SJB Planning

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

6 August 2013

Re: Draft Oxford Falls Valley and Belrose North Strategic Review

Dear Sir,

We act for Dukor 24 Pty Limited, who have an interest in land known as 1113 Oxford Falls Road, Frenchs Forest (Lot 1113 DP 752038) (the 'subject site'). The land, shown in Figure 1 below, abuts Barnes Road to the south and adjoins residentially zoned land fronting Barnes Road.

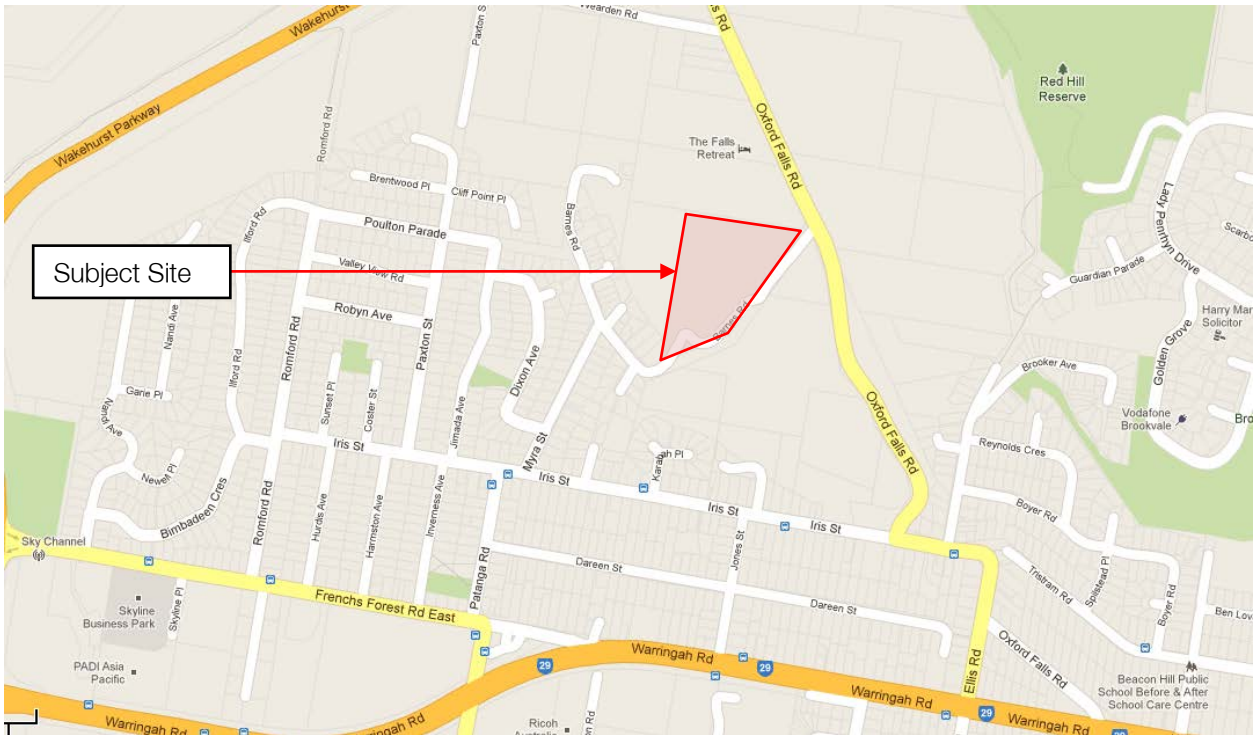

Figure 1: Location of the site (Source: Google Maps)

The land in which our client has an interest is within the Oxford Falls Valley and Belrose North Strategic Review study area ('the study').

We have been engaged to review the study, with particular reference to the subject site, and any implications upon the recommended zoning and therefore future development potential.
As detailed in the attached review of the study, our review has determined that a consistent outcome for our Client's land would be a recommendation that a Planning Proposal be prepared to have the subject

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site zoned R5 Large Lot Residential. This would be consistent with the recommended outcome for other sites in the study area that have been determined to have similar levels of development suitability.

The application of the assessment criteria established for the study to the subject site does not support the recommended application of an E3 Environmental Management zone contained in the study.

The subject site is located adjacent to existing residential land and abuts land with much lower levels of development constraint than other land recommended to be zoned R5 Large Lot Residential. The application of the criteria in the study to the subject lot would be consistent, appropriate and will not result in extensive rezoning that would necessitate extensive studies to be undertaken as it would apply to limited additional land.

To be consistent with the application of the criteria established for the study, a recommendation to zone the subject land to R5 Large Lot Residential is consistent and maintains the veracity of the study process and criteria for consideration established. That is the subject site:

- Is not isolated from urban land;
- Is not surrounded by bushland or vacant land with prohibitive, severe or significant constraints;
- The character of the land and existing development is compatible with the objectives of the R5 Large Lot Residential zone;
- Zoning the land to R5 Large Lot Residential would not result in a cumulative impact that would necessitate the undertaking of further studies to support the zoning; and
- Zoning the land R5 Large Lot Residential is consistent with the nature and form of existing development on the land.

A revision of the study to recommend the preparation of a Planning Proposal to zone the land R5 Large Lot Residential is sought.

Should you require any further clarification or wish to discuss any matters raised in this submission, please do not hesitate to contact me on (02) 9380 9911 or by email sbarwick@sjb.com.au.

Yours sincerely

Scott Barwick
Associate Director

Encl.

Attachment 1: Review of Lot 1113 DP 752038

The Site

The subject site has an area of approximately 3.371ha and contains a substantial dwelling and outbuildings. The site is largely cleared and is bisected by a small escarpment, resulting in the site comprising two (2) distinct levels.

The site is within the deferred area of Warringah LEP 2011. The land is currently located within Locality B2 – Oxford Falls Valley under Warringah LEP 2000.

The study the subject of the exhibition recommends the preparation of a Planning Proposal to zone the land E3 Environmental Management under a future amendment to Warringah LEP 2011.

The Review

The scope of the review has essentially adopted a constraints and analysis approach to identify the land use suitability of the land within the study.

The constraints mapping has involved considering:

- Physical constraints (i.e. topography, flora and fauna); and
- Secondary constraint analysis (i.e. heritage, infrastructure provision, distance to services).

Primary Constraints Mapping of Subject Land

Eight (8) Primary Constraints were utilised in the study to determine the level of constraint to development of land within the study area.

The constraint assessment categorised five (5) levels of constraint ranging from No Environmental Constraints through to Prohibitive Environmental Constraints.

The categorisation of the constraint level using these criteria s they apply to the subject land is summarised in the following table:

Constraint Type	Constraint Level	Constraint Weighting
Riparian	Not applicable.	0
Significant Vegetation	Not applicable.	0
Wetland Buffers	Not applicable.	0
Slope	Majority less than 20% / part 20-30% / part 30+%	0 /5 / 15
Wildlife Corridor / Core Habitat	Regional Corridor	5
Flooding	Not applicable.	0
Acid Sulfate Soils	Not applicable.	0
Threatened Species Habitat	Not applicable.	0
Total Constraint Score		5 / 10/ 20

Table 1: Categorisation of constraint level of subject site

Utilising the constraint weighting to categorise the level of constraint, the subject land has a score of 5-10 for the majority of the site and a sore of 20 for the area comprising the small escarpment running through the site. Land with a score of between 1-15 is identified as having moderate environmental constraints.

Land with a score of between 16-32 has a significant environmental constraint to development.

The mapping produced for the study – "Outcome of the Primary Environmental Constraints Analysis" correctly identifies the majority of the subject site and the surrounding lands as having a "moderate environmental constraint to development" (Figure 1). That is, from a consideration of the physical attributes of the land, the majority of the subject site and surrounding land has a moderate constraint to urban development.

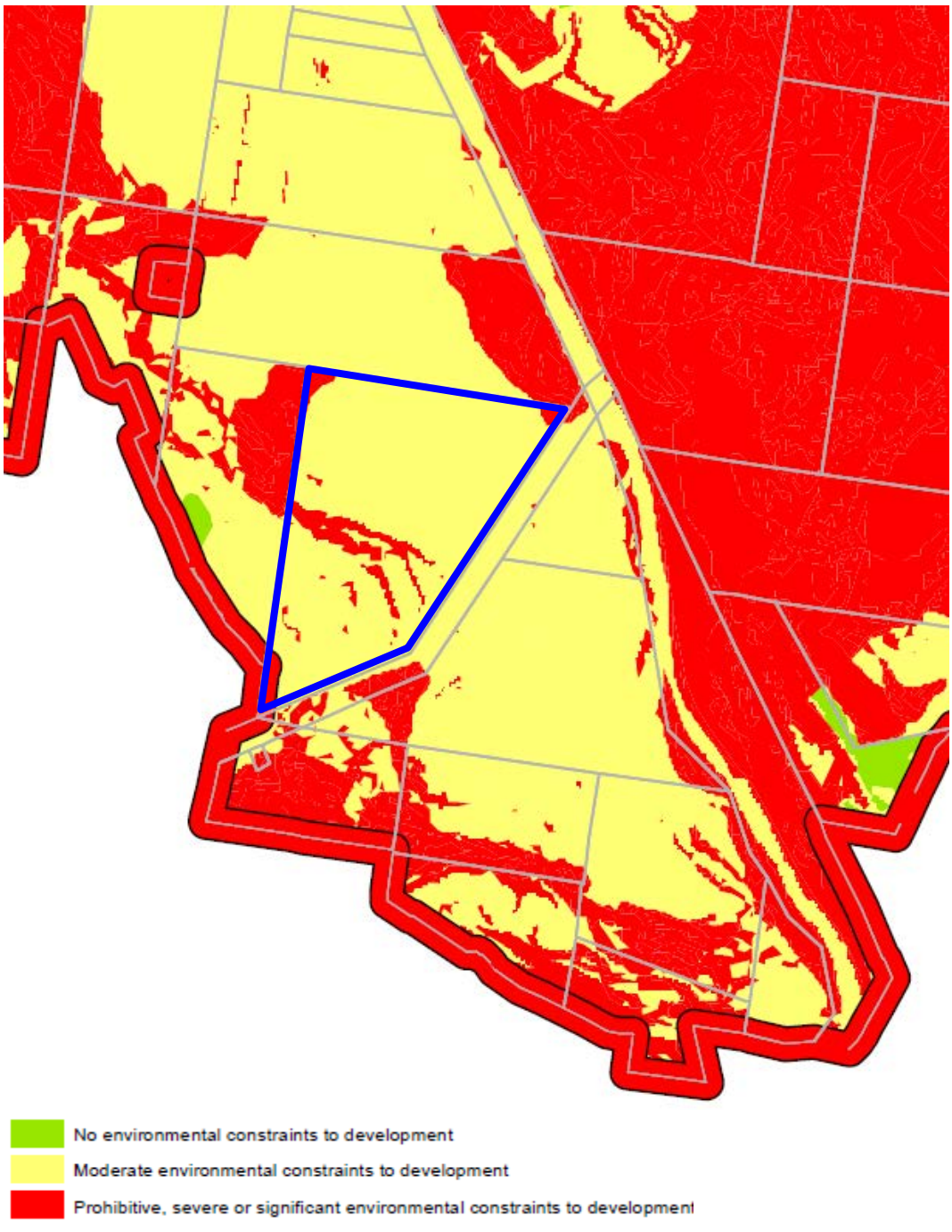

Figure 1 – Extract from the Outcomes of Primary Constraints Mapping – subject site in blue border

Secondary Constraints Mapping

The study has determined that any land identified through the Primary Constraint Mapping that was identified as having No or Moderate environmental constraints should be further assessed against the secondary constraints. The subject site is assessed against the Secondary Constraints analysis in the following table.

Constraint Type	Constraint Level	Constraint Ranking
Heritage	Not affected.	0
Bushfire	Not affected / part buffer / part Category 1 or 2	0 /2 / 3
Proximity to Centres	Within 800m of Neighbourhood Centre	2
Proximity to Public Transport	Within 400m bus stop / within 800m bus stop	1 / 2
Availability to connect to water, sewer & electricity	Lot currently serviced.	0
Telecommunications Buffer	Greater than 250m from telecommunications facility	0
Riparian Corridor	Not affected.	0
Significant Vegetation	Not affected.	
Wildlife Corridor & Core Habitat	Regional corridor.	0
Threatened Species	Low habitat.	0
Flooding	Not affected.	0
Wetland buffers	Not affected.	0
Cumulative Constraint Score		3 / 5 / 7

Table 2: Assessment against Secondary Constraints Analysis

The cumulative score is utilised to identify the development potential of land as:

- Category A Low restriction to development (Score 2-10)
- Category B Moderate restriction to development (Score 11-14)
- Category C Significant restriction to development (Score 15+)

The subject land has a score of between 3-7, with a conservative approach taken where the northern portion of the site is identified as being within 800m of public transport and the southern portion is within 400m of a bus stop, thus resulting in a higher score. Regardless, the worst case outcome identifies the site as being Category A – Low restriction to development, and suitable for further zoning consideration

The Mapping prepared for the exhibition “Secondary Constraints Analysis” correctly identifies the subject land as primarily “Land for further zoning considerations” (Figure 2). A minor area of the site is identified as constrained, being the small escarpment running through the site.

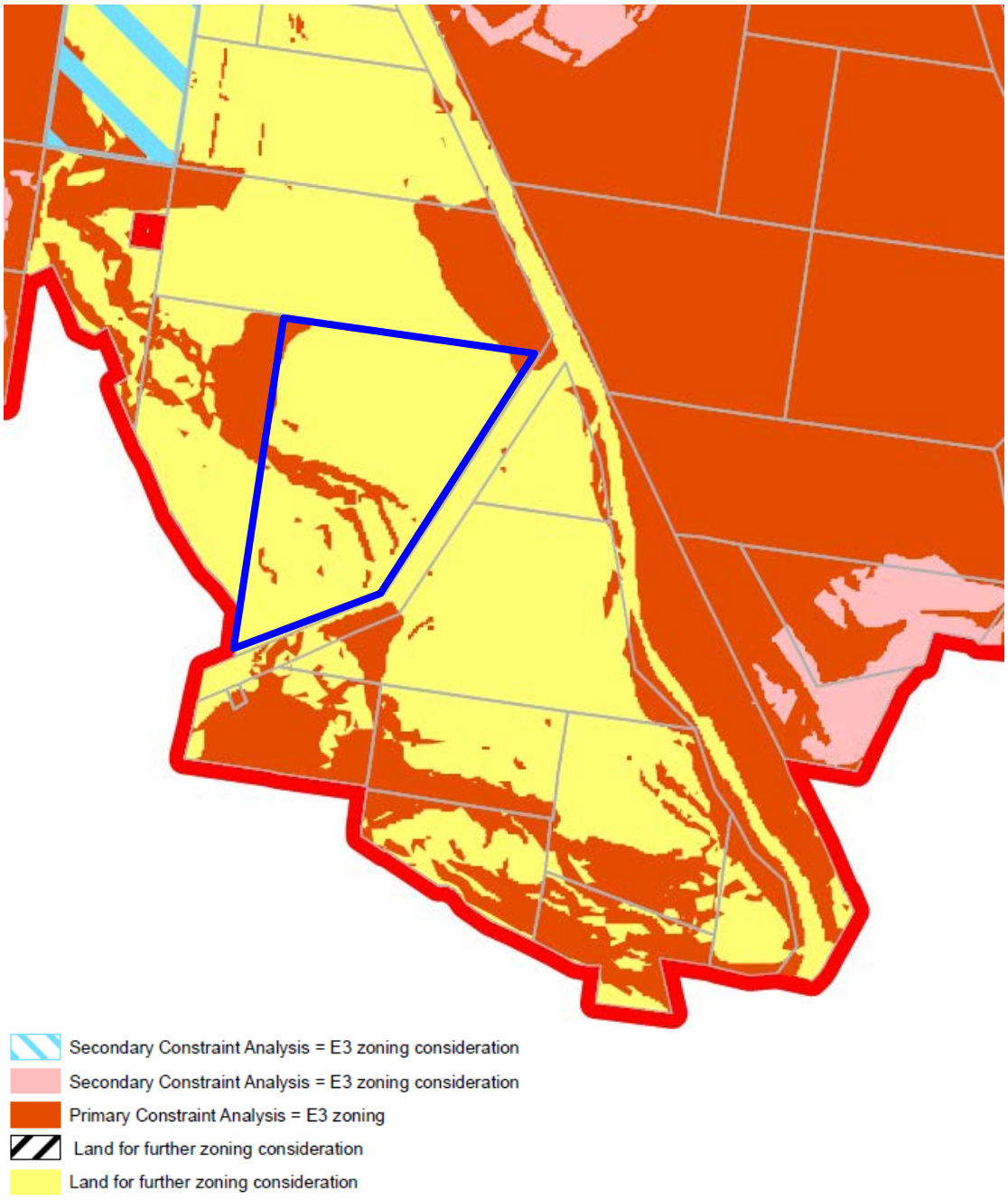

Figure 2 – Extract from the Outcomes of Secondary Constraints Mapping – subject site in blue border

It is noted that the sites recommended in the study to be zoned R5 Large Lot Residential also contained portions of land identified as having some environmental constraints.

Application of Findings

The study has determined that the E3 Environmental Management zone should be applied to land that has been:

- Identified as having significant constraint to development;
- Is isolated;
- Does not adjoin urban areas; or
- Would cumulatively have a significant impact if zoned to an alternate zone without first undertaking studies as recommended by the PAC.

The subject site has been mapped in the study as predominantly constraint free. Further, the site is not isolated and adjoins existing urban areas zoned R2 Low Density Residential. Despite this, the land is recommended to be zoned E3.

There is no clear justification for this recommended approach when the criteria set out in the study are applied to the site and adjoining land. The land is clearly identified via the Primary and Secondary Constraint Analysis as having development potential with few constraints to development.

The inconsistency of the recommendation is highlighted when the three (3) pockets of land recommended to be zoned R5 – Large Lot Residential are considered.

These three (3) instances are:

(1) 10-26 Wyatt Avenue, Belrose;
(2) 195-199 Forest Way and 1A Morgan Road; and
(3) 169-181 Forest Way, Belrose.

These three (3) areas have similar constraints scores in the Secondary Mapping. Indeed, sites 1 and 3 have greater areas that are mapped as having primary constraint mapping as being suitable for E3 zoning. Further all three (3) sites abut land that is mapped as having far higher constraints to development than the land surrounding the subject site.

The lots that have been recommended to be zoned to R5 Large Lot Residential are also developed in a similar manner to the subject site with substantial single dwellings.

The land in the vicinity of the subject lot should be similarly zoned to these three (3) examples. That is, applying the rigour of the Constraints analysis consistently should result in the recommendation for Lot 1113 and adjoining heavily cleared lots in the vicinity with few constraints to development being zoned R5 Large Lot Residential.

It is our submission based upon the rationale of the study that the subject site and possibly some adjoining sites that also abut land currently zoned R2 Low Density Residential, should be recommended to be zoned R5 Large Lot Residential.

Consideration of zone objectives

The subject site has been identified as being substantially free of physical and locational constraints to urban development. Despite this, the current recommendation is for the land to be zoned E3 Environmental Management. The detailed review undertaken for this submission identifies that applying the criteria of the assessment consistently would lead to a conclusion that the subject site should be recommended to be zoned R5 Large Lot Residential. A consideration of the zone objectives for each zone from the Standard Template LEP provides further justification for the sense of this outcomes rather that the recommendation that has been exhibited.

The objectives for Zone R5 Large Lot Residential are:

- *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*
- *To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.*
- *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

The objectives for Zone E3 Environmental Management are:

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*

The criteria established for the review when applied to the subject site confirms that the land does not contain any special ecological, scientific, cultural or aesthetic values that should be protected, managed or restored. The recommended application of the E3 Environmental Management zone to the land is not only inconsistent with the outcomes of the study but also the objectives of the zone proposed to be applied.

The R5 Large Lot Residential zone objectives are however consistent with the suitability of the land for urban development and the current use and occupation of the land.

The application of such a restrictive zone to the subject site is contrary to the outcomes of the study and an inappropriate application of the E3 Environmental Management zone.