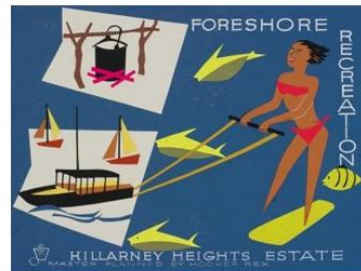


NBRS+PARTNERS
ARCHITECTURE-HERITAGE-INTERIORS-PLANNING



HERITAGE PEER REVIEW

RE-ZONING APPLICATION
KILLARNEY HEIGHTS TENNIS COURTS
20-24 TRALEE AVENUE
KILLARNEY HEIGHTS NSW 2087

MARCH 2013

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HERITAGE PEER REVIEW

20 – 24 TRALEE PLACE KILLARNEY HEIGHTS PROPOSED RE-ZONING

1.0 INTRODUCTION

This Heritage Peer Review has been prepared to address matters raised by Warringah Council in relation to a Planning Proposal for the proposed re-zoning of two tennis courts for residential use

The review has been undertaken by Robert Staas, Director / Heritage Consultant of NBRS+PARTNERS Architects.

The original Statement of Heritage Impact was prepared in November 2011 by Greg Patch of Archnex who has also prepared an additional response relating to potential heritage impacts dated 28th February 2013.

Matters addressed in this review also relate to comments made to the Council by Robert A. Moore, heritage consultant and to community concerns raised in objections forwarded to Council regarding the application.

1.1 Heritage Listings

The site is included in a Local heritage listing in the Warringah Local Environmental Plan 2000 as part of the Killamey Heights Village Centre. The heritage listing of the centre followed identification in the Warringah Heritage Study following some community concern regarding approved zoning changes to parts of the Village Centre.

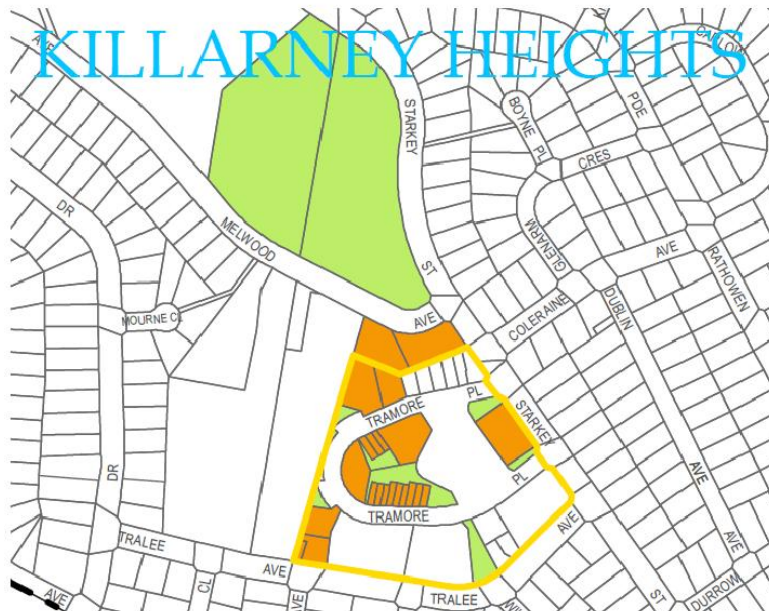


Figure 1 - Extract from Warringah Council LEP 2000 Map showing extent of heritage item (yellow outline), Local Retail areas (shaded brown) and open space (shaded green).

In The Warringah LEP 2011 the area is identified in Schedule 5 as a conservation area rather than a heritage item. The affected area is that shown on Map 8 in the LEP an extract of which is shown below.



Figure 2 - Extract from Warringah Council LEP 2011 Heritage Map showing area C8 - Killarney Heights Village Centre including the subject site.

1.2 Heritage Significance

The heritage significance of the site as stated in the State Heritage Inventory listing prepared by the Council is as follows:

"The Killarney Heights Village Centre is of historical significance at a local level as a mostly intact, representative example of a planned commercial and community precinct servicing the 1960s 'garden suburb' of Killarney Heights. The centre is also of social significance at a local level as its general character and function is considered to be critical to the identity of the Killarney Heights community."

While the Village Centre has been identified as having heritage values, The Parade of Homes which represents the initial development of the estate has not.

1.3 Proposal

The proposal in the planning application is for the rezoning of two tennis courts to allow the site to be subdivided into three residential lots of similar scale to surrounding development. The application is as a result of poor economic viability and closure of the business and follows similar failure of other business activities in the Village Centre since the 1980s. The history of the application also follows similar rezoning of other sites in the Village Centre by Warringah Council including the former Squash Courts and one of the original tennis courts in 1997.

2.0 DOCUMENTARY EVIDENCE

The subject site is located on Lot 841 in DP 879900, originally part of 125 acres granted to John Lewis Spencer on 27 December 1837 and being one of three separate grants to him in the district (Figure 3). This land was largely subdivided as "Heidelberg: the wild flower garden of Middle Harbour" and the first sale in this locality was offered for auction sale on 24 April 1886, comprising 95 choice residential sites of not less than one-quarter acre in size adjoining the government proposed subdivision.¹

About 1900 the Killamey Pleasure Ground opened on the foreshore of Middle Harbour and was so named in honour of "Killarney" Ireland (Figure 4). This picnic ground was a popular pleasure resort for Sydneysiders and was well-served on the weekend by ferry and boat from Circular Quay. The picnic ground was run for many years by Hugh Nelson. According to one newspaper article "Middle Harbour is said to resemble the lakes of Killarney; there is for instance a 'Killamey' and 'Bantry' Bay".²

The Heidelberg Estate remained largely undeveloped until 1960 when Town and Country Development Pty Limited (formerly Constructors Engineering & Industrial Limited), otherwise known as Hooker-Rex Pty Limited, acquired Lots 1 to 96 inclusively in several transactions and converted same to Torrens title.³



Figure 3 — Extract from Parish of Manly Cove, County of Cumberland, 1890. Map shows three separate land grants to John Lewis Spencer covering the present day suburb of Killarney Heights. (Source: National Library of Australia, MAP F151)

¹ "Heidelberg", *Sydney Morning Herald*, 17 April 1886, p17.

² "Romantic Houses in Sydney, one being demolished", *Nambour Chronicle and North Coast Advertiser*, 16 June 1939, p8.

³ Primary Applications 42051 and 42052, NSW Land & Property Information. The former application refers to RPA 90505 for torrens conversion by the same company of Lot 14 of part of J.L. Spencer's 125-acre grant.



Figure 4 — Killarney, Middle Harbour, Sydney, NSW, ca 1928. (Source: State Library of New South Wales, Samuel Wood Postcard Photonegatives Album, a1470097)



Figure 5 — Aerial view of Sydney (Broken Bay), 1951.
(Source: Warringah Library Service, Manly Warringah and Pittwater in Pictures database, File 46\WAR46265)

Hooker-Rex Pty Limited, a subsidiary land development company of L.J. Hooker, proceeded to subdivide the 760 acres (3km²) site into 775 home sites. By 1963 the company reported that "development of this Estate..[had] reached an advanced stage. Notwithstanding adverse weather conditions, a large section of the estate was completely roaded and approximately half of the water and sewerage reticulation was commenced."⁴ Two years later the Annual Report indicated the development had been completed and marketing of same was in its final phase.⁵ A key component in the marketing campaign was a survey and contest held in conjunction with the *Sydney Morning Herald* and *Woman's Day* to establish the ideal Australian home; the winning couple, erected at Killarney Heights.

Hooker Rex had developed 51 Planned Housing Estates in four states by 1965 working with State governments to meet the Post War housing shortages. In Sydney these included, The Headland Estate, Castle Cove in 1959, The Dress Circle Estate at East Ryde in 1960, The Killarney Heights Estate and the largest, The Winston Hills Estate in 1965.

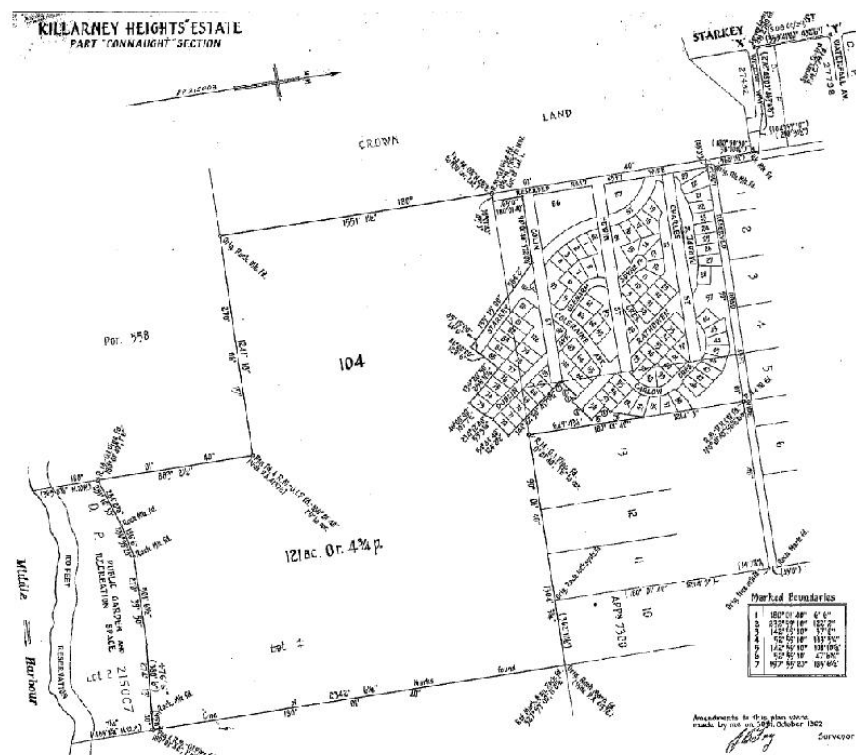


Figure 6 — DP 215008, Lot 104 Killarney Heights Estate part Connaught Section, 27/6/1962, being subdivision of land in RPAs 42051 & 42052 and parts of CTs V6274 F106, V7506 F102 & V8228 F165.

(Source: NSW Land & Property Information)

⁴ L.J. Hooker Investment Corporation Limited Annual Report and Notice of Meeting 1963, p19.

⁵ L.J. Hooker Investment Corporation Limited Annual Report and Notice of Meeting 1965, p19.

The Killarney Heights 'Parade of Homes' featuring 17 master built project show homes was opened by the Premier of NSW, Robert Heffron and the Leader of the Opposition Bob Askin on April 5th 1963.

The First Auction Release at Killarney Heights Estate was between Starkey Street and Killarney Drive centred on Connemara Avenue. An advertisement for this sale stated that eventually the Estate would provide:

RECREATIONAL AREAS in the form of oval, children's playgrounds and parks. Some are already completed, others will be developed as the individual sections are made ready for occupation.

A MODERN SHOPPING CENTRE located between Estate and Warringah Road will cater for immediate local requirements. However "The Killarney" shopping centre will be developed in the near future adjoining "Oval".

The Killarney Heights Shopping Centre was opened in 1965 and was extended in 1968 with a supermarket and liquor store and in 1969 with a bank branch which subsequently closed. 3 additional shops were erected in 1970 and a further 6 shops followed soon after.

At the same time that the Killarney Heights Estate was commenced Hooker Rex were building Warringah Mall Regional Shopping Centre, the largest in NSW.

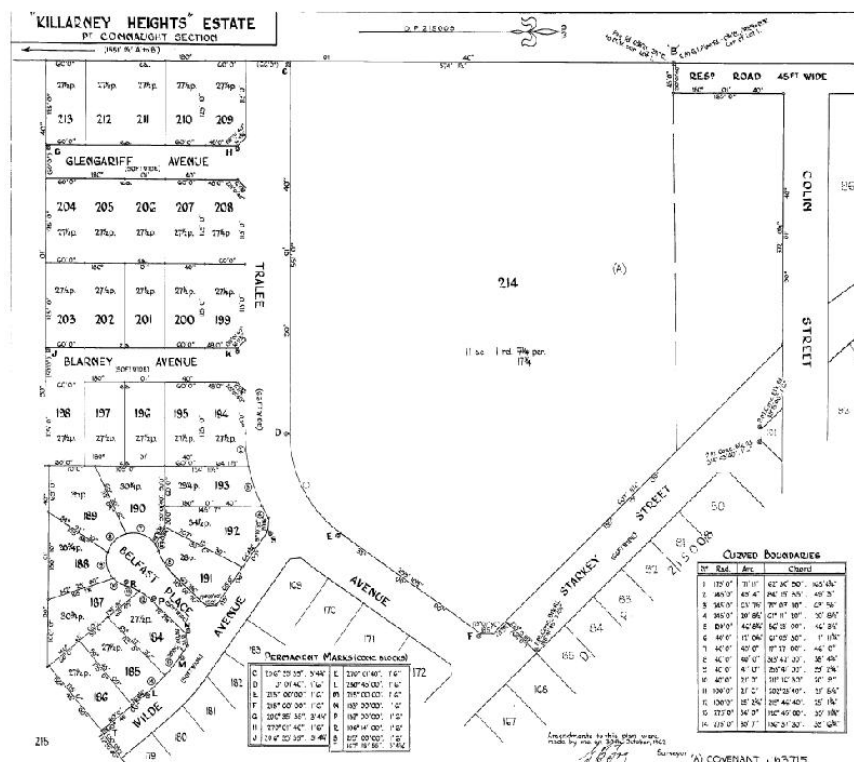


Figure 7 — DP 215009, Torrens Subdivision of Lot 214 DP 215008 Killarney Heights Estate part Connaught Section, 30/7/1962.
 (Source: NSW Land & Property Information)

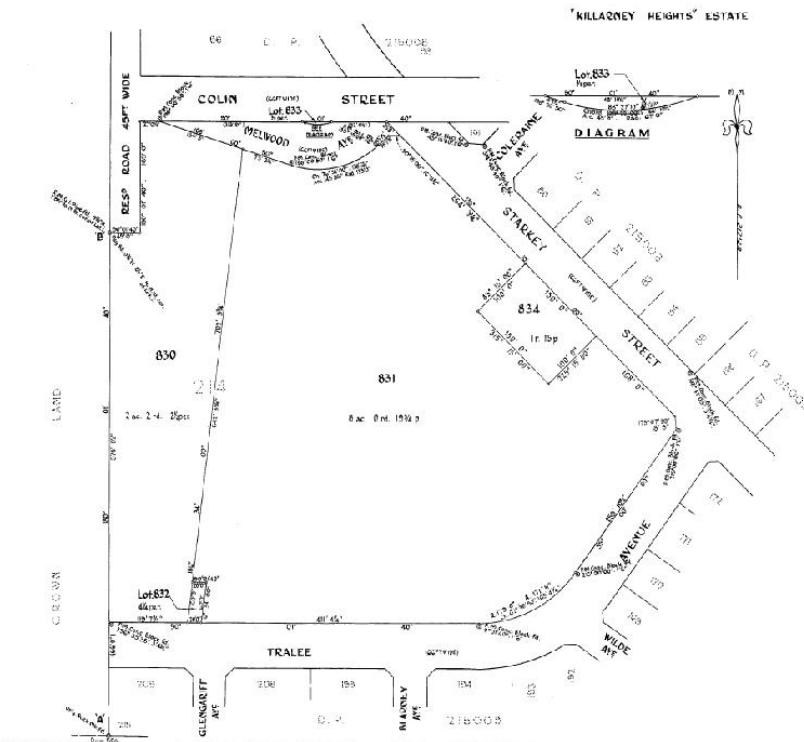
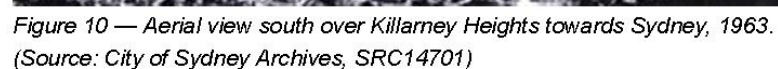
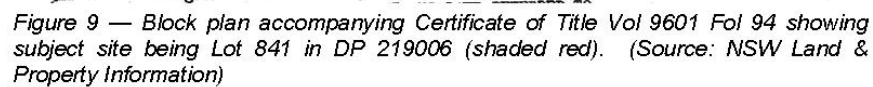


Figure 8 — DP 217129, Subdivision of Lot 214 DP 215009 Killarney Heights Estate, 18/12/1962. This lot was set aside for the Village Centre Development including the shops carparking, and other support facilities as well as some residential lots as seen in Figure 7.

(Source: NSW Land & Property Information)



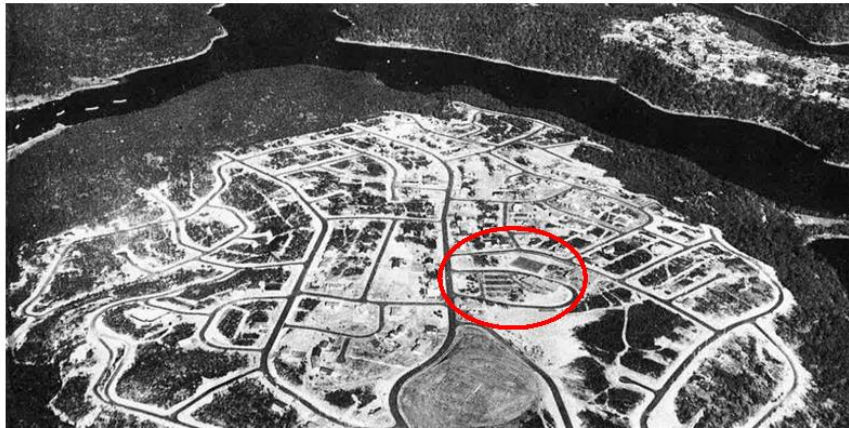


Figure 11 — Killarney Heights Estate. Killarney Heights Village and adjoining recreational facilities circled including the newly erected tennis courts.
(Source: L.J. Hooker Investment Corporation Limited Annual Report and Notice of Meeting 1965, p19)



Figure 12 — Killarney Heights Estate, Master Planned by Hooker Rex. Artwork for poster, J & J McAdam, 1963 showing fishing boating and camping as recreational facilities associated with the estate development.
(Source: Powerhouse Museum collection 93/112/1-7)



Figure 13 — Killarney Heights Estate, 1965. (Source: Powerhouse Museum: Photograph courtesy Ruby Matthews)



Figure 14 – Recent aerial view of the Village Centre at Killarney Heights showing the shopping centre and car park, the adjoining primary school and playing facilities and surrounding housing. To the north of this view are the oval and Killarney Heights High School.

Available research does not provide detailed information on the construction of the three tennis courts which adjoined the Village Centre but the courts would appear to be either constructed or under construction by 1965 when the first portion of the shopping centre was also commenced.

3.0 COMMUNITY INVOLVEMENT

Various parts of the local community have been actively involved in campaigns regarding the changing character of the Village Centre over many years.

Financial viability within the Killarney Heights Village Centre was first addressed in the 1980s when because of changing purchasing habits and personal mobility, the Post Office in the Village centre was closed by Australia Post due to lack of patronage. Business owners in the centre fearful that shoppers would be lured to other nearby centres objected to this action and lobbied to have the decision reversed.

In the same year three other businesses in the Village Centre closed and the Chamber of Commerce commenced a petition amongst local residents regarding the closure of the Post Office.

By 1990 further changes in the Village Centre were made public in a local newspaper article under the heading '*Shops Nobody Wanted*'. At that time it was indicated that the centre was probably never viable as a retail centre because of the larger nearby centres and the changing demographics.

In 1995 local residents objected to the construction of town houses which were to be built on Council owned land re-zoned for the new development. At that time it was stated that 'residents' feared that unless the development was stopped the local squash courts and tennis courts complex, where previous re-zoning had been sought would also gain approval.

The owners of the Tennis Centre who were struggling financially sought local support to retain the business as a viable tennis centre but eventually sought re-zoning of one of the courts for residential development. The result was that concerned local residents formed the Killarney Heights Resident Group to oppose any redevelopment in the Village Centre and barraged the newly elected councillors with objections to the application. Residents who opposed the rezoning feared the loss of recreational facilities in the area, but the proprietors argued that the facilities were no longer viable.

The local Council were reported in the Manly Daily as blasting the 'ratbag element of Killarney Heights' who objected to the proposed re-zoning. In the event the Council approved the rezoning of the Squash Court site for town house development and one of the tennis courts for residential development in November 1996. The development of the third tennis court site provided some respite for the tennis centre business which continued to deteriorate.

The response to the current application appears to follow a similar pattern of objections from some areas of the community and support from others. The objections are largely based on unsubstantiated claims of viability of the business and fear of loss of 'public' amenity. In this regard the tennis courts are not a 'public' facility but represent a private business use of the site. I note that there are other tennis courts available for the use of the public within a short distance of the Killarney Heights Village Centre and that a number of the objectors and supporters of the application have moved their court hire to these facilities. An assessment of the current 65 objections to the proposal indicates that only a small minority are from current or previous users of the

Tennis Centre, therefore the majority of submitters are neither users nor supporters of the Tennis Centre facilities.

4.0 HERITAGE OPINIONS

4.1 Archnex Statement of Heritage Impact

I have read the Statement of Heritage Impact prepared by Greg Patch of Archnex which was prepared prior to changes in the Warringah LEP 2012 but which in my opinion appropriately addressed the necessary issues to determine whether the rezoning would result in any significant loss of local heritage significance associated with the historic and social values identified for the site.

In my opinion the Statement has adequately addressed the issues required under the guidelines of the NSW Heritage Office and the conclusion reached by Mr Patch is an appropriate one in the context of the site and its level of significance to Warringah Local Government Area.

I have also read the additional material prepared by Mr Patch and submitted to Council in response to the Council's concerns regarding the proposed rezoning and the opinions of Robert Moore in this regard. I find that the reasoning given by Mr Patch is reasonable and that in heritage terms the cessation of the recreational use will not significantly affect any local heritage values associated with the Killarney Village Centre.

I generally concur with Mr Patch's opinions and that the historic values of the development of Killarney Heights can be adequately documented without enforcing the retention of a non viable business which is not in public ownership. The tennis centre has now closed without the need for any further input from the community or the council. The owners are legitimately looking for viable alternatives for the use of the site.

4.2 Robert Moore Advice to Council

I have read the two short reports prepared by Robert Moore at the request of Council relating to this matter and make the following comments in regard to them.

The interests of the Killarney Heights Progress Association which led to the establishment of the heritage listing over the Killarney Heights Village Centre appear to me not to represent the whole community or the wider heritage values of Warringah. I have no evidence of any substantial community consultation that would reinforce the social significance of the Village Centre or the Tennis courts in particular though this is given considerable weight in Mr Moore's opinion.

The analysis of the 65 letters of objection undertaken by the owners of the Tennis Centre shows that only a small minority are from current or previous users of the Tennis Centre and that the vast majority of objectors to the current application are not, and have not been regular users of the tennis facilities in the past 10 years. Most of the letters of support for the application are from recent or current users of the facilities who are not concerned with the closure and have found alternative court facilities nearby to use.

I disagree with the importance given to this estate subdivision and development over the many others of the period, some of which would appear to be far more significant and were certainly more influential. The original heritage listing clearly states that this development was considered representative at a local level rather than distinctive or influential. Similar Hooker estates were erected in four states and generally followed the same pattern. Neither of the other major Hooker Estates in Sydney at Castle Cove and Winston Hills are identified for any heritage values and those in Queensland and Victoria which are larger than Killarney Heights are not identified for any heritage values.

Of the other contemporary Housing Estates developed in the early 1960s in the Sydney Region, the development at Carlingford of the Kingsdene Estate by Lend Lease in 1960 was by far the most significant in heritage terms and has recently been investigated for its architectural values.

I also disagree that there would be a 'profound visual change' to the surrounding context as any development of the subject site would be compatible with the dominant character of single residential buildings with the required landscaped areas, setbacks etc prescribed by Council and would not affect the visual connection through adjoining public reserve area.

While it is possible to perceive an intended social planning intent for the estate and the Village Centre which is common with many other commercial post war housing developments, I doubt that any detailed assessment of aesthetic or architectural significance of the surviving shopping centre would indicate that there was any level of 20th century architectural significance associated with the Village Centre Complex at Killarney Heights or any unique or outstanding attributes associated with it.

While Mr Moore considers that retention of the tennis courts may ensure the vitality of the local centre into the future, the lack of community support for the existing business and the general decline of the Village Centre which commenced in the 1980s would indicate otherwise. I note in his second response to Council that he accepts the incremental deterioration of its qualities which are now apparent.

Mr Moore should be well aware of the policy of the NSW Heritage Office not to get involved in matters of local significance. There is no indication in any of the available material to suggest that this matter is of State significance and any suggestion that a referral to the Heritage Office should be made is simply moving the decision making process away from Council where it belongs.

5.0 CONCLUSION

In conclusion I would consider given the available information regarding the development of the Killarney Estate and the subsequent history of it that this is not a unique site with major potential value to the wider field of historic preservation in the Warringah area or in the State.

I consider that the visual change accompanying a small scale residential development of the remaining tennis courts would not result in any significant adverse visual impact on the area as a whole or any special values considered significant to the Village Centre.

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Change and evolution of areas is part of the natural progress of society, the subject site may have been set aside for tennis courts but nothing in the planning regime would prevent either the cessation of the current use or the introduction of another conforming use under the current zoning. In the same way that previous changes have been managed by council approvals and controls, change to this site will have minimal impact on any identified historic values which are largely contained in documentation rather than in the built fabric of this site.

I am of the opinion that the heritage value of this estate is largely in its representative qualities as a typical example of Post War residential subdivision and that while there are some surviving examples of typical and representative buildings and landscapes from the initial period of development, that these have limited heritage value and are replicated throughout Australia in similar developments of that period.

I therefore concur with Mr Patch and his opinion that there will be no significant adverse heritage impact and that the application should be approved.



Robert Staas
Director / Heritage Consultant
NBRS+PARTNERS ARCHITECTS

March 2013

Archnex Designs

Nominated Architect: Greg Patch (Reg. No. 4820)
Wentech Pty Ltd (ABN 310 735 41803) Trading as Archnex Designs
Architects, Heritage Building Consultants, Interior Designers

28 February 2013

The General Manager
Warringah Shire Council
Civic Centre
725 Pittwater Road
Dee Why NSW 2099

Attention: Ms Janine Formica

Dear Ms Formica

**Re: 20-24 Tralee Place Killarney Heights
Proposed Re-zoning of Lot 1, DP 879900**

I refer to correspondence from Council to the owner of the above property Mr M A Lawrence dated 22nd February 2013 and accompanying letter of advice from Robert A Moore, heritage consultant, dated 17 January 2013, and a further letter by Robert A Moore of 1 February 2013.

This office prepared a Statement of Heritage Impact [SoHI] in relation to planning proposal PEX2012/0014 in November 2011, based on the Local Environmental Plan current at the time. I understand that Warringah LEP 2011 came into force shortly thereafter, and hence the matters to be considered are those under Clause 5.10 of LEP 2011. It appears that the planning proposal was lodged in November 2012, and that the SoHI should have been amended to reflect the current planning provisions at that time.

Notwithstanding this, and having considered the current LEP provisions, the substance of my conclusions as to the potential heritage impacts of the proposal has not changed.

While I appreciate the importance of the Killarney Heights Village Centre as a "...mostly intact, representative example of a planned commercial and community precinct servicing the 1960s 'garden suburb' of Killarney Heights" it is apparent that the initial planning concept may have been somewhat commercially inept or that circumstances have changed to an extent that have led to its diminished viability and decline.

It would seem somewhat disingenuous to insist that the use of the land as tennis courts be perpetuated merely on the grounds of the intentions of a firm of developers such as Hooker Rex (now L J Hooker). The inventory sheet states that a 1960s promotional brochure by Hooker Rex envisaged: a "*regional shopping centre that is centrally situated, with easy access from every allotment... and will include shops for all essential daily needs, such as a supermarket and parking for 120 or more cars. Also within this area will be sites for two churches, a service station, baby health centre, kindergarten, library, scouts hall, three tennis courts and children's play area.*" (my emphasis).

Of these 'sites', it would appear that most of the uses were *mostly* either not realised or have become defunct.

Examination of the transactions in the subject land reveal that it was first identified, in part, as Lot 841, DP 219006, a certificate of title Volume 9601 Folio 94 [CT 9601-94] for which was issued to Hooker Town Developments Pty Ltd in December 1963 (then to Hooker Holdings). It was subsequently transferred to Inverton Pty Ltd in November 1971. It was transferred to James Mill Fletcher of Killarney Heights, tennis coach and his wife in 1978, and to James Mill Fletcher solely in March 1984. The current owners purchased the property in February 1988. There were no commercial leases entered on the CT during the period of ownership by Hookers and Inverton Pty Ltd, so the first implicit indication of tennis court use is through the purchase by James Mill Fletcher in 1978.

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20-24 Tralee Place Killarney Heights

Issue: 13/03/13

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It is of interest to note that the L J Hooker “timeline” at:

<http://about.ljhooker.com.au/about/history/timeline?sid=asn>

-makes no mention of Killarney Heights, although Winston Hills and Warringah Mall, also undertaken in the mid- 1960s are included. This would suggest that L J Hooker do not consider the place of high significance.

The original subdivision under DP 219006 indicated reservations of roads and public garden areas but no formal indication of uses of the lots within the subdivision, suggesting that the Hooker promotional material was most probably yet another example of a developer’s *spiel*, and not based on a substantive intention or the commercial reality of the Village Centre.

Robert Moore appears to attempt to draw a broader significance of the Village Centre in terms of mid-twentieth century “model suburbs” planning practices. While the Killarney Heights Village Centre is an example of one component of such a suburb, the fact that the Hooker “vision” was realised, at least in part, is an historical fact that is available through documentary sources.

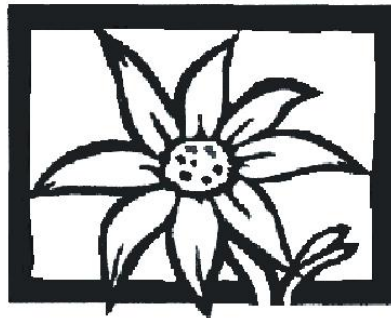
The gradual demise of the Village Centre would appear to negate any compunction to persist with non-viable land uses within the Centre merely on the basis that the physical manifestation of the “planning” is to be maintained. It was essentially an artificial construct that has been proven largely futile through the commercial realities of the uses initially envisaged.

Much of the above discussion is premised on what are essentially non heritage-related matters. In my opinion, the viability of the subject place as tennis courts is best attested to by the current owners who have operated the courts for the past 25 years.

Yours sincerely



Greg Patch
Architect/ Heritage Consultant



Warringah Council

Attachment 3

Heritage Review and Comments

Prepared by Robert A Moore
(Consultant for Warringah Council)

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423
Nominated architect Robert Allan Moore reg.no.4478

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RM

17th January 2013

Ms. Janine Formica
Warringah Council
By email to formij@warringah.nsw.gov.au

Dear Ms. Formica

**Re: 20-24 Tralee Avenue Killarney Heights :
request for comment on proposed re-zoning to permit subdivision**

Further to Council's correspondence of 9th January 2013, regarding the subject proposal, I have read the papers forwarded to me and visited the site to inform myself about the context and character of the setting. I note that the site, part of the Killarney Heights Village Centre, is also located within a Heritage Conservation Area (C8 within Council's LEP 2011), established to conserve that centre. The Statement of Significance for that HCA summarises the reasons for its establishment and reflects the interest of the community in the place, for which a submission was prepared by the Killarney Heights Progress Association, in 1997.

Council's LEP, reflecting the model provisions for such documents, requires at Part 5.10 Heritage Conservation, sub-clause 2(f) that consent must be sought for subdivision of land in a heritage conservation area. Sub-clause (4) requires that Council consider the effect of proposals for land within a heritage conservation area upon the heritage significance of the area. In this instance then, faced with a proposal to rezone the land for future residential subdivision, Council must properly consider the effect upon the heritage significance of the Village Centre of the intended future subdivision of the tennis courts site.

The Statement of Significance for the KH Village Centre (drawn from the work of Council's consultants Mayne Wilson & Associates) cites its historical significance as a "*mostly intact, representative example of a planned commercial and community precinct servicing the 1960s 'garden suburb' of Killarney Heights*". The Statement also cites its social significance drawn from the '*crucial*' importance of the Centre, and its general character and function, to "*the identity of the Killarney Heights community*". This latter social significance would seem to be reflected in the local nomination of the Centre for inclusion on the Heritage Schedule.

Considerations in the listing further indicate the importance of the Village Centre for its aesthetic importance, and prominence within the planning layout of Killarney Heights ; its overall built character and intactness ; and its rarity as an important example of its type – "*an intact example of a planned 1960s community centre that retains its overall layout, purpose, use and character*".

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The planning history in Australia of the period from which the Village originates has only recently begun to receive the closer attentions of planning and architectural historians and recent publications such as those of Prof. Robert Freestone ("Urban Nation- Australia's Planning Heritage" and Judith O'Callaghan/Charles Pickett ("Designer Suburbs") are building upon the historical sequence and examples which have been well-known within the field for some time. Model subdivisions, display villages and grouped project homes that were prominent include the Hooker Rex subdivision and development of Killarney Heights, and its exhibition display village of 17 homes. Other display villages were also developed in Warringah, such as the Sun-Line Homes group at Altona Avenue and Virginia Place.

However, the vision and comprehensive ambition for the KH Village Centre make it distinctive, and the community facilities included within the scope of the Centre reflect its background foundations and awareness of similar community planning overseas, in Scandinavia for example.

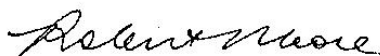
It is apparent that some changes have taken place in the centre and some of its components have already been adapted to replacement uses. One tennis court has been lost leaving two next to the small park reserve which acts as both access and open landscaped visual corridor to the Centre interior from one of the surrounding residential streets. In my opinion, the loss of the remaining courts to development would make a profound visual change, but perhaps more importantly, would diminish the still apparent intent of the Centre to provide comprehensive community facilities. In my opinion, this reduced capacity to demonstrate the perceived heritage values in the site would mean that adverse impact had been sustained, and therefore, the proposal to re-zone for subdivision should not be entertained by Council.

I have read the report prepared by Mr. Patch and note his observations that a subdivision proposal has no material impact upon a place or site, but implies that such future impact may occur and will need to be assessed. A re-zoning for residential development and subdivision has a clear intent and if approved would establish legal rights. In my opinion, Council is in this instance faced with a proposal for part of the Heritage Conservation Area which will, if subsequently acted upon in the manner facilitated by the re-zoning, support and sustain an adverse impact upon the Heritage Conservation Area as an entity.

It is apparent that the proposal effectively challenges the assessments made to date of the heritage values of the Village Centre, and it may be timely that Council confirms these values, and considers how they are to be maintained and conserved into the future. The legacy of Modern Architecture from the Twentieth Century is very much in the current spotlight and this currency brings opportunities for Council to highlight the inheritance of Warringah in modern planning and architecture. A conservation plan for the Village Centre could plan for both conservation and future development, ensuring its vitality as a local centre into the future.

I hope these considerations are of assistance.

Yours faithfully



Robert Allan Moore
Robert A Moore Pty Ltd

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Nominated architect Robert Allan Moore reg.no.4478

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RM
1st February 2013Ms. Janine Formica
Warringah Council
By email to formij@warringah.nsw.gov.au

Dear Ms. Formica

**Re: 20-24 Tralee Avenue Killarney Heights :
request for comment on proposed re-zoning to permit subdivision**

I refer to my letter of advice to Council on this matter and the meeting at Council with Council staff in order to expand upon my opinions therein. I concluded that the proposed rezoning/subdivision of the tennis court site would adversely impact the heritage values whose conservation was the intent behind the heritage listing. I remain of that view. My conclusions in the final paragraphs were :

"It is apparent that some changes have taken place in the centre and some of its components have already been adapted to replacement uses. One tennis court has been lost leaving two next to the small park reserve which acts as both access and open landscaped visual corridor to the Centre interior from one of the surrounding residential streets. In my opinion, the loss of the remaining courts to development would make a profound visual change, but perhaps more importantly, would diminish the still apparent intent of the Centre to provide comprehensive community facilities. In my opinion, this reduced capacity to demonstrate the perceived heritage values in the site would mean that adverse impact had been sustained, and therefore, the proposal to re-zone for subdivision should not be entertained by Council.

I have read the report prepared by Mr. Patch and note his observations that a subdivision proposal has no material impact upon a place or site, but implies that such future impact may occur and will need to be assessed. A re-zoning for residential development and subdivision has a clear intent and if approved would establish legal rights. In my opinion, Council is in this instance faced with a proposal for part of the Heritage Conservation Area which will, if subsequently acted upon in the manner facilitated by the re-zoning, support and sustain an adverse impact upon the Heritage Conservation Area as an entity.

It is apparent that the proposal effectively challenges the assessments made to date of the heritage values of the Village Centre, and it may be timely that Council confirms these values, and considers how they are to be maintained and conserved into the future. The legacy of Modern Architecture from the Twentieth Century is very much in the current spotlight and this currency brings opportunities for Council to highlight the inheritance of Warringah in modern planning and architecture. A conservation plan for the Village Centre could plan for both conservation and future development, ensuring its vitality as a local centre into the future."

.../2

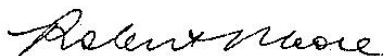
2.

If Council were to doubt these conclusions, it could in response, commission a further review of the heritage listing and then reconsider the heritage impact of the proposal. In addition, the opinion of the NSW Heritage Office, Department of Planning, could be sought - but as it is a local item and essentially a local matter, they may decline to express a view.

As discussed at the meeting, the future of the Centre as a functional local facility and as a place of community sentiment and regard needs to be considered by Council and planned for. Without confirmation of the planning direction and goals for the place, the incremental deterioration of its qualities now apparent will only continue and consolidate - which would be regrettable. The special qualities and characteristics of the Centre could be conserved and managed in the broader task of maintaining its role, viability and amenity.

I hope these considerations are also of assistance.

Yours faithfully



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ABN 27 003 546 423

16th April 2013Ms. Janine Formica
Warringah Council
By email

Dear Janine

**Re: 20-24 Tralee Place, Killarney Heights ;
Proposed Re-zoning of Lot 1, DP 879900**

I refer to your request for a response to the additional information provided by the applicant from their heritage consultant Mr. Patch, with a further 'peer review' report from Mr. Robert Staas of NBRIS & Ptnrs. I have read both documents and would offer the following comments.

The question which Council must resolve in this matter is whether or not the heritage significance attributed to Tralee Place is substantive, and requires - as its current legally established listing would require - that the impact of any potentially adverse development be assessed. If found to detrimentally affect that significance to an unacceptable degree, the development should be refused, or amended as necessary.

Mr. Patch makes a number of comments denigrating the significance of the place which are interpretive and always sheeted home to concepts of viability :

"While I appreciate the importance of the Killarney Heights Village Centre as a "...mostly intact, representative example of a planned commercial and community precinct servicing the 1960s 'garden suburb' of Killarney Heights" it is apparent that the initial planning concept may have been somewhat commercially inept or that circumstances have changed to an extent that have led to its diminished viability and decline."

Circumstances may indeed have changed around the centre in the local and greater sense, but this is more properly criticism of management, and should not be confused with the heritage significance of the place, nor pre-judge what might be achieved with the place if it were managed differently, within a commitment to its significance and potential role in the community. Heritage places in a poor condition are always being criticized for their condition - the consequence of management - and removal and re-development are promoted as the solution, rather than re-conceived management.

Mr. Patch further comments :

"It is of interest to note that the L J Hooker "timeline" at:

<http://about.ljhooker.com.au/about/history/timeline?sid=asn>

-makes no mention of Killarney Heights, although Winston Hills and Warringah Mall, also undertaken in the mid- 1960s are included. This would suggest that L J Hooker do not consider the place of high significance."

I am not sure that L J Hooker would be best placed to assess the heritage significance, or relative significance, of places like those named, as the Company would be likely to place higher regard – for instance – on the bigger and better, more successful developments, rather than a small development which might reflect different planning subtleties.

As Mr. Patch concludes it is indeed necessary not to let the “non-heritage related issues” dominate this assessment and decision, and the impact that the proposed development upon the Courts site will have on the overall significance of the place must be kept carefully in focus.

Mr. Staas supports Mr. Patch and finds the place inferior by comparison with other subdivisions and developments of the period. The examples he cites are all well known and clearly of greater significance – some of State significance – than the subject development, but this is to obfuscate the point. While Mr. Staas sees fit to damn with faint praise and by inappropriate comparison, the centre at Tralee Place was listed for its local significance, and the planning and development intent behind the development remains clear – the tennis courts were part of its concept, and that concept generated a place of character and amenity.

As Mr. Staas infers, and as I submit to be entirely clear from my letter, I am well aware of the Heritage Council’s practice not to engage in decision-making on matters of local significance. The Office does offer advice, and on this issue it has staff of relevant expertise. I was not for a moment suggesting that the decision be somehow avoided, as incorrectly inferred.

It would seem that the failed business run at the courts, and the declining character and performance of the centre, are being advanced as the primary substantiation for removing the tennis courts, thereby affecting the remaining demonstration of the ambitions and intent behind the centre’s planning.

In my initial conclusions to Council I observed :

“As discussed at the meeting, the future of the Centre as a functional local facility and as a place of community sentiment and regard needs to be considered by Council and planned for. Without confirmation of the planning direction and goals for the place, the incremental deterioration of its qualities now apparent will only continue and consolidate - which would be regrettable. The special qualities and characteristics of the Centre could be conserved and managed in the broader task of maintaining its role, viability and amenity.”

I believe this remains the case, and form the circumstances of the debate over this application.



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18th April 2013

Ms. Janine Formica
Warringah Council
By email

Dear Janine

**Re: 20-24 Tralee Place, Killarney Heights ;
Proposed Re-zoning of Lot 1, DP 879900**

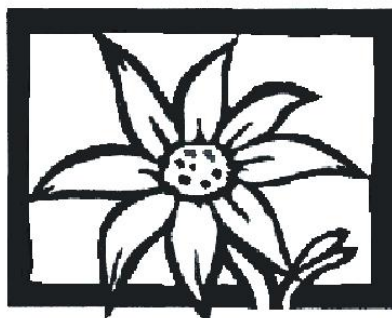
Further to my advice sent earlier yesterday, and our subsequent discussion, I would make the following further suggestions :

- as we agreed, the social significance attributed to the recreation facilities and the tennis courts as part of the centre was prominent in the submissions made for the original local listing of the complex, and in the objections made to the proposed rezoning of the courts ; if Council were not convinced that this social significance of the courts prevails, the issues tend to concentrate on the impact of potential development (enabled by the rezoning) upon the place ;
- this would mean that Council should review the significance of the centre in its entirety, and confirm the listing and its boundaries, in the light of development subsequent to the listing ;
- in my opinion, the architectural design and layout of the buildings within the “core” of the centre - surrounded by the service road, enclosing the central courtyard and play area, and juxtaposed with the landscaped car parking area – are not adequately cited within the present descriptions of the place and its significance, and this adds to the need for review ;
- in my opinion, approval of the rezoning, and the consequent residential development of the tennis courts site, would certainly not extinguish the significance of the centre, but would adversely impact it through loss of the demonstration of its underlying design concepts that the courts provide, apart from any possible impact of a subsequent development project.

I remain of the view that the centre is distinctive and in heritage terms, locally significant, with important potential for its future, adding to the amenity of the municipality.



Robert Allan Moore
Robert A Moore Pty Ltd



Warringah Council

Attachment 4

Submissions Table

Attachment 4: Submissions

The following table addresses concerns raised in the submissions received as result of the notification process:

No. of times issue raised	Issues	Nature of Issue/concerns	Response
62	Loss of Recreation	<p>The loss of recreation facilities was a major concern expressed in large number of submissions received, the following specific points were raised</p> <ul style="list-style-type: none"> • Older residents that have used the facility in the past, but are unable to currently use it, believe that the courts are beneficial for children • Alternate facilities are not within walking distance • Local recreation provides safe facilities for children • Increasing student numbers at local schools demonstrates the need for the facility • More sporting facilities should be created, not removed • The Village Centre promotes community unity and interaction • Council will be forced to provide recreation infrastructure in the future • Council should take up operation of the courts and charge fees, or the land should have the courts removed and become a park for free use • Local café and other businesses benefit from patronage related to the tennis courts • Social point for contact for older members on the community • Residents enjoy the option of different sports activities • If tennis is not popular, land can be used for alternate recreation, like basketball and futsal. 	<p>This issue has been addressed in detail within the Planning Proposal Assessment Report.</p> <p>In summary, this assessment has found that there is sufficient land available within Killarney Heights, and within the Warringah LGA generally, to meet demand for recreational purposes.</p> <p>Therefore, the refusal of this application based on the loss of recreation facilities is not be warranted.</p>
45	Character	<p>Alterations to the character of Killarney Heights and the Killarney Heights Village Centre were seen as a negative consequence of the Planning Proposal, the specific concerns raised in this regard includes:</p> <ul style="list-style-type: none"> • The Tennis facility adds to the character of the suburb and the original character of the neighbourhood should be maintained • Without tennis courts, the area will not be a village centre, but a generic residential area • The character of the area has been diminished continuously through 	<p>The surrounding development comprises predominantly single and double storey detached houses.</p> <p>The tennis courts are located on the periphery of what is known as the Killarney Heights Neighbourhood Centre – a collection of shops, commercial, recreational and community uses. The Tennis Centre represents a transition between residential and the Neighbourhood Centre.</p> <p>Residential development of the Tennis Centre is not likely</p>

No. of times Issue raised	Issues	Nature of Issue/concerns	Response
42		<p>poor and unnecessary redevelopment</p> <ul style="list-style-type: none"> Current residents were attracted to the area by the sporting facilities and how they improve the character of the area The proposal will negatively affect Killarney Heights The suburb (being Killarney Heights) is not designed for expansion 	to be out of character with the surrounding area because it will be in keeping with the residential character of the surrounding area.
	Management	<p>Private management and ownership issues regarding the Killarney Heights Tennis Centre were cited in some submissions. These included:</p> <ul style="list-style-type: none"> When the first tennis court was converted to housing several years ago, owners assured the community that two tennis courts would be viable as a business. Residents are upset that this has been gone back against. The Facility should not be rezoned/sold for personal private gain More vigorous promotion and better management of the facility would increase activity The Business should be sold if it is failing, not rezoned Adjacent swimming pool complex previously asked for rezoning (1984), but new owner/management has turned the business into a success Concern that business is not/should not be failing, only that rezoning is more profitable than the business Council should not take financial considerations into account, only planning and community considerations. 	<p>As this is private land and a privately operated business, Council does not have any jurisdiction in the management practices of that business.</p> <p>The key consideration for Council in the assessment of a rezoning application includes:</p> <ol style="list-style-type: none"> 1. Is the land capable of accommodating residential development? 2. Is the location appropriate for residential development? 3. Is the residential development compatible with surrounding land uses? 4. Is there sufficient land available in the area to meet demand for recreational pursuits? <p>The proposal satisfies these tests as further documented in the Planning Proposal report. Accordingly, refusal of the application on the private management of the site would not be warranted.</p>
24	Heritage	<p>Concerns have been raised that the tennis courts is listed under heritage inventory 2610139, and should be protected.</p>	<p>This issue has been addressed in detail within the Planning Proposal report.</p> <p>In summary, the significance of the tennis courts in relation to the heritage area has been provided within the attached Planning Proposal Assessment report. The assessment has found that while the area of Killarney Heights Village Centre does have any significant heritage value, the removal of the tennis courts will not impact the viability of the heritage area.</p>

No. of times Issue raised	Issues	Nature of Issue/concerns	Response
11	Issues with Council	Concerns have been raised that the proposed rezoning will be of interest to Council because it will increase the density housing and therefore will result in increased rates.	Council has an obligation to assess all proposals on their individual planning merits under the relevant provisions of the Environmental Planning & Assessment Act, 1979.
9	Traffic and Parking	<p>A number of submissions raised traffic and parking issues as a concern. These comments included:</p> <ul style="list-style-type: none"> Existing traffic is already congested, especially during morning/afternoon hours A Plan is required to ensure safety for school children, especially around construction time Design of new houses must keep visibility in mind with regards to driveways, considering high pedestrian activity. 	<p>The replacement of private tennis courts with 3 additional low density dwellings is not expected to increase traffic in the area by a significant margin.</p> <p>The parking and traffic matters will be addressed in detail when a Development Application is lodged for the subdivision and residential uses of the site.</p>
5	Infrastructure	Lack of supporting infrastructure in the area was raised as concern	As an established residential area there is sufficient infrastructure to accommodate the proposal.

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1Minutes of Warringah Development Assessment Panel Meeting held on 26 June 2013

WARRINGAH DEVELOPMENT ASSESSMENT PANEL MEETING

4.1	Planning Proposal to amend Warringah Local Environmental Plan 2011 (WLEP 2011) to rezone Lot 1, DP 879900 from RE2 Private Recreation to R2 Low Density Residential at 20-24 Tralee Avenue, Killarney Heights
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Panel Member

Mary-Lynne Taylor	Chair (Environmental Law)
Patrick O'Carrigan	Urban Design Expert
Lloyd Graham	Community Representative

PEX2012/0014**Application Details**

Planning Proposal to amend Warringah Local Environmental Plan 2011 (WLEP 2011) to rezone Lot 1, DP 879900 from RE2 Private Recreation to R2 Low Density Residential at 20-24 Tralee Avenue, Killarney Heights

Site Description

Lot 1 in DP 879900, 20 -24 Tralee Ave, Killarney Heights

Site Visit

An inspection of the site was undertaken by the Panel and staff members prior to the Public Hearing. A copy of all the objection letters was provided to the Panel.

Independent Public Hearing

The application is made by the present owners of the site who (for 25years) have operated a Tennis Centre comprising three (3) tennis courts (later two tennis courts). The owners claim that owing to the decline in tennis patronage locally and State wide and the small number of courts on the site, the use is now unviable and with regret a planning re-zoning is sought for the site.

The report shows that during the advertising and notification period 106 submissions were lodged; 94 objection letters and 12 letters were in support. It is noted that the land is within the Killarney Heights Village centre Heritage Conservation area and the application requires consideration of the impact on the significance of the conservation area. This area became an item of local significance in 2000 and the Heritage Significance Statement notes that the precinct, within which the land is contained, is important both historically and socially being a "*mostly intact representative example of a planned commercial and community precinct serving the 1960s 'garden suburb' of Killarney Heights.*" The State Heritage Inventory shows the importance of the conservation area to be its construction, between 1951 and 1975, of a planned village centre facing a small park with a substantial parking area with islands of native trees providing the forecourt to the centre. The centre contains shops, commercial buildings and some community and privately owned sporting facilities.

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Minutes of Warringah Development Assessment Panel Meeting held on 26 June 2013

This application is to change one of the privately owned sporting facilities into an R2 Low Density Residential zoning to allow uses permitted in that zoning and in particular a future subdivision into 4 residential lots to allow low density residential dwellings. One of the residences is already erected.

The Panel is aware that R2 low density residential zoning allows the following uses:- *Bed and breakfast accommodation; Boarding houses; Boat sheds; Building identification signs; Business identification signs; Child care centres; Community facilities; Dwelling houses; Educational establishments; Emergency services facilities; Environmental protection works; Exhibition homes; Group homes; Health consulting rooms; Home businesses; Hospitals; Places of public worship; Recreation areas; Respite day care centres; Roads; Veterinary hospitals.*

The Panel believes that this the proposed subdivision and residential development proposed could be accommodated on the subject site without upsetting the heritage nature of the conservation area and will be a compatible use with other the existing low density residential neighbourhood surrounding the site.

Resident objections mainly addressed the loss of a possibly useful private recreational facility, but the facility has closed and the owner cannot be forced to retain an unviable use on his land. Similar recreational facilities are available in the wider area. The residents also referred to the fact that the precinct containing the subject site is a heritage conservation area and that this change might adversely impact the historic and social heritage significance. The planned village centre facing a small park with substantial parking area and islands of native trees providing a forecourt to the centre with single and two-storey commercial buildings of typical 1960s design will still remain and be identifiable sufficiently. The commercial buildings, being shops with ancillary public and community uses and private sporting facilities have changed over the years. It is noted that there has been allowance of change of some of the original uses for example, there is no supermarket, a service station has been changed to a mixed use shopping area and residential area, and there has been no baby health centre, kindergarten or library. The proposed uses will fit in with and not detract from the conservation significance.

As the tennis use has existed from the beginning of the precinct, it would be appropriate in Heritage terms to require the applicant to take a recording of the development by photographing and to provide some interpretation of the use reflected in the new plans.

The Panel therefore recommends to the Council that the Planning Proposal (PEX2012/0014) to amend Warringah LEP 2011 relating to the site from the current zoning being R2 (Private Recreation) to R2 (Low Density Residential) be approved. The Panel believes the proposal meets the objectives of the proposed LEP zoning and is not in conflict with the significance of the heritage conservation area. It should now be referred to the Department of Planning and Infrastructure for Gateway consideration and determination.

RECOMMENDATION OF WARRINGAH DEVELOPMENT ASSESSMENT PANEL (PLANNING PROPOSAL)

The Panel recommends that the Council:-

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Minutes of Warringah Development Assessment Panel Meeting held on 26 June 2013

- (a) Approve the Planning Proposal No. PEX2012/0014 to amend Warringah LEP 2011 relating to the site known as Lot 1 in DP 879900, 20 -24 Tralee Ave, Killarney Heights from the current zoning being RE2 (Private Recreation) to R2 (Low Density Residential); and
- (b) Refer the matter to the Department of Planning and Infrastructure for Gateway consideration and determination

Voting 3/0

ITEM

4.1