat constraints map showing our property as “Low Habitat”:



**Legend**

**WLEP 2011 Land Application Map Constraint - Threatened Species Habitat**

|                                                                                     |                              |                          |                                                                                     |                        |
|-------------------------------------------------------------------------------------|------------------------------|--------------------------|-------------------------------------------------------------------------------------|------------------------|
|  | Deferred matter (Study Area) | <b>Condition ; Score</b> |  | Known Habitat ; 20     |
|  | WARRINGAH                    |                          |  | Potential Habitat ; 10 |
|  | Major Roads                  |                          |  | Moderate Habitat ; 3   |
|  | Cadastral                    |                          |  | Low Habitat ; 0        |

Appendix D of this submission contains “Comparative Environmental and Biodiversity Assessment for property at 14 – 16 Wyatt Ave, Belrose” from ACS Environmental Pty Ltd. This report states “The code given in Table 2 for Threatened Species Habitat at the subject site is ‘2’ and this is considered anomalous as qualified above and should be changed to ‘1’.

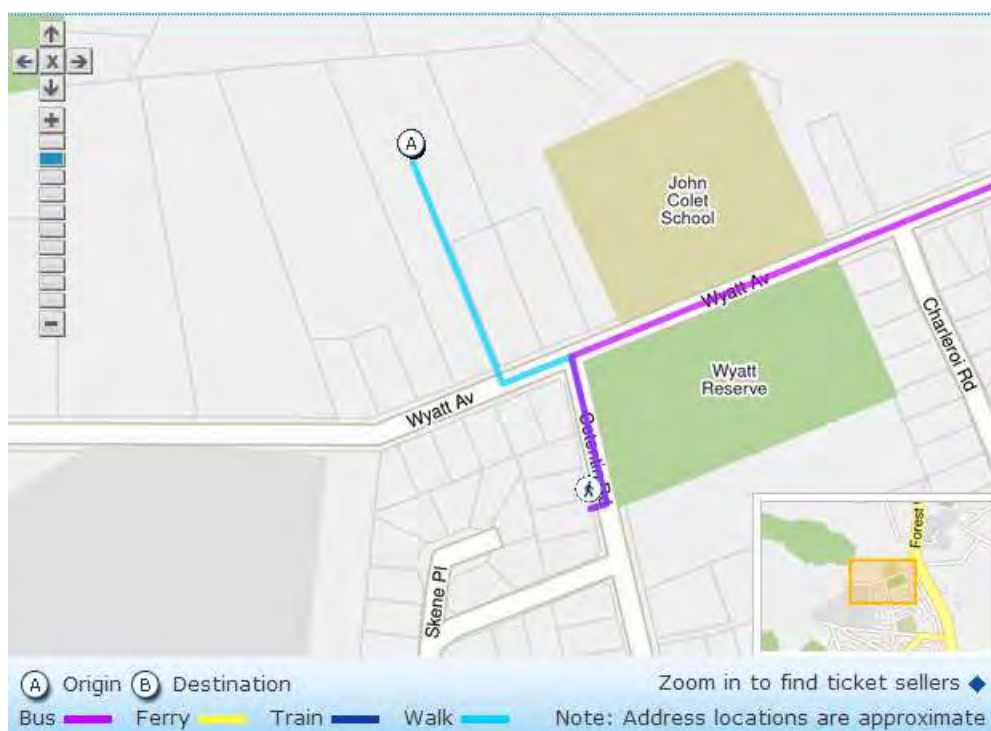
Can you please amend your records to reflect this.

### e) Transport:

Below is an extract from page 71 of the Draft Oxford Falls Valley and Belrose North Strategic Review Report:

| SECONDARY CONSTRAINT | IMPORTANCE                                                                  | LAYER | CRITERIA                                                    | SCORE |
|----------------------|-----------------------------------------------------------------------------|-------|-------------------------------------------------------------|-------|
| Proximity to centres | Locate urban development near established village or neighbourhood centres. | A     | Land within 400m of a village or neighbourhood centre       | 1     |
|                      |                                                                             | B     | Land within 800m of a village or neighbourhood centre       | 2     |
|                      |                                                                             | C     | Land greater than 800m of a village or neighbourhood centre | 3     |

Below is a map from the NSW Transport Info website showing our property and the nearest bus stop. It is listed as being 96m from our property as shown with the blue line below (Note: the 96 m is from the point marked centre of the property, not the front gate).



This bus stop is very well serviced. The Secondary Constraint for our property should be “A” with a score of “1”, not “2” as outlined in the secondary analysis of our property.

Can you please amend your records to reflect this.

**f) Overall Environmental Constraints:**

Appendix D of this submission contains “Comparative Environmental and Biodiversity Assessment for property at [REDACTED], Belrose” from ACS Environmental Pty Ltd. This report states “As such, it is considered that a cumulative score for infrastructure and environmental constraints parameters is more objectively given by a score of 7 for the ‘Rating 2’ category in Table 2. This aggregate score would subsequently relate more accurately to a potential future development of ‘CATEGORY A’ inferring ‘Low restriction to development’ (scores from 2 – 10) compared to the ‘CATEGORY C’ ranking inferring ‘Significant restriction to development’ (scores of 15 and above) as derived by the Draft Oxford Falls Valley – Belrose North Strategic Review (2013).”

As the Environmental report did not involve looking at the transport constraint, the above summary needs the score to be 6 instead of 7 which would be made up of the following scores:

| Constraint             | Score |
|------------------------|-------|
|                        |       |
| Heritage               | 0     |
| Bushfire               | 2     |
| Centres                | 2     |
| Transport              | 1     |
| Infrastructure         | 0     |
| Telecoms               | 0     |
| Riparian               | 0     |
| Significant Vegetation | 0     |
| Corridor/Habitat       | 0     |
| Threatened Species     | 1     |
| Flooding               | 0     |
| Wetland Buffer         | 0     |
|                        |       |
| Cumulative Score       | 6     |

### 5) Our properties must be considered for further zoning consideration

The Non Urban Lands study showed our land as having potential for higher intensity development. Appendix C of this report shows the maps from the Non Urban Lands Study and the description of the cross hatched area.

The Secondary Constraints analysis map (our property shown below) in the draft strategic review shows our land as having three classifications:

- 1) Light Blue Cross hatched: This is due to the inaccuracies explained above and should be removed.
- 2) Red (Primary Constraints): This is due to the inaccuracies explained above and should be removed.
- 3) Yellow cross hatched: The Yellow and Black Cross Hatched areas are ambiguous.

All of the land which has been proposed by the draft report as being R5 should be unambiguously marked as “Land for further zoning consideration”.



#### Legend

##### WLEP 2011 Land Application Map

-  Deferred matter (Study Area)
-  WARRINGAH
-  Major Roads
-  Cadastre

##### Secondary Constraints Analysis

-  Secondary Constraint Analysis = E3 zoning consideration
-  Secondary Constraint Analysis = E3 zoning consideration
-  Primary Constraint Analysis = E3 zoning
-  Land for further zoning consideration
-  Land for further zoning consideration

### Oxford Falls Valley and Belrose North Strategic Review

As can be seen from the environmental constraints score of 6 (Category A – Low restriction to development), this land is well suited for urban development and we look forward to it being considered for urban development in stage 2 of the Strategic Review.

We trust that you will take the points raised in this submission into consideration.

We request that we be given the opportunity to present our case to the Warringah Development Assessment Panel.

Yours sincerely,

A black rectangular box redacting the signature of Jenny & John Holman.

Jenny & John Holman

## Appendix A - Site analysis for 14 & 16 Wyatt Ave



Planning &  
Infrastructure



Warringah  
Council

### OXFORD FALLS VALLEY & BELROSE NORTH STRATEGIC REVIEW SITE ANALYSIS

Date: 10/12/12

Precinct: A

SITE ID: 5

Property Address:

Lot/DP:

Inspection Officers:

Contact:

Owner's consent to access land: ☒ Yes ☐ No

Owner(s) present ☐ Yes ☒ No

Left calling card? ☐ Yes ☒ No

showed us around

#### DESKTOP ANALYSIS

Verified on  
site (Y/N)

##### Owner

- ☒ Private ☐ Warringah Council  
☐ Commissioner for Roads ☐ Metropolitan LALC  
☐ Minister for Education ☐ Ausgrid  
☐ Minister Administering the Sporting Venues Management Act ☐ Optus  
☐ State Planning Authority ☐ Sydney Water Corporation  
☐ Crown Land ☐ Telstra  
☐ NSW Electricity Transmission Authority

Adjoins an urban area ☒ Yes ☐ No

Adjoins bushland ☒ Yes ☐ No

##### Vegetation

- ☐ Bushland ☒ cleared paddocks Percentage cleared (85%) 90  
☐ Other

##### Proximity to a telecommunications facility

- ☐ < 500m ☒ 500-1,000m ☐ 1,000-1,500m ☐ 1,500-2,000m ☐ >2,000m

##### Environmental Constraints

- ☐ No env. Constraints (\_\_\_%) ☒ Moderate (85%) ☒ Significant (15%)  
☐ Severe (\_\_\_%) ☐ Prohibitive (\_\_\_%)  
☐ Bushfire ☐ Heritage

#### SITE VISIT ANALYSIS

Building on site ☒ Yes ☐ No ☐ Unable to determine

##### Type of buildings on site (if applicable)

- ☒ Dwelling (Seniors, attached, detached) ☐ Utilities e.g. sub station, satellite dishes  
☒ Domestic outbuildings - stables (domestic use) ☐ Storage  
☐ Agricultural ☐ Educational  
☐ Commercial ☐ Other

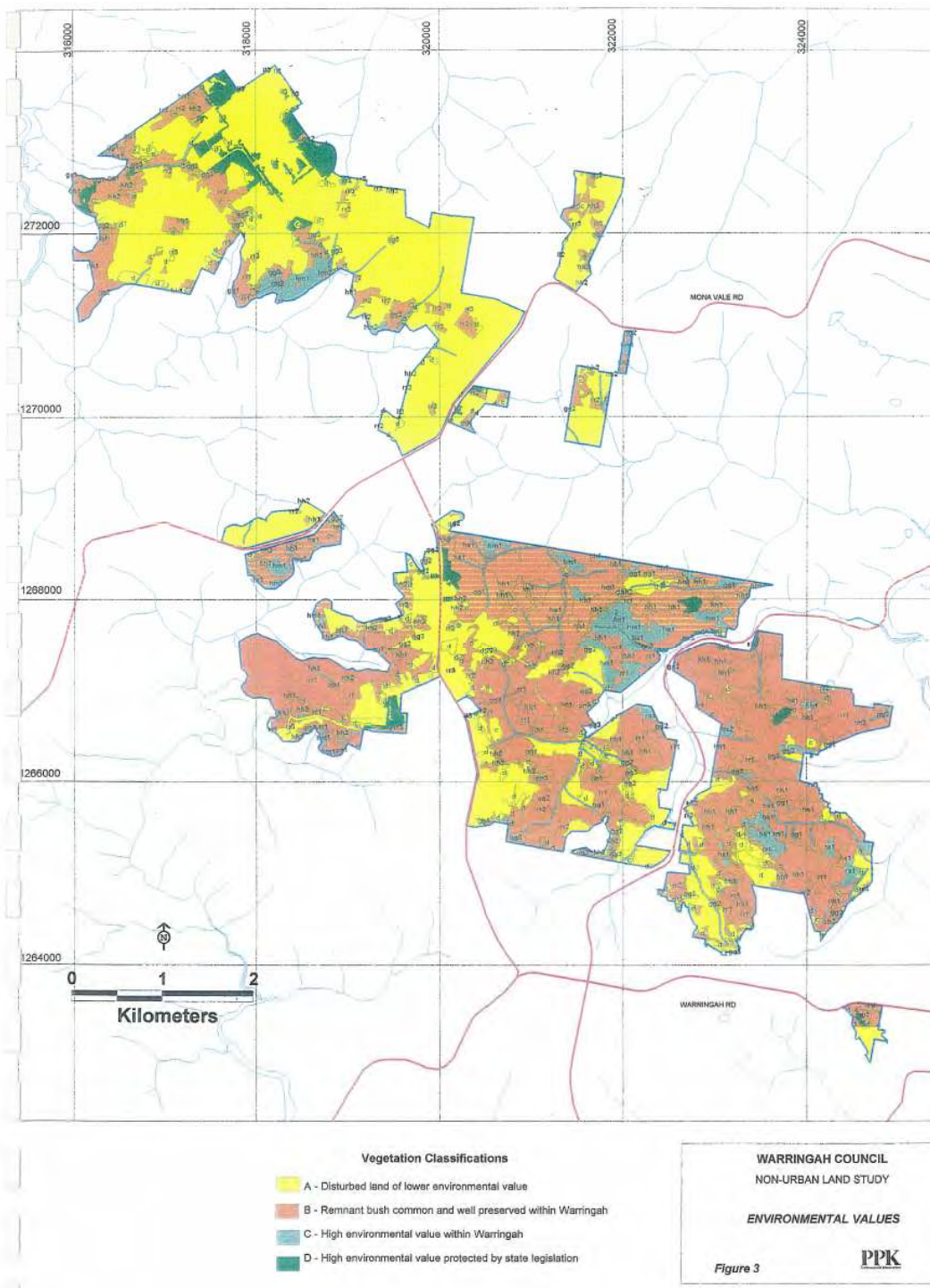
##### Use of site

- ☒ Residential ☐ Rural ☐ Commercial ☐ Educational  
☐ Industrial ☐ Infrastructure ☐ Retail ☐ Mixed ☐ Other

##### Additional comments/ observations

domestic stables

## Appendix B – Vegetation Classification from the Non Urban Lands Study



**Class A - Disturbed land of lower conservation value.**

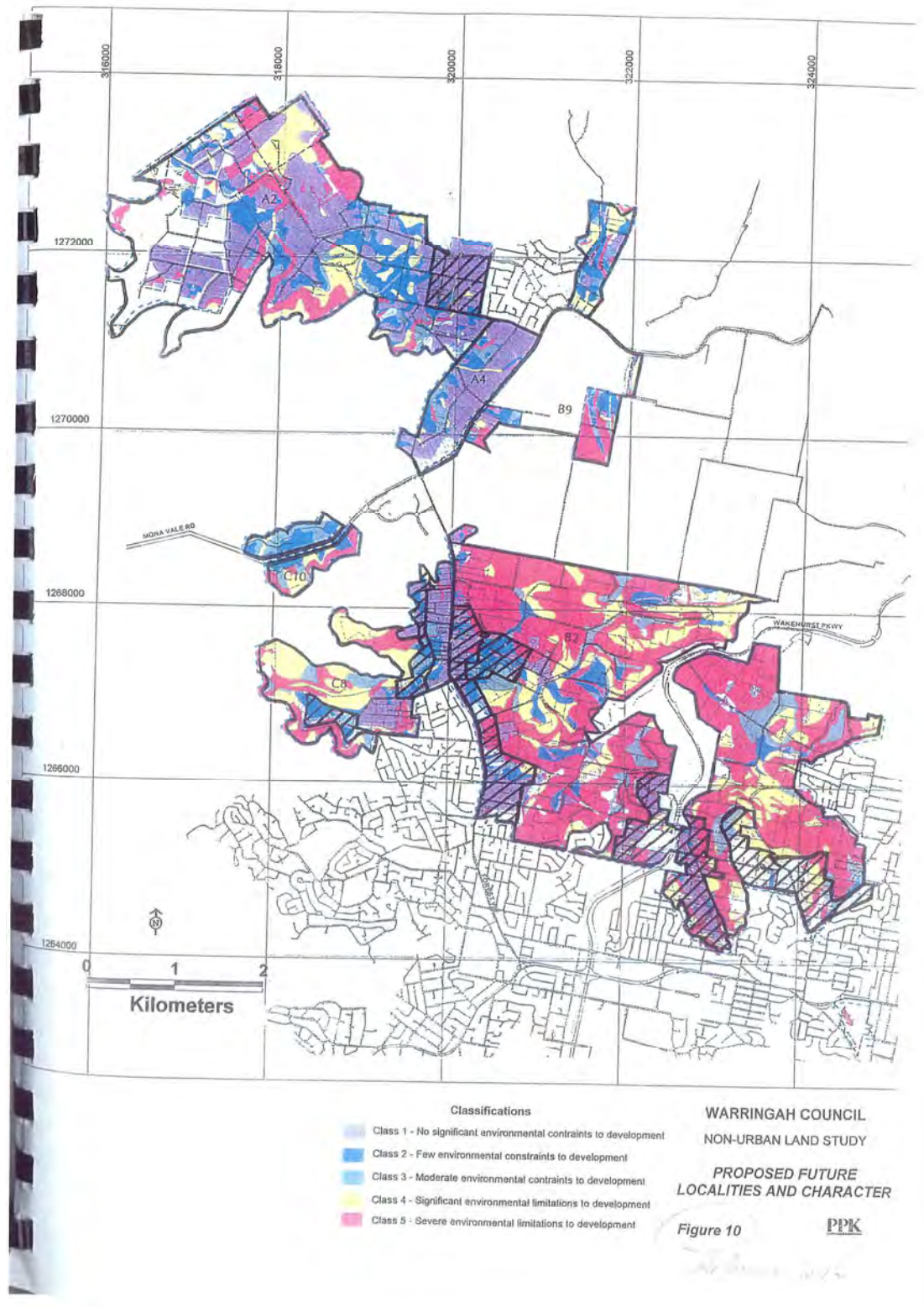
Areas where the existing land is highly disturbed, cleared of native vegetation or where vegetation is degraded to the point that environmental values have been severely degraded. Environmental values are therefore a minor consideration when planning to develop provided that appropriate planning controls have been satisfied. Approximately 41 percent of the land within the study area were categorised into class A.

**Class B - Remnant bush which is common and well preserved within Warringah.**

Areas with remnant native vegetation communities which are well represented throughout Warringah and in National Parks. These areas include vegetation communities identified by Smith and Smith (1998) as being of third priority for conservation. Provided that appropriate planning controls have been satisfied and an ongoing management plan is adopted to ensure the sustainability of the proposed activity these lands could support a moderate level of development in terms of potential environmental impact. Approximately 49 percent of the land within the study area was categorised as being in Class B.

## Appendix C – Land identified by the Non Urban Lands Study as having potential for higher intensity development

Below is an extract from the Non Urban Lands Study showing our land as cross hatched. The cross hatched area was identified as having potential for higher intensity development.



*Recommendation 3:*

*That the hatched areas identified in Figure 10 as having potential for higher intensity development and land uses (as outlined in Chapter 11), be further investigated with particular regard to the respective areas':*

- *transport and sewerage infrastructure constraints;*
- *bushfire hazard constraints;*
- *the cumulative effects on environmental values (for example Narrabeen Lagoon); and*
- *the regional demand for land generally.*

**Appendix D - Comparative Environmental and Biodiversity Assessment for property at 14 – 16 Wyatt Ave, Belrose” from ACS Environmental Pty Ltd**

See separate attached report.

**Appendix E - Warringah Non Urban Lands Study Stage 2 – Impacts on Water Quality of Narrabeen Lagoon**

See separate attached report.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Hon Barry O'Farrell, Premier NSW  
Hon Brad Hazzard, Member for Wakehurst  
Neil McGaffin - Executive Director, Rural and Regional Planning, NSW Department of  
Planning and Infrastructure

By email:

[neil.mcgaffin@planning.nsw.gov.au](mailto:neil.mcgaffin@planning.nsw.gov.au)  
[Office@hazzard.minister.nsw.gov.au](mailto:Office@hazzard.minister.nsw.gov.au)  
[Office@premier.nsw.gov.au](mailto:Office@premier.nsw.gov.au)

To Whom it May Concern,

Re: Proposed rezoning to E3 – [REDACTED]

Firstly we would like to state that we do agree with the majority of the proposed E3 zoning, What we strongly object to is the planned inclusion of cleared lands with houses, our property included.

**“...the (E3) zone is generally not intended for cleared lands including land used for intensive agriculture.”**

It is with significant concern that we have reviewed the draft Oxford Falls and Belrose North Strategic Review Report and the potential impact it would have upon our property, both immediately from a likely negative financial impact but as importantly over the medium term should we wish to undertake any improvements or changes to our property, there will be unreasonably onerous requirements upon us (Environmental impact analysis, specialist consultant reports, etc.).

We have outlined below key reasons why we feel the proposed E3 zoning is not only inappropriate based not only on existing uses, the historical context of the area but also the appearance of an almost deliberate incorrect site analysis of numerous properties in the area.

Just some of the relevant independent and government reports which do not seem to support the E3 zoning include:

1. PKK Non urban Land Study 1998), Stage 1 & 2
2. Department of Lands Assessment of Crown Lands Oxford Falls and Belrose
3. Planning Assessment Commission Report 2009 (see pg. 18)
4. Various NSW Planning & Infrastructure Constraint maps

Given the above it garners disbelief that the reports combined with the obvious historical use information and very clear current rural occupants that Council still seems to think an E3 zone appropriate to the cleared properties bounded by [REDACTED]. Surely this provides significant greater support to a more appropriate rural zoning?

### History of Lot 2, Wearden Rd:

Our property, which we purchased in 2012, has a long history of either agriculture or rural use, having been used as rural land for over a hundred years, predominantly for poultry and grazing farms. Since 1969 the property was used as market gardens and then more recently in the past 10 – 15 years as a small lot, semi-rural property with horses.

There have been numerous submissions for neighbouring owners to provide clear evidence to the history of the area ([REDACTED]) and it's long established cleared land nature. Immediately surrounding our property are horses to the east, north and approved stables to the west. In addition to the cleared lands of the Tennis Academy which prior to their occupation was barren land stripped of top soil and nearly all vegetation.

### Site analysis:

Our property, consists of a main residence, a demountable granny flat, sheds and a 3 horse stable. Surrounding the block are Cyprus pines, fruit trees and other fir trees planted by the market gardener. Hardly what you would consider either environmentally sensitive or natural bushland. The remaining lot (total size of 5021spm) is fully cleared.

Our boundary line includes a creek, Warringah council and department of waterways owned which has unfortunately become overgrown with lantana, privet, castor, and associated weeds. Once again hardly of special ecological, cultural or aesthetic value!

***E3 Environmental Management*** This zone is *“for land where there are special ecological, scientific, cultural or aesthetic attributes or environmental hazards/processes that require careful consideration/management and for uses compatible with these values.”*<sup>1</sup>

I fail to see where the above has any reflection on our property? This particularly planning instrument goes on to state:

***Where the primary focus is not the conservation and/or management of environmental values, a different zone type should be applied.***

We fully dispute our site analysis given what we have outlined above and can't conceivably come to the calculation of 35% uncleared nor the 5% extreme. It goes on to state that the vegetation includes

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<sup>1</sup> Department of Planning, Practice Note PN 09-002



bushland (not sure where they were referring to?) and that the property has 95% MODERATE ENVIRONMENTAL CONSTRAINTS & 5% EXTREME. HOW? WHY? AND BASED ON WHAT?

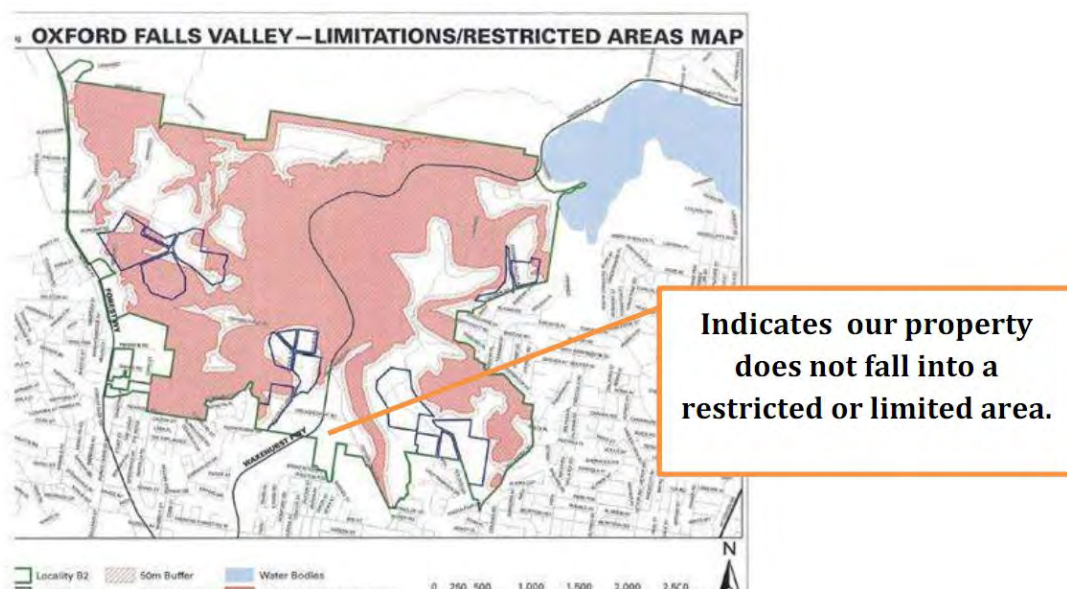
To use these sub standard site analyses from ours and adjoining properties as support for an E3 zoning undermines this whole process.

The analysis notes 3 horse stables but the use is residential with no reference to rural. See pic above.

I'm sure you can appreciate our frustration when we receive something like this which seems to lend credence to only one argument (Councils) based on false information.

Consideration must surely be given to correct information and if the decisions are based on site analyses and environmental considerations then Council should also be taking into account:

- Riparian zone constraints - Wetland buffers constraints and has the same slope constraints as many of the local residentially zoned areas.
- Wildlife Corridors - The Draft DCP Wildlife Corridor 2009 and the current DCP 2011 as displayed on the Council website says our area does not include Core Habitat. See Annexure 1.
- Limitations / Restricted areas: See below.



We understand that Terrey Hills and Duffys Forest have similar environmental constraints and similar locality statements and yet were afforded a rural zoning? If those areas have been allowed rural surely Oxford Falls cleared landholders who have the same use for their land should also be under a rural zoning.

We have been dismayed and very disappointed in the manner in which this review process seems to have totally disregarded the feedback and interests of the affected residents.

As stated at the start of this letter, we are not averse and are in fact supporters of the protection of appropriate environmentally sensitive lands, however it is the cleared lands that include our property which do not deserve the encumbrances and restrictions associated with the E3 zoning. A more appropriate Rural zoning would be a much closer reflection of the lands in question.

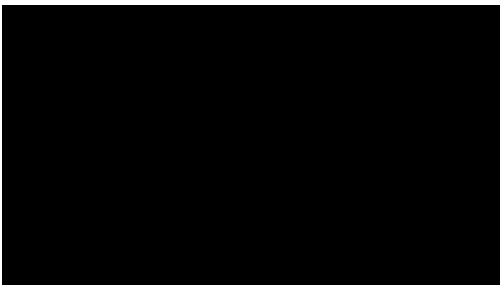
There is a genuine risk that should this inappropriate E3 zoning be implemented the landholders in question that this is a retrograde step which diminishes the potential uses for our land (a granny flat is not even a permissible use under E3, what happens when we want to put a pool in?). The E3 zoning will likely impose an unfair encumbrance, both financially and from a future use perspective.

We strongly believe that a rural zoning is more appropriate to the lands in question, including our own and look forward to your support on this matter.

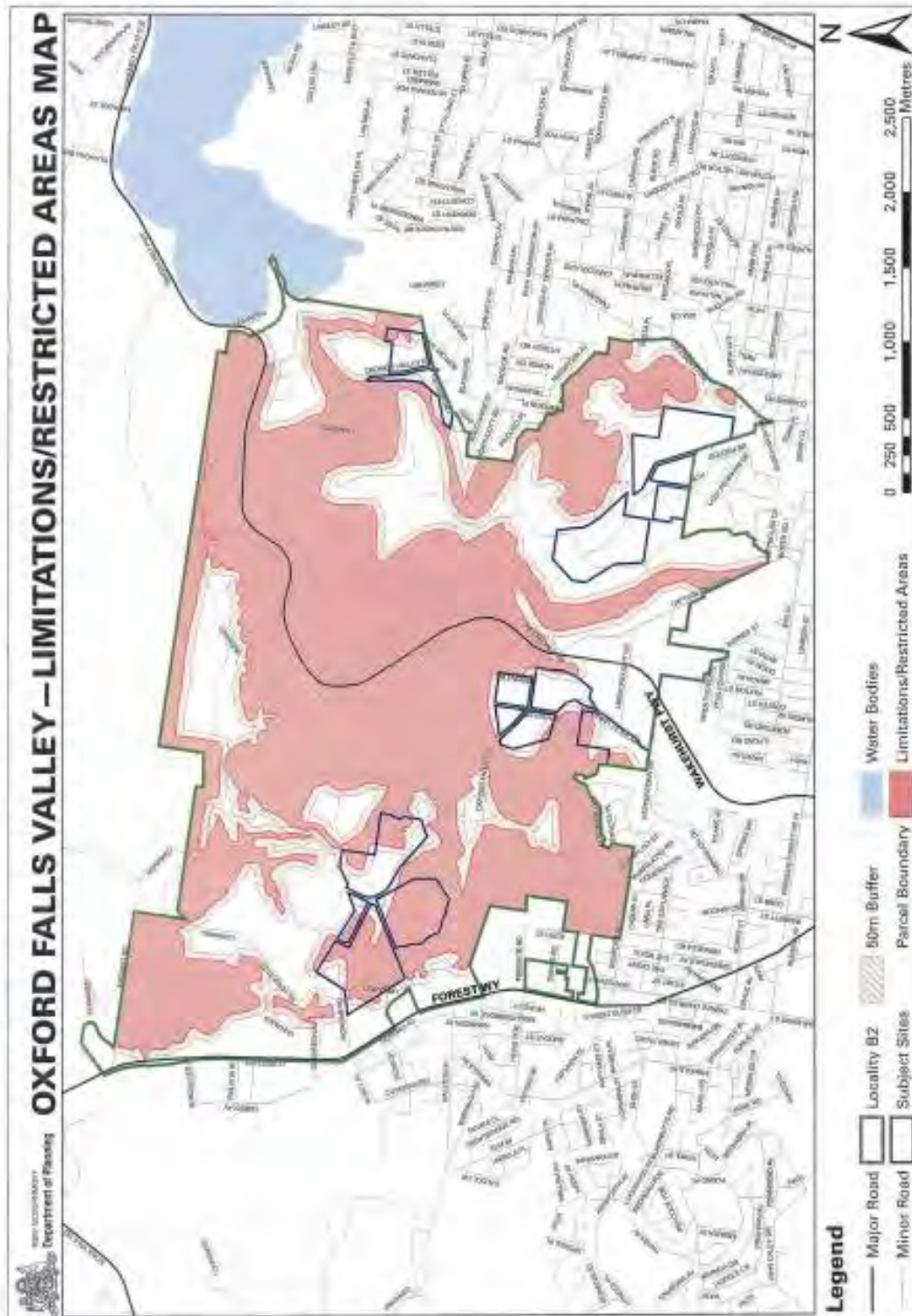
We hope that our letter is given due consideration and look forward to an outcome which satisfies all parties.

Please feel free to contact either of us to discuss further.

**Yours sincerely**



Annexure: Oxford Falls Valley – Limitations/ Restricted Areas Map PAC Report 2009



30 August 2013

The Project Control Group  
Oxford Falls Valley & Belrose North Strategic Review  
Department of Planning and Infrastructure  
GPO Box 39  
Sydney NSW 2001

**To Whom It May Concern**

We are private landowners in Oxford Falls whose properties are proposed for E3 Environmental Management zoning. The owners and properties represented by this submission are:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

We consider that the site analyses of our properties, carried out on behalf of the project control group of the OFBN Review, are highly inaccurate, which may have very serious economic and lifestyle consequences for us in the future.

We seek to have this remedied, and to that end have commissioned a study by an expert ecologist, Dr David Robertson of Cumberland Ecology, whose assessment is attached to this letter.

We ourselves consider that the processes used to deem our properties as requiring Environmental Management zoning is deeply flawed and we consider our concerns are supported by Dr Robertson's assessment.

Signed on behalf of, and with the approval of the owners listed above,

[REDACTED]

30 August 2013

Various Land Owners

OXFORD FALLS NSW 2100

**OXFORD FALLS PROPERTIES - FLORA AND FAUNA ASSESSMENT AND  
LEGISLATIVE APPLICATION**

To Whom It May Concern,

Cumberland Ecology  
PO Box 2474  
Carlingford Court 2118  
NSW Australia  
Telephone (02) 9868 1933  
Mobile 0425 333 466  
Facsimile (02) 9868 1977  
Web: [www.cumberlandecology.com.au](http://www.cumberlandecology.com.au)

Cumberland Ecology understands that Warringah Council have exhibited proposed new land use zones, covering all of the land within Oxford Falls. Under the draft zoning, all such land is proposed to be zoned from B2 as E3 for Environmental Management.

As you requested, the purpose of this letter is to review the validity of the proposed zoning for a suite of lots within Oxford Falls as listed below and collectively referred to as "the subject sites":

- [REDACTED] (approx 2.041 ha);
- [REDACTED] (approx 2.222 ha);
- [REDACTED] (approx 2.227 ha);
- [REDACTED] (approx 2.004 ha);
- [REDACTED] (approx 1.362 ha); and
- [REDACTED] (approx 2.315 ha).

The findings of my review are set out below:

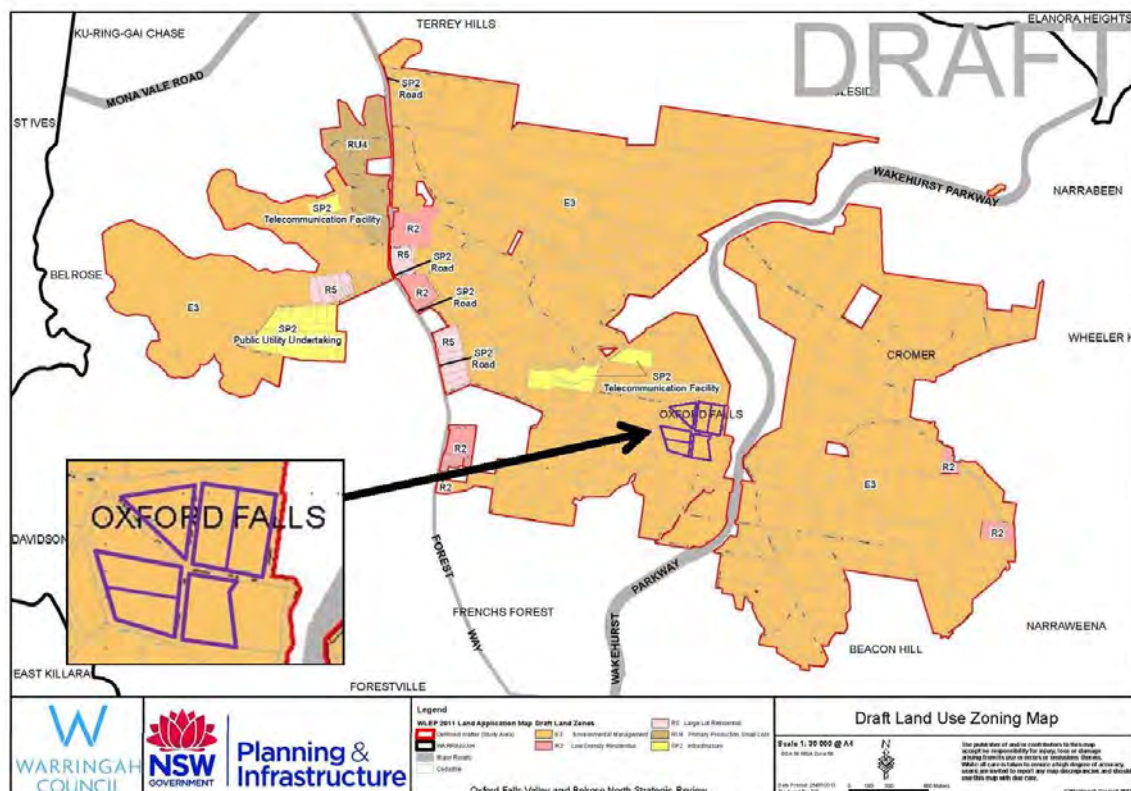
## **1. Background**

Land within Oxford Falls comprises rural lots with an average lot size of about 2 ha, though some are as small as 0.313 ha. The location of the subject sites is shown in Figure 1 below.

The subject sites have a varied history of intense land use that includes clearing at first settlement, use for poultry farms, quarrying, an abattoir, a pottery, rural residential living and a plant nursery.

The Department of Planning and Infrastructure and Warringah Council have worked in partnership to prepare the Oxford Falls Valley and Belrose North Strategic Review. The strategic review covers an area of 1341.4 hectares located approximately 20 kilometres from the Sydney Central Business District.

Overall, the strategic review has suggested that the best fit land use zone for the majority of the study area is the E3 Environmental Management zone. There are, however, some smaller areas of land that have been identified for alternative zonings and/or additional permitted uses. The owners of the subject properties however, feel that their properties do not conform to the indicated requirements of the E3 zoning. The purpose of this letter report is to establish the relevant biodiversity and ecological state of the subject sites and to comment upon the validity of the proposed E3 zoning.



**Figure 1** Location of the Subject Sites

## 2. Method

### 2.1 Desktop Assessment

The definition of the E3 Environmental Management zone was reviewed so as to understand the characteristics of land that would make it eligible and suitable for the application of this zoning.

A review was made of the relevant sections of the primary source document that the zoning is based upon as follows:

***Draft Oxford Falls Valley & Belrose North Strategic Review***. NSW Planning and Structure and Warringah Council (April 2013).

Raw data sheets from the field inspections carried out on behalf of Department of Planning and Infrastructure and Warringah Council and dated 11/12/2012 were examined to see that what the Council had found about the environmental values of each of the subject sites.

As part of the review, current aerial photography was examined so as to study the condition and context of vegetation on the subject sites.

Available mapping from the Warringah Council concerning land use and environmental constraints were also examined in order to assess both the environmental constraints on the subject sites, as mapped by Council, and that of the surrounding land. The maps examined included:

- Environmental Constraint Land Map (Warringah Council 2006-07);
- Cleared Land Map (Warringah Council 2006); and
- Cumulative Level of Environmental Constraint (DOPI & Warringah Council 2013).

A database analysis was conducted for the locality using the NSW Office of Environment and Heritage (OEH) Atlas of NSW Wildlife (OEH 2013) to determine the types of threatened species and ecological communities that may occur within the subject site. The Atlas of NSW Wildlife search recovered records of threatened flora and fauna species and EECs listed under the TSC Act and EPBC Act within a 10 x 10 km area surrounding the subject site. Literature relevant to the subject site, including final determinations and recovery plans were also consulted.

### 2.2 Site Inspection

Cumberland Ecology staff (Dr David Robertson) inspected each of the subject sites on 22 August 2013. During the site inspection, notes were made about the nature and extent of native vegetation and other habitats for flora and fauna including sandstone rock outcrops, creeks and the presence of tree hollows. Representative photographs were taken of the landscape of each lot and these are presented in **Appendix A**.

### 3. Key Findings

#### 3.1 What is the E3 Environmental Management Zone?

According to the Strategic Review, Page 17, the E3 Environmental Management Zone *"is to be applied to land that has special scientific, cultural or aesthetic attributes, or land highly constrained by geotechnical or other hazards. This zone might also be suitable as a transition between areas of high conservation value and other more intensive land uses."*

By definition, the E3 zone may be applied on land with one or more of the following suite of characteristics:

1. With special ecological, scientific, cultural or aesthetic attributes;
2. Where rehabilitation of the land's environmental qualities is required, as a transition between high conservation value land and other land.
3. With native vegetation or forest cover.
4. That is highly constrained where slope, erodible soils or salinity may have a key impact upon water quality.

From the features outlined for points 1-3 above for E3 zones above, for land to be validly zoned as E3, it should contain native flora and fauna, and/or it should include sites that require further rehabilitation and re-vegetation so as to form a buffer between the E3 and land of even greater flora and fauna values (presumably E2 land).

With regard to point 4, E3 land could also be steep, erodible or highly saline land that requires special management in future so as to avoid detrimental impacts to water quality.

Given that the proposed zoning of Oxford Falls would place an E3 zoning across the entire area, then it follows that the area should be well endowed with native flora and fauna habitats and/or be highly constrained by steep slopes, erodible soils and/or salinity.

#### 3.2 Site Conditions - as reflected by Council & DOPI information

The subject sites are shown outlined in yellow on the aerial photograph below, which demonstrates that the land is predominantly cleared. At least 80% of the landscape within the subject sites is totally cleared of native vegetation and, based upon the site history, has been cleared for many years (Figure 2).

The flora and fauna values that would be required to validate the current proposed E3 zoning are not generally apparent in the current aerial photography (though some strips of modified bushland occur in some lots). There is minimal native vegetation remaining in the subject sites. Some have been totally cleared and others have thin strips of highly modified native vegetation within them (Figure 2).



**Figure 2 Spatial Map showing Vegetation Coverage of the Subject Site**

Analysis of the various Council mapping also shows the same trend. The majority of land is mapped by Council in 2006-7 as the least constrained category, having "no significant constraints to development". Presumably this mapping took into consideration the highly cleared nature of the subject land.

Council mapping of land within the locality also maps the Oxford Falls lands as being mainly "land cleared of vegetation".

The Cumulative Level of Environmental Constraint Map within the ***Draft Oxford Falls Valley & Belrose North Strategic Review*** maps the land as having "moderate" environmental constraints to development, the second lowest level of constraint in a five tiered classification:

1. No environmental constraints to development;
2. Moderate environmental constraints to development;
3. Significant environmental constraints to development;
4. Severe environmental constraints to development and
5. Prohibitive environmental constraints to development.

Analysis of the raw data sheets that were used to assess the land values of the subject sites within Oxford Falls shows that all land was noted to have high percentages cleared of native vegetation (60-90%), all with dwellings and all with mostly moderate collective levels of environmental constraints (though the data sheets do not define how this was determined).

Analysis of the land within the subject sites, based upon field inspection on the 22 August 2013, has verified that the land is heavily cleared and modified with little native vegetation remaining. There is abundant evidence across all sites that they have been cleared and subjected to a variety of land uses for many years. The key points to note are that native vegetation is largely absent; there are many fences and dwellings, gardens and weeds. Additionally, it was observed that a high proportion of most lots are either flat or gently sloping and that there is no major rock outcrops across wide areas.

The water courses in the area are very small and are lined with weeds that are typical of heavily cleared and modified urban and agricultural areas in the greater Sydney area.

From my 18 years of consultancy experience in the Sydney Region, Cumberland Ecology knows that there are numerous threatened flora and fauna species that can and do occur in the wider locality within intact sandstone vegetation surrounding the subject lots. However, it is also noted that there is essentially no habitat on the subject lots for threatened species. There are at most some thin strips of bushland that may support low quality habitat for some threatened birds and bats. However, given the condition of the habitat relative to other habitats in the study area the bushland on the subject sites is not likely to be used to any significant extent.

Given the highly modified conditions of the waterways on the subject sites, there is little to no chance of any of the subject sites forming significant habitats for threatened frogs.

These observations are illustrated in the series of photographs that were taken during site inspection on 22 August 2013 (**Appendix A**).

### **3.2.1** [REDACTED]

The majority (65%) of this lot has been entirely cleared and modified for housing and for activities including horse grazing. The northern third of the lot has modified sandstone native landscape vegetation and includes wildlife habitat in the form of heathland and woodland and rock outcrops. A wide variety of weeds, pasture plants and garden plants occur across the southern two thirds of the lot.

The southern portions (65%) are gently sloping land without major sandstone rock outcrops.

### **3.2.2** [REDACTED]

This lot has been cleared and modified for housing and gardens, horse grazing, stables and training, agricultural and machinery sheds, and open grassland areas. About 85% of the Lot has had all native vegetation removed.

The southern portions (85%) are gently sloping land without major sandstone rock outcrops.

### 3.2.3

This lot has been cleared and modified for housing and gardens and open grassland areas. About 90% of the Lot has had all native vegetation removed. Previously, this property was used for horse agistment and orchards over some years.

The southern portions (90%) are gently sloping land without major sandstone rock outcrops.

### 3.2.4

This lot is 90% cleared of native vegetation and has a house and infrastructure for an existing nursery, agricultural sheds and pasture. Aside from a strip of modified sandstone bushland in the west, this site lacks flora and fauna habitat. Previously, this lot was a chicken-farm until converted to a wholesale nursery by the current owners.

### 3.2.5

This lot is 90% cleared of native vegetation and has a house, machinery shed, stables and pasture. Aside from a strip of modified sandstone bushland in the south west, this site lacks flora and fauna habitat. Previously, this property was a chicken-farm.

### 3.2.6

This lot is 90% cleared of native vegetation and has operated as a horse boarding establishment for 40 years following use as a chicken farm and abattoir. The property now contains a house and infrastructure for stables and horse paddocks. The northern 10% of this lot consists of weedy vegetation with some native vegetation within it. It has very low conservation values.

## 4. Conclusion

The landscape of the subject sites is highly cleared and modified. It has evidently been inhabited for many years since the original European settlement took place and there is a history of a wide variety of sometimes intense land uses.

Little native flora and fauna remains and the overwhelming character of the subject sites is attributable to exotic gardens, exotic pastures and weeds together with various houses and infrastructure.

The current proposal for the E3 zoning is inappropriate on ecological or other environmental grounds for all of the subject sites under consideration. None of the sites can be described as

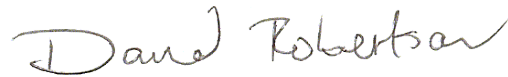
*"Land that has special scientific, cultural or aesthetic attributes, or land highly constrained by geotechnical or other hazards. This zone might also be suitable as a transition between areas of high conservation value and other more intensive land uses."*

It is strongly recommended that the proposed E3 zoning be changed to another zoning for these lands - a zone that encompasses the current land uses and the future land capability. The

highly modified lands of this zone are largely unsuitable for conservation and are highly unlikely to be rehabilitated to that purpose in the future.

If you have any queries regarding this letter, please don't hesitate to contact me on (02) 9868 1933.

Yours sincerely



Dr David Robertson

Director

[David.Robertson@cumberlandecology.com.au](mailto:David.Robertson@cumberlandecology.com.au)

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*Appendix A*

Photographs (Consultant)

Photographs (Consultant)

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**Photograph 1** Horse grazing in [REDACTED]



**Photograph 2** Sandstone vegetation (top left) in northern portion of [REDACTED]



**Photograph 3**      Moderate Condition Sandstone Bushland strip in [redacted] on northern border.



**Photograph 4**      Stables on [redacted]



**Photograph 5**      Stables on [REDACTED] (bushland in background is not on site)



**Photograph 6**      House on [REDACTED]



**Photograph 7** Looking from [REDACTED] (excluding buildings at rear of photo which are 60-place childcare centre on neighbouring property [REDACTED])



**Photograph 8** Back yard in [REDACTED] and thin strip of modified bushland on adjoining road reserve



**Photograph 9**      House on [REDACTED]



**Photograph 10**      Regrowth on south-western portion of [REDACTED]



Photograph 11



Photograph 12



**Photograph 13**



**Photograph 14** Pasture on [REDACTED] and bushland on crown land and road reserve



**Photograph 15** Pasture and exotic Banana palms on [REDACTED]



**Photograph 16** Pasture and nursery areas on [REDACTED]

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*Appendix B*

Photographs (Owners)

Photographs (Owners)

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Please note that the following photographs were provided by the owners for clarification purposes.



**Photograph 17** [REDACTED] pasture area and horse stables



**Photograph 18** [REDACTED] facing north from house to lawn area, vineyard and orchard



**Photograph 19** [REDACTED] front lawn facing south from house



**Photograph 20** [REDACTED] horse arena and stables

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*Appendix C*

Tables of Comparison

Tables of Comparison

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## **C.1 Excerpts from the Draft Oxford Falls Valley & Belrose North Strategic Review**

### ***C.1.1 E3 Environmental Management zone***

The E3 Environmental Management zone is to be applied to land that has special ecological, scientific, cultural or aesthetic attributes, or land highly constrained by geotechnical or other hazards. This zone might also be suitable as a transition between areas of high conservation value and other more intensive land uses.

The Environmental Management zone may be applied on land:

- With special ecological, scientific, cultural or aesthetic attributes;
- Where rehabilitation of the land's environmental qualities is required, as a transition between high conservation value land and other land;
- With native vegetation or forest cover; and
- That is highly constrained where slope, erodible soils or salinity may have a key impact on water quality.

Warringah LEP 2011 uses the E3 Environmental Management zone for 3 former localities: Mona Vale Road North, Mona Vale Road East and Mona Vale Road West.

### ***C.1.2 Objectives of zone***

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.
- To ensure that development, by way of its character, design, location and materials of construction, is integrated into the site and natural surroundings,
- Complements and enhances the natural environment and has minimal visual impact.
- To protect and enhance the natural landscape by conserving remnant bushland and rock outcrops and by encouraging the spread of an indigenous tree canopy.
- To protect and enhance visual quality by promoting dense bushland buffers adjacent to major traffic thoroughfares.

**Table 1 Plot Attributes in Relation to E3 Zoning Indicators**

| E3<br>Environmental<br>Management<br>zone - Indicators                                                                                       | Subject Sites                                                                         |                                                                 |                                                                 |                                                                 |                                                                 |                                                                 |
|----------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|-----------------------------------------------------------------|-----------------------------------------------------------------|-----------------------------------------------------------------|-----------------------------------------------------------------|-----------------------------------------------------------------|
|                                                                                                                                              |                                                                                       |                                                                 |                                                                 |                                                                 |                                                                 |                                                                 |
| <b><i>The Environmental Management zone may be applied on land:</i></b>                                                                      |                                                                                       |                                                                 |                                                                 |                                                                 |                                                                 |                                                                 |
| With special ecological, scientific, cultural or aesthetic attributes.                                                                       | Largely cleared - these values don't exist (on all bar the northern vegetation strip) | Largely cleared - these values don't exist                      | Largely cleared - these values don't exist                      | Largely cleared - these values don't exist                      | Largely cleared - these values don't exist                      | Largely cleared - these values don't exist                      |
| Where rehabilitation of the land's environmental qualities is required, as a transition between high conservation value land and other land. | As above - only a transition zone in the northern strip                               | As above - only a transition zone in the northern strip         | Not a transition zone                                           | Not a transition zone                                           | Not a transition zone                                           | Not a transition zone                                           |
| With native vegetation or forest cover.                                                                                                      | Mostly cleared                                                                        | Mostly cleared                                                  | Mostly cleared                                                  | Mostly cleared                                                  | Mostly cleared                                                  | Mostly cleared                                                  |
| That is highly constrained where slope, erodible soils or salinity may have a key impact on water quality.                                   | Land not highly constrained - soils and slope not as described.                       | Land not highly constrained - soils and slope not as described. | Land not highly constrained - soils and slope not as described. | Land not highly constrained - soils and slope not as described. | Land not highly constrained - soils and slope not as described. | Land not highly constrained - soils and slope not as described. |

**Table 1 Plot Attributes in Relation to E3 Zoning Indicators**

| E3<br>Environmental<br>Management<br>zone - Indicators | Subject Sites                                                                          |                                                                                                            |                     |                     |                     |                     |
|--------------------------------------------------------|----------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|---------------------|---------------------|---------------------|---------------------|
|                                                        |                                                                                        |                                                                                                            |                     |                     |                     |                     |
| Conclusion                                             | E3<br>inappropriate<br>(except<br>narrow<br>northern strip<br>of native<br>vegetation) | E3<br>inappropriate<br>(except small<br>and<br>insignificant<br>northern strip<br>of native<br>vegetation) | E3<br>inappropriate | E3<br>inappropriate | E3<br>inappropriate | E3<br>inappropriate |

## C.2 Rural Zones

### C.2.1 RU4 Primary Production Small Lots

The RU4 Primary Production Small Lots zone is intended for land which is to be used for commercial primary industry production and not for land that is primarily residential in function. Warringah Council currently applies this zone in Duffys Forest and Terrey Hills.

## C.3 Residential Zones

### C.3.1 R2 Low Density Residential Zone

The R2 Low Density Residential zone is the lowest density urban residential zone which aims to provide for the housing needs of the community within a low density residential environment. The zone is generally restricted to services that meet the day-to-day needs of residents.

Warringah LEP 2011 applies the R2 Low Density Residential zone in large parts of the Local Government Authority and permits uses such as boarding houses, dwelling houses and group homes.

### C.3.2 R3 Medium Density Residential Zone

The R3 Medium Density Residential zone is for land comprising of medium density accommodation. A variety of residential uses have been mandated in the zone to encourage housing choice and diversity. The R3 Medium Density Residential zone is generally applied in locations close to or within centres with a diverse range of established services and infrastructure.

Warringah LEP 2011 contains the R3 Medium Density Residential zone, and permits attached dwellings, dual occupancies, dwelling houses, multi dwelling housing, neighbourhood shops, residential flat buildings and seniors housing.

### ***C.3.3 R5 Large Lot Residential Zone***

The R5 Large Lot Residential zone is intended to cater for development that provides for residential housing in a rural setting and is generally located at the interface of environmentally sensitive land along one boundary and urban land along the other.

Warringah LEP 2011 does not currently use the R5 Large Lot Residential zone.

## **C.4 Schedule 1 - Additional Permitted Uses**

Clause 2.5 of the Standard Instrument Order allows councils to permit additional uses for particular land. These uses are permitted in addition to those identified in the LEP Land Use Table or other planning instruments such as the ISEPP. Additional permitted uses are to be inserted in Schedule 1 of the LEP and may be mapped.

For clarity, land use permissibility should preferably be controlled by the zones and the Land Use Table. Where this is not possible and the intended outcome is adequately justified by council, the use of Schedule 1 may be acceptable. Generally, additional listings under LEP Schedule 1 should be minimised and should only proceed where council can demonstrate that there is no other acceptable zoning solution.

For the purposes of this strategic review, it was agreed that the use of Schedule 1 would be used sparingly and only in circumstances where it is difficult for the land use permissibility to be controlled by the Land Use Table. Generally, it is proposed that anomalous or non conforming sites are managed by existing use rights provisions of the Environmental Planning and Assessment Act 1979.

Warringah LEP 2011 currently has 18 items listed under Schedule 1.

Schedule 1(18) relates to the use of certain land in the vicinity of Mona Vale and Myoora Roads, Terrey Hills (Area 1). This land is zoned RU4 Primary Production Small Lots but Schedule 1 also allows for:

- Educational establishments;
- Garden centres;
- Hospitals;
- Hotel or motel accommodation;
- Places of public worship;
- Recreation areas;

- Recreation facilities (indoor), recreation facilities (outdoor); and
- Registered clubs and restaurants or cafes.

Part of this strategic review considers whether it is suitable for Schedule 1(18) controls to be expanded to parts of the study area.

Submission Number: 118  
Confidential

**Platinum.Biz**

Ref: 130830

2/41 Eastern Creek Drive,  
Eastern Creek 2766  
NSW Australia  
E: [contact@platinumbiz.org](mailto:contact@platinumbiz.org)

Date: August 30, 2013

Department of Planning and Infrastructure  
Oxford Falls Valley and Belrose North Strategic Review

Ref: [REDACTED]  
[REDACTED]

**Dear Sir**

We respond to the Oxford Falls Valley and Belrose North Strategic Review.

Our Client, the owner and resident of [REDACTED]  
[REDACTED] has requested us to prepare and lodge a submission on their behalf, regarding the Oxford Falls Valley and Belrose North Strategic Review.

The site is currently zoned B2.

Under this Zone classification and on behalf of our client we have been preparing a compliant development application for the development of housing for older people (independent living) on the referenced site.

This site is our client's primary asset and the planned development would provide our client with the financial wherewithal to support themselves. The proposed rezoning to E3 would result in a significant financial disadvantage for our client.

To this end our client has invested significant funds in the undertaking of preliminary site and design studies for the proposed housing for older people (independent living). The funds invested to date are significant, and failure to progress with the planned development would seriously disadvantage our client.

These site and design studies have included:

- Engagement of a Town Planner to establish the compliance parameters that would be required for the proposed development.
- Engaged Real Estate and Valuation advisors to prepare market evaluation case studies to provide an overall 'proof of concept' as well as establishing marketplace parameters to be used as an overall guide to the commercial viability of the proposed development.
- Engaged Environmental Engineers and advisors to ensure that the proposed development would meet all existing controls and be sympathetic to the site and local area environment.
- Engaged Civil and Hydraulic Engineers to undertake a site evaluation and prepare a detailed report on the site conditions and define the Civil/Hydraulic parameters affecting the proposed development.
- Engaged Electrical Engineers to prepare a detailed concept plan to supply and distribute electrical and communications services to the proposed development.

- Engaged Traffic Engineers to undertake a detailed study and prepare a draft independent report relative to the proposed development.

Subsequent to securing adequate development funding, on our client's behalf we have engaged Architects, Structural Engineers and Quantity Surveyors who working in cohort with real estate advisors have substantially completed concept and option plans for housing for older people (independent living).

Compilation of documentation sufficient for lodgement of a compliant development application is expected to be completed within the next 6 months.

Over two thirds of the site has been previously cleared and used as a commercial chicken and egg production facility prior to the construction of a large residential house. The preliminary environmental reports undertaken show no sensitive or endangered flora or fauna that would be affected or endangered in the proposed development area. The sensitive flora and fauna sites would not be developed.

We note that council has consented to medium density units adjacent to the site on the northern boundary.

We request the Department of Planning and Infrastructure consider maintaining the zone as B2 to allow the partial development of this site for housing for older people (independent living). This would allow our client to realise the potential of the site allowed under B2 zoning. We also note our client would incur significant financial disadvantage if the site was rezoned E3, we request the Department of Planning provide advice and guidance on this matter. Our Client is deeply concerned regarding the rezoning and potential financial losses.

Yours sincerely

Andrew Brackin  
Managing Director

**Submission Number: 119**

Confidential

This is a very precious part of Sydney; it should be protected at all costs. It annoys me listening to owners of acreage properties, who've lived life to the full raising their family and are now empty nesters, w wishing to sell off their property for subdivision or retirement living! No more land is being made, once it's sold off and redeveloped, that's it, gone forever - tragedy!

The MLALC's decision to apply for land around Belrose Oxford Falls to be protected under National Parks is fantastic. Preserving this land for current and future generations, also making it into an Aboriginal managed tourism attraction is brilliant idea.

I and my family completely support the preservation of this beautiful area for the benefit of all Sydneysiders.



CONOMOS LEGAL  
DEVELOPMENT & PLANNING LAWYERS

30 August 2013

Department of Planning and Infrastructure  
Sydney East Region  
GPO Box 39  
SYDNEY NSW 2001

Dear Sir

**Written Submission - Oxford Falls Valley and Belrose North Strategic Review  
Lots 1059, 1068 and 1071 Spicer Road South, Oxford Falls  
Our Ref: VC:KB:S9212**

We act for the following land owners:

1. Message Marketing Pty Ltd (Director Mr M Nowytarger) – owner of lot 1068 Spicer Road South, Oxford Falls;
2. Mr J Spiegel – owner of lot 1071 Spicer Road South, Oxford Falls; and
3. Mr S Williams – owner of lot 1059 Spicer Road South, Oxford Falls.

Our clients on this matter attended the writer's office in early August expressing their concern regarding the land use zoning proposed in the "Oxford Falls Valley and Belrose North Strategic Review", which proposes to zone their respective allotments as E3 Environmental Management.

After detailed consideration of exhibited documentation relating to the matter and after also having had the opportunity to review the submission of the Warringah Urban Fringe Association, the writer recommended to the above three property owners that the writer undertake a view of their properties. We also recommended that our clients retain the technical expertise of GSA Planning, town planners and Dr Kevin Mills, ecologist, of Kevin Mills and Associates.

The writer has specialised in local government and planning law since being admitted as a lawyer in 1997. During that time we have been involved in a large number of matters involving ecological issues. Some of the cases that we have been involved in have become case law precedent over time. On a large number of those matters we have retained the services of Dr Kevin Mills, who is a highly respected expert witness in the Land and Environment Court.

We have also been involved in a number of projects with GSA Planning, town planners. They are known for their expertise with regard to the preparation of Statements of Environmental Effects and in the preparation of rezoning applications.

The writer recommended to our clients that the engagement of the above experts was warranted on this matter and that it was our opinion that those experts would form the conclusion that lots 1059, 1068 and 1071 did not warrant an E3 zoning. We were of the opinion that a forensic analysis of these particular allotments by the experts (as opposed to the desktop analysis undertaken for the strategic review) would demonstrate that this E3 zoning was not the appropriate zoning for the allotments.

During the writer's own site attendance it was quite obvious that the majority of the areas of the allotments were cleared and could be seen as of no ecological value. Coupled with the extent of clearing of the land, sheds, and semi rural uses were clearly evident on the allotments.

The writer's own opinion was fortified by the opinions of Dr Mills, once he had attended the subject allotments. Dr Mills prepared a report, which is annexed to this letter.

Dr Mills, in his report, observes that *all lots have a long history of rural and/or industrial use. Existing and approved developments and activities include horse stabling and agistment operation, operation of a home business, market gardening, orchards, alpaca grazing, a vineyard, quarrying of sandstone, removal of a large amount of soil and chicken farms. Today all lots contain houses, sheds, dams and/or roadways, and the evidence of past quarrying and other activities is clearly visible.*

Dr Mills further observes that *Lots 1068 and 1059 are not identified as land for consideration as E3 zone on any map, yet the zoning map proposes such a zone over both lots.*

Dr Mills concludes in his report that, *after inspecting the subject properties, it is our view that the majority of the land contained on the three properties is not "significantly constrained by environmental factors". He states that although we are not claiming to be town planners, it seems to us that one or more of the rural zones would be more appropriate for much of the Oxford Falls land. We have no disagreement with an E3 zoning over land that clearly has high environmental value such as natural bushland, or indeed for other land that, although disturbed/partly cleared, may form useful buffers or corridors that supplement bushland areas. This is not the case with the subject lots.*

Also attached to this letter is a report prepared by GSA Planning. That town planning report provides photographs of the subject allotments, as they exist today, and provides a detailed description of each of the allotments. The report also identifies

that the subject site is located approximately 22km north of the Sydney GPO, 5.5km from Warringah Mall, 4km from Forestway Shopping Centre Warringah, and approximately 1km from a new hospital being constructed on the corner of Warringah Road and the Wakehurst Parkway. The site is located within the local Government Area(LGA) of Warringah. The town planning report identifies that these properties are largely cleared of vegetation and do not exhibit the characteristics or qualities of the E3 zone.

The GSA Planning report provides the following expert town planning opinion:

*In our opinion, there are a number of compelling planning reasons to support our findings that the E3 zone is not appropriate. Our reasons for objecting to the proposed E3 zone are as follows:*

- 1. This is not the correct zone for the subject site;*
- 2. Inaccuracy of the site constraints – the subject sites are mostly cleared and do not contain any significant or special ecological vegetation;*
- 3. The E3 zone is inconsistent with Warringah LEP 2000;*
- 4. The proposed zoning is inconsistent with the existing uses- our clients would have to rely on existing use rights to develop their land; and*
- 5. There are more appropriate zonings for the subject sites.*

The report also indicates that, in the opinion of GSA Planning, *having regard to the existing site conditions, zoning and uses on site, in our opinion, an RU4 or R5 zone would be more appropriate.*

Having had the benefit of reviewing relevant documentation; attending the relevant properties and reviewing the attached expert reports, we are of the opinion that the Draft Study is in error as it relates to our clients' properties.

The "facts" upon which the conclusions are drawn, as the report relates to our clients properties, are fundamentally inaccurate. On that basis alone, the findings of the study, as they relate to our clients properties, must necessarily also be flawed.

Any decision to endorse the study, as it currently relates to our clients properties, would in our opinion be manifestly unreasonable and without proper foundation.

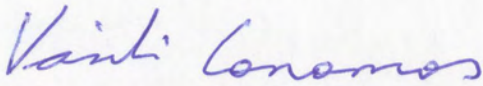
The attached expert reports identify the inaccuracies in the "Oxford Falls Valley and Belrose North Strategic Review" (as it relates to our clients properties) and make abundantly clear that an obvious injustice would eventuate if the E3 zoning is applied to our clients' properties. For the purpose of the current study, as recommended by GSA Planning, the correct zoning to be applied should be RU4 or R5.

We are pleased that the NSW planning process facilitates public comment regarding draft strategic reviews so that anomalies or inaccuracies can be addressed and rectified at a relatively early stage in the planning process.

We would trust that the Department of Planning and Infrastructure will adopt the recommendation of GSA Planning and Kevin Mills and Associates that the E3 zoning not apply to our clients properties but rather that the RU4 or R5 zoning should currently apply for the purpose of the Strategic Review.

We and our clients' experts would be happy to meet with the Department of Planning and Infrastructure to discuss in greater detail any aspect of this letter or the attached reports, if required.

Yours faithfully



Vasili Conomos

Encl.



# OBJECTION TO DRAFT OXFORD FALLS AND BELROSE NORTH STRATEGIC REVIEW

## **Lots 1059, 1068 and 1071 Spicer Road South Oxford Falls**

Prepared for:  
Mr M. Nowytarger, Mr J. Spiegel and Mr S. Williams  
C/- Conomos Legal  
Suite 8, Level 6  
229 -231 Macquarie Street  
SYDNEY NSW 2000

Prepared by:  
**GSA PLANNING**  
**Urban Design, Environmental & Traffic Planners**  
(A.B.N 18 003 667 963)

JOB NO. 13261  
August 2013

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## 1.0 INTRODUCTION

This submission has been prepared for Mr M. Nowytarger, Mr J. Spiegel and Mr S. Williams by Gary Shiels & Associates Pty Ltd – (hereafter referred to as GSA Planning). GSA Planning has expertise in Urban Design, Environmental & Traffic Planning.

This submission to Warringah Council is an objection to the proposed E3 Environmental Management zone in the Draft Oxford Falls Valley and Belrose North Strategic Review for Lots 1059, 1068 and 1071 Spicer Road South, Oxford Falls (hereafter referred to as Lots 1059, 1068 and 1071, respectively, and the “subject site”, collectively). The E3 zone is totally inappropriate for the subject site as these properties are largely cleared of vegetation and do not exhibit any characteristics or qualities of this zone.

In our submission, the proposed zoning is inappropriate for the following compelling reasons:

1. This is not the correct zone for the subject site;
2. Inaccuracy of the site constraints - the subject sites are mostly cleared and do not contain any significant or special ecological vegetation;
3. Proposed zoning based on inaccurate site constraints mapping;
4. The E3 Zone is inconsistent with Warringah LEP 2000;
5. The proposed zoning is inconsistent with the existing uses - our client's would have to rely on existing use rights to develop their land; and,
6. There are more appropriate zonings for the subject site.

Our submission is supported by an expert ecological Report prepared by Kevin Mills & Associates.

On the basis of the above, the E3 zoning is not appropriate and Council should consider zoning the subject site RU4 Primary production Small Lots, or alternatively R5 Large Lot Residential.

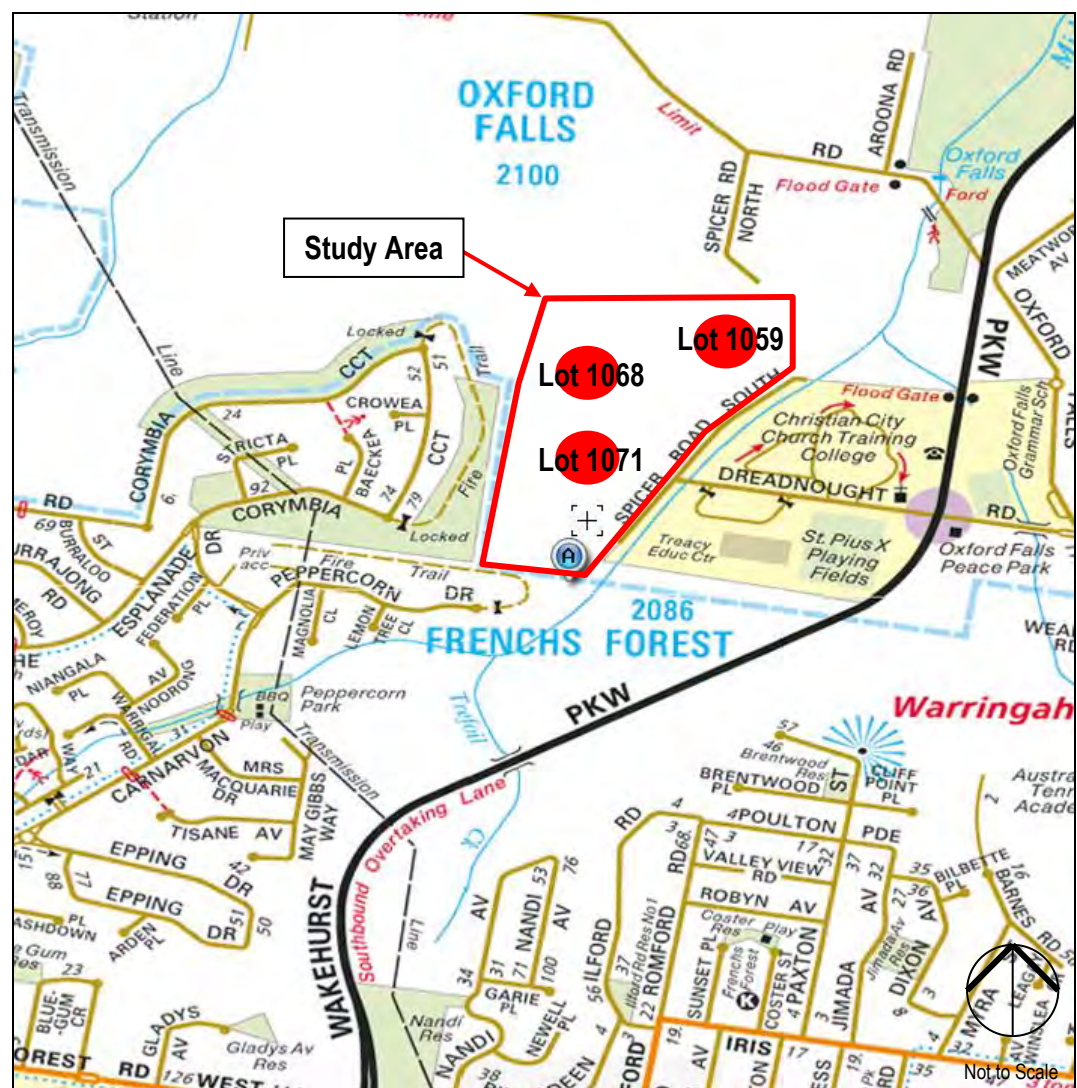
In the following sections we will provide a brief site analysis, a description of the existing and proposed statutory controls, our justification for the proposed variation to the draft zoning, and a conclusion.

## 2.0 SITE ANALYSIS

This section will contain a description of the following: The Locality; The Site; Topography; Existing Built Form; Existing Landscaping; The Character and Context; and Surrounding Road Network.

### 2.1 The Locality

The subject site is located approximately 22km north of the Sydney GPO, 5.5km from Warringah Mall, 4km from Forestway Shopping Centre Warringah, and approximately 1km from a new hospital being constructed on the corner of Warringah Road and the Wakehurst Parkway. The site is located within the local Government Area (LGA) of Warringah (see Figure 1).



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**Figure 1:**  
Location Map

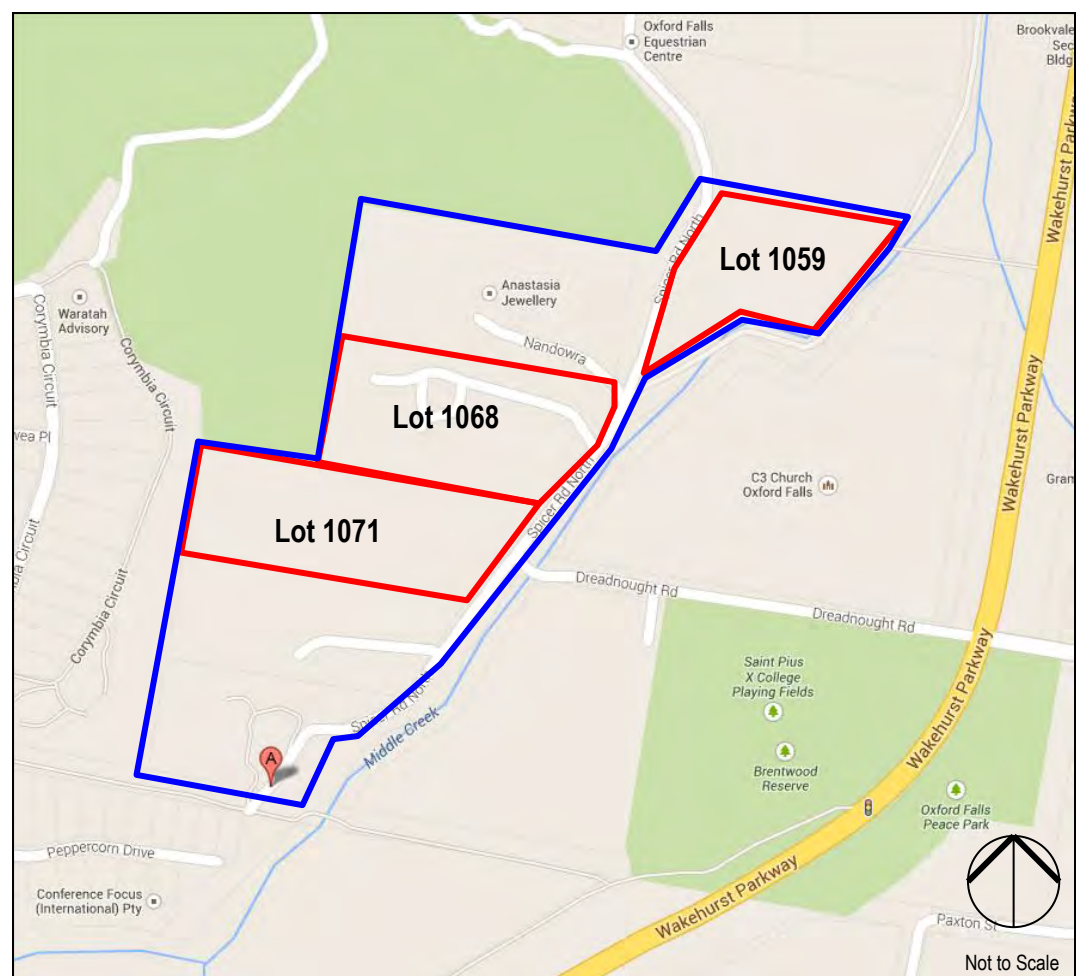
## 2.2 The Study Area

This submission is made on behalf of the owners of Lot Nos. 1059, 1068 and 1071 Spicer Road South, Oxford Falls. Collectively, these three properties are hereafter referred to as the subject site. In our opinion, it makes planning sense to include all of the properties along Spicer Street South in this submission as they have similar attributes to our client's properties. Accordingly, the study area comprises six allotments on the eastern and western side of Spicer Road South. Properties along Spicer Road North have not been included in this submission as they are part of a separate Report.

The study area comprises Lots 1059, 1066, 1068, 1070, 1071 and 1073 Spicer Road South. These properties are rural residential lots and are largely cleared of bushland.

## 2.3 The Subject Site

The subject site comprises three allotments including Lot Nos. 1059, 1068 and 1071 Spicer Road South, Oxford Falls (see Figure 2 below and Figure 3 on page 4).



Source: Google Maps

 Study Area

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**Figure 2:  
Location Plan**

Lot 1059 is located on the eastern side of Spicer Road South and is an irregular shaped parcel of land with an approximate area of 1.54 hectares. Lot 1068 is located on the western side of Spicer Road, to the south west of Lot 1059. Lot 1068 is an irregular shaped parcel of land and a site area of approximately 2.35 hectares. Lot 1071 is located on the western side of Spicer Road South, immediately to the south of Lot 1068. Lot 1071 is a trapezoidal parcel of land and has a site area of approximately 2.3 hectares.



Source: Google Maps

 Study Area



Not to Scale

**Figure 3: Aerial View**

## 2.4 Existing Built Form

**Lot 1059** is a large rural residential property occupied by a single storey dwelling that is currently under construction (see Photograph 1). Other improvements on the site include an older dwelling, which is to be demolished (see Photograph 2). The site is used for residential and agricultural purposes. The land is mostly cleared. The Hardstand Plan submitted for Lot 1059 Spicer Road South (DA No. 2011/0697) indicates a small section of remnant gully forest along the western boundary and a pocket of casuarinas on the south eastern corner. The site also contains a small number of alpacas (see Photographs 3 and 4).



**Photograph 1:** Existing dwelling on Lot 1059



**Photograph 2:** Other improvements on Lot 1059



**Photograph 3:** Cleared land at Lot 1059



**Photograph 4:** Cleared land and alpacas at Lot 1059

**Lot 1068** is a large rural residential property occupied by a single storey dwelling (see Photograph 5). Other improvements on the site include a car port, small shed and two larger sheds (see Photograph 6). The site is used for residential and commercial purposes. The land is completely cleared with a few indiscriminate species scattered around the site (see Photograph 7). To the rear of the site is a parcel of Crown land. The south eastern corner of the Crown parcel is completely cleared (see Photograph 8).



**Photograph 5:** Existing dwelling on Lot 1068



**Photograph 6:** Other improvements on Lot 1068



**Photograph 7:** Cleared land at Lot 1068 looking east



**Photograph 8:** Cleared land at Lot 1069 looking west



**Photograph 9:** Crown Land to the west of Lot 1068



**Photograph 10:** Crown Land to the west of Lot 1068

**Lot 1071** is a large rural residential property occupied by a two storey primary dwelling and single storey secondary dwelling (see Photographs 11 and 12). Other improvements on the site include a small shed, a large shed, a horse stable for 16 horses, a swimming pool and a dam (see Photographs 13 and 14). The land is largely cleared with approximately 10 per cent of the site containing bushland (see Photographs 15 and 16).



**Photograph 11:** Existing dwelling on Lot 1071 as viewed from the rear of Lot 1068.



**Photograph 12:** Secondary dwelling on Lot 1071.



**Photograph 13:** Shed and horse stable on Lot 1071.



**Photograph 14:** Dam and horse stable on Lot 1071.



**Photograph 15:** Cleared land and existing structures on Lot 1071 looking west.



**Photograph 16:** The only bushland at the rear Lot 1071 looking west (approx. 10%).

## 2.5 Existing Character and Context

As indicated, the study area comprises rural residential allotments containing dwellings, agricultural land and some commercial operations. The area surrounding the study area comprises a mixture of rural residential allotments, residential subdivisions, community uses and sport and recreational uses. Middle Creek runs north to south along the Spicer Road alignment.

### 2.5.1 Development to the North

To the north of Lot 1059 is Lot 1058, which is a large rural residential property comprising a dwelling, swimming pool and a number of sheds. Further to the north at Lot A Spicer Road north is a large property comprising a dwelling, swimming pool, sheds, dam and equestrian centre.

To the north of Lot 1068 is Lot 1066, which forms part of the study area. Lot 1066 comprises a dwelling, a number of sheds and a dam in the rear of the property. Lot 1066 is largely cleared with a few indiscriminate species scattered around the property.

### 2.5.2 Development to the East

To the east, on the opposite of Spicer Road South are C3 Church (34 Wakehurst Parkway), St Pius X College and playing fields (1 Dreadnought Rd, Oxford Falls) and Oxford Falls Grammar School (1078 Oxford Falls Road). These sites have been extensively cleared to accommodate building structures, car parks, sheds and fields.

### 2.5.3 Development to the South

To the south of Lots 1068 and 1071 are Lots 1072 and 1073, which form part of the study area. Lot 1072 comprises a single storey dwelling above garage and a granny flat with manicured lawns (see Photographs 17 and 18). Lot 1072 is largely cleared of vegetation with the exception of some bushland atop the escarpment at the rear of the property (see Photograph 19). Further to the south is Lot 1073, which is occupied by a rock quarrying business and a dwelling (see Photograph 20). Further to the south is a residential subdivision (see Photographs 20 and 21).



**Photograph 17:** Existing dwelling on Lot 1072.



**Photograph 18:** Landscaping on Lot 1072.



**Photograph 19:** Cleared land and escarpment on Lot 1072.



**Photograph 20:** Rock quarry at Lot 1073.



**Photograph 21:** The rear of a residential subdivision to the south.



**Photograph 22:** The rear of a residential subdivision to the south.

#### **2.5.4 Development to the West**

To the west are a residential subdivision and the Oxford Falls Regional Crown Reserve which contains bushland (see Photographs 23 and 24).



**Photograph 23:** The rear of a residential subdivision to the west.



**Photograph 24:** The rear of a residential subdivision to the west.

## 3.0 EXISTING AND PROPOSED PLANNING CONTROLS

### 3.1 Warringah Local Environmental Plan 2011

The Warringah Local Environmental Plan (LEP) 2011 was gazetted 9 December 2011 in accordance with the State Government's *Standard Instrument (Local Environmental Plans) Order 2006*, which requires local Councils to implement a 'Standard Instrument' LEP. Certain parts of Warringah are not covered by the new LEP 2011, including land in the B2 Oxford Falls Valley and C8 Belrose North localities. These areas have been 'deferred' by the State Government and will remain under the provisions of LEP 2000 until a review of deferred lands is complete and a planning proposal is approved to amend WLEP 2011. The subject site is located in the B2 Oxford Falls Valley locality and LEP 2000 therefore applies.

### 3.2 Warringah Local Environmental Plan 2000

The Warringah LEP 2000 was gazetted on 5 December 2000 and applies to the subject site and the study area, which is located in the B2 Oxford Falls Valley locality. The desired future character of Oxford Falls includes new detached style housing and low intensity, low impact uses. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services. Buildings should be designed to blend with the colours and textures of the natural landscape.

Under the LEP 2000, Category One and Two development will have a minor environmental impact and will not, to any significant extent, alter the bulk, size or scale of any existing building or existing land use. Category Three development will have a greater impact and would be subject to an independent public hearing and assessment.

The LEP 2000 permits a variety of uses including agriculture, housing and housing for older persons or people with a disability (on land that adjoins urban land) as Category Two development in B2 Oxford Falls. Animal boarding or training establishments; bulky goods shops; business premises; child care centres; community facilities; entertainment facilities; further education; health consulting rooms; heliports; hire establishments; hospitals; hotels; industries; medical centres; motor showrooms; offices; places of worship; primary schools; recreation facilities; registered clubs; restaurant; retail plant nurseries; service stations; shops; short term accommodation; vehicle repair stations; veterinary hospitals; and warehouses are permitted with consent as Category Three developments.

The Locality Statement requires a building density of not more than one dwelling per 20ha with a building height limit of 8.5m and wall height of 7.2m.

The subject site does not contain acid sulphate soils. Council's mapping system identifies the site as containing flood prone land and bushfire prone land requiring a vegetation buffer.

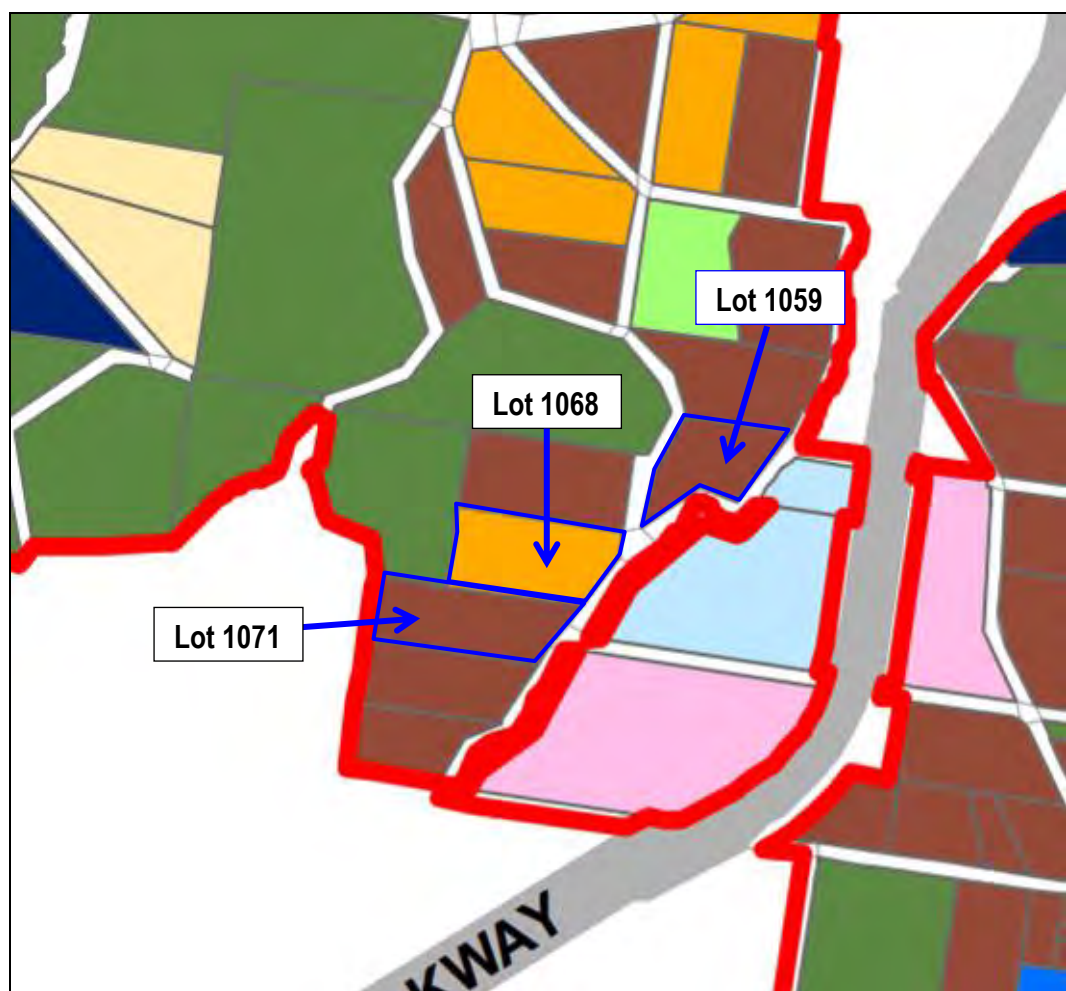
### 3.3 Draft Oxford Falls Valley and Belrose North Strategic Review

Warringah Council and the Department of Planning and Infrastructure (DoPI) have undertaken a review of Deferred Land for Oxford Falls Valley. The review will allow Oxford Falls Valley to be translated into Warringah's standard LEP.

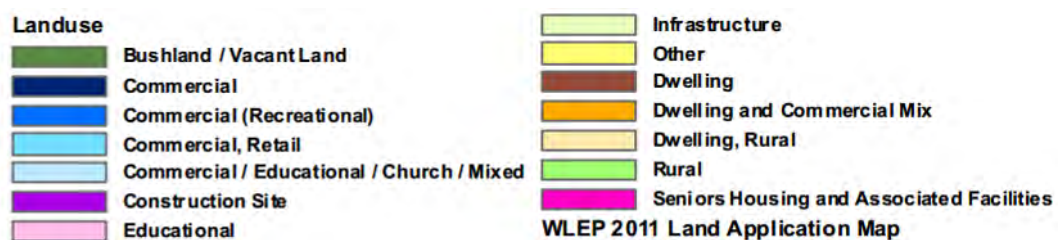
Under the draft LEP 2011, B2 Oxford Falls Valley was proposed to be zoned E3 Environmental Management. Following a number of submissions against the E3 zoning, the Minister for Planning and Infrastructure resolved to defer Oxford Falls Valley and the locality would remain under the LEP 2000.

In June 2012, Council resolved to undertake a joint strategic review with DoPI of the Oxford Falls Valley (and Belrose North) locality. That review is the Draft Oxford Falls Valley and Belrose North Strategic Review, dated April 2013 and on exhibition until 30 August 2013.

The Strategic Review contains a Land uses Analysis, which identifies the land uses of properties throughout the Oxford Falls Valley and North Belrose localities. Lots 1059 and 1071 are identified as a dwelling land use. The land use of Lot 1068 is a dwelling and commercial mix. The remainder of the study area has a dwelling land use. No allotment in the study area is identified as bushland.

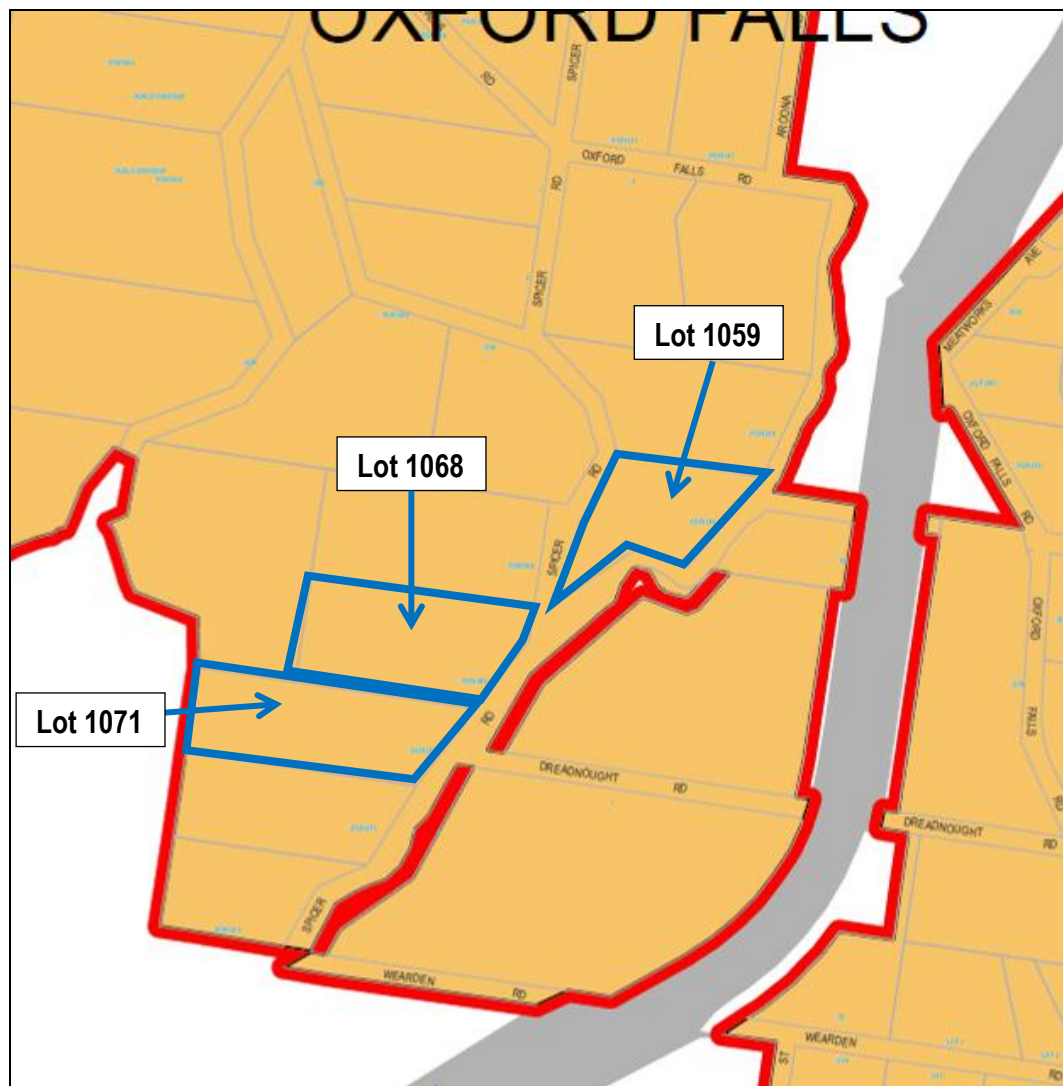


Source: Draft Oxford Falls Valley and Belrose North Strategic Review, April 2013



**Figure 4: Land Use Analysis**

Under the Strategic Review, the subject sites and the study area are designated to be E3 Environmental Management (see Figure 5).



Source: Draft Oxford Falls Valley and Belrose North Strategic Review, April 2013

| Draft Land Zones                                                                    |    |                          |                                                                                                                       |
|-------------------------------------------------------------------------------------|----|--------------------------|-----------------------------------------------------------------------------------------------------------------------|
|  | E3 | Environmental Management |  R5 Large Lot Residential          |
|  | R2 | Low Density Residential  |  RU4 Primary Production Small Lots |
|                                                                                     |    |                          |  SP2 Infrastructure                |

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**Figure 5:**  
**Draft Zoning Plan**

The objectives of the E3 zone are stated, inter alia:

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.
- To ensure that development, by way of its character, design, location and materials of construction, is integrated into the site and natural surroundings, complements and enhances the natural environment and has minimal visual impact.
- To protect and enhance the natural landscape by conserving remnant bushland and rock outcrops and by encouraging the spread of an indigenous tree canopy.
- To protect and enhance visual quality by promoting dense bushland buffers adjacent to major traffic thoroughfares.

The objectives place a strong emphasis on preserving areas with ecological, scientific, cultural or aesthetic values, enhancing the natural environment and conserving remnant bushland. The subject sites and indeed the study area are largely cleared and do not contain significant areas of bushland or areas with ecological, scientific, cultural or aesthetic values. This is confirmed and discussed in detail in Section 4.0 of this submission. In our opinion, the subject site and study area as existing would not be able to satisfy the objectives of the E3 zone. In our opinion, the proposed zone is therefore inappropriate.

Under the E3 zone, development for the purposes of aquaculture; bed and breakfast; accommodation; building identification signs; business; identification signs; community facilities; dwelling houses; emergency services facilities; environmental facilities; environmental protection works; extensive agriculture; farm buildings; home businesses; home industries; horticulture; recreation areas; and roads are permitted with consent.

Development for the purposes of industries; multi dwelling housing; residential flat buildings; retail premises; seniors housing; service stations; warehouse or distribution centres; or any other development are not specified above.

Under the LEP 2011, extensive agriculture means, inter alia:

- a) the production of crops or fodder (including irrigated pasture and fodder crops) for commercial purposes,
- b) the grazing of livestock for commercial purposes,
- c) bee keeping,
- d) a dairy (pasture-based).

The E3 zoning does not permit commercial premises or intensive livestock agriculture (which means the keeping or breeding, for commercial purposes, of cattle, poultry, pigs, goats, horses or other livestock that are fed wholly or substantially on externally-sourced feed, and includes dairies (restricted), feedlots, piggeries, poultry farms but does not include extensive agriculture, aquaculture or the operation of facilities for drought or similar emergency relief). That is, the existing land uses on Lots 1068 and 1071, commercial and horse stabling would not be permissible in the zone.

The key development standards will remain as existing, with a maximum housing density of one dwelling per 20ha of site area and maximum building height of 8.5m.

## 4.0 OTHER RELEVANT STUDIES

The Strategic Review has been on exhibition from June 2013 and submissions have been welcomed as part of the planning process. During the exhibition period, other relevant studies have been undertaken by interested parties, including the Warringah Urban Fringe Association and Kevin Mills & Associates. These will now be discussed.

### 4.1 Warringah Urban Fringe Association

The Warringah Urban Fringe Association (WUFA) made a Submission to the E3 Strategic Review on 7 August 2013. This submission followed earlier submissions made by WUFA prior to the Draft Strategic Review being prepared.

WUFA advocates the views of 152 landowners in the Strategic Review Study Area and submit that the E3 zoning is not appropriate for their land on the following grounds:

- Desired future character;
- Objectives of E3 not followed;
- Translation not based on LEP 2000 – agricultural focus missed;
- Seniors housing not translated properly;
- Environmental constraints not applied logically;
- Inaccuracy of constraints;
- Inaccuracy of the site analyses;
- Data used has not been presented to council or adopted;
- Data not based on scientific research;
- Data not from robust data sources and analysis;
- Proximity to key centres; and,
- Land identified as non-urban in the Draft North East Subregional Strategy

In the Executive Summary, the WUFA submission states inter alia:

“We feel the strategic review has correctly zoned the properties shown as SP2, RU4 and R5, but has incorrectly zoned some properties as E3 which should have been RU4.”

The WUFA submission included a zoning map showing proposed their proposed zonings for the Strategic Review Area. The subject site is proposed by WUFA to be RU4 (see Figure 6 on the following page).

### 4.2 Report by Kevin Mills & Associates Ecological and Environmental Consultants

Kevin Mills of Kevin Mills & Associates Ecological and Environmental Consultants inspected the subject site and prepared an ecological report to the Strategic Review. Kevin Mills & Associates investigated the environmental attributes of the land and provided an opinion on the suitability of the proposed E3 zone for the subject sites.

The Report notes that Lot 1059 is about 90 per cent cleared. The remainder is a strip of modified bushland along the western edge of the lot and there is a line of planted River Oak trees near the creek boundary in the east. The percentage bushland on this lot is probably about 10 per cent, although Council's Site Analysis Sheet completed on 11 December 2012 implies the proportion of the lot that is not cleared is 40 per cent.

The Report notes that Lot 1068 has been almost entirely cleared of bushland in the distant past with some scattered remnant local trees of Scribbly Gum, Smooth-barked Apple and Sydney Peppermint. The percentage bushland on this lot is nil; this contrasts with Council's Site Analysis Sheet completed on 11 December 2012, which implies a bushland cover of 30 per cent.

The Report notes that the rear of Lot 1071 still supports modified bushland about 19 metres in width and represents an area of bushland of less than 10 per cent. This is well short of the estimate made on Council's Site Analysis Sheet on 11 December 2012, which implied a bushland cover of 50 per cent.

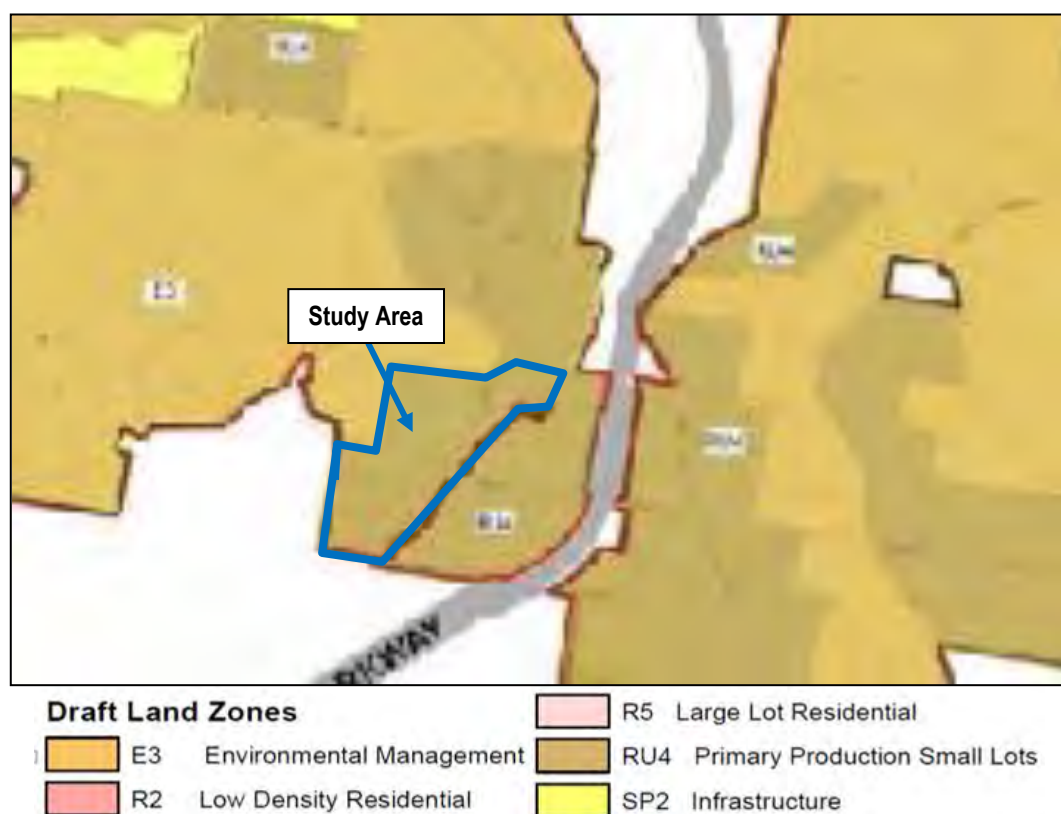
The Report concludes, inter alia:

"This paper has reviewed the proposal to zone certain land at Oxford Falls as E3 – Environmental Management. The *Strategy Review* document proposes a blanket use of this zone over a large area around Oxford Falls, seemingly irrespective of current land use and environmental values.

After inspecting the subject properties, it is our view that the majority of the land contained on the three properties is not "significantly constrained by environmental factors". In fact, the only area of bushland with any real habitat value is the strip at the back of Lot 1071, which adjoins bushland to the west.

Although we are not claiming to be town planners, it seems to us that one or more of the Rural zones would be more appropriate for much of the Oxford Falls land. We have no disagreement with an E3 zoning over land that clearly has high environmental value such as natural bushland, or indeed for other land that, although disturbed/partly cleared, may form useful buffers or corridors that supplement bushland areas. This is not the case with the subject lots."

A copy of the Report from Kevin Mills & Associates has been submitted separately.



**Figure 6: WUFA Draft Zoning Plan**

## 5.0 REASONS FOR THE OBJECTION

This submission to Warringah Council is an objection to the proposed E3 Environmental Management zone in the Draft Oxford Falls Valley and Belrose North Strategic Review on the basis that the zone is totally inappropriate for the subject sites. These properties are largely cleared of vegetation and do not exhibit the characteristics or qualities of the E3 zone.

In our opinion, there are a number of compelling planning reasons to support our findings that the E3 zone is not appropriate. Our reasons for objecting to the proposed E3 zone are as follows:

1. This is not the correct zone for the subject site;
2. Inaccuracy of the site constraints - the subject sites are mostly cleared and do not contain any significant or special ecological vegetation;
3. Proposed zoning based on inaccurate site constraints mapping;
4. The E3 Zone is inconsistent with Warringah LEP 2000;
5. The proposed zoning is inconsistent with the existing uses - our client's would have to rely on existing use rights to develop their land; and,
6. There are more appropriate zonings for the subject site.

### 5.1 This is not the correct zone for the subject site

The E3 zone is not the correct zone for the subject site or the study area. The E3 zone is to be applied to land that has special ecological, scientific, cultural or aesthetic attributes, or land highly constrained by geotechnical or other hazards. This zone might also be suitable as a transition between areas of high conservation value and other more intensive land uses.

The subject site does not contain areas with special ecological, scientific, cultural or aesthetic values. Future development on the subject site would not affect those values as they are not characteristic of the subject site. The cleared land on the subject site is inconsistent with the E3 zoning. This has been supported in a Report by Kevin Mills & Associates, which states, inter alia:

"We cannot comment upon infrastructure factors, but in terms of environmental factors, we contend that the cleared parts of the three lots in question, and indeed much of the cleared and highly developed land adjoining and in the vicinity of these areas, is inconsistent with the objectives of the E3 zone."

The E3 zone also aims to promote dense bushland buffers adjacent to major traffic thoroughfares. The subject site is not located on a major traffic and this objective therefore does not apply.

The Strategic Review makes reference to the LEP Practice Note 09-002, which provides guidance to Councils on the environment protection zones in the standard instrument and where that zone might apply. The Practice Note states that the following are examples of where the E3 zone may be applied:

- Areas of special ecological, scientific, cultural or aesthetic attributes that require management in conjunction with other low impact uses, e.g. scenic protection areas, areas with contiguous native vegetation or forest cover.
- As a transition between high conservation value land, e.g. land zoned E1 or E2 and other land such as that zoned rural or residential.

- Where rehabilitation and restoration of its special environmental qualities are the primary purpose.
- Highly constrained land where elements such as slope, erodible soils or salinity may have a key impact on water quality within a hydrological catchment.

The Practice Note also states, inter alia:

“There are instances where environmentally significant land has been zoned rural in the past but has not been used primarily for agriculture. Such lands should be zoned E3.

However, the zone is generally not intended for cleared lands including land used for intensive agriculture.”

As indicated, the site does not contain ecological, scientific, cultural or aesthetic attributes, high conservation value land, special environmental qualities or highly constrained land. The land is largely cleared and has been used for rural and other uses. The E3 zone therefore does not apply to the subject site in accordance with Practice Note 09-002.

## 5.2 Inaccuracy of the site constraints

In discussions with the DoPI, we were advised that site inspections and desk top studies were undertaken by the Council and DoPI in December 2012 and Site Analysis certificates were issued to property owners in the Oxford Valley and Belrose North localities.

The Council and DoPI site analysis for Lot 1059, also dated 11 December 2012, indicates that the site contains a dwelling and agriculture as well as bushland and cleared paddocks. The site analysis estimates that Lot 1059 contains 60 per cent cleared land. The analysis also indicates that the site has been cleared for the construction of the dwelling.

The Council and DoPI site analysis for Lot 1068, also dated 11 December 2012, indicates that the site contains a dwelling and commercial premises as well as bushland and cleared paddocks. The site analysis estimates that Lot 1068 contains 70 per cent cleared land.

The Council and DoPI site analysis for Lot 1071, dated 11 December 2012, indicates that the site contains a dwelling and agriculture as well as bushland and cleared paddocks. The site analysis estimates that Lot 1071 contains 50 per cent cleared land.

These estimates are not based on scientific research but rather on desk top studies and inspections that were carried out nine months ago. Our own site inspections and photographs taken on 21 August 2013 indicate that Lot 1059 is 90% cleared and Lot 1068 is 100 per cent cleared, with a few indiscriminate species scattered around (see Photographs 26 to 33). Lot 1071 is approximately 90 per cent cleared with a small area of bushland located at the rear of the property on the escarpment and some trees along the front (eastern) boundary (see Photographs 34 to 36). Council's estimates are considerably lower than our more recent site inspections (see Table 1) We note that Lot 1072 is also 100 per cent cleared (see Photographs 17 to 19).

| TABLE 1: CLEARED LAND ESTIMATES |                              |                                  |
|---------------------------------|------------------------------|----------------------------------|
| Lot Number                      | Council Estimates – Dec 2012 | GSA/K.Mills Estimates – Aug 2013 |
| Lot 1059                        | 60%                          | 90%                              |
| Lot 1068                        | 70%                          | 100%                             |
| Lot 1071                        | 50%                          | 90%                              |



**Photograph 26:** Cleared land at Lot 1059



**Photograph 27:** Cleared land at Lot 1059



**Photograph 28:** Cleared land at Lot 1059



**Photograph 29:** Cleared land at Lot 1059



**Photograph 30:** Cleared land at Lot 1068 looking east



**Photograph 31:** Cleared land at Lot 1068 looking east



**Photograph 32:** Cleared land at Lot 1068 looking west



**Photograph 33:** Cleared land at Lot 1068 looking west



**Photograph 34:** Cleared land on Lot 1071 looking north west



**Photograph 35:** Cleared land and some vegetation on Lot 1071 looking east.



**Photograph 36:** Cleared land and existing structures on Lot 1071 looking west.

These estimates have been confirmed in a report prepared by Kevin Mills & Associates Ecological and Environmental Consultants dated 29 August 2013. The Report states, inter alia:

“Inspection of the subject lots readily finds that little of the land is naturally vegetated. As noted above, the three lots have a long history of rural and other uses and bushland has not existed on the majority of the land for a very long time. Bushland occurs on no more than 10% of Lot 1059 and less than 10% of Lot 1071, and not at all on Lot 1068.

The land at the front of Lots 1068 and 1071 supports almost entirely planted non-local trees, yet it is identified as being ‘severe or significantly constrained’, the same classification as vast areas of natural bushland elsewhere in the locality.”

In our opinion and the opinion of Kevin Mills & Associates Ecological and Environmental Consultants, the site analysis information prepared by Council and the DoPI is inaccurate and does not reflect the existing and actual percentage of cleared land in the study area.

Accordingly, in our opinion, Council and DoPI’s proposed E3 zoning is not appropriate for the sites in the study area as the land is cleared of bushland and significant vegetation.

### **5.3 Proposed zoning based on inaccurate constraints mapping**

In preparing the Strategic Review, Council and DoPI applied a four step methodology to determine a “best fit” zone for land in the study area. Step 1 identifying land that was significantly constrained. Step 2 involved identifying sites that weren’t significantly constrained but would have a significant cumulative impact if up-zoned. Step 3 involved a secondary environmental assessment to eliminate additional constrained sites. Step 4 examined the remaining sites on a site by site basis.

The methodology used is based on the Warringah Council (2007) Planning Report Oxford Falls Valley Assessment of Rezoning/Development Proposals. Anecdotal evidence from our clients suggests that the Planning Report 2007 indicates that no significant environmental constraints were identified on the subject properties.

Council and DoPI have since prepared constraints analyses that conflict with the mapping done in 2007. The mapping identifies the following constraints; riparian; significant vegetation; wetland buffers; slope; designated wildlife corridor or core habitat; flooding; acid sulphate soils; and threatened species habitat. The Primary Environmental Constraints Map contained in the Strategic Review identifies the study area as having a moderate to severe level of environmental constraint to development. Throughout this report and in the Report prepared by Kevin Mills, it has been stated that the subject sites are largely cleared and do not contain the above qualities that would constrain development and warrant an E3 zoning. In our opinion, the mapping used in the Strategic Review is inaccurate and not based on current site conditions.

#### **5.4 E3 Zone is inconsistent with Warringah LEP 2000**

The desired future character of Oxford Falls under the LEP 2000 includes new detached style housing and low intensity, low impact uses with buildings to be located and grouped in areas. This would suggest that the desired future character of the locality is residential in nature and potentially intends residential subdivisions. Residential subdivisions are not typically commensurate with environmental protection zones. On this basis, an R2 zone would be a more accurate direct translation of the LEP 2000.

The desired future character of Oxford Falls under the LEP 2000 also includes the protection, and where possible, enhancement, of the natural landscape, landforms and vegetation. A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. As the subject site is not located along Forest Way and Wakehurst Parkway, the objective for a buffer does not apply. Furthermore, the sites in the study area are cleared with little or no natural or significant vegetation.

The objectives of the E3 zone under the LEP 2011 place a strong emphasis on preserving areas with ecological, scientific, cultural or aesthetic values, enhancing the natural environment and conserving remnant bushland. As indicated, the study area is largely cleared and does not contain significant areas of bushland or areas with ecological, scientific, cultural or aesthetic values. As discussed, this has been confirmed in an ecological study prepared by Kevin Hills & Associates. In our opinion, the objectives of the E3 zone are not appropriate for the subject site and the study area. In our opinion, the proposed E3 zone is therefore inappropriate.

#### **5.5 The proposed zoning is inconsistent with the existing land uses**

The E3 zone will create a situation where existing permissible uses are no longer permitted on the land. This creates an anomaly in the planning system and is not desirable from a planning point of view. Under the E3 zone, the subject sites will contain prohibited uses, including commercial and extensive agriculture.

The Strategic Review states that every effort has been made to eliminate the number of non-conforming uses under the new E3 zone. However, Council acknowledges that there will be a small number of non-conforming land uses as a result of the recommended zoning and that these properties will need to rely on existing use rights under the Environmental Planning and

Assessment Act, 1979 (EP&A Act) and the Environmental Plan and Assessment Regulations, 2000 (EP&A Regulations).

In our opinion, Council should remove the E3 zoning for the subject site as it is inconsistent with the existing land uses.

## **5.6 There are more appropriate zonings for the subject site**

The proposed zoning and objectives of the subject site under the Strategic Review do not reflect the existing uses of the sites in the study area. They also do not reflect that the sites are considerably cleared and do not contain significant bushland.

Accordingly we respectfully request that Council and the DoPI zone the subject site RU4 Primary Production Small Lots. The RU4 Primary Production Small Lots zone is intended for land which is to be used for commercial primary industry production. The objectives of the RU4 zone are stated inter alia:

- To enable sustainable primary industry and other compatible land uses.
- To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To minimise the impact of development on long distance views of the area and on views to and from adjacent national parks and bushland.
- To maintain and enhance the natural landscape including landform and vegetation.
- To ensure low intensity of land use other than land uses that are primary industry enterprises.
- To maintain the rural and scenic character of the land.

Development for the purposes of animal boarding or training establishments; aquaculture; bed and breakfast accommodation; building identification signs; business identification signs; child care centres; community facilities; dwelling houses; environmental protection works; extensive agriculture; farm buildings; home businesses; home industries; intensive plant agriculture; landscaping material supplies; plant nurseries; recreation areas; respite day care centres; roads; roadside stalls; rural supplies; veterinary hospitals.

We would also request Council consider additional permitted uses in the RU4 zone to allow commercial uses and intensive livestock agriculture.

A RU4 zoning for the subject site would be consistent with the existing commercial primary industry uses and dwellings on site. Anecdotal evidence from a Submission to the E3 Strategic review Draft Report prepared by Warringah Urban Fringe Association, dated 7 August 2013, suggests that the original draft zoning map from LEP 2011 identified the subject site as RU4.

We note that the Draft Land Use Zoning Map zones properties on Wyatt Avenue, Belrose (on the western side of Forest Way) as RU4. We understand that this proposed zoning followed a submission to Council that included an expert report justifying the RU4 zoning on the basis that E3 was not appropriate.

Alternatively, although the LEP 2011 does not contain the R5 zone, Council could consider this an appropriate zoning for the sites in the study area. The objectives of the R5 zone under the Standard Instrument template are stated, inter alia:

- To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.
- To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.
- To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

Accordingly, having regard to the existing site conditions, zoning, uses on site and the information available at the time of preparing this Report, in our opinion, an RU4 or R5 zone would be more appropriate. Subject to further investigation, given the proximity of the subject site to residential areas, educational establishments, hospitals (new hospital approximately 1km away) and centres, a more intensified zoning could be appropriate in the future.

## 6.0 CONCLUSION

In conclusion, and in our respectful opinion, there are compelling planning reasons for Council and the DoPI not to support zoning the subject site and the study area E3 under the LEP 2011.

The site does not contain ecological, scientific, cultural or aesthetic attributes, high conservation value land, special environmental qualities or highly constrained land. The land is largely cleared and has been used for rural and other uses. The E3 zone therefore does not apply to the subject site and is inconsistent with Practice Note 09-002.

The Council and DoPI Lot 1059 as 60 per cent cleared land, Lot 1068 at 70 per cent and Lot 1071 at 50 per cent. Our own site inspections indicate that Lot 1059 is 90 per cent cleared, Lot 1068 is 100 per cent cleared and Lot 1071 is 90 per cent cleared, which is a considerably higher percentage than estimated by Council's inspections and desk top studies. This has been confirmed by Kevin Mills & Associates Ecological and Environmental Consultants.

The constraints mapping contained in the Strategic Review identifies the study area as having a moderate to severe level of environmental constraint to development. This is inaccurate as the subject sites are largely cleared and do not contain qualities that would constrain development and warrant an E3 zoning.

The objectives of the E3 zone under the LEP 2011 place a strong emphasis on preserving areas with ecological, scientific, cultural or aesthetic values, enhancing the natural environment and conserving remnant bushland. The study area is largely cleared and the objectives of the E3 zone are not appropriate for the subject site. Furthermore, the E3 zoning is inconsistent with the existing land uses on site.

The above has been supported in an independent investigation by Kevin Mills of Kevin Mills & Associates Ecological and Environmental Consultants.

Having regard to the above, in our opinion, the E3 zone should be removed for the subject site and an RU4 or R5 zone considered. Given the proximity of the subject site to residential areas, educational establishments and centre, and subject to further investigation, a more intensified zoning could be appropriate in the future.

We would welcome the opportunity to discuss our submission with Council and the DoPI and we look forward to actively being part of the strategic process. Should you have any queries or require further information please do not hesitate to contact our office.

**OXFORD FALLS VALLEY AND BELROSE NORTH STRATEGIC REVIEW**  
**APRIL 2013 AND DRAFT WARRINGAH LEP 2011**  
**ASSESSMENT OF CERTAIN LAND IN SPICER ROAD, OXFORD FALLS**

**Kevin Mills & Associates**

**28 August 2013**

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**1. INTRODUCTION**

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Kevin Mills & Associates was engaged by three land owners at Oxford Falls in the Warringah Council area to assess and make comment upon a land use zoning proposal outlined in the document *Oxford Falls Valley and Belrose North Strategic Review* (Department of Planning and Infrastructure 2013). The document was prepared by the Department and Warringah Council and is dated April 2013. Our role is to investigate the environmental attributes of the land and to provide an opinion on the suitability of the proposed E3 – Environmental Management zone, which is proposed to cover all of the three lots.

**2. THE STRATEGIC REVIEW**

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In its summary page, the *Strategic Review* makes the following statements:

“The review was initiated in response to stakeholder concern regarding the adequacy of consultation during the preparation of *Warringah Local Environmental Plan 2011* (LEP 2011). The purpose of the strategic review has been to translate the planning controls under *Warringah Local Environmental Plan 2000* (LEP 2000) into the best fit zones and land use controls under Warringah LEP 2011 and to engage the community in the process.”

“The draft strategic review has been informed by:

A review of relevant planning legislation, studies, policies and guidelines;

A review of existing information on environmental constraints and infrastructure provisions,

Extensive stakeholder consultation via a community information evening, notification letters, website and Manly Daily updates, site visits and consideration of submissions received during the development of the draft report;

A review of current land use controls; and

Regular Project Control Group (PCG) meetings. “

“The draft findings of the strategic review do not significantly change the urban development potential of land in Oxford Falls Valley and Belrose North. This is the role of a future review (Stage 2), which will involve commissioning major studies as recommended by the Planning Assessment Commission in its 2009 report of the *Review of four sites in Oxford Falls Valley for Urban Development*.”

“Overall, the strategic review found that the best fit land use zone for the majority of the study area is the E3 Environmental Management zone. There are however some smaller areas of land that have been identified for alternative zonings and/or additional permitted uses.

It is intended that the findings of the strategic review inform the development of a planning proposal by Warringah Council to bring Oxford Falls Valley and Belrose North into Warringah LEP 2011.”

In essence, the *Strategic Review* aims to assist in bringing the old LEP for the Oxford Falls area into line with an updated LEP to meet the requirements of the New South Wales Government’s *Standard Instrument (Local Environmental Plans) Order 2006*, which requires that all New South Wales councils prepare new Local Environmental Plans (LEPs) in a standard instrument format, including the use of a standard set of land use zones.

It is noted that the *Strategic Review* makes it very clear that further ‘major studies’ are envisaged to determine the future urban development capability of the area; this includes “Water quality, aquatic ecology and hydrology of Narrabeen Lagoon and its catchments; Flora and fauna protection.” These further studies may or may not change the zoning that is recommended in the *Strategic Review*.

### **3. THE SUBJECT LAND PARCELS**

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This assessment involves three parcels of land in Spicer Road South, each with a different owner. The land is encompassed by Lots 1059, 1068 and 1071. The last two lots are adjoining, while the first lot is a short distance to the northeast.

These lands are within the area covered by the *Strategic Review* and are the subject of mapping that appears in that document. A summary of the *Strategic* mapping for each of the lots appears in our **Table 1**, below.

The three parcels have over the years been almost completely cleared of their natural vegetation. Lot 1059 is about 90 percent cleared; the remainder is a strip of modified bushland along the western edge of the lot and there is a line of planted River Oak trees near the creek boundary in the east. The percentage bushland on this lot is probably about 10 percent, although Council’s Site Analysis Sheet completed on 11 December 2012 implies the proportion of the lot that is not cleared is 40 percent.

**Table 1**  
**Information from the Strategic Review maps**

| <b>Land Parcel</b> | <b>Habitat/Corridor Map</b>                                                   | <b>Landuse Analysis</b>     | <b>Primary Constraints</b>                                                                                                              | <b>Secondary Constraints</b>                                                                   | <b>Proposed Landuse Zone</b>   |
|--------------------|-------------------------------------------------------------------------------|-----------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|--------------------------------|
| Lot 1059           | Mostly 'regional corridor'; strip of 'regional core habitat' on western edge. | Dwelling.                   | Almost all 'moderate environmental constraints to development'. Strip on western edge 'prohibitive, severe or significant constraints'. | Strip in west is 'Primary constraint – E3 zoning'. Most is 'for further zoning consideration'. | E3 – Environmental management. |
| Lot 1068           | Entirely 'regional corridor'.                                                 | Dwelling and commercial mix | c.60% 'moderate environmental constraints to development'.<br>c.40% 'prohibitive, severe or significant constraints'.                   | Front 40% 'primary constraint - E3 zoning'.<br>Remainder 'for further zoning consideration'.   | E3 – Environmental management. |
| Lot 1071           | Mostly 'regional corridor'; area of 'regional core habitat' in rear.          | Dwelling.                   | C.60% 'moderate environmental constraints to development'.<br>c.40% 'prohibitive severe or significant constraints'.                    | 'E3 zone consideration' overlay shown over whole lot.                                          | E3 – Environmental management. |

Lot 1068 has been almost entirely cleared of bushland in the distant past. The majority of the trees on the lot are planted non-local species, with some scattered remnant local trees of Scribbly Gum, Smooth-barked Apple and Sydney Peppermint. The understorey to the main stand of trees at the front of the lot is entirely exotic; part of the area was a vineyard until recently, and long ago the whole area was quarried for soil. The percentage bushland on this lot is nil; this contrasts with Council's Site Analysis Sheet completed on 11 December 2012, which implies a bushland cover of 30 percent.

The rear of Lot 1071 still supports modified bushland about 19 metres in width, a measurement made by the land owner who also informs us that this represents an area of bushland of less than 10 percent of his land area. This is well short of the estimate made on Council's Site Analysis Sheet on 11 December 2012, which implied a bushland cover of 50 percent.

All lots have a long history of rural and/or industrial use. Existing and approved developments and activities include horse stabling and agistment, operation of a home business, market gardening, orchards, alpaca grazing, a vineyard, quarrying of sandstone, removal of a large amount of soil and chicken farms. Today all lots contain houses, sheds, dams and/or roadways, and the evidence of past quarrying and other activities is clearly visible.

Maps in the *Strategy* identify all of the three lots as regional habitat corridor, with core habitat on small parts of Lots 1059 and 1071; i.e. the bushland areas identified above. This delineation is inconsistent with Council's map of fauna corridors available on their web site in that the cleared parts of the lots are not identified as corridor on that map. In any case, the cleared parts of these lots are of no real value as habitat corridor for native fauna.

The *Strategy* maps the majority of the three lots as having 'moderate environmental constraints'; this is identified by yellow on the map. This is different to an earlier map titled 'Environmental Constraint Land Map' dated 2007, which mapped the lots as largely having 'no significant environmental constraints to development'.

#### **4. ASSESSMENT OF PROPOSED LAND USE ZONING**

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The *Strategic Review* recommends the E3 - Environmental Management zone cover a large proportion of the Oxford Falls – Belrose area, including the three lots in question and all of the surrounding land. The objectives of the E3 - Environmental Management zone are set out below.

Objectives of the 3 zone:

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.
- To ensure that development, by way of its character, design, location and materials of construction, is integrated into the site and natural surroundings, complements and enhances the natural environment and has minimal visual impact.
- To protect and enhance the natural landscape by conserving remnant bushland and rock outcrops and by encouraging the spread of an indigenous tree canopy.
- To protect and enhance visual quality by promoting dense bushland buffers adjacent to major traffic thoroughfares.

A key objective of the E3 zone is to “protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.” Much of the delineated E3 land is naturally vegetated and adjoins parks and reserves, such as Garigal National Park (NPWS) and Middle Creek Reserve (Council), which are also naturally vegetated. Naturally vegetated land clearly meets the key objective of the E3 zone; we have no disagreement with this application of the zone.

Lots 1068 and 1059 are not identified as land for consideration as E3 zone on any map, yet the zoning map proposes such a zone over both lots.

In the immediate Oxford Falls area, the E3 zone as proposed covers much cleared land and intensive land uses including large buildings, extensive car parks and playing fields. In addition to cleared land, which is largely contiguous rather than being isolated clearings in this area, the following large institutions are within the E3 zone; these are indicated on the Landuse Analysis map contained in the *Strategy*.

- Treacy Education Centre;
- St Pius X College and playing fields;
- Oxford Falls Grammar;
- Christian City Training College;
- Australian Tennis Academy and The Falls Function Centre.

The *Strategy* recommends that:

“The E3 Environmental Management zone is proposed to apply to the majority of the review area on land that is significantly constrained by environmental and infrastructure factors. This also includes land that is isolated, does not adjoin urban areas and/or would cumulatively have a significant impact if zoned to an alternative zone without first undertaking studies recommended by the PAC.”

We note the following comment in the *Strategy* regarding use of the E3 zone in this instance.

“A number of submissions presented a view that the E3 Environmental Management zone is not appropriate for cleared land or land adjacent to existing residential areas. LEP Practice Note 09-002 outlines where the E3 Environmental Management zone may be applied and also indicates that it is generally not intended for cleared lands. In determining whether the application of the E3 Environmental Management zone is appropriate, the project team considered the desired future character statements under LEP 2000 in the translation process. In addition, LEP Practice Notes 09-002 and 11-002 indicate that E3 Environmental Management zone can be applied as a transition area between high conservation area and intensive landuses. Applying this approach, it was not always appropriate to zone land adjoining an existing residential area or cleared land to an alternative zone.”

We cannot comment upon infrastructure factors, but in terms of environmental factors, we contend that the cleared parts of the three lots in question, and indeed much of the cleared and highly developed land adjoining and in the vicinity of these areas, is inconsistent with the objectives of the E3 zone.

Inspection of the subject lots readily finds that little of the land is naturally vegetated. As noted above, the three lots have a long history of rural and other uses and bushland has not existed on the majority of the land for a very long time. Bushland occurs on no more than 10% of Lot 1059 and less than 10% of Lot 1071, and not at all on Lot 1068.

The land at the front of Lots 1068 and 1071 supports almost entirely planted non-local trees, yet it is identified as being ‘severe or significantly constrained’, the same classification as vast areas of natural bushland elsewhere in the locality.

## **5. CONCLUSION**

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This paper has reviewed the proposal to zone certain land at Oxford Falls as E3 – Environmental Management. The *Strategy Review* document proposes a blanket use of this zone over a large area around Oxford Falls, seemingly irrespective of current land use and environmental values.

After inspecting the subject properties, it is our view that the majority of the land contained on the three properties is not “significantly constrained by environmental factors”. In fact, the only area of bushland with any real habitat value is the strip at the back of Lot 1071, which adjoins bushland to the west.

Although we are not claiming to be town planners, it seems to us that one or more of the Rural zones would be more appropriate for much of the Oxford Falls land. We have no disagreement with an E3 zoning over land that clearly has high environmental value such as natural bushland, or indeed for other land that, although disturbed/partly cleared, may form

useful buffers or corridors that supplement bushland areas. This is not the case with the subject lots.

## **6. REFERENCES**

---

Department of Planning and Infrastructure (2013). *Oxford Falls Valley and Belrose North Strategic Review*. The Department and Warringah Council, April.

30 August 2013

Oxford Falls Valley and Belrose North Strategic Review  
 Department of Planning and Infrastructure  
 GPO Box 39  
 Sydney, NSW, 2001

Dear Sir/Madam,

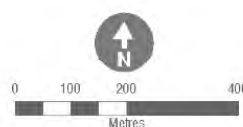
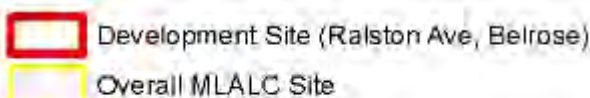
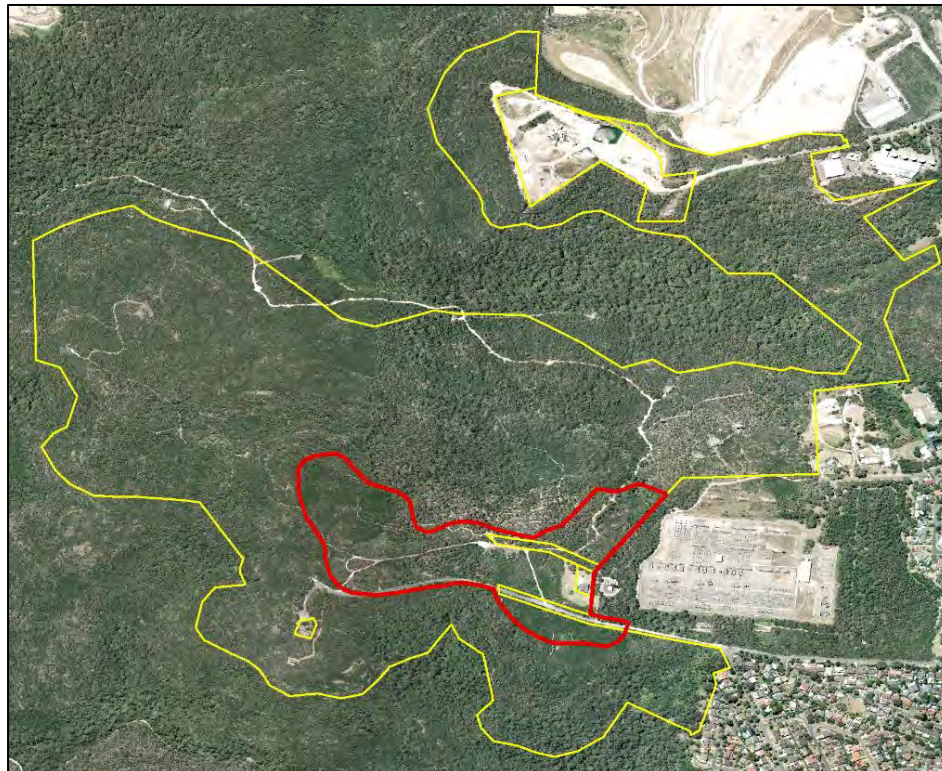
### Metropolitan Local Aboriginal Land Council Submission to the Oxford Falls Valley and Belrose North Strategic Review

I am writing to you on behalf of the Metropolitan Local Aboriginal Land Council (MLALC) in regards to the Oxford Falls Valley and Belrose North Strategic Review currently being undertaken by the NSW Department of Planning and Infrastructure (DoPI). The purpose of this letter is to inform the NSW DoPI of the current status, and recent amendments to a rezoning application submitted to Warringah Council in April 2013 for land at Ralston Avenue, Belrose.

#### Site Background

The MLALC submitted a Planning Proposal to rezone land at the western end of Ralston Avenue, Belrose, to Warringah Council in April 2013. The application is currently being assessed by Council and proposes the rezoning of 135ha of land for environmental conservation, residential and recreational land uses. The location of this land can be seen below in **Figure 1** and at **Attachment 1** of this submission.

**Figure 1: Proposed Development within the MLALC Land Holding (Source: Urbis Services 2013)**



© 2012, PSMA Australia Ltd, Sensitive  
 Pty Ltd, Australia Bureau of Statistics.  
 Produced by Urbis Pty Ltd, Oct 2012

#### URBIS SERVICE

GPO Box 5278 Sydney 2001  
 Tower 2, Level 23, Darling Park  
 201 Sussex Street  
 Sydney NSW 2000 Australia

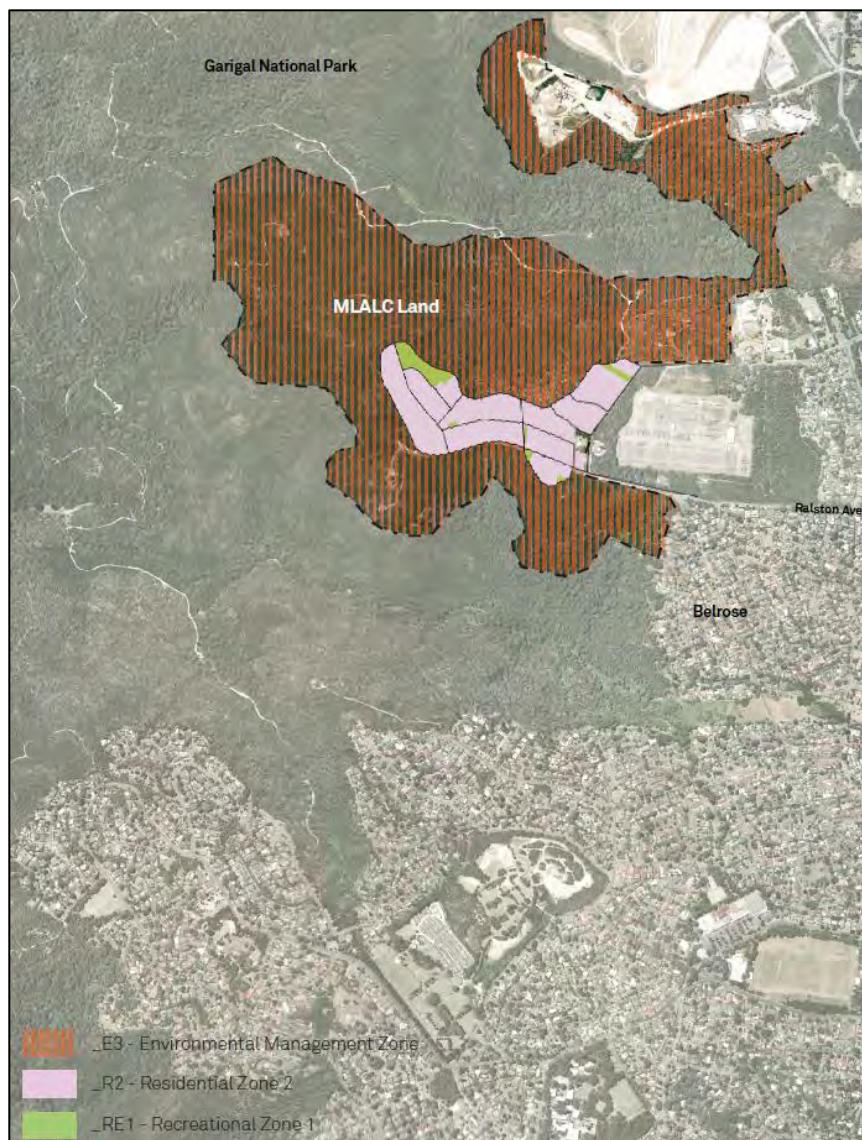
DOPI SUBMISSION RALSTON AVENUE BELROSE 300813

The rezoning application as originally lodged proposed the rezoning of the site to include the following:

- 117.89ha or 87.3% of the site to be zoned E3 Environmental Management, including 4.73ha of Asset Protection Zone (APZ);
- 17.15ha or 12.7% of the site to be zoned R2 Low Density Residential and RE1 Public Recreation;
- The proposal as lodged would be capable of providing 169 residential lots with a minimum lot size of 550m<sup>2</sup> and 7869m<sup>2</sup> of land zoned RE1 Public Recreation;
- A maximum building height of 8.5 metres.

The location of the proposed land uses can be seen below in **Figure 2** and at **Attachment 2** of this submission.

**Figure 2: Proposed Land Uses (Source: Hassell, 2013)**



The proposed development is the result of two years of comprehensive studies and research to understand the highest and best uses for the subject land. In light of this the Planning Proposal submitted in April 2013 contained a comprehensive analysis of MLALC's proposal, its validity in the proposed location and several independent environmental, economic and social assessments of the proposed rezoning in the form of the following reports submitted as appendices to the planning application:

- Ecological Constraints and Biodiversity Offsets Analysis;
- Open Space and Recreational Study;
- Infrastructure Services and Water Management Strategy;
- Bushfire Protection Assessment;
- Assessment of Traffic Implications;
- Economic Impact Assessment;
- Housing Needs Study;
- Aboriginal Archaeological Assessment;
- Contamination Assessment;
- Geotechnical Report;
- Social Impact Report.

### **Recent Amendments, August 2013**

The original proposal submitted to Council has since been amended to account for initial feedback from Council officer's which has resulted in changes to the sites design, proposed zoning, lots created by the subdivision and the provision of residential and public recreation land uses.

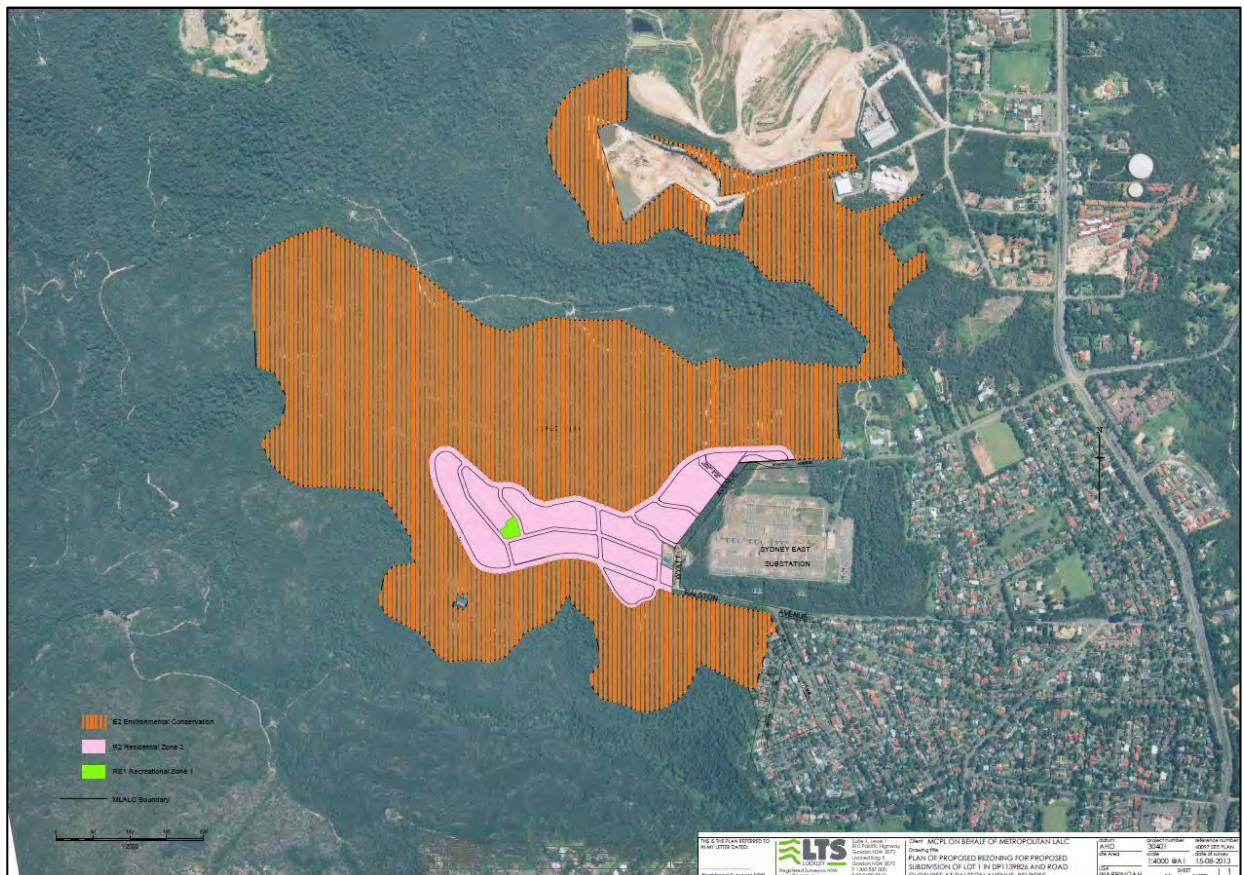
The development now proposes to rezone the 135ha site to include the following:

- 117.51ha or 86.5% of the site to be zoned E2 Environmental Conservation, including an APZ;
- 17.79ha or 13.5% of the site to be zoned R2 Low Density Residential and RE1 Public Recreation;
- The proposed zoning as amended would be capable of providing 171 residential lots with a minimum lot size of 600m<sup>2</sup> and 2079m<sup>2</sup> of land zoned RE1 Public Recreation. This allocation of public recreational land signifies a change from the previously proposed pocket parks, instead amalgamating these into one central park. (See **Figure 3**);
- A maximum building height of 8.5 metres.

It should be noted that discussions with Council have identified a preference for the originally proposed E3 Environmental Management zone to be amended to E2 Environmental Conservation. Subsequently this change to the proposed zoning has occurred.

The location of the amended proposed land uses can be seen in **Figure 3** and at **Attachment 3** of this submission.

**Figure 3: Proposed Land Uses as Amended August 2013 (Source: LTS Lockley, 2013)**



**Future Correspondence**

Urbis on behalf of MLALC welcomes any comments from the NSW DoPI and would provide a full copy of the planning proposal and supporting information submitted to Warringah Council along with correspondence regarding the proposed amendments if requested.

Warringah Council has informed MLALC that they are targeting a determination at their October, 2013 Warringah Development Assessment Panel meeting.

If you have any further queries please do not hesitate to contact me for additional information (02) 8233 7609.

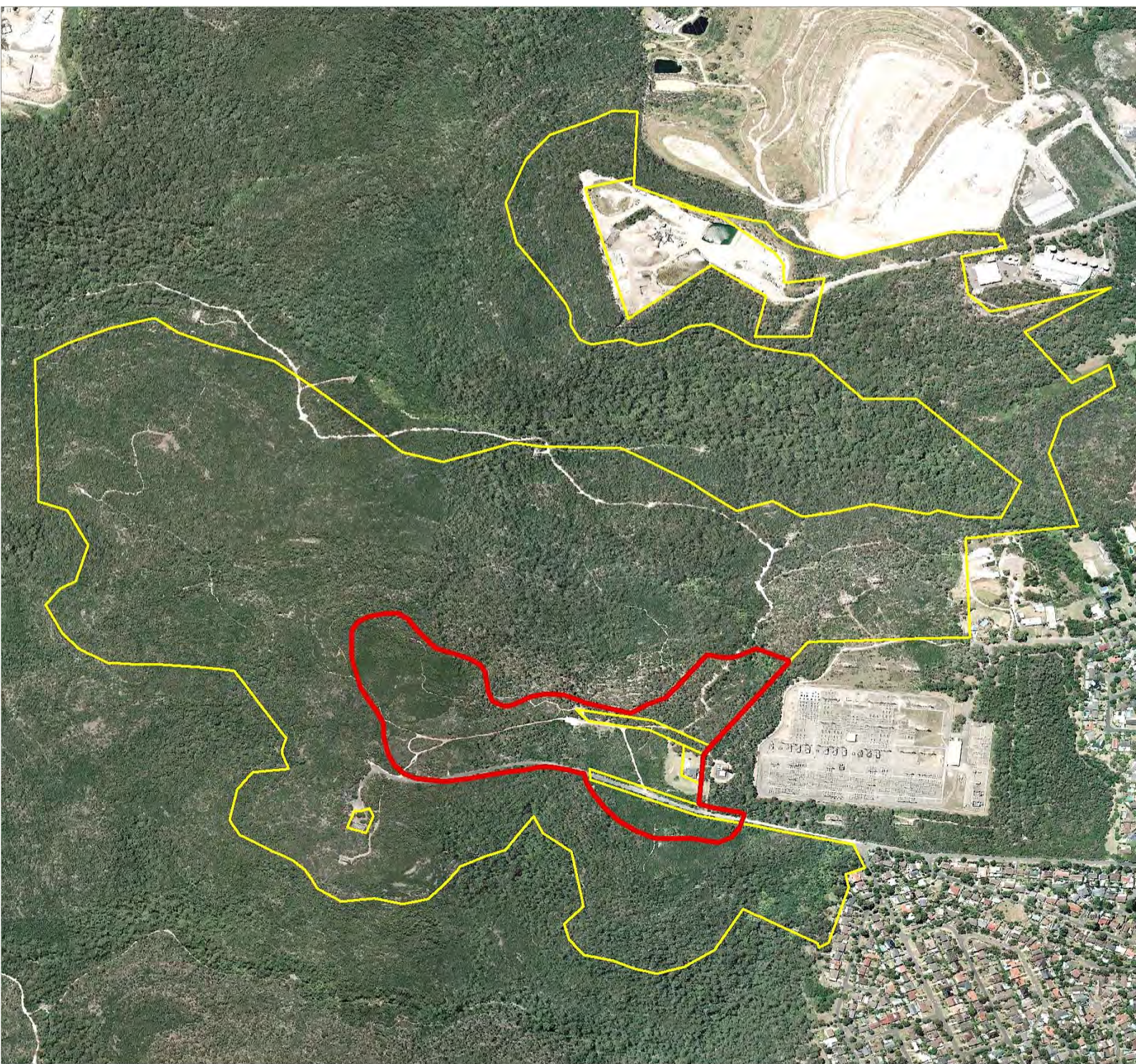
Yours Sincerely,



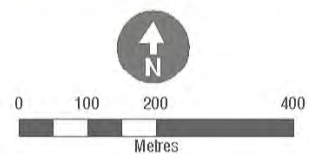
**Matthew O'Donnell**

Associate Director - Planning

***Attachment 1: Location of Proposed Development within the MLALC Land Holding***

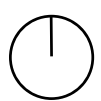


-  Development Site (Ralston Ave, Belrose)
-  Overall MLALC Site



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***Attachment 2: Originally Proposed Land Use Map***



Revision  
Site Plan

Date  
15 March 2013

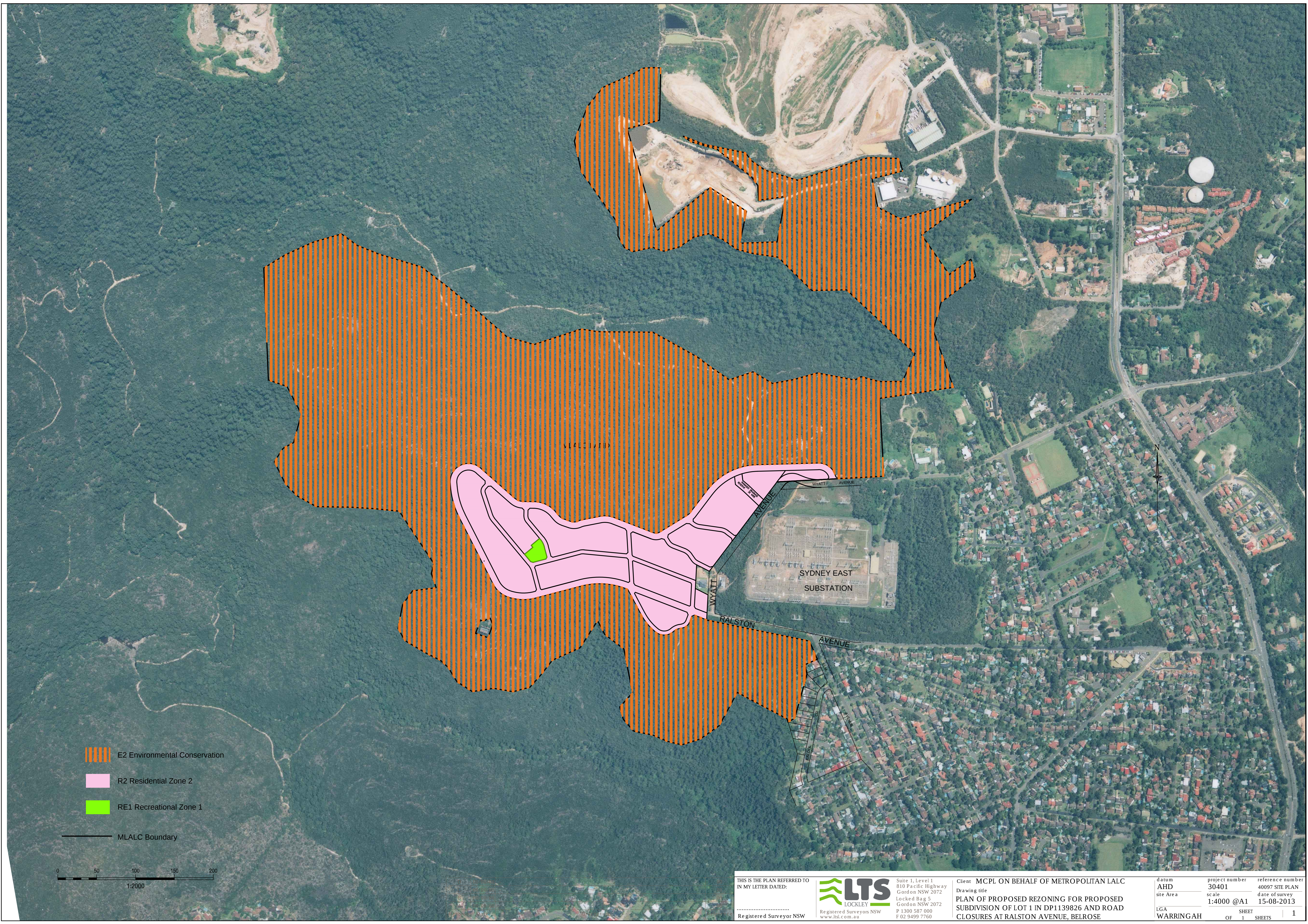
Scale  
NTS

Client  
Matthews Civil Pty Ltd

Project Name  
Ralston Avenue  
Belrose, NSW

Drawing  
01

***Attachment 3: Amended Land Use Map, August 2013***



||||| E2 Environmental Conservation

■ R2 Residential Zone 2

■ RE1 Recreational Zone 1

— MLALC Boundary

0 50 100 150 200  
1:2000

THIS IS THE PLAN REFERRED TO  
IN MY LETTER DATED:

Registered Surveyor NSW

**LTS**  
LOCKLEY  
Registered Surveyors NSW  
www.lts.com.au

Suite 1, Level 1  
810 Pacific Highway  
Gordon NSW 2072  
Locked Bag 5  
Gordon NSW 2072  
P 1300 587 000  
F 02 9499 7760

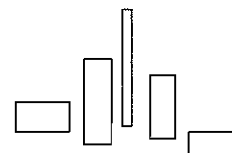
Client MCPL ON BEHALF OF METROPOLITAN LALC  
Drawing title  
PLAN OF PROPOSED REZONING FOR PROPOSED  
SUBDIVISION OF LOT 1 IN DP1139826 AND ROAD  
CLOSURES AT RALSTON AVENUE, BELROSE

datum  
AHD  
site Area  
LGA  
WARRINGAH

project number  
30401  
scale  
1:4000 @A1  
OF 1 SHEETS

reference number  
40097 SITE PLAN  
date of survey  
15-08-2013  
1

Level 2                      Postal address:    **T** 02 9262 6188    **E** info@pvlaw.com.au  
50 King Street    GPO Box 164    **F** 02 9262 6175    **W** www.pvlaw.com.au  
Sydney 2000    Sydney 2001    **DX** 521 Sydney    **ABN** 77 357 538 421



**PIKES & VEREKERS**  
LAWYERS

30 August 2013

The Director General  
Department of Planning & Infrastructure  
GPO Box 39  
SYDNEY NSW 2001

**SUBMITTED ONLINE**

Dear Sir

**SUBMISSION LETTER TO THE OXFORD FALLS VALLEY AND BELROSE NORTH STRATEGIC REVIEW**  
**Our ref JF:KC:130635**

We act for John Colet School, the operators of an independent primary school located on Wyatt Avenue, Belrose, and make this submission to the Draft Oxford Falls Valley and Belrose North Strategic Review ("the Review") being conducted by the Department of Planning and Infrastructure ("the Department") together with Warringah Council ("the Council").

On behalf of the John Colet School, we congratulate the Department on conducting the Review, being an important strategic planning consideration for the environmental protection and economic growth of the Sydney North region. The deferral of these lands from the Warringah Local Environmental Plan 2011 ("the LEP") has left it in a state of vacuum with landowners uncertain of the strategic planning intention for the area. Accordingly, we welcome the opportunity to comment on the Review.

This submission should be read in conjunction with the submission made by the John Colet School made on 7 August 2013 (a copy of which is attached).

The John Colet School, which has been operating in its current location for 15 years, wishes to raise concerns that the Review, and the draft recommendations therein, do not properly address planning concerns involved in the operation of educational establishments. Particularly, we are of the opinion that the Review's suggestions for reliance upon the State Environmental Planning Policy (Infrastructure) 2007 ("SEPP (Infrastructure)") or existing use rights is not feasible.

In summary, our recommendations to the Review are as follows:

- To zone the John Colet School land for the purposes of "educational establishment" under the SP1 Special Activities or SP2 Infrastructure zones of the LEP; or alternatively
- To list the John Colet School land as an additional permitted use under Schedule 1 of the LEP; or further in the alternative

- To zone the John Colet School land as a prescribed zone pursuant to cl 27 of SEPP(Infrastructure).

### **Zoning as E3 Environmental Management**

Under the Strategic Review it is proposed to zone the land on which the John Colet School is located as E3 Environmental Management. We note that the LEP, which is a standard instrument local environmental plan, does not permit educational establishments, either with or without development consent in the E3 Zone.

The rezoning of the land from Category 3 lands under the Warringah LEP to E3 Environmental Management is essentially a "down zoning" contrary to Ministerial Direction No. 13, issued pursuant to s 117 of the *Environmental Planning and Assessment Act 1979* ("the Act").

Whilst it might be said that overall the Review complies with that direction, the same cannot be said of the approach taken to the subject site. The subject land has never been identified as being of significance for the purposes of environmental protection. The site is not presently constrained by the existing of ecologically endangered communities and is of limited ecological value for the purposes of preservation. This is reflected in the various maps contained in the Review which identify the location of particular environmental constraints.

The Review appears to simply adopt a blanket rezoning for much of the lands under consideration. This is inappropriate as a matter of strategic planning. The C8 Belrose North Locality is not a land use zone, as identified in the Review. Whilst the desired future character of a locality (the real purpose of the C8 Locality Statement being to describe that desired future character) is a relevant and important consideration when considering how land in that locality is zoned, it cannot be the only consideration, and a simple adoption of a single zone for the entirety of a locality is not a complete or properly reasoned approach to the adoption of planning controls.

This is emphasised by the Review's specific consideration of other zones (such as the R2 Low Density Residential zones along Forest Way, and the R5 Large Lot Residential zones immediately west of the John Colet School) and other specific uses (such as the school use in Area 11, also along Forest Way) on other lots within the locality. There is no meaningful distinction that can be drawn between the land in Area 11 and the Covenant Christian School and our clients' site. We urge that the Department give due consideration, as a matter of balancing strategic concerns, and apply individually meritorious rezoning rather than applying the present method of blanket rezoning to the site.

If the rezoning proceeds, there is an element of procedural unfairness in that other uses and landholdings in the locality are given specific consideration in achieving their development potential. On the contrary, the vast majority of other lands, such as the John Colet School's, is subjected to a blanket zoning which has little or no regard as to the strategic considerations involved.

Further there does not appear to be any planning utility or environmental benefit in adopting the E3 zone on our client's land. Conversely the changed zoning has the potential to seriously constrain any future development of the school site. Whilst the school use is not inconsistent with the E3 zone objectives and whilst the continued operation of the school or a potential future expansion thereof will not undermine those objectives, the simple fact of the existence of the school means that little is achieved by zoning the school for environmental protection purposes in terms of actively promoting the environmental outcomes sought by the zone objectives.

Whilst the continued use of the school and any future redevelopment will not detract from those objectives, that is a matter about which the school will need to satisfy any consent authority in the future, which is, in all of the circumstances, a needless and expensive burden on our client, with no public benefit resulting.

Having regard to not only the objects of the E3 zone, but also the objects of the Act, namely:

- *The protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats; and*
- *The promotion and coordination of orderly and economic use and development of land.*

the rezoning will do little to achieve the first object, but will, in respect of this particular site, fundamentally undermine the second listed object. In all of those circumstances we urge the Department to consider a more appropriate zoning to the site or to at the very least make educational establishments a specifically permitted use.

### **Future Planning Intention**

Whilst it is clearly not Council's or the Department's intention (having regard to the Review's references to existing use rights and SEPP (Infrastructure) in the Review and the intention that the school use continue), by effectively prohibiting the use of "educational establishments" on the land and in the locality the change in the planning controls alters the apparent desired future character of the site and its surrounds.

Whilst the Review makes clear that it is intended that the school (and indeed other non-conforming uses) be permitted to continue operating and indeed to expand or be altered in reliance on existing use rights or SEPP (Infrastructure), the Review itself will not be document easily relied on in the future. The planning controls must speak for themselves. Any consideration of a future application for development of the school under either existing use rights provisions or SEPP (Infrastructure) will be informed by whether the proposed development is consistent with the desired future character of the area. That desired future character will be determined by the other applicable planning controls.

The Review recognises a desired future character which includes schools by acknowledging allotments that contain existing educational establishments, and that those educational uses should be catered for into the future. Planning documents must speak for themselves however, and reliance on the terms of the Review once the controls are finalised will be difficult. As extrinsic materials may not be considered for the purposes of construing any future planning instrument, it may simply be interpreted on its face that educational establishments are prohibited and therefore any expansion or continuation of that use may be restricted: see *Fodor Investments v Hornsby Shire Council* [2005] NSWLEC 71 at [17]. There is a strong chance that the real desired future character will be obscured by the blanket rezoning.

It is therefore imperative that permissible and non-permissible uses be clarified and dealt with explicitly in any new planning instrument, rather than deferring such matters to other measures such as the SEPP in order to properly achieve the outcomes sought by the Review.

If the Department sees existing educational establishments, including the John Colet School, as an integral part of the locality, it should specifically zone those sites as such rather than leave the desired planning intention of the lands in limbo. Again this has been recommended for other sites in the Review area, and there is no reason why that approach cannot be taken here.

### **Existing Use Rights**

The creation of a prohibited use, whilst saved by existing use rights for ongoing permissibility, is not as straightforward as the Strategic Review suggests.

As noted in the submission of John Colet School, the reliance on existing use rights will require the school to have to prove existing use rights as a matter of formality in each new application for further development consent. This can include preparation and collation of documents such as historical land uses, statements to support that any existing use rights, historical development documents, prevailing planning instruments at grant of consent, and many more.

As the land use of "educational establishment" will be prohibited under the proposed zoning, it is a jurisdictional fact for the consent authority, prior to granting any approval, to be satisfied of the various documents above not normally required of developments that do not rely upon existing use rights.

We draw the Department's attention to relevant objects of the Act, quoted above, for the *promotion and co-ordination of the orderly and economic use and development of land*. The proposed rezoning of the land, leaving the John Colet School (and many others in the Belrose North area) to rely upon existing use rights to ensure their continued use and existence, does not represent orderly and economic use of land.

It is simply a better management of the present use to expressly allow it to continue as a permitted use under relevant planning instruments, rather than requiring the

John Colet School, and many others like it, to prove existing use rights, for what could be a relatively straight forward development application for matters such as relocation of buildings, renovations and the like. Further, more complex development applications for its continued operation and growth then do not become entangled in costly approvals processes (which invariably result in litigation) over what existing use rights are available, and the applicability of relevant planning instruments, and the desired future character issues outlined above.

The most sensible option to allow the continued use of the site as an educational establishment is not through existing use rights, but as a particularised use (as an educational establishment) under the SP1 Special Activities or SP2 Infrastructure zones under the LEP.

### **Infrastructure**

The Review, at 3.3.5 (p19), draws attention to the ability of educational establishments to obtain consent pursuant cl 28(2) of SEPP (Infrastructure).

We note that SEPP (Infrastructure) makes different provision for the permissibility of development for the purposes of education establishments dependent on the zoning of the land. Despite the Review purporting to rely on SEPP (Infrastructure) to permit school development, these zoning differences are not considered.

We draw the Department's attention to the fact that the E3 Environmental Management Zone, unlike the SP1 or SP2 Zones, is not a prescribed zone for the purposes of Part 3 Division 3 of SEPP (Infrastructure).

Educational establishments in prescribed zones (such as the SP1 Special Activities or SP2 Infrastructure Zones) have the ability to undertake exempt or complying development, or development permitted without consent. Some of this development in prescribed zones includes minor alterations or additions (as provided by cl 29). However, this would not be possible under the E3 Zone, and it is not apparent from the Review that such issues have been considered.

This puts the school at a distinct and unfair disadvantage as against other schools across the State which enjoy the benefit of properly considered and reasoned zoning. Those schools, unlike the John Colet School, will be able to undertake comparatively minor development without the need to jump through the bureaucratic hoops, and the commensurate time delays and costs, associated with the development application process.

That result is entirely inconsistent with the Department's expressed intention to streamline and simplify the development process, with the real decision-making being made at the strategic stage. In this regard we refer to the White Paper for the New Planning System for NSW, particularly Chapter 5 of the White Paper, which opens with the following statement:

*The new planning system will create a major shift towards evidence based strategic planning in the preparation of plans, community and*

*stakeholder engagement and decision making. The transformation to upfront planning is the key tool for better facilitating the delivery of housing and jobs in the right locations, while protecting and managing the environment and people's way of life.*

In our opinion, the Review and the proposed zoning of the John Colet School land does not sit comfortably with the above statement in the White Paper.

## **Conclusions**

The John Colet School, as well as other independent educational establishments, play a vital role in supporting the needs of local residents. The provision of schools, including a mix of public and private operations, is an infrastructure necessity that contributes to the greater economic, social and cultural welfare of the area through such community facilities.

The continued operation of the school, including the potential for future development and expansion should be ensured. Whilst not fatal to that continued operation, the approach recommended by the Review does not provide the necessary certainty and casts the future of the school in doubt.

It is our opinion that, failing to find that there is any ecological preservation value in the subject land, and the fact that the subject land cannot achieve any of the objectives of an E3 zone, it is futile to rezone it as such, and the Department should explore options that support the continuing uses as existing at the site.

If the Review's proposed zoning is to take place, there will be an element of procedural unfairness, noting that some landholdings have been given specific consideration, yet the John Colet School is rezoned as part of a blanket approach.

Further, the Review and the proposed rezoning does not accord with the future intentions of the planning system to provide for an upfront strategic planning approach that is based on evidence and stakeholder engagement.

We submit on behalf of the School that the subject land be zoned SP1 or SP2, for the purposes of educational establishments, to allow the continuation of a use that contributes to the infrastructure and growth of the local communities.

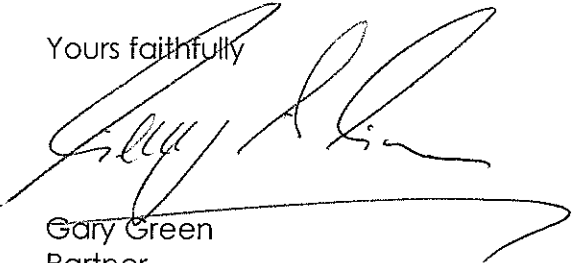
A further alternative is to include the subject land to the additionally permitted uses under Schedule 1 of the LEP as an educational establishment.

A final alternative is to rezone the subject land to one that is capable of supporting educational establishments under pursuant to cl 27 of the State Environmental Planning Policy (Infrastructure) 2007. However, we would suggest that the Department and the Council have a better opportunity in regulating the subject land use by allowing for its permissibility under the LEP.

As the above submission discusses detailed planning and legal considerations, we are happy to further discuss or elaborate on the issues identified. Should further

clarification or discussions be required on the above, or the matter more generally, please do not hesitate to contact our offices.

Yours faithfully



Gary Green  
Partner

Attachments: submission by John Colet School dated 7 August 2013

CC: The Hon Brad Hazzard MP  
Member for Wakehurst  
Minister for Planning and Infrastructure

## **Draft Oxford Falls Valley and Belrose North Strategic Review**

- submission by John Colet School, 6-8 Wyatt Avenue, Belrose.

John Colet School is an independent primary school located on Wyatt Avenue and has been operating as a school in its current address for 15 years, and before that the property had a similar use as a Christian training centre.

Under the Draft Belrose North Strategic Review ("Review"), John Colet School is proposed to be zoned E3 Environmental Management. Under the proposed E3 zone, "educational establishments" are prohibited. The Review states that schools in this scenario can rely upon the provisions of Clause 28 of the Infrastructure SEPP and existing use rights for ongoing permissibility.

John Colet School would like to ensure that it will be able to carry out the activities of an educational establishment. Typically, educational establishments are constantly in a state of change, as student numbers vary and teaching requirements regularly need review and updating. This means that the School regularly reviews its accommodation needs, and occasionally requires more building work.

Whilst the Review states that this can be easily addressed by utilising the Infrastructure SEPP or existing use rights for any new development associated with a school, we do not consider this to be an efficient way of preserving the school's continued use of the land.

In the first instance, the Infrastructure SEPP was originally introduced to prevail over restrictive and preventive planning provisions in Local Environmental Plans (LEPs), ensuring the delivery of important infrastructure, such as schools. We do not believe that where a new LEP is prepared, that it should rely on this State policy to preserve existing and guide future infrastructure provision in the local government area. Rather we submit that a more appropriate strategic planning outcome for a local environmental plan to adequately reflect and permit existing land uses where appropriate. We consider this to be the case for John Colet School.

In the second instance, the Review states that existing use rights would preserve the rights of schools such as John Colet School to continue to operate as an existing educational establishment, notwithstanding the prohibition under the proposed E3 zoning. The underlying purpose of defining existing use rights is to control historical and now non-conforming uses, allowing them to continue to operate in spite of land use zoning changes. Again, we consider it to be an inefficient approach to strategic land use planning to rely upon existing use rights for developments such as John Colet School, which are steeped in historical operations and contribute greatly to the surrounding locality in the provision of an important educational service. Especially when the strategic planning process allows the regularisation of

permissibility as the Review currently provides. Relying on existing use rights would require every application made to the Council to demonstrate evidence of development consent and possibly, records of activity relating to the land that relies of the existing/continuing use rights. Whilst this is not necessarily an issue for John Colet School, we consider it to be unnecessary and inefficient in view of this current opportunity to make the school a permitted use on the land under the proposed Review. With existing use rights also tightening over the past years, relying on existing use rights could potentially limit the amount of additional expansion the school could seek approval for .

The Belrose North Strategic Review and its recommendations should not restrict these normal requirements of an educational establishment.

With this in mind, it would be reasonable and appropriate planning practice, for the school to be listed as an "additional permitted use" in Schedule 1 of the Draft LEP. It is commonly known that Schedule 1 is appropriate to be used providing it can be demonstrated that the proposed land use is appropriate on the particular parcel of land, but not generally within the zoning. This is certainly the case with John Colet School, as has been demonstrated by many previous development consents.

Our proposed approach would be similar to that marked as "Area 11" in Map 008 "Additional Permitted Uses". This can specifically relate to the parcel of land held by John Colet School and will therefore not set a precedent (refer to page 12, clause 5. Special Purpose Zones and Schedule 1 (Additional Permitted Uses). In Map 006 "Secondary Constraints Analysis", John Colet School has already been annotated as "Land for further zoning consideration", as this land is the least constrained in the study area" (p.33). This would be consistent with Clause 3 on page 40 "Schedule 1 Additional Permitted Uses" – (2) Development for the purposes of educational establishments, ... is permitted with consent." And it would also be consistent with Map 003 "Landuse Analysis", where the property is already noted as Educational. This is similar to the nearby Kamaroi School, Yanginanook School and any other schools within the proposed E3 area.

Further to the above, we note that there appear to be a few inconsistencies with the mapping in the Review. Please refer below for discussion.

- John Colet School notes that the extent of the property as indicated on Map 003 "Landuse Analysis" is incorrect, and the pink colour demarcating it as Educational should cover the entire property. There is an area to the west of the pink marking that forms part of the school but is not classified as "Educational". We request that this map be amended to adequately reflect the extent of the school's existing boundaries.
- John Colet School also notes that on Map 005 "Outcome of the Primary Environmental Constraints Analysis", the extent of the red area marking it as prohibitive, severe or significant environmental constraints to development, is incorrect and extends too far south within the School's property.

We trust that in the preparation of the revised Warringah Local Environmental Plan 2011 the comments made in this submission are taken into account.

**Submission Number: 123**

Confidential

Further to my submission dated 7 August 2013, please find attached a report which was commissioned to determine the appropriateness of an E3 zoning for my property. The report was prepared by Dr David Robertson of Cumberland Ecology who I believe is known to the NSW Department of Planning and Infrastructure. You will see that the conclusion of the report is that an E3 zoning is inappropriate for my property and the reasons are outlined in the report. I look forward to hearing comments from the project team on the report and their recommendations on an appropriate zoning for my property.

**FROM:** PAT O`DEA - BELROSE PARK PARTNERSHIP  
podea1@bigpond.net.au  
**To:** OFBN- REVIEW – Dept of Planning NSW  
**Re:** 181 FOREST WAY BELROSE LOT 3 DP 805710  
**DATE:** 13 SEPTEMBER 2013  
**BY EMAIL:** ofbn-review@planning.nsw.gov.au  
**Attn:** [REDACTED]

Dear Ms McCourt

I refer to the recently exhibited Oxford falls Valley and Belrose North Strategic review. All correspondence was sent to our owners representative in WA, who has been overseas, and we have been unable to make a submission within the prescribed time. I trust therefore that you can consider our late submission.

Whilst we acknowledge and support the report's recognition that the majority of the site is capable of development, we believe that the site's location in terms of proximity to shops, services, transport, and relationship with adjoining residential development, warrants a denser form of housing than R5 as suggested. In this regard we request that the unconstrained land to the west adjacent to Forest Way and adjoining "Australand" site be rezoned R3 to allow for town house development. This would allow for clustering of the buildings and built form with small lot housing consistent with the current approach advocated by the Growth Centres SEPP amendments, and hence allow the more constrained rear of the site to be retained as common open space, and protected under a community management scheme.

Such a proposal would result in better environmental outcomes, not have an adverse visual impact when viewed from surrounding bush land, and be capable of being absorbed within the visual built form of surrounding residential development along Forest Way.

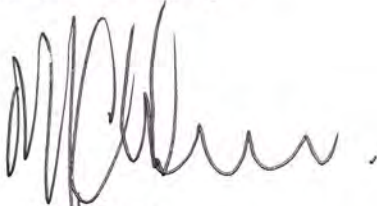
Our inquires confirm, that unlike units and aged persons restricted housing, there is a great demand for townhouses and villas on small lots within Warringah, which better represents housing choice and affordability choices. We believe that the land along Forestway

should be released for housing to support the metropolitan strategy and Council's contribution to the region, particularly with the imminent construction of a new hospital at French's Forest.

As you will note our site is also accessible from an unmade side street and traffic access into the site can be adequately and safely managed and could provide an opportunity for a link road to the rear the other sites to the south.

We trust that you will give our submission due consideration and invite the Council assessment panel to inspect the area prior to its determination so that the attributes of the site can be fully appreciated.

Yours faithfully

A handwritten signature in black ink, appearing to read 'P. J. O'Dea', with a stylized, cursive script.

P. J. O'Dea

Belrose Park Partnership

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Biggera Waters  
Queensland 4216  
[podea1@bigpond.net.au](mailto:podea1@bigpond.net.au)