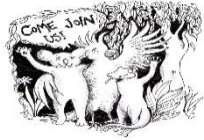


INQUIRY INTO CROWN LAND IN NEW SOUTH WALES

Name: Ms Janet Harwood

Date received: 25 July 2016

The Future is the Natural World



"Biodiversity loss is the most significant environmental problem facing Australia"

Professor David Lindenmayer. (2007) "On Borrowed Time"

PUBLIC LAND IS AN ASSET FOR VOICELESS ENTITIES

Contents

Public Lands in urban Environmentally Sensitive Areas are significant to the Crown Lands Inquiry.

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Part One - Public Land of high biodiversity value – Sheldon Forest

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Conclusion – Urban Public Lands are vital to: Making the Link between protecting built and natural heritage to maintain the integrity of national identity. Compensating for improper re-zoning for development which has caused land clearing of irreplaceable urban native vegetation. Respecting the habitat of wildlife found nowhere else. Leaving Inter-generational equity.

"...developing a deeper understanding of ecological communities has an urgent timeline. If we fail to develop such an understanding within the next twenty to fifty years, there will be very few intact communities to use as models for the restored communities we hope to build. This will significantly reduce our ability to maintain ...the viability of all human health and economic welfare."

Andy Dobson's Foreword for "Corridor Ecology - The Science and Practice of Linking Landscapes for Biodiversity Conservation" (2007) Authors: Jodi A. Hilty, William Z. Lidicker Jr., & Adina M. Merenlender.

PUBLIC LAND IS AN ASSET FOR VOICELESS ENTITIES

Public Lands in urban Environmentally Sensitive Areas are significant to the Crown Lands Inquiry.

- ▶ For a Local Government Area with three critically endangered ecological communities of species, it seems odd 21st century planning that the LGA was never given the appropriate 'red-flag' protection, no critical habitat declaration & no environmental significance recognition before development re-zoning.
- ▶ In 2000 Ku-ring-gai was recorded as having • *Most of the last remnants in the Sydney "bioregion" of the Sydney Blue Gum forests (the "bioregion" extends from Nelson Bay to Bateman's Bay and from the coast to the mountains.*
- ▶ Also • *The largest number of threatened species (plants and animals) in the bioregion for a local government area. It is noteworthy that Ku-ring-gai has similar numbers of bird and plant species as the entire British Isles.*
- ▶ Probably due to its location • *Four National Parks in and around Ku-ring-gai, Ku-ring-gai Chase National Park, Lane Cove National Park, Garigal National Park and Dalrymple Hay Forest National Park.*
- ▶ Turramurra is one of Sydney's most sensitive places for its unique combination of built and natural heritage. The aboriginal meaning of the name Turramurra is "big hill". The name reflects the unique features which produce the combined built and natural sensitivity of the suburb.
- ▶ The same environmental sensitivity attracted the area's early business people, who settled in Hillview estate, and formed a national identity which is being lost. Environmentally Sensitive Areas (ESAs) are gold for future cities, habitat for vanishing wildlife and vital for public health, mental and physical.
- ▶ Lack of on-ground implementation of legislated protection – both in the Local Government Act and in the Threatened Species Act, and the process by which this happens, is demonstrated in two areas containing pieces of Public Land this submission concentrates on.
- ▶ It seems a powerful, non-resident bureaucracy regards the LGA as "greyfield" rather than rare urban "greenfield". Power of un-elected government is such that elected government can become overwhelmed by advice from un-elected government. Business papers overload elected government creating reliance on that advice. Other LGAs do not have similar intensity of meetings and work-load.
- ▶ Unless elected government also takes advice from engaged local residents, unlikely in reality due to high re-zoning activity and work-load, the advice received from un-elected government generally favours overall development and recreational use of the locality's most sensitive lands.
- ▶ The example of incorrect recreational zoning in Part A and the pressure to reclassify the Little Village Park for development in Part B both represent the "greyfield" -ing of Turramurra, and show the process which adds to the general loss of an area of rare, urban "greenfield" and high built heritage.
- ▶ One reflection of the political nature of development and recreation, and subsequent community inability to deal with the attrition of built and natural heritage, is that elected government inevitably carries the blame for decision-making. Public perception is that elected government is to blame, but
- ▶ In actual fact the real system allows top bureaucracy, which carries decision-making clout through its long-term life and advisory powers, to remain in place election after election, enabling continuity, steady-state management and broad oversight of the "greyfield" -ing process of development and recreation.
- ▶ "Greyfield"-ing ESA is a process. As shown, an area of great sensitivity has successfully become a construction zone, causing permanent loss of natural asset and built identity.
- ▶ Ecological integrity, by nature has both a deadline and an urgent timeline, especially in urban areas.

Introduction

“The fundamental unpredictability of nature also means that Science must inform decisions about how we should, or should not, use the Earth’s lands and waters, but those decisions will not rest on science but on the values of individuals and their communities. That opens the door, for good or ill, to broad and diverse human communities and all the fallible institutions we have created to govern ourselves.”

“The Future of the Wild - Radical Conservation for a crowded World” Jonathan Adams (2006)

Most fallible institutions created to govern ourselves: see the world through an economic lens.

Public Lands in urban areas match the value of Crown Lands. As survival-type decision-making looms, clear ecological perspectives are needed to consider how best to protect Public Land Assets in urban areas. The Inquiry is asked to consider the fate of Public Lands, to ensure urban Environmentally Sensitive Areas (ESAs) are saved from irreversible loss. Nature’s intrinsic value needs space to sustain itself – especially in future cities.

Yet Public Lands as potential greenspace, and insurance against irreversible biodiversity depletion and climate extremes, are being lost to conflict of interest, corrupted process, cumulative impacts, tricky ‘financial’ dealings and blatant misuses. Land most desirable to protect is land most likely to be lost to construction or recreation.

Future vulnerability to Greyfield-ing, the early identification of urban Greenfield and correction of flawed process. Public Lands in increasingly urbanized times, are the last of Nature’s urban “commons”. They form buffers/safeguards for future generations to exercise *their* options and satisfy *their* decision-making.

Public Lands are inter-generational assets which future urban populations and other species must not be deprived of. However, if decision-makers see rare, urban Greenfield areas as Greyfield – the process is at once geared to the eventual loss of ecological integrity. The economic lens is more powerful than the environmental.

Submission Scope This submission will concentrate on Turramurra, one of Sydney’s most sensitive places – under Labor and Liberal pressure, being lost to poor process, cumulative development and recreational impact.

Urban Forest shelters critically endangered ecological communities like Blue Gum High Forest (BGHF) and the Powerful Owl. These are fully reliant on Public Lands for security or compensation. “Extinction debt” means Planning and land use management needs more deep ecological understanding and less shallow decision-making.



Above BGHF on private land will eventually be entirely lost. Just one development equals the size of one (Ray St) Public Land segment of many to be lost. Turramurra’s Public Lands, under sustained pressure for several years, must be kept for compensation of loss via systemic, underlying problems. True Biodiversity Strategy should EXPAND core reserves, not contract by recreational activities and zonings, in Public Land reserves.

Land clearing through development and recreational use - impacts

“When an area of native bushland is lost, most of the resident wildlife does not simply relocate. In reality, the vast majority of animals will die. Most will die quickly but others survive for a time before succumbing to starvation, predation or other fates”. Australia - State of the Environment 2006.

Body of Submission:

In a context of 8 un-recognized land-use planning facts two questions are relevant.

- a. *How should one explain to a Parliamentary Inquiry the significance and urgency of the need to protect high conservation value Public Land: critically endangered listed biological diversity, in remnant urban forest, on a fragile continent, in a sea of the same ecological community, being lost daily on private lands?*
- b. *How should one explain to a Parliamentary Inquiry the significance and urgency of the need to protect a still miraculously untouched Public Asset: a group of buildings of layered historical value sited in an ancient continent, inherent in which setting are the immediate challenges Australians face: biodiversity depletion, loss of national identity and climate extremes?*

1. “Sustainababble” - The context in which decision-making is done (and rare Public Land is lost)

Are we inviting comprehensive loss of Nature? Taken together, the current national land-use system poses a joint, un-assessed threat to Nature: both in the public National Reserve System (NRS) and in privately “owned” Nature. Currently in NSW there is: no recognition of Urban or Regional Forests in NSW SRLUP, no consideration of cumulative impacts, no respect for the 1st principle of *in situ* biodiversity conservation (see *Convention for Conservation of Biodiversity*), double-speak in the interpretation of ESD, misinterpretation of IUCN’s “no net loss” of Biodiversity, and considerable disrespect for strong protected-area status for the recommended 17% of lands. Add to that, no identification and protection of “red-flag” areas in land-use planning, weak E-Zoning and lack of formal Biodiversity Strategy in NSW – at local and state levels.

See “*Sustainababble in Government is serious nonsense*” by J Harwood 2015/2016

2. The “triple bottom line” is not an equal legged stool.

As noted by Rob Stokes at a Sydney University World Environment day talk, the 200 year old *economy* sits within a much older *society*, and the two nested components sit within the life-supporting *environment*. It is logical that the *environment* (millions of years old) shelters both *society* (approx. 2000 years old) and the *economy*, which is a recent human construct (approx. 200 years old). The triple bottom line is therefore not an equal legged stool. Yet, government decisions and drafting of legislation such as the *Biodiversity Conservation Bill* have turned the “nesting hierarchy” upside down.... giving the Economy un-sustainable priority, and considering Ecology last. Example: E-policies/reviews/reforms based on “cut red-tape” and “Grow first, then Protect” principles.

3. Most decision-making is done “in isolation” therefore not considering incrementing, cumulative effects.

No Environmental Impact Assessment was done of the area’s three or more critically endangered ecological communities, to protect the LGA before multiple highly destructive re-zonings for development were gazetted LEP194 (2004), Seized Ministers sites (2005) Town Centres LEP (2012), etc. Multiple decision-making bodies JRPP, PAC, Councillors and Planning Ministers operated. While Labor led government (2004) labelled environmentally sensitive Ku-ring-gai as “an area of significance” and not “an area of ecological significance” to allow the gate to development re-zoning to be held open, Liberal government did nothing to reverse this. See: *Ku-ring-gai NSW: a battleground between urban consolidation and green amenity* Luke McGregor and Andrew Kelly

4. Re-zoning for development is a powerful often donation-driven key-threatening-process for ecosystems.

Since Zoning for development constitutes a higher order decision-making process leading to the clearing of Native Vegetation (a current KTP), in 2009 a request for an urgent determination that *Zoning for development is a Key Threatening Process*, was made to the Threatened Species Scientific Committee. In a detailed submission by J Harwood and A Parr, with a covering letter from combined local groups, the submission described process in dLEP212. Here Blue Gum High Forest was almost lost to re-zoning for development based on a developer EIS but was challenged by Friends of Turramurra. While this land was saved from development, the same listed vegetation in the Deferred Matter site 1 km north, was not so lucky. It is now lost to re-zoning for development.

See: *Zoning for Development is a Key Threatening Process (KTP)* Submission by J Harwood/A Parr 2009 to Threatened Species Scientific Committee (TSSC) requesting new KTP in Legislation.

5. Applying ‘tricky’ financial systems (Biobanking) to endangered ecology is perilous for voiceless species.

The Biobanking process is complex, prone to error and while aiming to protect can cause irreversible damage. Considering the application of financial systems to Nature, the complex habitat of species cannot be substituted for poor decision-making that may favour the narrow interest of humans – be they developers or recreational groups. Once a decision is made, if it is the wrong decision, even though correcting “methodology” exists the damage is difficult to reverse. Public Lands with endangered vegetation are already protected by legislation. If that law is not respected financial arrangements often result in immediate depletion of biological diversity, with little to show as gain in the big picture. Cheating Nature often has impacts which are irreversible.

<http://voices.nationalgeographic.com/2015/07/22/offsetting-biodiversity-greening-or-greenwashing/>

See: “BioBanking – An economic response to the ecological predicament of species survival? Submission by J Harwood 2008.

6. Urban Forest for the intrinsic value of Nature, for future cities and for mental and physical health

A rare peculiarity of Australia is that remnant ‘ancient’ forest is still found close to modern railway stations. This is because Australia is an old continent but a young country. While logging removed vegetation during the 1800s the soils and seed-bank remained and was able to regenerate. Today government planning does not consider sensitive soils and seedbank in development assessment and these critical assets are being rapidly replaced with construction concrete in Environmentally Sensitive Areas. Despite Government building and supporting the NSW PlantBank and despite recognizing the predicted extinction of 30% of plant species, the regenerative capacity of rare Urban Forest is being lost to construction and so-called infrastructure. While Urban Forest was ‘picked up’ by the Moore&Dyer Issues Paper in the Planning legislation review, there is currently no protection of endangered soils, seed-bank and no identification of ‘red-flagged’ critical habitat.ⁱ

See: *Mayday for Urban Forests. Urgent considerations for the NSW Planning Act are Biodiversity Loss, Cumulative Impacts and Critical Habitat.* Paper by J Harwood 2015

7. Some Public Land losses are decided by un-authorized and un-elected individuals - but elected government is “made responsible” for the decision.

Questions which demonstrate flaws in the Biobanking system arise in the Case study of Sheldon Forest, which is high conservation value Public Land. A Biobanking Agreement became the ‘trigger’ for valuable land-area to be re-zoned or excised out of the agreement. Yet the excised land is the most valuable real-estate and the most vulnerable for biological diversity. Questions remain un-answered as follows: Were councillors advised of the implications of excision when they voted for the item in the Council meeting? How will excision which tripled the size of the RE1 area impact the high biodiversity in that area of the Biobank site? What was the ecological justification for recreational zoning in the most sensitive part of Sheldon Forest? How secure is the excised land in Public Ownership in future? Why was the RE1 area referred to by OEH as “predominantly cleared”? Why was the LEP zoning of RE1 progressed despite questions and emails by concerned community?

See: Records following which provide an example of how Public Land is lost in many areas across NSW.

8. The three “c”s which enable loss of Public Land and remain a continuing threat to Biodiversity.

Nature needs place to restore itself for ecological security. However Public Land and especially high built and natural conservation value Public Land remain vulnerable (a) to high levels of *conflict of interest*, (b) high use of provisions such as *commercial-in-confidence*, and (c) high instances of un-recognized and indeed ignored *cumulative effects and impacts*. These three “c”s have ensured that the logical ‘nesting hierarchy’ (economy sits within society and both sit within a much older and life-supporting environment) is turned upside down. The three “c”s are an existential threat to Nature and enable the application of ‘tricky’ economic and financial systems to operate. This is now the basis of the way we conserve life-supporting systems of complex biology and ecology. ⁱⁱ

Submission - Case Studies

The Submission will look at two of Turramura's Public Assets under immediate threat which are of significance due to their contribution to locally occurring national identity:

- (a) Public Land of high biodiversity value – Sheldon Forest
- (b) Public Land of high historical/built/curtilage value – Hillview and Little Village Park

The Inquiry must ensure Public Lands of critically endangered high biodiversity in urban areas are secure.

Past philanthropists have gifted lands to Public ownership. Previous local councillors in Ku-ring-gai gave regard to protecting much Public Land. This was to prevent short-term loss of Public Lands to development and to protect the same Public Lands expressly for uses which future generations may find necessary to consider.

However, in current bureaucracy-driven decision-making regimes, such forward thinking is not considered. Powerful 'corporate' decision-making by un-elected government often prevails over elected local councillors' wishes. The process by which this happens is not at once visible to concerned community members.

The process is worthy of being heard by the Inquiry - to implement immediate and long-term solutions.

Records such as emails show there may have been a "tick of approval" for the loss of Public Lands in Ray Street from Liberal politicians in the 1980s. Labor politicians were happy to lead the charge contributing to loss of Ku-ring-gai's sensitive environment in other ways. Emails show how 8 described self-evident truths come into play.

Disposal of one or two parcels of Public Land, and then more parcels of land, are blamed on State government demands and justified by reported 'costs' of community facilities. Added "*in isolation*" decision-making, lack of master-planning and selective reporting exacerbate the processes by which Public Land may be lost.

Solutions, alternative uses and recommendations from an ecological perspective.

Long-term solutions need urgent consideration in ESAs, with "biodiversity education".

1. A land-use planning solution is to redirect development away from endangered ecological communities. "Red-flags", critical habitat declaration, no-go E-Zones (E5) are available solutions – but not used.
2. One solution is that multiple re-zonings for development (improper for an ESA) should be compensated. Public lands should be retained/kept in public ownership to compensate other species, the future city and future generations, for a significant loss of ecological values. For example: A "car-park" is not just a carpark. It is potential greenspace and compensating bio-linkage, replacing system failure and planning disregard of lost seed-bank and soils. In ESAs car-parks could be used for emergency greenspace in 100 years. Once sold off or lost to concrete it can never be replaced.
3. Another solution is that more Public Land be acquired to compensate for ecological losses. Acquisition before impact (ABI) should be made part of compulsory Biodiversity Strategy. Any Biodiversity Offsetting should re-stock Public Land to allow "no net loss" of biodiversity. Since there are NO gazetted Biodiversity Strategies in operation for *un-assessed* Environmentally Sensitive Areas (ESAs) like Ku-ring-gai, and further no environmental strategy to plan for ABI, then un-recognized seed-bank and soils of great ecological sensitivity can be rapidly being replaced by concrete. ABI can counter the cumulative pressure of increasing population. This is unassessed for sustaining wildlife and habitat.

Short-term recommendations for Case Studies need responsible and urgent action.

1. Recreational (RE1) zoning in Sheldon Forest must be reversed and recreation be relocated to Kate Street facility if the "in perpetuity" claim of BioBanking Agreement ID 132 is to be achievable and verifiable.
2. Hillview HCA Nomination for State Heritage Listing needs instituting for reasons described in Statement of Significance and due to current zonings applied as described.

Part One - Public Land of high biodiversity value

Question - How should one explain to a Parliamentary Inquiry the significance and urgency of the need to protect high conservation value Public Land: critically endangered listed biological diversity, in remnant urban forest, on a fragile continent, in a sea of the same ecological community being lost daily on private lands?

CASE STUDY – Sheldon Forest. Sydney's showpiece ancient Urban Forest.

As a demonstrator – Sheldon Forest drags poor planning of Sydney's environmentally sensitive areas (ESAs), from a local issue into the big picture of our global biodiversity crisis: survival of other species and future generations.

The case study shows Sydney's High Conservation Value Reserves are becoming increasingly vulnerable to recreational groups, re-zoning, storms and diseases, which will cumulatively send the last urban fauna to extinction. Sheldon Forest, (below) is Sydney's showpiece for critically endangered BGHF and STIF. Yet, it's most valuable and vulnerable section is rezoned for recreation. Despite so-called 'in perpetuity' protection by a BioBanking Agreement, recreational zoning through secrecy and questionable process, now leaves the whole RE1 area exposed to future loss.



Why do “Commercial-in-confidence matters” operate on public land of high conservation value? Is this conducive to loss?

Recreational zoning in Sheldon Forest will continue to cause concern, do disfavoured, and damage the credibility of decision-makers, recreational groups and the BioBanking system. To rectify the situation is to take necessary steps to reverse the RE1 (recreational) zoning that mistakenly excises and destroys the most valuable and vulnerable land-area of BioBanking Agreement ID 132.

In a sea of surrounding loss of original seed-bank, soils and old-growth habitat – a rare showpiece Urban Forest on Public Land, such as Sheldon Forest, should be even more carefully protected than less valuable reserves. Watertight provisions should reflect Threatened species Scientific Committee (TSSC) advice that rare ecological communities are insufficiently documented. Yet, this publically owned asset for the future city, the last critically endangered ecological community of species to stretch to the Pacific Highway, is under hidden pressure. To quote the response to a Freedom of Information request, “files have been corrupted”. Councillor briefings on a complex Biobanking Agreement and decisions relating to the important excision of high biodiversity land for recreation, are un-available. Maps requested of the lands excised, were deemed to be “commercial-in-confidence” and the reason given is “it is reasonable to expect that the disclosure of this information may prejudice Council's or Scouts Australia's legitimate business, commercial, professional or financial interests.” Dangers to this showpiece for a future city, within walking distance of two railway stations, are therefore many. Past incorrect decision-making cannot be supported. Signage is insufficient or misleading, and the public is unaware of a general biodiversity crisis. At its most valuable and vulnerable end, which is also the highest and narrowest part of the Forest, a large section of land, carrying some of the best habitat trees representing the ecological community, is described by OEH as “predominantly cleared”. At this most valuable and vulnerable narrow section of precious Public Land, trees are now dying. Some are removed in their entirety. In that same area, a quietly negotiated BioBanking Agreement,

while providing money to purportedly protect “in perpetuity”, has at the same time excised a large section of land and re-zoned it RE1 for recreation. The sequence of events by which this was decided, meant Councillors would not have understood the full ramifications of recreational re-zoning. It must be remembered this is valuable real estate because the land can be reclassified and sold at a later date. More importantly, being at a high and narrow point, excision creates ecological vulnerability for the adjacent irreplaceable Urban Forest protected “in perpetuity”. Issues surrounding rezoning remain unexplained and unsupported by *in situ* conservation principles, which should underpin true conservation of biological diversity. This process has nothing to do with real conservation. The re-zoning is also shrouded by “commercial-in-confidence” provisions. What regulations allow this process on Public Land? *At the same time, in surrounding and adjacent private lands*, rare support trees and vegetation continue to succumb, *cumulatively*, to improper re-zoning for development.

In the sensitive lands surrounding Sheldon Forest, (Pymble Turramurra Warrawee Wahroonga) rare Urban Forest struggles to survive in reducing street verges, smaller and smaller private gardens, stressed ovals, over-used parks, continuing development and weed-infested reserves.

The whole ESA was not “red-flagged” for protection and there is no environmental or biodiversity strategy that can be gazetted. Death-by-a-thousand-cuts is assured. Public Lands remain under hidden pressure.

To describe the threats this Powerpoint is available if requested/required.



Mayday for Urban
Forests 2015 by JH .1

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To assist the Inquiry’s understanding of systemic flaws, errors and gaps in the management of Public Land of High Conservation Value, questions are asked.

Councillor Briefing on Biobanking Agreement (BA):

1. Why were councillors briefed in the hour before the Biobanking Agreement was to be voted on?
2. Who gave the briefing to councillors and what were they told about complex BA conditions?
3. Why are briefing files “corrupted” and unable to be supplied? (see GIPA response page 10-12)
4. Why were no informed community members included in the briefing?
5. How was the email from STEP responded to?

Please see email below.



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6. What maps were councillors shown and was the RE1 zoning marked on those maps?
7. Why were requested maps “commercial-in-confidence” before the lease was decided?

Re GIPA response on page 10-12

8. Why was no information sent out about the renewed Scout lease to concerned community?

Ecological justification for Recreational Zoning

9. What was the ecological justification for recreational zoning in the most sensitive part of Sheldon Forest and what consideration was given to high biodiversity in that area of the Biobank site?

10. Were councillors aware of all biodiversity impacts of the lease at the time of voting for the Agreement?

11. Were councillors aware that the area excised was the highest and most narrow point for biodiversity?

12. Were councillors aware that the area was also the most valuable and vulnerable part of the narrow part of Sheldon Forest?

13. Was anyone aware that RE1 zoning would result in habitat tree-removal and heavy earthworks that would be detrimental to critically endangered high biodiversity in the RE1 zoned area?

14. Why was the RE1 area referred to by OEH as “predominantly cleared” to 3 members of the public?

See letters from Director Groskopf below.

15. How did 1600 sq meters for RE1 zoning come about?

Note: The original lease area, which is recorded as 21 sq perches or 531.1 sq meters.

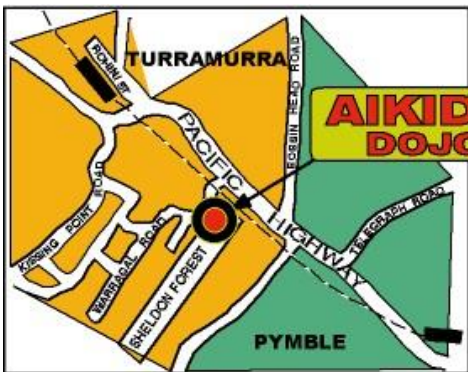
16. Why should recreational groups be rewarded by increasing by 1000 sqm the whole area of critically endangered BGHF to be damaged?

Administrative Process and community consultation in Public Land loss

17. Was the excised area surveyed by a trained ecologist and why were concerned community not consulted?

18. Why was the LEP zoning progressed despite questions and emails by concerned community?

19. Is there administrative understanding that RE1 zoning allows any recreational group, other than the group leasing the Hall, to use this sensitive area ?



20. Is the LEP Map showing RE1 zoned area correctly and proportionately depicted ?

Land Zoning Map LZN_007 Sheldon Forest in the **Ku-ring-gai Local Environmental Plan 2015**

http://www.legislation.nsw.gov.au/map/4500_COM_LZN_007_010_20150114.pdf?id=95fc97bd-28cb-44c4-ba0b-92271ae0939e

21. What legal mechanism and survey was used to decide the size of the RE1 area?

22. What Lot numbers and DP numbers are included in the RE1 area?

23. Were letters and emails written by concerned community considered by anyone in Local Govt?

STEP to GM and councillors Date..... Reply

STEP submission to BioBanking Agreement Date Why was objection to recreation in core reserves not considered?

FOKE letter to Minister Date..... Reply to FOKE “predominantly cleared”

JH Email letter to Director OEH Date Reply “predominantly cleared”

JH Email to GM and Councillors Date.....Reply No reply from Local Council

JH Letter to Minister Date Reply DOPE

JH Email and Letter to Director OEH Date..... Reply None Yet

Tree death and removal in RE1 area

24. What factors caused the death of this tree in the vicinity of other felled and removed trees?



25. Why was this tree removed when requests were made to leave it for habitat?



26. Since two requests to leave remaining part of tree for habitat were not heard, what were the reasons why this tree was removed entirely from Public Land?



Note: If the leased building is 6m x 10m then BGHF trees up to 30m from the building will need to be managed under Safe Useful Life Expectancy (SULE) rather than for their ecological value - tree hollows etc. The area of BGHF impacted would be around 4600 sqm, not just the 1600 sqm allocated as RE1. This is unacceptable for a critically endangered ecological community facing climate change.

27. Given the above, and since the Hall's footprint impacts a much larger area of trees: was the re-location of the Hall considered for ecological factors of concern for biodiversity conservation, and in order to prevent further tree removal and tree death ?

Note: In 2013 a STEP Submission to the Bushland Plan of Management recommended that recreation in Council's Core reserves of high conservation value should be phased out and eventually not allowed as – quote this would not be consistent with the core objectives of natural areas and bushland under sections 36E and 36J of the Local Government Act, 1993. These include:

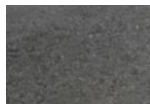
- To ensure the ongoing ecological viability of the land by protecting the ecological biodiversity and habitat values of the land, the flora and fauna (including invertebrates, fungi and micro-organisms) of the land and other ecological values of the land; and
- To restore degraded bushland

28. Why has no consideration been given to that Submission in the management of Sheldon Forest ?

29. Since the critically endangered ecological community was listed in 1995/7 - Why has little attention or respect been paid to the Threatened Species Conservation Legislation?

Note: A building leased to any community organisation is not permissible in E2 and for this reason Council is also now proposing to rezone to E2 portion of Princes Park, Lindfield which has over 16000 sqm of critically endangered STIF.

30. Was adequate consideration given to the proper protection of the showpiece remnant Blue Gum High Forest in this location which is of higher value due to its proximity to other valuable heritage locations in Turramurra?
31. On what basis was RE1 zoning considered safe to proceed when traffic considerations on Warragal Road are made hazardous by steep incline, sharp bend and narrow width of road at this point ?



See also email below



Continuing
problem with RE1 zc

Response to GIPA (page 12-14)

32. When the formal GIPA was requested by staff to be withdrawn by JH who composed the informal GIPA response?

Note Given this response “The terms of the licence/lease agreements for all guides and scouts halls are currently still under review and further negotiation with Scouts Australia and Guides Australia therefore it is reasonable to expect that the disclosure of this information may prejudice Council’s or Scouts Australia’s legitimate business, commercial, professional or financial interests.”

33. Why should such map information on Public Land be made “commercial-in-confidence” and how is the probity of decision-making to be assessed, if map area is not known or able to be questioned?

Note: When the licence/lease agreements have been finalised (in draft) there will be a public exhibition period where they will become publicly available and a report will be subsequently referred to an Ordinary Meeting of Council for their adoption / modification etc. Therefore I am unable to provide you with access at this time.

34. Were the lease agreements finalized and has a Public Exhibition been held?

Note: I wish to confirm that I am unable to provide you with access to the councillor briefing presentation file as it corrupted. I can however guarantee that the information provided followed the content of the following documents and that there was not additional content within the councillor briefing presentation.

Council report - GB5 10/9/13 (including attachments) – this can be viewed at www.kmc.nsw.gov.au
BioBanking Assessment Methodology and Credit Calculator Operational Manual ([Click here to open](#))
BioBanking handbook for local government [click here to open](#)

A STEP email sent before the briefing stated “STEP believes it is an insult to our community and the Councillors for a briefing on such a complex issue as this to be given an hour before the Council Meeting where it is an agenda item to be considered.”

35. Why was the briefing so brief when the matter is so complex and did councillors understand all the implications of what they were voting for?



Council Meeting 10
September Agenda

36. Why was the Variation methodology not used to reverse the RE1 area and re-incorporate the excised area into the Biobanking Agreement?
37. Why no community discussion and no public exhibition of the new lease as stated in GIPA response?
38. Was there any consideration of “Cumulative Impact” in the RE1 decision-making process?

More questions can be asked but this is the Matter as community understands it stands today:

Seeking Help from OEH November 2015 – no response received – RE1 is still in place

This was sought following OEH description of Warragal Road area as “predominantly cleared”



Why is this loss of
high conservation v

Supporting information re this Public Land issue is below.



Fwd Council
Meeting 10 Septem

Dear John

I understand the briefing is about to start. Could you please pass this request onto the Councillors in case they are not aware of it before the Briefing starts.

Begin forwarded message:

Date: 10 September 2013 4:29:03 PM AEST

To: councillors@kmc.nsw.gov.au

Cc: Janet Harwood <janetsh@optusnet.com.au> ,

Subject: Council Meeting 10 September Agenda Item GB5, Linking Landscapes Grant

Dear Mayor and Councillors

STEP Has recently received information that the Council has received a "linking Landscapes" grant to create a biobanking site in the Sheldon Forest/ Rofe Park/ Comenarra Creek area. Endorsement of this grant is on the agenda for tonight's meeting with Councillors being given a briefing about the concept immediately prior to the meeting.

STEP has serious concerns about this proposal. STEP believes it is an insult to our community and the Councillors for a briefing on such a complex issue as this to be given an hour before the Council Meeting where it is an agenda item to be considered. The process should be fully transparent and not rushed through for political expediency.

There needs to be adequate time given to the community and the Councillors to consider the full implications of a biobanking scheme. The legislation is very complex. There could be major implications leading to loss of biodiversity in other parts of the municipality. Is this concentration of action on one site fair to residents in the rest of municipality?

We need more information on the implications for management of the Sheldon Forest/ Rofe Park Blue Gum High Forest/STIF areas. For example in Sheldon Forest urban stormwater is currently discharged through the Blue Gum High Forest, a critically endangered ecological community on West Pennant Hills soil landscape. This soil landscape is subject to periodic waterlogging, which means that BGHF is destroyed along the areas of the watercourse impacted by the high frequency flows from urban stormwater. Also the Scout Hall in the BGHF could be relocated to increase the area of BGHF, improve the integrity of this forest and reduce the need for on-going bush regeneration. It is STEP's understanding that offset funding is not being used to address the above issues, but for continued bush regeneration and fire management.

We also need to know the implications for other areas with BGHF and STIF vegetation. Does this proposal mean that marginal BGHF and STIF land in other areas that do not satisfy requirements of the TSC or EPBC Act and therefore will not qualify for a Red Flag (no development) area will in future be permanently lost using offset credits from the Biodiversity Trust Fund.

It appears the Trust Fund will finance ongoing maintenance works on Sheldon Forest and Rofe Park to improve its biodiversity. Is this an appropriate source of funding for such works or should the funds be used for expanding the physical size of our BGHF and STIF reserves? Once marginal BGHF and STIF is lost to development it cannot be recovered.

yours sincerely President STEP Inc

STEP submission to ref. no. 'S04326', Draft Ku-ring-gai Bushland Reserves Plan of Management

P12 Aims

The aims of the POM include: “The principles for the management of the bushland reserves aim to ensure that Council:

3. provides appropriate recreation opportunities that are consistent with requirements for the conservation of the bushland ecosystems and particularly threatened species, populations and ecological communities.”

Comment: Such an explicit aim to ensure that Council provides appropriate recreation opportunities has not been in earlier Bushland POMs. STEP believes this aim should be deleted from the Bushland POM as it would not be consistent with the core objectives of natural areas and bushland under sections 36E and 36J of the Local Government Act, 1993. These include:

- To ensure the ongoing ecological viability of the land by protecting the ecological biodiversity and habitat values of the land, the flora and fauna (including invertebrates, fungi and micro-organisms) of the land and other ecological values of the land; and
- To restore degraded bushland

Already our fragmented bushland reserves are being subjected to unprecedented pressure from more intense urbanisation and the effects of climate change. To introduce this clause in the aims for the management of bushland reserves would only add to these pressures by creating expectations from an increasing range of recreational lobby groups to allow further access and usage. This will lead to further alienation and fragmentation of existing bushland. As new recreational pastimes emerge over time where would this eventually lead? It is STEP's view the addition of this clause would create a dangerous precedent. In the long term the primary objectives for natural areas and bushland would be undermined.

This would not be in the public interest.

6.15 Authorised activities in the reserves

P48 These authorised activities include - “the grant of a lease or licence or other estate (including entering into a biobanking agreement within the meaning of Part 7A of the *Threatened Species Conservation Act 1995*) in respect of the land to which this plan applies is expressly authorised for any purpose for which the land was used at the date of adoption of this plan. This does not exempt future use review and modifications.”

Comment: This clause was included in the 2005 Bushland POM. It has allowed incompatible existing use to continue in some significant reserves of endangered ecological communities (EECs) and critically endangered ecological communities (CEECs). STEP believes it needs to be amended to provide clarity and ensure these activities are phased out for the following reasons.

Currently there are some leases and licences that allow buildings or activities that intrude into significant reserves (> 1ha in size)) of EECs or CEECs. These were allowed in the past when the rarity of these ecological communities was not recognised.

Buildings and land clearance for such uses creates deleterious edge effects and can change the water balance in the adjoining areas. The EECs within these zones of influence are no longer representative of their original environment. Such continued land use only serves to degrade the full recovery potential of these important reserves.

It is STEP's view that for significant reserves (> 1 ha in size) of EECs or CEECs, current land uses and activities within these reserves that lead to their unnecessary fragmentation should be phased out. Where leases and licences currently exist in these areas, or have existed and are up for renewal, they would either not be renewed, or phased out within a 10-15 year time frame. In such cases it is envisaged that during this transition period there would be no new or replacement buildings and maintenance would be limited to essential items. On termination of the lease or licence the area would be rehabilitated to allow full recovery of the original ecological community. Where appropriate, Council would negotiate relocation to less sensitive areas. Since this would apply to reserves of EECs or CEECs over 1ha in size only a small number (around 2) would be effected. STEP believes the significant long term environmental benefits would justify the short term inconvenience of relocation of the current users and remove the anomaly of continuing inappropriate activities within reserves of high environmental value

Section from JH Submission to the BioBanking System in 2008 :

1.2 Ecology and Economics – Sorry! No Cheating

BioBanking for Sustainability through BioDiversity Conservation, is the human sharing of the carrying capacity of finite land and water stock with other species, in such a way that the whole eco-system retains the required depth of “biological diversity” to determine the common survival all species – including the human species. In his book *“Governing the Environment – The Transformation of Environmental Regulation”* (2007) Marc Eisner says, *“To understand the core problem of sustainability, we must begin with the ecosystem. It sets hard limits on human activity.”* (pg 243)

“Hard limits” means we have little choice. In other words, **Sorry! No cheating.** BioBanking cannot be used to trick the ecosystem through accounting and economics, because in the end, we simply become guilty of robbing our own LifeSupport. Michael Commons says *“Economists emphasise human management in human interests.....neglect[ing] considerations relating to the functioning of the biosphere and its constituent systems. Ecologists emphasise system function considerations, but cannot relate those to human interests..... The question which arises is whether there can exist a synthetic approach, which can operationally informhow human society should behave.....”* *“Sustainability and Policy: Limits to Economics”* (1995;pg 55).

The BioBanking scheme is an attempt to manage human behaviour around Ecology’s biodiversity through regulatory Economics, in a synthetic and artificial way. However, Eisner sounds a note of caution about regulation, *“Many economic regulatory agencies became subject to regulatory capture. That is, rather than regulating to protect the public, they began to act on behalf of the regulated industries.”* (2007; pg 10). Eisner explores the use of economic regulation in managing environmental quantifiables such as air and water pollution, hazardous and toxic waste.

However, whether regulation can “manage” plant and animal species as if they were quantifiables - and not “equal others” sharing the only planet we have available for development - depends equally on our perspective (are we anthropocentric or eco-centric in the way we make our many decisions everyday ?), on the way we look at other species (do we think humans are more important than other species ?) and on our understanding of land-stock’s carrying capacity for “biological diversity” (do we really know and care how much land area, even approximately, a powerful owl needs for *its* species survival?).

The topdown approach of regulation has not worked in places globally – empowering and educating local people has been found to be a necessary beginning. In order for BioBanking to regulate behaviour to conserve BioDiversity for human survival, humans need to be well informed, eco-centric, ethical and aware of the Precautionary Principle which, (it would be precautionary to repeat here), says, *“In order to protect the environment.....Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.”* (Agenda 21, Principle 15(UNCED)

Emails and GIPA questions remain un-answered.

Second response after request for clarification (is this an official reply?):

From:

Sent: Wednesday, 30 July 2014 4:24 PM

To: 'janetsh@optusnet.com.au' <janetsh@optusnet.com.au>

Subject: inquiries regarding Biobanking Rofe Park, Sheldon Forest, Comenarra Creek Reserve, and Scout Hall

Hi Janet,

I refer to your email dated 14 July 2014 regarding your request for further information on this matter. In relation to your dot points below I have provided a further response as outlined below;

The GIPA application resulted in the information (in red) but more information, and greater clarity, is needed:

In the attached document I can see the Kate St plan but I need the same plan for Sheldon Forest Lot# 1 in

DP219147 . You say below **“A copy of the current (old) lease for Sheldon forest have been provided’** however there is no plan for Sheldon Forest Scout lease as there is for Kate St in the attached. Could you please include this information in the GIPA response?

I apologise for this oversight. Please find attached the old scout lease for this area.

These maps are not being released due to commercial in confidence (in relation to scout leases and consultation with scouts Australia). Why is this information “commercial-in-confidence” and how is the probity of decision-making to be assessed, if this information is not known or able to be questioned?

The terms of the licence/lease agreements for all guides and scouts halls are currently still under review and further negotiation with Scouts Australia and Guides Australia therefore it is reasonable to expect that the disclosure of this information may prejudice Council’s or Scouts Australia’s legitimate business, commercial, professional or financial interests. When the licence/lease agreements have been finalised (in draft) there will be a public exhibition period where they will become publicly available and a report will be subsequently referred to an Ordinary Meeting of Council for their adoption / modification etc. Therefore I am unable to provide you with access at this time.

3. As the GIPA asked to see any councillor briefings I would like to see **this file**, “A council briefing was provided which outlined the biobanking scheme and the linking landscapes proposal..... However due to technical difficulties related to this file, I am unable to provide this file at the current time.”

I wish to confirm that I am unable to provide you with access to the councillor briefing presentation file as it corrupted. I can however guarantee that the information provided followed the content of the following documents and that there was not additional content within the councillor briefing presentation.

Council report - GB5 10/9/13 (including attachments) – this can be viewed at www.kmc.nsw.gov.au
BioBanking Assessment Methodology and Credit Calculator Operational Manual ([Click here to open](#))
BioBanking handbook for local government [click here to open](#)

4. We know contents of the report are on the internet and the report says, “The report proposes that: “the Biobanking site will be limited to the Natural Area management boundary and will exclude..... Areas currently under lease agreements, including the 1st Turramurra Scouts and the 2nd Turramurra Scouts halls”. However, I would like to see memos, any formal correspondence and notes relating to the official discussion and those who participated in the discussion which led to the proposal of the biobanking site being limited to the Natural Area management boundary, which excluded the areas currently under lease agreements, please?

I believe what you are seeking, is a justification or clarification of decision points regarding inclusion of the scout halls within the Biobanking lease.

The Decision was made through:

verbal conversations with myself, (Bushland Operations Coordinator), (Bushland Technical Officer) and (Conservation Assessment Officer, NSW Office of Environment and Heritage) over a number of meetings held on the 24th April, 28th and 27th May 2013.

manager and director approval / support was obtained through their involvement in reviewing and approving the council report (GB5 10/9/13, including attachments) which can be viewed at www.kmc.nsw.gov.au

Council approval for this action was provided through their adoption of the council report (GB5 10/9/13, including attachments) which can be viewed at www.kmc.nsw.gov.au



Sustaining Sydney's green heart

Email from Janet Harwood requesting clarification and why it is requested

From: Janet Harwood [<mailto:janetsh@optusnet.com.au>]

Sent: Monday, 14 July 2014 3:30 PM

To: Subject: FW: GIPA application - Rofo Park, Sheldon Forest, Comenarra Creek Reserve, and Scout Hall: email 1 of 3

I have discussed the information you sent below with some others and we have found it quite confusing.

As explained in the GIPA I need to know the reasons for the exclusion of this particular valuable section of the narrow piece of Sheldon Forest - and the authority behind the decisions made.

The GIPA application resulted in the information (in red) but more information, and greater clarity, is needed:

1. In the attached document I can see the Kate St plan but I need the same plan for Sheldon Forest Lot# 1 in DP219147. You say below "*A copy of the current (old) lease for Sheldon forest have been provided*" however there is no plan for Sheldon Forest Scout lease as there is for Kate St in the attached. Could you please include this information in the GIPA response?
2. *These maps are not being released due to commercial in confidence (in relation to scout leases and consultation with scouts Australia).* Why is this information "commercial-in-confidence" and how is the probity of decision-making to be assessed, if this information is not known or able to be questioned?
3. As the GIPA asked to see any councillor briefings I would like to see **this file**, "*A council briefing was provided which outlined the biobanking scheme and the linking landscapes proposal..... However due to technical difficulties related to this file, I am unable to provide this file at the current time.*"
4. We know contents of the report are on the internet and the report says, "*The report proposes that: "the Biobanking site will be limited to the Natural Area management boundary and will exclude..... Areas currently under lease agreements, including the 1st Turramurra Scouts and the 2nd Turramurra Scouts halls".* However, I would like to see memos, any formal correspondence and notes relating to the official discussion and those who participated in the discussion which led to the proposal of the biobanking site being limited to the Natural Area management boundary, which excluded the areas currently under lease agreements, please?

The GIPA application was made in order to evaluate and understand why Sheldon Forest was not protected in its entirety, in the interest of true biodiversity conservation, which is the object of the TSC Act and which is presumably the intent of the BioBanking Agreement. Sheldon Forest is a future city Urban Forest showpiece of listed vegetation protected under the TSC Act, and minutes from two railway stations, it is an island in a sea of cumulatively increasing loss of biodiversity which has necessitated the changing of mapping of biodiversity in Turramurra and Ku-ring-gai. I need to know the reasons which led to the decision to exclude the Scout Hall area from the Biobanking agreement - in order to evaluate and understand if the decision was made in the interest of conservation of biological diversity.

Thanks

Janet

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CONFIDENTIAL COMMUNICATION

The information in this email is confidential. It is intended solely for the person to whom it is addressed. IF YOU RECEIVE THIS EMAIL BY MISTAKE1. Please let us know by return email.

2. Delete the email and destroy any printed copy.

3. You must not disclose or use in any way the information in the email.

Unless you receive a hard copy of the information contained in this email signed by an authorised officer, any opinion expressed in this email is that of the author only and does not represent the official view of Ku-ring-gai Council.

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Seeking help from the Planning department 27th April 2015.

Letter Re: Review of security of high ecological and heritage value lands in Sheldon Forest land-use planning.

Land Zoning Map LZN_007 Sheldon Forest in the **Ku-ring-gai Local Environmental Plan 2015**

http://www.legislation.nsw.gov.au/map/4500_COM_LZN_007_010_20150114.pdf?id=95fc97bd-28cb-44c4-ba0b-92271ae0939e

Introduction

Thank you for the meeting and empathy shown by the Department on 23rd October, 2014, on the subject of critically endangered ecological community (CEEC) in Sheldon Forest.

It is thus astonishing that RE1 zoning has been gazetted in the most valuable and vulnerable part of the remnant of Blue Gum High Forest (BGHF) in Sheldon Forest, of state and federal environmental significance (*NSW TSC Act* and *EPBC Act*). The basis for allowing RE1 zoning is also questioned, adjacent to a BioBanking Agreement in Sheldon Forest.

Protection of Sheldon Forest is of even greater concern as it now raises questions regarding (a) local governance of scientifically listed urban bushland, (b) how greenfield areas are rendered greyfield and (c) future administration and security of vital metro bushland.

Assistance is requested in an independent review of the processes which arrived at such compromised zoning, and to clarify what needs to be avoided in future. Recommendations are given below.

I welcome another meeting if clarification is needed, since some of the material may be confidential.

A pattern of loss of environmentally sensitive lands across NSW.

It seems there may be a history of recreational and other groups being gifted or sold public lands of high ecological value and then the organisation sells on these lands. eg.

[Boy Scouts Association sells pristine bushland at Bundeena](#) June 22, 2013. Such loss could in future happen in Sheldon Forest, if the land now zoned RE1 is reclassified and sold off by Council. Such risks cannot be taken with a rare, urban reserve of national significance, which instead deserves protection in its entirety, under the highest possible E zoning. In light of current local losses of public lands, such a risk remains a real possibility in the future with RE1 zoning.

Recommendations:

The DPE performs an independent review of governance processes linked to the case.

RE1 zoning in this important location be suspended. The alternative offered by the Office of Environment and Heritage (OEH) should be adopted, by taking the excised land into the BioBanking Agreement enabling the claimed biodiversity conservation “in perpetuity” for all of the land in this narrow section of Sheldon Forest. (see Attachment 1).

Placing the area zoned RE1 in the BioBanking Agreement, and protection under zone E2, should be done through a Variation. The fees and cost to Council for variation are approximately \$1,232. See page 32 of document <http://www.environment.nsw.gov.au/biobanking/participants.htm>

While E2 is the strongest current E-zone available, its strength can be questioned. The Planning Department should resist advice of local bureaucracy and revive the E5 no-go zone, for areas deserving special protection, for example listed metropolitan bushland, to enable long-term security of vital wildlife habitat and public health, for a future city.

Significance of the Linking Landscapes Grant and concerns.

The Linking Landscapes Grant is a highly principled cause, intended to hold back Australia’s sharp decline in biological diversity. At its most effective it should strive to expand critical *in situ* biological infrastructure of the reserve system. In this case the *in situ* biodiversity of Sheldon Forest could have been expanded by adjacent land acquisition.

Instead zoning RE1 allowed in Sheldon Forest effectively shrinks the long-term reserve system.

This now raises questions in governance surrounding the reserve system, reveals fundamental flaws in the BioBanking system, and demonstrates gaps in securing future metropolitan biodiversity (Attachment 2 and 3).

Allowing short-term social and economic benefit in the most valuable and vulnerable part of Sheldon Forest, means bigger picture, environmental and health concerns in the public interest, have either been repressed or misunderstood. The NSW planning system’s impact on protection of ecologically sensitive lands leaves unanswered questions.

Legislative concerns are demonstrated in:

High level Planning and BioBanking governance processes engaged

Basic, biological principles informing the RE1 zoning in this important location

Councillor briefings given and Council records supporting them

Un-answered questions relating to how Greenfield areas are rendered Greyfield

Records Management

On the 21st May 2014 I lodged a GIPA requesting answers to questions. The GIPA was withdrawn on the understanding I would receive clear answers outside the GIPA process. However, answers received raised even more questions.

Records management at Ku-ring-gai Council will be followed up separately and an independent review of records management will be requested under provisions of the State Records Act, designed to:

ensure the better management of Government records throughout their existence

promote more efficient and accountable government through improved recordkeeping, and

provide better protection for an important part of the State's cultural heritage.

To conclude

Questions have arisen about how rare, urban greenfield lands are made greyfield in land-use planning.

Suspension and reversal of RE1 zoning in the endangered and important Sheldon Forest is recommended to support long-term integrity in, and conservation of, rare, urban biodiversity. As explained in Attachment 1, a Variation by BioBanking Methodology is needed, to bring the area now zoned RE1, securely into the BioBanking Agreement, with E2 zoning.

I particularly request that the review be independent and include my involvement.

With good wishes,

Janet Harwood.

Phone 02 9449 1448

Attachment 1

Letter from OEH dated 29th May 2014. Showing how to rectify Sheldon Forest recreational zoning. Variation through the BioBanking Methodology

> In order to add an area like the scout hall lease to the biobank site Council would have to put in a variation (see page 32 of attached document). The fees for this are \$1,232

<http://www.environment.nsw.gov.au/biobanking/participants.htm>

>

> The other cost would be the cost to undertake the biobanking assessment and prepare the associated documentation that would be required. Areas such as the scout hall leased area would be very expensive to manage (as they are in poor condition) and therefore it might be difficult to sell the credits at a price that will cover the management costs. I would advise getting a consultant to do a quick desktop assessment to see if it is worthwhile.

>

> I hope this helps and answers your question. I have also CC: in on this email from the biobanking team. She may be able to provide further advice.

> Kind Regards

OEH representative

Attachment 2

1. Summary of Significant Concerns with Planning governance processes:

- (1) whether BioBanking funds should have been used to expand the reserve system for endangered ecological communities, rather than the reduction of RE1 area (of high restoration value)
- (2) whether the basic premise of the Report to Councillors (Item GB5 FY00137/5) and its biodiversity study was flawed by the pre-proposed, significant, excision of land
- (3) whether RE1 zoning taints and voids the BioBanking Agreement's claims of protecting biodiversity "in perpetuity" demonstrating employment of smoke-and-mirror strategies
- (4) whether Councillors were given full and timely assistance/explanations allowing them to make informed decisions regarding the implications of the Biobanking Agreement
- (5) whether the lease-holders were favoured or had prior knowledge not available to others

- (6) whether consultations with concerned community members were full and fair, as to whether actualities would support the claims of the BioBanking Agreement if RE1 were allowed
- (7) whether RE1 zoning would have been considered appropriate to protect the rare, urban biodiversity of Sheldon Forest into the future, if cumulative environmental effects and losses of biodiversity in areas adjacent to Sheldon Forest had been considered
- (8) whether questions substituting the withdrawn GIPA were properly answered
- (9) why questions put to the General Manager relating to those questions were not answered and if this demonstrated a compromised BioBanking Agreement
- (10) Why maps of land-area to be excised were commercial in confidence, the area represented RE1 on the land-zoning map is represented much smaller than it actually is, and the area zoned RE1 significantly greater than the leased area was.

2. Ecological concerns to be reviewed relating to BioBanking/ biodiversity

- (a) One of the main concerns, relates to the question why the first principle of biodiversity conservation ie. *in situ* biodiversity conservation, was not applied in the narrowest most valuable and vulnerable neck of Sheldon Forest, where there are some 40-50 habitat trees on lands impacted by current and proposed lease and now RE1 zoning in vegetation of national environmental significance.
- (b) Of great concern is how land excised for RE1 was seen to enable and substantiate the claim of the BioBanking Agreement to protect biodiversity “in perpetuity” – when that excised land comprises the highest terrain, directly adjoining a sensitive riparian area, providing some of the last local habitat for little birds.
- (c) Other concerns to be dealt with, relate to secure protection of species covered by the important scientific listing, and un-recognized physical and mental health benefits to future city populations provided by rare, biodiversity in Urban Forest.

3. Governance processes to be reviewed in light of legislative imbalances

- (a) RE1 zoning in Sheldon Forest demonstrates a lack of understanding by decision-makers and councillors that the BioBanking Agreement was used as a catalyst to excise a section of the Forest at its most valuable and vulnerable point to favour the recreational aims of certain groups, making the stated aims of the BioBanking Agreement speculative at best and misleading at worst.
- (b) Achieving goals to excise public land from a Linking Landscapes Grant, for whatever reason, has meant concurrent non-consideration of cumulative biodiversity losses in the immediate vicinity of the Sheldon Forest CEEC,
- (c) These failures and flaws cannot biologically guarantee to protect biodiversity integrity for a future urban population, on ecologically rare public land within walking distance of two railway stations.

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Seeking Help from OEH November 2015 – no response received – RE1 is still in place

This was sought following OEH description of Warragal Road area as “predominantly cleared”



Why is this loss of
high conservation v

Letters describing RE1 area as “predominantly cleared”

Other Attachments relating to Introduction and Background

The Future is the Natural World

"Biodiversity loss is the most significant environmental problem facing Australia"
Professor David Lindenmayer. (2007) "On Borrowed Time"

Legislating Government's Sustainababble

"We live today in an age of *sustainababble*, a cacophonous profusion of uses of the word *sustainable*, to mean anything from environmentally better to cool..... Today the term *sustainable* more typically lends itself to the corporate behaviour often called *greenwashing*." Robert Engelman "*Beyond Sustainababble*"

Engelman could well have been talking about New South Wales. Rapid legislative changes, concocted devices and corrupted process together create chaotic environmental impacts. "Sustainababble" has risen to such a fine art over the last decade that, biodiversity depletion and demolition of Australia's Natural World, are assured. i

Who is responsible for the ensuing damage? A decade spans governments on both sides of politics. If Ministers in NSW hold portfolios for 18 months or so, the question arises, is "sustainababble" the product of elected, or high-level un-elected, government? ii

Legislated Sustainababble. A Greater Sydney Commission Bill delivering yet more un-elected government is almost through Parliament. A random Biodiversity Act is being manufactured in the background. Serious changes are being casually scripted for Crown/Public Land. These rushed changes will, *cumulatively*, create un-foreseen havoc for delicate, vital ecosystems and rare rural and urban biodiversity in the not too distant future. Where is the captain's engine-room of strategic decision-making driving such wide-ranging change? Who exactly is the captain?

Are we inviting comprehensive loss of Nature? Put together the national land-use system poses a joint un-assessed threat to Nature: privately "owned" and in the National Reserve System (NRS). iii Currently there is: no recognition of Urban or Regional Forests in NSW SRLUP, no consideration of cumulative impacts, no ESD rich recognition of the 1st principle of *in situ* biodiversity conservation (Convention for Conservation of Biodiversity), a misunderstanding of IUCN's "no net loss" of Biodiversity, and disregard for strong protected-area status for 17% of lands. Add to all that, no absolute protection or "red-flag" areas, weak E-Zones and lack of Biodiversity Strategy in NSW.

The national Biodiversity Crisis is an emergency and NSW is an example of it. Where is honest *ecologically* sustainable biodiversity conservation - the other side of the climate coin? To achieve core manageability of the national Biodiversity Crisis, State Legislation and Biodiversity Strategies need to be federally aligned.

1. The 2014 NSW Biodiversity Legislative Review is a drastic attack on wildlife habitat, in the context that we already have severe loss of wildlife in NSW. The Review's Terms of Reference "facilitate" biodiversity conservation for "sustainable development" - with a stated objective being to cut red tape hindering economic growth. Proposed repeal of the hard-won Native Vegetation Act and the Threatened Species Conservation Act, and increased reliance on Biodiversity Offsetting are inexcusable. Increasingly, a tide of questioning is rising regards applying financial systems to biological systems, and global opinion is that Biodiversity Offsetting is greenwashing. iv *Without clear intrinsic values for Nature, is it a 21st century Biodiversity Review with ecologically sustainable objectives?* v

2. Without secure protection of the country's 'red-flag' areas, across NSW, irreplaceable *in situ* biodiversity will be lost. Predictably forgetting that E-Zones serve to protect Australia's biodiversity, the Planning Department says, "*The 'primary use' of the land - the main use for which the land has been used for the last two years - is to be the first consideration when making zoning decisions*". "Sustainababble" will most certainly explain delays and errors in E-Zoning for protection of biodiversity <http://www.planning.nsw.gov.au/environmentalzones>

3. *Cumulatively*, all sustainababble will have major implications for Australia's NRS. Yet, in NSW these decisions and proposals do not demonstrate big-picture Caring for Country: vi

- ☐ Horse-riding in wilderness areas by means of "trial programs"
- ☐ Proposals to allow amateur hunting in NPs under the now-abolished Game Council
- ☐ Tourism amendment to the National Parks & Wildlife Act to facilitate tourist investment in NPs
- ☐ Bicycle riding in NPs on walking tracks; and from management trails to special tracks on a "trial" basis
- ☐ Promoting "market-based" mechanisms, eg biodiversity offsetting to achieve biodiversity conservation vii

Sustainababble in Government is suddenly poised to increase. viii

Janet Harwood janetshweb@gmail.com The Future is the Natural World Date: 9/11/2015

**Zoning for development is a Key Threatening Process –
Submission to the Threatened Species Scientific Committee by J Harwood and A Parr.
Covering Letter from combined Groups**

Professor Lesley Hughes,
Chairperson,
NSW Scientific Committee.
C/o PO Box 1967
Hurstville, NSW. 2220.
Date: 10th May, 2009

Dear Professor Lesley Hughes,

Re: Request for an urgent determination to list Zoning as a Key Threatening Process in land-use planning, for endangered and critically endangered species.

We request that, to enable the survival and evolutionary development of species, populations and ecological communities classified as threatened and endangered, the NSW Threatened Species Scientific Committee (TSSC) urgently consider **the zoning process during land-use planning to be determined as a Key Threatening Process for threatened, endangered and critically endangered species.**

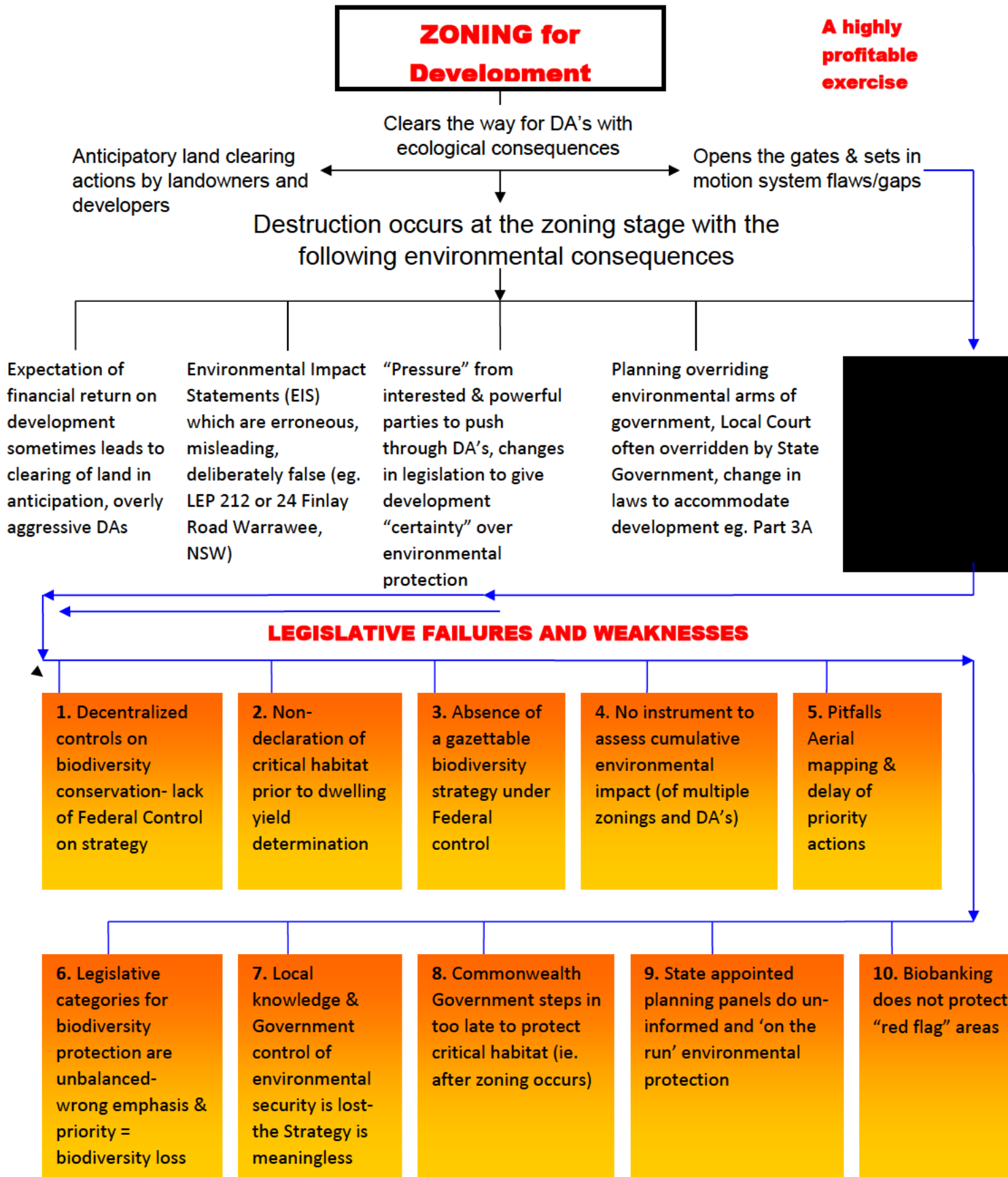
We have discussed in detail, as they apply anywhere in New South Wales, the reasons why zoning is a Key Threat to threatened species and ecological communities. We have also described other considerations, which impact and are impacted by the zoning process, as they ramify the destruction or protection of critical habitat. These points have only been touched upon briefly at this stage. To discuss them in detail would have entailed the delay of the presentation and progress of this request.

Though Ku-ring-gai illustrates all aspects of the request and Case Study 1 (draft LEP 212) is appended, other examples of critical aspects (eg misleading Environmental Impact Statements at the DA stage for Case Study 2) will be added as data is collected.

Our submission and the associated case studies seek to demonstrate how the zoning process is causing major damage to areas of environmental sensitivity:

- Zoning is not just a “paper process” - Zoning has consequence
- Zonings create expectation in developers and landowners
- Inappropriate Zonings lead to conflict, mistakes and potential corruption
- Assessing authorities both Council and Department of Planning (DoP) are over reliant on information from applicants to make assessments and they often lack time, resources or skills to question information from applicants
- This information (7-Part Tests, F&F / SIS studies, etc) from applicants is often misleading
- It has become standard practice for the DoP to waive the need for a Local Environment Study (LES) even in areas of obvious environmental sensitivity
- The DoP acknowledges that environment and the *TSC Act* are not areas it considers or administers – this admission clearly demonstrates that DoP is not the appropriate authority to waive LES.
- The Commonwealth Department of Environment and Heritage (DEH) considers zoning as “paper process” and absents itself from involvement. It relies on consideration of DAs after zoning is implemented.
- Zoning is acknowledged to directly lead to known threatening processes. It has impact and should be a KTP in its own right
- The current system can easily fail and it requires intervention from outside (vigilant community) to prevent poor zoning.

National loss of critical Biological infrastructure (Biodiversity)



Cumulative Land clearing in rare Urban Forest (Private Land)

The overall crisis in Nature is too important to not look at Case Studies in Environmentally Sensitive Areas (ESAs).

Current loss demonstrates “in isolation” decision-making and shows cumulative environmental loss concepts are not considered when deciding net-loss of high biodiversity in ESAs.

Turrumurra In Turrumurra 1 kilometre north of Sheldon Forest, the Deferred Matter site was once mapped high biodiversity, with soils and vegetation the same as Sydney’s Urban Forest Showpiece Sheldon Forest.



The Deferred Matter site (Duff to Finlay Streets in Turrumurra) is a unique example of how the last remnants of nationally significant rare Urban Forest in private lands, join the total loss of Ku-ring-gai’s and Sydney’s identity.

This Critically endangered ecological community was improperly zoned for development. It is being stripped of original seed-bank, soil and habitat vegetation. The entire area of high conservation value (HCV) Blue Gum High Forest (BGHF) will be progressively lost to concrete. This is in progress currently. Below picture is the cleared (white) area in the above aerial view. Almost all the land between Duff and Finlay is now lost to concrete.



Vegetation of the same value as Sheldon Forest is lost to development. The cascading cumulative effects of lost habitat on wildlife struggling to survive in this area of rare urban biodiversity was created by improper re-zoning for development in an area which was not “red-flagged” or made off-limits to concrete-carpeting in progress.

Pymble The aerial view of the area below is less than 1 kilometre south of Sheldon Forest, and approx. 2 kilometres south of the Deferred Matter site.

Yet the development between Avon and Beechworth Roads was given the go ahead by one of many Government bodies assessing development in Ku-ring-gai – the Planning Assessment Commission (PAC). The loss demonstrates “in isolation” decision-making and that cumulative environmental loss concepts are not understood by decision-makers.



Photos below were taken in June 2016 and show destruction within minutes of Pymble Station.



Cumulative removal of rare urban soil biodiversity and habitat for struggling urban wildlife in Urban Forest has not been assessed even today. More incredibly, the proposed Biodiversity Conservation Bill will not rectify this terrible and irreversible error for future urban populations and other species.

The overall crisis in Nature is too important to not look at Case Studies in Environmentally Sensitive Areas (ESAs).

Part Two - Public Land of high historical/built/curtilage value – Hillview and Little Village Park

Question - How should one explain to a Parliamentary Inquiry the significance and urgency of the need to protect a miraculously still-untouched Public Asset: a group of buildings of layered historical value, sited in an ancient continent, inherent in which setting are the great immediate challenges Australians face: biodiversity depletion, loss of national identity and climate extremes?

Part 2 of this submission records that in the 4 precincts in Turrumurra are several pieces of Public Land which need protection and all have been under pressure to be developed.

A Labor & Liberal led loss of Public Lands.

The Public Land cluster includes

The Little Village Park - The Little Village Park has been recently called “underutilized” by staff who advised councillors that it is needed for development - on top of the already allocated Public Lands (Ray and William Street Public Lands) which are now ready for reclassification following a Public Hearing. No one questions the predetermined nature of the Public Hearing anymore!

Ray Street - Records such as emails, media clips show there may have been a “*tick of approval*” for the loss of Public Lands in Ray Street from Liberal politicians in the 1980s while at the same time Labor politicians led the charge against and contributed to the loss of Ku-ring-gai’s sensitive lands in other ways.

William Street - This has been included with Ray Street and it is certain that along with Ray Street this road reserve will be used to provide apartments for development by “Council maximising its assets”

Hillview Heritage Conservation Area (Hillview HCA) – This Public Land is “owned” by two departmental divisions the RMS and the Health Departments and a Nomination for State Heritage Listing of this rare and still standing layering of history on a site and in a setting which is worthy of protection and adaptive re-use as described in the summary of the nomination above.

Turrumurra Avenue carpark – This Public Land is in an important precinct separated from the Ray Street Precinct by Rohini Street and will be developed “in isolation” and outside the so called Turrumurra MasterPlan!

Old Franklins/new IGA car-park - This Public Land is alongside the Blue Gum High Forest Granny Springs Reserve and will no doubt also be developed “in isolation” and outside the so called Turrumurra MasterPlan!

This submission covers two Public Lands – Natural heritage Sheldon Forest and Built Heritage Hillview HCA and the Little Village Park (forming essential curtilage, greenspace and view lines).

While the rare Public Asset of Hillview is now the subject of a State Heritage Nomination by JHarwood – the Little Village Park is not within the boundary of the Hillview Heritage Conservation Area (Hillview HCA) and remains immediately under threat.

Community fights to retain some Public Land by linking built and natural heritage in National Trust Walks



Turr2SheldonForest
HANDOUT.pdf

1. History

The recorded actions over the last 10 years include: several emails, some from councillors and several “consultations” and reports and two previous public hearings (see councillor submission to hearing below) See email attempts to obtain information from bureaucrats and advice from a councillor. Other emails and LEP maps document increased heights, rezoned road infrastructure on Hillview and attempts to include development on Hillview – which heightened the urgency of the Nomination of the Hillview HCA.



Public Land and
Turrumurra Local Ce



FW Wake Up -
Barry !.msg



Tony Hall email FW
HARD WORK PAYS C

When questions were put to the Planning Minister re Public Lands in Turrumurra for potential sale, answers received from Planning via the Minister were, it seemed, deliberately unclear

The 10 year push to allow the Ray and William Street Public Lands to be reclassified, make interesting reading. However, effort to protect is lost, with the community looking for some action. The eventual scale of the project is still unknown. Development and loss of these Public Lands by Council seems inevitable and accepted.

Previous reclassification public hearings

Below is a transcript of part of ex-councillor and ex-Mayor Councillor Bennett’s Submission to the Pymble reclassification, made by two individuals listening to Council tapes of the Hearing and copying the spoken words in inverted commas. In point 5 the scale of the reclassification is referred to. While the then attempt at reclassification was simultaneous across Ku-ring-gai, but by each centre – today reclassification tactics are less concentrated and more scattered in time and space.

However attention is drawn to remarks made at the 2006 Pymble reclassification hearing. In point 20 the councillor referred to a point which could still be of relevance to the apartments being developed by council.

“Stratum will not provide the flexibility and autonomy necessary for the proper public provision of new facilities in 40-50-100 years’ time.”

Note “Stratum title is basically an improved version of company title. You own sole rights to the apartment space but also have shares in a service company that holds title to the common areas. With Strata title you have own sole rights to the apartment plus part of the undivided common areas. Strata is controlled by a Body Corporate.

The councillor referred to Intergenerational Equity issues. In the understanding of the submitter rights of future generations to inherit open space and potential new bio-linkages to compensate for local losses of critically endangered ecological community near the station, these issues are still not being considered in 2016.

See transcript.

Case Study – Hillview HCA and The Little Village Park

Scale of losses of high biodiversity remain uncompensated and add to all proposed Public Land loss.



The Story of the Little Village Park

When it was heard that the improper rezoning of Hillview had occurred the threat to Hillview became real. The site was exhibited for 2 storey but was gazetted for 4 storey with a road gazetted through three heritage rich buildings – the original Chemist Shop on the corner of the Pacific Highway two federation terraces important to the integrity of the group of buildings in the HCA and the imposing Art Deco Commonwealth Bank Building. This fact which suggested that the Minister had not considered the true value of the HCA in the so called DCP masterplan called for concern that the entire area should be nominated for conservation. This meant The Little Village Park remained outside the nominated area.

Recently the little Park was also planned for development. However it formed curtilage for the heritage railway station and presented un-repeatable viewline to the Hillview HCA buildings from the railway – but also it formed the last remaining ambience of the original Railway setting.

An email was written to councillors asking if the consultant designing the massive Ray /William Street precinct had been told about the Hillview Precinct and if all 4 precincts had been considered in the newly planned resumption of the Little Village Park. The Park gave connectivity, ambience and protection to the site and views

between the Hillview HCA and the Railway station. It was only “underutilized” because it had been allowed to become run-down and neglected.

Submission to the Ray Street Development Proposal



Turramurra - Last
chance to save Ku-ri

Points from submission

3. Was consultant’s brief cognizant of significant Local Values in precincts surrounding Ray Street? The features of Turramurra and Ku-ring-gai are rare in global cities today. Amalgamation will destroy these values. The area is not a “greyfield” area as described by Council. It is in fact unrepeatably “urban greenfield” with history to match. Currently being highlighted in New South Wales, the consultant should be aware that natural and built heritage of Turramurra is of national significance and needs to be reflected in local planning.

4. Natural local significance: Architectural streetscapes (and UCAs) occur within the context of rare and listed Blue Gum High Forest and Sydney Turpentine Ironbark Forest, which belong to a future city. Within walking distance of Turramurra Station is Sheldon Forest, the most valuable and vulnerable urban forest example. It is the last remnant of Blue Gum High Forest to stretch to the Pacific Highway, since the Deferred Matter site is now lost to development. Sheldon Forest and various threats applied to it recently by Council, despite it being high conservation value Public Land, are therefore being highlighted in the media, along with the Hillview Heritage Conservation Area (Hillview HCA), in a Heritage Walk from Turramurra Station.

5. Built local significance: Turramurra has little-known early settlement links and layers of historical interest. Indeed, Turramurra has aboriginal connotations through its name, which means “big hill”. The little Village Park is the heritage station’s curtilage. It presents multiple view-lines, especially to Hillview HCA and Ray St. An exclusive historical site like nowhere else in Sydney, Hillview HCA has current and past entrepreneurs in health businesses. Like the Deferred Matter site, Hillview HCA appears to be deliberately under-rated in its protection. The site does NOT belong to State Government or private interests – it is national heritage.

6. The Hillview Heritage Conservation Area does not exist anywhere else in Sydney. What happens in Ray Street should be accommodating of unique and irreplaceable local values of Turramurra (natural and built). Though Council claims “ownership” of what is essentially PUBLIC Land (not government land) there should be no temptation to respond to current or past un-solicited proposals for development.

7. Past History. Standard methods of “maximising” economic advantage appear to allow reports and studies consultant engagements and planning proposals to progress the development of Ray Street *in isolation*. This has probably not informed the CROFI brief. It therefore seems that assets such as (a) the park-like, open-to-the-sky space of the Ray Street carpark, (b) the representative Sydney Ancher Library are lost. Thus the reclassification of this land has been pre-determined before any new public hearing is held.

8. Pre-emptive decision-making has cast a long shadow on current planning. Two stalled past public hearings in 2006 and 2008/9 have thus been ignored. Adding another piece of significant Public Land to the list of loss by making the little Village Park “Option 1” for development, demonstrates how the system allows loss of heritage to vested interests. Overly-large community facilities (workshop urged to ‘think big’) echo over-provision of commercial/retail/residential, revealing sustained pressures behind the scenes.

As of today the concerned community are not aware that the Little Village Park is free of threat of loss.

Note- It appears councillors were told in the hour before the vote was to be cast (same as in the Sheldon Forest case) that part of the road alongside the village park was also needed to allow the proposed development on the Park to occur !

Case Study - Nomination of the Hillview Heritage Conservation Area (HCA)

The Hillview HCA Area below is one of 4 of Turramurra's precincts - NOT Master Planned. Why?

Process in need of Examination - Since 2005, the pre-determined Turramurra Town Centre Delivery Project may gradually come to pass. It is achieved through "in isolation" planning of each of the 4 precincts. Further the improper gazettal of 4 storey zoning when the area was exhibited for 2 storey, a gazetted road through 4 heritage rich buildings (however see recent letter from RMS), answers to Questions put to the Planning Minister and various Department of Planning and Local Emails available for the record and sorely need to be examined.



Hillview

NominationsFormJu

Summary covering the Nomination

Introduction to the Statement of Significance:

The online version of the nomination form created an unstable format which was very difficult to change. For this reason, I wish to clarify my introduction to the Statement of Significance as follows:

- *The Hillview Heritage Conservation Area (Hillview HCA) is an exceptional group of buildings representing the early settlement of Sydney, NSW.*
- *The cluster of buildings of varying periods, stands on a still untouched site, located in the heart of Turramurra, NSW. It is an important area in the Sydney basin, made unusual by its topography and vegetation. The location of Hillview represents well, the Aboriginal meaning of the name Turramurra: "big hill". The setting of Hillview and the "big hill" signifies links with the early building of white-settlement Sydney.*
- *Hillview HCA symbolizes one of the earliest land subdivisions in Turramurra's beautiful but endangered ecological communities of national significance. Some of Sydney's most*

adventurous, benevolent, creative and wealthy residents have traditionally been drawn to Hillview. Hillview reflects the earliest built history in the area, following the opening of the North Shore railway line. It is a miracle that this group of buildings still stands.

- *The area proposed as an Heritage Conservation Area (HCA), is bounded by the Pacific Highway, Kissing Point Road, Boyd Street and the Railway line, and is best described as 'threatened'. Turramurra is undergoing rapid and continuing loss of heritage - built and natural. The proposed HCA has great educational and heritage value to local, visiting, current and future populations. This value is best protected if restored adaptively. Current and past health and wellbeing themes are recorded as being successful. These themes should be maintained.*
- *I assert that the Hillview HCA needs to be assessed with an ecological perspective (See Nomination section E Assessment criteria of state significance particularly Criteria D, E, F and G). Hillview HCA is located in a context of rare, remnant Blue Gum High Forest and Sydney Turpentine Ironbark Forest, which are nationally critically endangered ecological communities. In this context, the group of buildings still standing establishes the Hillview Heritage Conservation Area as having local, state and national significance of great future importance.*

The Nomination is necessarily detailed. Therefore main points of the nomination are summarized below.

A. Nominated Place – Extent of Nomination

The area assessed and nominated as being of State Significance according to the criteria given, is bounded by: The Pacific Highway (old Lane Cove Road), Kissing Point Road, Boyd Street and the Railway Line, in Turramurra in Ku-ring-gai. The nominated Heritage Conservation Area (HCA) is exactly as proposed by the comprehensive, discerning and thorough Jackson-Stepowski Peer Review 2013/2014.

- Name – Hillview Heritage Conservation Area
- Location - 1362,1360,1358,1356,1340-1334 Pacific Highway, 8,6,4,2 Kissing Point Road, 1/4,2/4,6 Boyd Street in Ku-ring-gai Local Government Area.
- Extent of Nomination – Area bounded by the Pacific Highway (old Lane Cove Road), Kissing Point Road, Boyd Street and the Railway Line (see maps on page 2). With regard to the requirement: At least one of these three location details must be provided.... Map#2 with DP numbers is provided. I am happy to provide more information.

B. Significance – Statement of Significance Pages 4-7

- Representative: “Hillview” Heritage Conservation Area represents a rare group of buildings of varying historical periods, still standing since first settlement, in an area of remnant critically endangered ecological communities now listed in State and Federal legislation. All this is located within the indigenous denotation of the aboriginal word Turramurra which means “big hill” or “high hill”. It is resonated by the name given to the estate: “Hillview”.
- Holistic: Hillview’s universal significance is its cultural (European) newness situated visibly in an ancient (Aboriginal) context. Being thoroughly representative of the original area, Hillview’s built and natural legacy restores our rapidly vanishing ability to appreciate the ecological context of Australian heritage. Hillview’s history and vista serves to remind us that Australia is a continent that is fragile and vulnerable.
- Layered History: Hillview is a record of the growth of the North Shore. It records layers of history: from early subdivision of the land, logging of the tall trees of Turramurra for a

timber business to build early Sydney, speculative investment, orchard and market gardening, the coming of the railway to the North Shore, development of the site as a health retreat, guest house and boarding home, right up to today's modern businesses in fitness, health and well-being.

- iv. Architects and Builders: The architectural significance of buildings in the Hillview HCA is clearly recorded, demonstrating the importance given to this aspect of early Sydney's growth and development.
- v. Health and Wellbeing: These themes in the earliest businesses recorded in the area appear to be the direct result of Hillview's location in forested areas of the early city of growing Sydney. The themes are clearly influenced by the characters and choices of individuals who ran the businesses. The socio-economic future of this HCA, once adaptively restored, is potentially unique in Sydney and New South Wales.

C. Description – each building standing is described Pages 7- 11. Please also see maps on page 22.

- i. The description of all buildings in the Hillview Heritage Conservation Area is detailed by the heritage consultant S. Jackson-Stepowski. This important and thorough peer review study was commissioned by concerned community groups and Ku-ring-gai Council, and took one year to complete.
- ii. The fabric, repair and archaeological condition of the buildings is clearly important. A 'Heritage Near Me' intimation has already been made. A caring-for-country and non-invasive ethic, if employed in restoration and re-use, will allow sympathy with, and appreciation of, the rarity of the HCA. The sense of place, invoked by the adaptively restored HCA, will allow an understanding of disappearing Australian heritage, within its ancient indigenous ecological setting.

D. Historical Outline – detail of Buildings – dates/owners/occupational references Pages 11-17.

- i. Please refer to these pages for the Jackson-Stepowski overview which references the detailed history and chronology provided by Jill Hudson.
- ii. The brief historical outline from 1832 of each land subdivision in this area provides a clear picture of the life and times of families/individuals in Hillview.

E. Criteria – Assessment criteria of state significance Pages 17-21

- i. **A. Important in the course or pattern of cultural/natural history of NSW:** Hillview reflects a clear pathway through differing historical periods. Collectively the group describes an important role in creating a liveable Sydney. Its past, current and potentially future commitment to the physical and mental health movement in NSW is a defining historical record. Appropriately restored, re-used and signaged, public appreciation of the uniqueness of the Hillview Heritage Conservation Area and the role played by the buildings therein, is ensured.
- ii. **B. Has strong association with life/works of person/group of persons in NSW history:** Some of Sydney's most adventurous, benevolent, creative and wealthy residents have traditionally been drawn to Hillview. Hillview is of special interest on many fronts, especially in regard to early interests of Sydney's society. This is reflected in Hillview's businesses, occupations, and residential/commercial buildings (garages, guest houses, gardens etc).
- iii. **C. Important in demonstrating aesthetic characteristics, and creative/technical achievement in NSW:** Hillview possesses a most appealing setting of national significance. It was in this setting that its earliest occupants chose to represent the full spectrum of pioneering early settlement activities and endeavours. Current creativity in commercial and health endeavours continue to occur in a backdrop of Hillview's old and untouched surroundings. The past sanatorium had most advanced features and the current spa in the Art Deco Bank building, continues a pioneering achievement.

- iv. **D. Strong association with particular community/cultural groups for social, cultural and spiritual reasons in NSW:** Hillview's gates, gardens, grounds and vistas are complemented by new community gardens and surrounding nationally significant endangered ecological communities. The guest and boarding houses tell stories of early Sydney cooks and their tables. The garages preserve past activities remembered and recorded. Most importantly the siting of Hillview echoes the indigenous origins of the name Turramurra. Vistas of Blue Gum High Forest in nearby Sheldon Forest and around Hillview, have special other-than-human significance for environmental groups working to restore the habitats of native species, once in high numbers.
- v. **E. Potential to yield information contributing to understanding of cultural/natural history of NSW:** Hillview's setting was once rich in timber and orchards reflecting the climate and soils of the area. This information is highly valuable for a future city's understanding of the past. In light of endangered ecological communities surrounding Hillview HCA, the potential provision of information to PlantBank and seed and soil laboratories, is an increasingly serious consideration. Such vanishing settings and sites are critical to maintaining and restoring the physical and mental health of future urban populations. *This nomination asserts that such considerations are a vital inclusion, for the assessment of heritage in a future dominated by biodiversity depletion and climate extremes.*
- vi. **F. Possesses uncommon, rare, endangered aspects of cultural/natural history of NSW.** Hillview stands in a setting and a site which would undoubtedly have had high significance to the indigenous populations of the area. This is reflected in the naming of Turramurra, meaning "big hill" or "high hill". The National Trust identified the highly threatened nature of Urban Conservation Areas in Kuring-gai, in the context of the critically endangered BGHF. The listing, by State and Federal Threatened Species Scientific Committees, of local Blue Gum High Forest (BGHF) as critically endangered in both State and Federal legislation, has great relevance to the nominated HCA.
- vii. **G. Important in demonstrating the principal characteristics of a class of cultural or natural places/environments in NSW.** The forest (BGHF) would undoubtedly have once stood on this high hill. BGHF is still demonstrated in rare topographical locations such as Sheldon Forest, in Turramurra, within walking distance from Hillview. Views of Sheldon Forest from "big hill" and Hillview are now not accessible to the public from other locations. Hillview is an important site for careful and clever restoration, educational signage and adaptive re-use, developing on health and wellbeing themes, current and past. State Heritage Listing will demonstrate foresight in protecting the principle characteristics of this particular place. This, in light of destructive multiple re-zonings for development in the area surrounding Hillview (see neighbouring Deferred Matter site). State Heritage Listing for the Hillview Heritage Conservation Area will reap great reward for future generations.

Please Note:

All references are given on Page 22. A hardcopy of the Nomination and more scans of the original area will be sent to the address on the form under the same subject title:

Hillview Heritage Conservation Area (Hillview HCA) State Heritage Nomination.

Submission to the Ray Street Development Proposal



Turrumurra - Last
chance to save Ku-ri



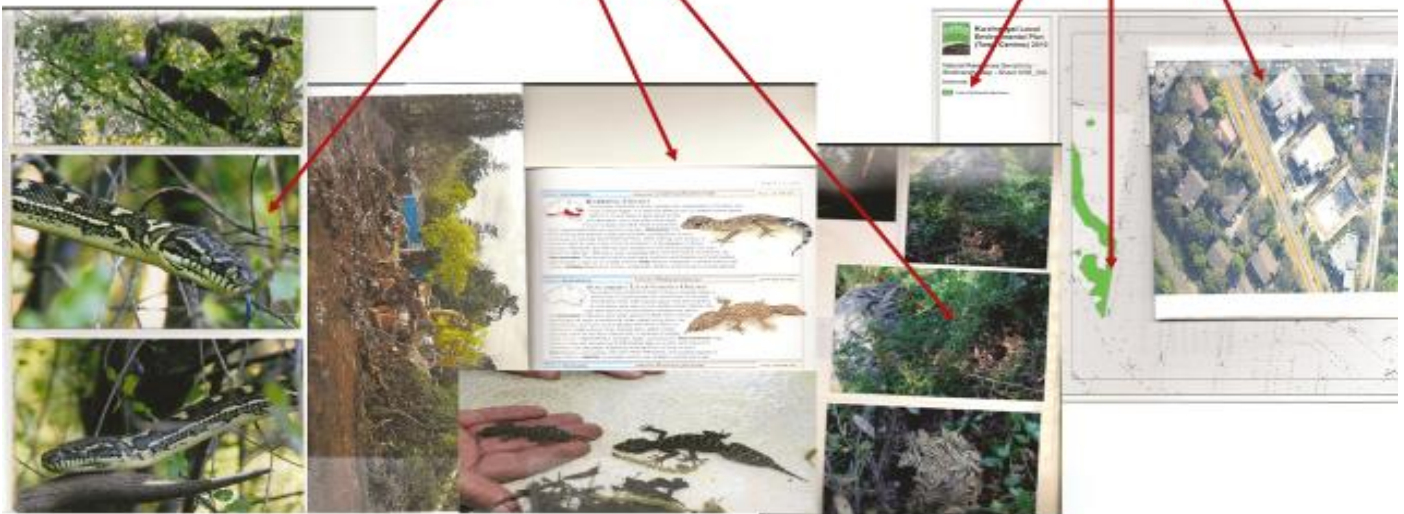
Community fights to protect by linking built and natural heritage in National Trust Walks



Turr2SheldonForest
HANDOUT.pdf

Making the Link between protecting built and natural heritage for the integrity of national identity and compensating for improper re-zoning for development which has caused land clearing of irreplaceable urban native vegetation

Rare Ground dwellers in area of high biodiversity are un-protected from excavation and concrete carpet



“INDEPENDENT HEARING” INTO RECLASSIFICATION OF COMMUNITY LAND – FROM “COMMUNITY” TITLE TO “OPERATIONAL” TITLE.

Transcript of Councillor Bennett’s submission to the Public Hearing for Pymble. 22 September, 2006.

There is she says, “a common theme” in all of the Reclassifications in Ku-ring-gai.

1. “Council has not properly informed residents of its plans for community lands in the town centres”.
2. “The potential redevelopment and loss of virtually all of council land across five town centres has not been advertised in displays, libraries and town centres. It was certainly not mentioned in the 4 page (2 page) spread in The North Shore Times .. which sought to counter adverse publicity.”
3. Information about the Reclassification .. “in practical terms ..it was only available to residents with sophisticated Internet access.”
4. The councillor raised “a threshold issue about the legality of the exhibition-as information was provided so sparingly”.
5. “The scale of the loss of Public Land in Ku-ring-gai is obscured by the fact that details are only available for each centre. However it is the cumulative effect which is vital and this is rendered invisible by the manner in which the material is organized.”
6. “It is my view that the scale of Reclassification across these town centres places a significant obligation upon Council to do more than the statutory minimum. In this case however, we are looking at the wholesale reclassification and loss of virtually every sizeable portion of Council owned land across all centres particularly in the Northern part of the Municipality...” Turramurra, Gordon, St.Ives and Pymble.
7. A very controversial part of the Councillor’s address she knew would be the following..... “Many in the community have asked why Council has provided so much information about aspects of the town Plan but only the minimum with respect to Reclassification”.
8. “I believe the answer is to forestall widespread community opposition by providing as little information over as small a time frame as possible”.
9. “I believe this represents an awareness that such proposals would be rejected if they became widely known”.
10. “I also believe that Council’s sensitivity on this issue is shown by what is a misuse of confidentiality provisions to prevent material on Reclassification from going into the public arena until the very last moment”.
11. “The wholesale Reclassification of Council owned land across the centres has been the subject of intensive discussions with Councillors in closed door meetings since at least Feb 2005”.
12. “This has included consideration of various parcels of land. In Feb 2005 material was considered by Councillors at a retreat held to consider the upcoming management plan and budget”.
13. “Concerned at its confidential status” - the Councillor contacted The General Manager at the time, but was told the information was “commercial in confidence”,
14. In 2006 Feb the same discussions occurred and more material was presented – this time she “sought to challenge the legality of the confidential status by a notice of motion”
15. legal opinion was sought and this time “my motion was successful”
16. TRIM is Council’s electronic system for recording material. The Councillor asked the Chairman of the Public Hearing “I formally request that you as the Chair of the Public Hearing seek access to documents recording staff comments on Community land Reclassification and material supplied to Councillors over the last 2 years – under FOI or S12 of the LGA”.
17. “It is my belief that there has been no lawful ground for withholding this material”
18. “that the material referred indicates an intent to pursue wholesale Reclassification and also indicates an awareness of the unacceptability of this move to the community.....”
19. “Land Reclassification in Pymble must be seen in the wider context”. ...“The potential development and loss of virtually all sizeable land parcels owned by Council in Turramurra, Gordon, St.Ives and Pymble means that the significant increase in Population will not be provided with the open space they require. Existing open space... will be under greater pressure and land will not be available for different new facilities in the Town Centre for future generations”.
20. “In this regard the Present Plans offend the requirement in the LGA for Council to ensure Intergenerational Equity”.....“The fact that Council may retain Stratum rights is not an adequate response to this issue. Stratum will not provide the flexibility and autonomy necessary for the proper public provision of new facilities in 40-50-100 years’ time.”

NOTE: COUNCILLOR BENNETT’S SUBMISSION WAS SUBMITTED TO THE PYMBLE HEARING INTO RECLASSIFICATION OF PUBLIC LAND BUT IT REFERS TO ALL CENTERS IN KU-RING-GAI.

1057—PLANNING AND INFRASTRUCTURE—TURRAMURRA DEVELOPMENT

Mr Shoebridge to the Minister for Finance and Services, and Minister for the Illawarra representing the Minister for Planning and Infrastructure, and Minister Assisting the Premier on Infrastructure NSW—

1.
 1. Have studies been conducted regarding the impact of high density development in Turrumurra?
 2. If so,
 1. When were the studies carried out?
 2. Who conducted the studies?
 3. Will these studies be made public?
 4. When will the studies be made public?
2.
 1. Is the Department of Planning and Infrastructure currently aware of any plans to sell public land in Turrumurra in the next four years?
 2. If so,
 1. Which areas are being considered for sale?
 2. What mechanisms for the sale are being considered?
 3. Will the identity of the purchaser and the value of the transaction be made public?
3.
 1. How many changes to the heritage status of domestic dwellings sites in Turrumurra are being considered by the Department?
 2. How many changes to the heritage status of commercial sites in Turrumurra are being considered by the Department?
4.
 1. Has a local environmental study of the whole municipality of Ku-ring-gai been undertaken by the Department?
 2. If so, when will it be made public?
 3. If not, when will the Department be carrying out such a study?
5. What resources are being made available to Ku-ring-gai Council to address biodiversity and environmental issues raised by the local environmental plans?
6. What financial resources are available to consider biodiversity and environmental issues for Ku-ring-gai two new local environmental plans?

Answer—

1. I am advised of the following: Ku-ring-gai Municipal Council, as the Relevant Planning Authority, undertook a number of studies related to the rezoning of Turrumurra as part of the (former) Town Centres LEP. Further information about the studies can be sought from Ku-ring-gai Council.
2.
 1. 'Hillview', which is a 5000sq.m site on the southern side of the Pacific Highway at Turrumurra Town Centre (hereafter referred to as the "Turrumurra Town Centre Site"). The site is in Roads and Maritime Services title but the Minister for Planning and Infrastructure has a 50% interest in the site. For further details in relation to this site, information should be sought from Roads and Maritime Services.
 2.
 1. A 3.7 hectare site bounded by Chisholm, Warner and Barwon Streets at South Turrumurra. The Government owns 46% of the site and Ku-ring-gai Council owns 54% of the site.
 2. The 'Turrumurra Town Centre Site' is the subject of a Project Delivery Agreement. The Office of Strategic Lands and Ku-ring-gai Council are in partnership to master plan and subdivide the land into approximately 35 housing blocks. The mechanism for the sale of the individual lots would be via competitive auction.

3. Given the sales mechanism, the purchaser and the sale price will be known on the auction date. Final details will be confirmed once the property has settled and title transferred.
- 3.
1. and (b) On 29 November 2011, the Department of Planning and Infrastructure received a Planning Proposal from Ku-ring-gai Council dealing with a number of heritage issues. This Proposal is currently being assessed. For details regarding the contents of this Planning Proposal and/or any others being considered by Ku-ring-gai Council, contact should be made directly with Council or, in relation to State Heritage matters, to the Office of Environment and Heritage.
- 4.
1. No.
2. N/A
3. N/A
5. The Department of Planning and Infrastructure is working closely with Council to progress its proposed local environmental plans including, but not limited to, the review of planning instruments and maps and technical advice.
6. Ku-ring-gai Council has recently written to the Department of Planning and Infrastructure seeking funding assistance for the preparation of Planning Proposals. This submission is currently being considered by the Department.
- =====



Environment of National significance was not considered before re-zoning for development began

NORTHSIDE COURIER 25.07.2007

Local council tops development rate

Ku-ring-gai Council has the second highest amount of development in Sydney – chasing only the CBD and putting Parramatta to shame.

There was \$1.7 billion of development in Ku-ring-gai in 2005-06, according to a Department of Planning report released this month.

The City of Sydney currently has \$2.5 billion of development, and Parramatta, the second largest CBD in Sydney, has \$1 billion.

So far, 59 apartment blocks have been approved by Ku-ring-gai Council under the first stage of the Metropolitan Strategy. But more than 14,000 new units have been zoned for Ku-ring-gai.

Despite the boom in construction, the State Government has raised concerns it is not enough. A July 4 letter from the Department of Planning said the council's estimates of future dwellings could be inflated, and may need to be amended.

It also asked the council to compensate for the loss of development

HIGHEST REPORTED TOTAL DEVELOPMENT VALUE IN NSW

- | | |
|--------------------|---------------|
| 1. City of Sydney: | \$2.5 billion |
| 2. Ku-ring-gai: | \$1.7 billion |
| 3. Parramatta: | \$1 billion |

Source: *The NSW Local Development Performance Monitoring report, Department of Planning 2005-06*

NEW HOMES ZONED IN KU-RING-GAI

Residential Strategy stage one:	9319
Residential Strategy stage two:	3973
Planning Minister's SEPP 53 sites:	758
Total:	14,050

Source: *Ku-ring-gai Council*

opportunities incurred by the addition of 17 heritage items in its plans.

Ku-ring-gai Mayor Nick Ebbeck said although there were "currently 27 building cranes around Ku-ring-gai", the council was "still being kicked by the State Government".

Edwina Guinan

Northside Courier - 25th July 2007

HOW IT HAPPENS - A GREENFIELD OF RARE URBAN BIODIVERSITY IS TURNED TO GREYFIELD



Re-zoning Rare Urban Biodiversity in 2008 – Maps changed to reflect lost biodiversity in 2015



Critical Mass
Planning engages the world
2011 National Congress 6-9 March Hobart Tasmania

Urban Renewal In the Greyfields Belt of Sydney: The Ku-ring-gai Experience

Why was Ku-ring-gai described as Greyfield?
Ku-ring-gai is **RARE URBAN BIODIVERSITY FOR A FUTURE CITY - Greenfield.**

Ku-ring-gai Council

www.kmc.nsw.gov.au



Greyfield-ing a greenfield Area of Rare Urban Biodiversity How biodiversity loss is achieved
Urban renewal by Cumulative Massive replacement of soils and seed-bank 500 m from Sheldon Forest

IMPROPER URBAN RENEWAL IS ACHIEVED THROUGH IGNORING FAILURES, FLAWS AND GAPS IN THE SYSTEM
Pictures are linked - Permanent replacement of Soils and seed-bank all along Highway opposite Sheldon Forest



Above Construction is now repeated all along Pacific Highway opposite Sheldon Forest below (old map below)



Land area alongside Sheldon Forest - protected by Friends of Turrumurra in 2007

WHY ARE CORE RESERVES OF CRITICALLY ENDANGERED ECOLOGICAL COMMUNITIES NOT THE SUBJECT OF A BIODIVERSITY STRATEGY WHICH EXPANDS RESERVES WITH BIOBANKING FUNDING ACHIEVED IN 2016?

In 2016 Entire streetscapes of heritage value are bulldozed for development in the ESA of Ku-ring-gai.



Endnotes

ⁱ **Biodiversity is critical infrastructure – the basis of life.** Urban Forests and natural habitat remnants are the last biodiversity hotspots in cities. They are increasingly critical flora and fauna corridors. The significance of biodiversity to humans is greater than is understood by land-use planning systems in 2015.

We are in “the urban age”. The UN reports that more than half the world’s population lives in urban areas since 2007.ⁱ By 2050 it will be 70%. Australia’s urbanization is higher. *Mayday for Urban Forest*

ⁱⁱ **Impacts of Land clearing through development and recreational use**

“When an area of native bushland is lost, most of the resident wildlife does not simply relocate. In reality, the vast majority of animals will die. Most will die quickly but others survive for a time before succumbing to starvation, predation or other fates. This can lead to the local and regional extinction of populations and, through successive cycles of local impacts and fragmentation, the decline and, in some cases, extinction of entire species.”

Australia - State of the Environment 2006.

Our last surviving urban wildlife is being pushed out of rare urban forest by irregular un-aware planning

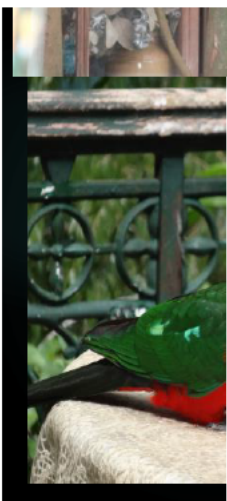
Leaf tailed gecko mother
& baby adjacent to
Sheldon Forest

As gardens disappear the last little birds
shelter in rare urban habitat in Sheldon
Forest – this little bird photographed
inside house alongside Sheldon Forest



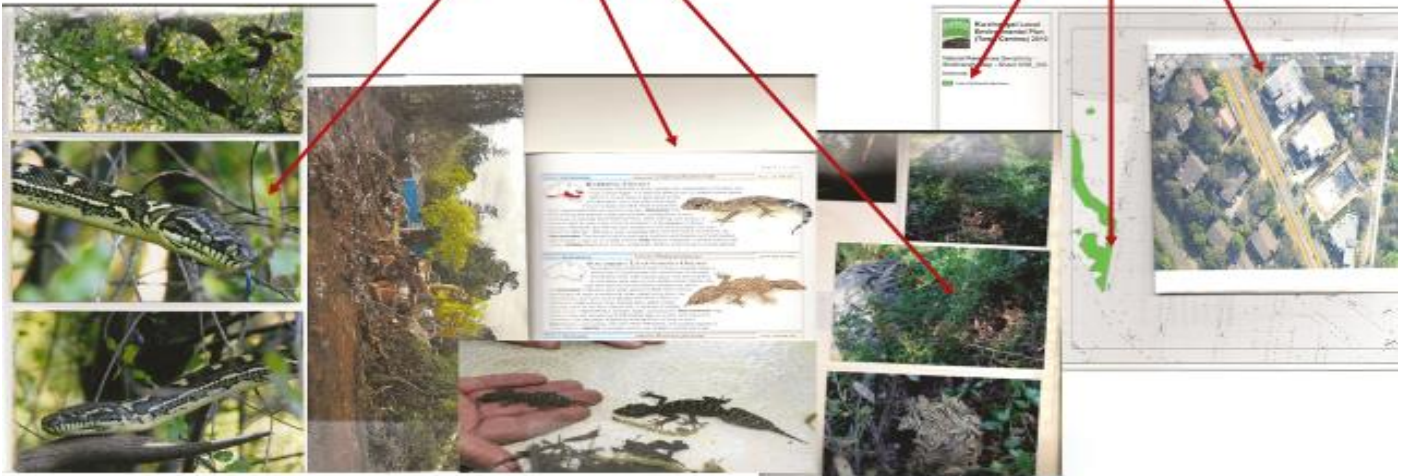
Powerful Owls nest and
roost in Sheldon Forest

Native birds seeking habitat in Sheldon Forest



But hollows and habitat
are disappearing fast

Rare Ground dwellers in area of high biodiversity are un-protected from excavation and concrete carpet



CONCLUSION

Making the Link between protecting built and natural heritage for the integrity of national identity is the crucial value of retaining Public Land in urban ESAs. This needs enlightened and informed land-use planning for future cities.

Protecting these Public Lands as bio-linkages close to railway stations would achieve some compensation for improper re-zoning for development in rare Urban Forest.

Continuing deliberate Greyfield-ing of rare urban Greenfield, despite information given to stopping that effect, has caused irreplaceable loss of urban native vegetation, soils and seed-bank.

The submission shows how irreversible loss of unique urban wildlife by clearing of habitat continues through conflict of interest, commercial-in-confidence and cumulative effect.

Submitted by Janet Harwood.

The Future is the Natural World



"Biodiversity loss is the most significant environmental problem facing Australia"

Professor David Lindenmayer. (2007) *"On Borrowed Time"*