



Council Meeting

07/04/2008 **CCL015-08**

**Further Report - Kurnell Open Space Feasibility
and Voluntary Developer Agreement**

File Number: LP/06/440271

Director: Environmental Services (MC)

Councillor Comment:

▼ Report Item

REPORT IN BRIEF

Purpose

This report provides Council with further information on the issues that remained outstanding when the matter was considered at the Special Planning and Assessment Committee Meeting of 31 March 2008. It outlines how these matters have been addressed allowing the proposed residential rezoning and open space proposal to proceed towards public exhibition.

Summary

The detailed geotechnical report will not be available for a further four to five weeks. Timing has commercial imperatives for the proponents (Australand Holdings, Breen Holdings Pty Ltd and Consolidated Development Pty Ltd). Before the SREP amendment can be exhibited the proponents will have to complete an environmental review of all previous studies and address any additional issues required by the Director General of the Department of Planning. To avoid unnecessary delays the proponents wish to commence this process. However, this can only occur once Council requests the Minister for Planning to proceed.

Further meetings have been held with the proponents since the Special Planning and Assessment Committee meeting of 31 March 2008. In order to move forward the proponents have briefed the geotechnical consultant to devise a method of construction that responds to the geotechnical constraints found at the location of each field and have committed to carry out all works recommended by the geotechnical consultant to deliver the ten playing fields to the standard required by Council.

This is a significant change to the offer being put to Council. It fully protects Council's position in being able to deliver ten high quality playing fields regardless of the findings of the detailed geotechnical assessment. This additional commitment by the proponents will be incorporated into the Voluntary Planning Agreement (VPA). The VPA will ultimately become a binding and enforceable contract and as such Council's position is protected and the public interest assured.

However, Council should note that the proponents are not charities and will weigh financial realities before making a final decision on the project. The VPA is a voluntary planning agreement. The proponents do not have to sign it. Should the proponents find that the financial implications of the geotechnical solutions make the entire project

uneconomic, the proponents may not sign the agreement. In this case Australand could proceed with its industrial subdivision and the Breen Holdings land would remain within the 7(b) Special Development zone under SREP 17. Alternatively the proponents could prepare an alternative masterplan and seek Council's support for a revised scheme.


The draft Voluntary Planning Agreement (VPA) has been prepared and its key principles are summarised in this report. Its drafting can only be finalised once the legal advisers of all parties have checked its content. A further report will be submitted to Council when the drafting is complete.

The timing of handover for the playing fields is dependent on the rate of fill deposited on site. As such, market conditions will largely determine handover dates. Because the dates of the transfer are dependent on matters outside the proponents control the VPA will not provide legally enforceable dates for the completion of all elements of the masterplan. Instead the VPA places a caveat on part of the residentially zoned land which will act as a financial incentive to deliver the playing fields as quickly as possible. In order to protect Council's interests in the completion of the landfill activities, the VPA requires the establishment of a Project Monitoring Group to oversee Council's interests in the project. The Project Monitoring Group is to be made up of two members each from Council, Australand and Breen Holdings and will monitor the progress of land fill and ensure best endeavours are undertaken to deliver the playing fields within the agreed time frame or earlier. In addition caveats will be placed over part of the residentially zoned land which will introduce a financial incentive for the proponents to complete the work. Furthermore, the Voluntary Planning Agreement will be registered against the titles of the land to be transferred with a compulsory acquisition entitlement if the developers commit an insolvency event.

Given that the revised offer now protects Council's interests in relation to uncertainty in relation to geotechnical issues, it is considered that the offer is in the public interest. It will fundamentally improve the environmental and recreational qualities of the Kurnell Peninsula into the future. As such it is recommended that Council formally request the Minister to amend SREP 17 to facilitate this outcome, and exhibit the amendment to SREP 17 concurrently with the draft Voluntary Planning Agreement and the draft masterplan for the site.

REPORT IN FULL

Background

On 10 December 2007 Council considered a presentation and report (PLN078-08 ) on a request by Australand and Breen Holdings to amend Sydney Regional Environmental Plan No. 17 – Kurnell Peninsula (SREP 17). The proposed amendment seeks the rezoning of land for single lot residential development, the rezoning of land and its dedication to Council as open space and the embellishment of the open space to provide 10 playing fields and associated facilities to Council in lieu of Section 94 contributions. Council's support for the proposal was conditional upon a number of matters being satisfactorily addressed. Council resolved, in part, *“that Australand and Breen Holdings be advised that Council supports in principle the direction of the proposed rezoning of the Kurnell Peninsula between Bate Bay Road and Lindum Road, and the General Manager be directed to carry out detailed analysis of the offer being put forward by Australand and Breen Holdings and specifically ensure:*

(a) That ten playing fields can be provided on the land given the

environmental, geotechnical and topographical constraints and the stability of landfill, within the \$12.5 million monetary ceiling set by Australand and Breen Holdings in their letter of 10 December 2007.

(b) That a landscape/facilities master plan is prepared for the site which demonstrates that the playing fields will form part of a quality recreational facility.

(c) That a detailed geotechnical investigation is carried out to ensure the facilities are not subject to long term subsidence.

(d) That a solution can be found to the short term conflict between truck movements and users of the proposed open space.

(e) That a safe vehicle and pedestrian access can be provided to the site.

(f) That adequate car parking can be provided.

(g) That the conditions of all previous development applications on the land are fully explored to determine how the conditions of consent affect the proposal.

(h) That Australand and Breen Holdings carry out detailed research on the existence of any threatened species or communities that may jeopardise the achievement of the playing fields.

(i) That the extent of revegetation and compensatory habitat to be carried out by Australand and Breen Holdings be determined.

(j) That the master plan specifically examines how the playing fields could be brought forward so that they are delivered earlier.

The report to the Special Planning and Assessment Committee of 31 March (PLN123-08) detailed the results of the negotiations which have taken place since December 2007, the extent of the works shown in the draft masterplan and provided an assessment of the offer in terms of each of the points of Council's resolution of 10 December 2007.

The assessment found that the offer being put forward by the proponents (Australand Holdings, Breen Holdings Pty Ltd and Consolidated Development Pty Ltd) was in the public interest because it would result in the transfer of 91.4 hectares of land into public ownership as open space, with 29.9 hectares of future industrial land being developed as a residential neighbourhood. This represents 47 hectares of open space which is in addition to that which would be dedicated as part of the Australand industrial subdivision and the open space reservation under SREP 17. The offer will essentially result in 33.4 hectares of revegetated coastal bushland being created on the Kurnell Peninsula in a location that will link the key reserves of the Peninsula, in addition to the 19.1 hectares that comprises the playing fields and associated infrastructure. This is a significant environmental outcome that will enhance the ecological value of the Peninsula while also allowing the recreational value of the existing reserves to be better utilised by the community. The masterplan delivers a recreational space that will become a destination for picnics and passive recreation and meet the growing demand of the community for

walking and cycling areas, while allowing Council to cater for increased participation rates in sports over time.

At the date of writing the report of 31 March 2008, the proponent's offer was based on 8 playing fields and 2 training fields. This fell short of Council's objectives for the site and did not allow the full recreational potential of the space to be realised. The investigations carried out by Council officers concluded that 10 playing fields were achievable; however, the lack of certainty on geotechnical issues did not allow a definite recommendation to be made at that point in time.

The report concluded that there remained a number of matters outstanding which until resolved, meant that Council was not in a position to move forward with the proposed rezoning. These matters were:

- geotechnical assessment;
- voluntary planning agreement;
- timing

Council's resolution called for a further report on these issues to be submitted to Council on 7 April 2008 addressing the outstanding issues and advising whether Council is in a position to exhibit a proposal for community comment. This report provides the further advice on the outstanding issues requested.

Geotechnical Assessment

As indicated in the earlier report (see PLN123-08) the land owned by Breen Holdings has been the subject of sand mining activities (now ceased) and is currently being filled as part of the process of rehabilitating the site. From aerial photography it has been assessed that the proposed playing fields affected in part or full by the filling process are fields 2, 3, 6, 7, 8, 9 and 10. Playing field 1 is in an area that has not been mined and fields 4 and 5 have been mined but not subsequently filled. Fields 1, 4 and 5 will be filled to provide the playing fields and associated infrastructure.

As the proposed open space predominately comprises land that has been mined for sand and either has been filled, or will be filled in the future, the nature of the fill materials and their degree of compaction has a significant bearing on the stability of the finished ground surface in the long term. The Kurnell landfill operations operated by Breen Holdings are licensed to accept a wide variety of non-putrescible wastes. As such fill materials can consist of virgin excavated natural materials (VENM). VENM can readily achieve high degrees of compaction and is therefore suitable for a wide range of end land uses. Alternatively fill can consist of waste building materials which have varying rates of compaction. For example, crushed waste brick and concrete can achieve high levels of compaction and stability while metals, plastics and timber do not compact as solidly and also break down at different rates overtime. Land filled with such wastes will be subject to differential compaction over time. This means that finished ground levels may subside with time as materials break down or compress. Therefore a stable and level finished ground level is much harder to achieve when the fill consists of mixed waste materials. Landfill can also comprise a mix of any of these categories of waste materials.

Clearly one of the key considerations for Council at this stage is determining whether the recreational facility being offered by the proponents can be delivered. Council must be satisfied that the playing fields and other infrastructure can be used by the public without significant unforeseen costs associated with their maintenance. This consideration has been foremost in the minds of the Council Officers reviewing the proposed offer. Full

knowledge of the geotechnical issues is essential for this to be determined.

A preliminary geotechnical investigation of the Breen Holdings site, dated 4 March 2008, has been prepared for the proposal by Consulting Earth Scientists. While the geotechnical report is largely a desktop report with no “on the ground” testing of the site, it does highlight significant potential for ongoing issues with subsidence and the long term stability of the land. Specifically the report concludes *"The principle geotechnical constraint for the proposed development is differential settlement as the fill / waste consolidates which results in an undulating ground surface and will impact directly on the proposed facilities buildings, roads and car-parks. The playing fields will be affected to a lesser degree; however, these undulations may eventually become so problematic such that the fields are deemed unplayable and even unsafe by the users."* A range of potential management options are also identified within the report.

Consulting Earth Scientists have subsequently been instructed, jointly by Australand Holdings and Breen Holdings, to undertake a more thorough investigation of the Breen Holdings' site. They have been instructed *"...to provide sufficient information by inspection, testing and advice to provide assurances to the Council..."* They have also been requested to provide specifications for the remediation of the site to achieve suitable compaction to provide an acceptable foundation for the various uses, being playing fields, roads, parking areas, and amenities buildings. This is a much more detailed investigation and will take some time to complete. When completed it is intended that the investigation and subsequent report will be thoroughly reviewed by Council staff. The extent of the geotechnical investigations are such that this report will not be complete for another four to five weeks. Council will then undertake a peer review through an independent geotechnical consultant

Councillors should note that at all times in the negotiations the proponents have sought to achieve the ten playing fields requested by Council. However, the preliminary geotechnical report found that the nature of the fill under fields 9 and 10 was such that a level and stable surface would be very difficult to achieve for these fields. It was because of this advice that the proponents nominated these fields as training fields in the draft masterplan. They committed to build and finish the fields to the same standard as fields 1-8 but nominated the two fields as training fields because the surface may become undulating over time. During the presentation to Council on 31 March the proponents increased their offer by stating that they would continue to regularly top dress the two fields while they remain on site to deal with any subsidence. However, given the uncertainty raised by the preliminary geotechnical report this does not provide sufficient comfort to Council because it is not known for how long the subsidence will continue to occur.

With all construction matters an engineering solution can be found to virtually every land constraint, provided sufficient financial resources are allocated to overcome the problem through implementing an engineering solution. As such Council Officers are satisfied that a solution can be found; it is simply a matter of will and cost. Provided that this cost is borne by the proponents and the playing fields do not incur significantly higher maintenance costs as a result, an engineering solution is the most appropriate way to ensure delivery of the playing fields, given the site constraints that are known to exist.

Since the report of 31 March 2008 was drafted there have been further negotiations with the proponents. Essentially, Council's decision requiring the proponents to provide ten playing fields on the site, to the standard provided at The Ridge, has been reinforced. In

response the proponents have briefed the geotechnical consultant to devise a method of construction that responds to the geotechnical constraints found at the location of each field to deliver playing fields to the agreed standard.

At a meeting of 2 April 2008 the proponents agreed to revise their offer to Council. In order to move forward, the proponents have committed to carry out all works recommended by the geotechnical consultant to deliver the ten playing fields to the standard required by Council. In essence this is a “blank cheque” commitment as the cost ceiling has already been removed from the offer being put to Council. It fully protects Council’s position in being able to deliver ten high quality playing fields. It allows Council to move forward with comfort that the works shown in the now revised masterplan can be achieved regardless of the current uncertainty over geotechnical conditions. This additional commitment by the proponents will be incorporated into the Voluntary Planning Agreement (VPA). The VPA will ultimately become a binding and enforceable contract and as such Council’s position is protected and the public interest assured.

However, Council should note that the proponents are not charities and will weigh financial realities before making a final decision on the project. The VPA is a voluntary planning agreement. The proponents do not have to sign it. Should the proponents find that the financial implications of the geotechnical solutions make the entire project uneconomic, the proponents will simply not sign the agreement. In this case Australand could proceed with its industrial subdivision and the Breen Holdings land would remain with in the 7(b) Special Development zone under SREP 17. This zone permits industrial and other uses but prohibits residential development. Alternatively the proponents could prepare an alternative masterplan and seek Council’s support for a revised scheme.

Voluntary Planning Agreement

The Voluntary Planning Agreement (VPA) is essentially a legal agreement that secures the delivery of the open space land and its embellishment as shown in the masterplan. The framework of a VPA is set by Clause 93F of the Environmental Planning and Assessment Act, 1979. The VPA seeks to protect Council’s interests over time and ensure that there are no unforeseen costs incurred by Council. It also ensures that the standard of the facility lives up to expectations and that the project is ultimately completed to an agreed schedule.

The VPA contains the following key principles which will secure the delivery of the project:

Financial Security:

The land to be transferred will be protected by the Voluntary Planning Agreement being registered on the land title with a right to compulsorily acquire the land if an insolvency event by the developer/s occur.

The VPA secures the delivery of the open space embellishment in the event of the proponents defaulting. The VPA requires a caveat to be placed over part of the residentially zoned land held by both Australand and Breen Holdings. The land subject to the caveat will be of equal value to the value of the proposed embellishment works. This is a significant burden on the title of the land and protects Council in the event of an insolvency event as it allows Council to gain title to the land through compulsory acquisition without compensation being paid. The VPA also gives the proponent the option of substituting a bank guarantee as an alternative to the caveat. Any bank

guarantee will need to be escalated in value to cover future movement in construction costs. This arrangement gives Council a high degree of protection in ensuring that the financial resources are available to deliver the project.

Scope of Works:

The VPA describes the works shown on the masterplan and the other commitments made by the proponents in detail so that there is a legal obligation for the works to be carried out. This includes the playing fields, irrigation, lighting, drainage, amenities buildings, car parking, internal roads, signage, pedestrian paths, cycle tracks and all other works that form part of the draft masterplan.

Developers Responsibilities:

Under the VPA the developer is responsible for the preparation and lodgement of all development applications necessary to carry out the works. The developer must also carry out the works in accordance with the standards contained as schedules to the VPA. This detail references specifications that will ensure the facilities are provided to the standard provided at The Ridge. Specifications are also used to ensure the revegetation works and the wetland which acts as green and gold bell frog habitat are finished to the standards which were imposed on the Australand industrial subdivision.

Rectification Works:

The extent of rectification works required is largely dependent on the way filling works are undertaken on the site, which in turn influences geotechnical stability. Council will give preference to geotechnical solutions that minimise the potential need for future rectification.

It has been agreed there will be a defects liability period and two years from practical completion is proposed. The determination of whether there are defects and omissions will be by an independent Project Superintendent acting as an expert. The VPA sets out a process for the carrying out of rectification works: Council notifies superintendent, developers have right to comment, superintendent makes final decision, if defects are found to exist the developers is required to repair the defect.

Staged Transfer of Land:

The VPA sets the staging for the transfer of land parcels to Council. The transfer of land is staged and dependent on the rate of fill deposited on site. However, the staging allows areas to be delivered as works are completed. Full details of the timing of the project are detailed later in this report.

Project Monitoring Group:

The VPA requires the establishment of a Project Monitoring Group to oversee Council's interests in the project. The Project Monitoring Group is to be made up of two members each from Council, Australand and Breen Holdings and will monitor the progress of land fill and ensure best endeavours are undertaken to deliver the playing fields within the agreed time frame or earlier.

Future Section 94 Contributions:

The VPA confirms that the project delivered by the masterplan is in lieu of any monetary contributions that would otherwise be paid to Council as conditions of consent on the use of the residential land for single lot housing.

The draft Voluntary Planning Agreement must reflect all the commitments made by the

proponents and because it will become a legal agreement, it is subject to extensive checking and refinement by Council's Legal Services Unit, Council's external solicitors and the proponents' legal advisers. To date the final draft is not available. When it is complete it will be subject to a further report to Council.

Timing of Delivery

During the negotiations Council Officers have made every attempt to bring forward the delivery of the playing fields. While the proponents appreciate Council's objectives in this regard, delivery of the fields is dependent upon adequate quantities of landfill being disposed of at the Breen Recycling Facility. Fill is required for all ten playing fields and this includes very large quantities of VENM. The supply of VENM is ultimately dependent on market conditions and the health of the construction industry generally. For example, should a major infrastructure project commence such as a freeway tunnel, large quantities of VENM could be expected to be deposited on site in a relatively short time frame. Alternatively, should the construction industry remain suppressed or State regulations act as disincentives to disposing of landfill within the Sydney basin, landfill will occur more slowly. It is because of this market uncertainty that an end date cannot be set for the delivery of some stages of the project.

Because the dates of the transfer are dependent on matters outside the proponents control the VPA will not provide legally enforceable dates for the completion of all elements of the masterplan. However, the nature of commercial operations should act as a catalyst to ensure the playing fields are delivered in as short a time frame as possible. The affect of the caveat, which forms part of the VPA, is that Council will hold a restriction over part of the residentially zoned land held by both Breen and Australand. The value of land with the caveat will be equal to the cost of the embellishment works to be carried out to the open space. The proponents will not be able to realise the value of this residential land until the works are complete. This in itself will act as an incentive to ensure the work is brought forward.

A Project Monitoring Group will also be established under the terms of the VPA. The Project Monitoring Group is to be made up of two members each from Council, Australand and Breen Holdings and will monitor the progress of land fill. This Group will ensure best endeavours are undertaken to deliver the playing fields within the agreed timeframe or earlier. This is considered to be an effective strategy to protect Council's interests in this matter.

The table below is taken from the VPA and shows the timing of the handover of the various land parcels that make up the open space to be dedicated and embellished. Fixed dates have been nominated where ever possible. Where this is not possible, time frames have been linked to practical completion dates.

Column 1	Column 2	Column 3	Column 4
Item	Party responsible for Transfer	Description of land	When land is to be Transferred
1.	Australand	Lot 1055	April 2008
2.	Australand/ Consolidated	Stage 1 Land being Lots A1,111 & 112 in the Masterplan	December 2010

3.	Australand	Lots 1056 & 1057	December 2009 or DECC GGBell whatever latter
4.	Consolidated	Lots B as shown in Masterplan	Issue of the Breen Development Consent or December 31, 2011 whichever is the later
5.	Australand	Lot 1058	December 2011 or demonstrated satisfaction pursuant to 4.5 of consent MA06-0326, whichever is the earlier
6.	Consolidated	Stage 2 land being part of Lot D and Lot a2 as shown in Masterplan	Within 26 weeks of Practical Completion of the Stage 2 Works
7.	Consolidated	Stage 3 Land being the land on which Stage 3 Works will be carried out being part of Lot D as shown in Masterplan	Within 26 weeks of Practical Completion of the Stage 3 Works
8.	Australand	Stage 3 land being the land on which Stage 3 Works will be carried out being Lot 1059	Within 26 weeks of Practical Completion of the Stage 3 Works.

Conclusion

The proponents have a commercial imperative to move forward with this project. Australand has invested significantly in site works and preliminary road works for its approved industrial subdivision. It needs to move forward in delivering a return to its investors on this expenditure. Despite the relatively quick progress made to date, the statutory process required to rezone the land will take a considerable period of time. Before the SREP amendment can be exhibited the proponents will have to complete an environmental review of all previous studies and address any additional issues required by the Director General of the Department of Planning. To avoid unnecessary delays the proponents wish to commence this process. However, this can only occur once Council requests the Minister for Planning to proceed.

The current offer being put forward by Breen Holdings and Australand will result in transfer of 91.4 hectares of land into public ownership as open space, with 29.9 hectares of future industrial land being developed as a residential neighbourhood. This represents 47 hectares of open space which is in addition to that which would be dedicated to Council as part of the Australand industrial subdivision and the open space reservation under SREP 17. The offer essentially adds an additional 33.4 hectares of revegetated coastal bushland to the Kurnell Peninsula in a location that will link the key reserves of the Peninsula. This is in itself a significant environmental outcome that will enhance the ecological value of the Peninsula while also allowing the recreational value of the

existing reserves to be better utilised by the community. The masterplan delivers a recreational space that will become a destination for picnics and passive recreation and meet the growing demand of the community for walking and cycling areas. It will also allow Council to cater for the increase in participation rates of organised sport over time.

The investigations carried out to date have shown that the offer is achievable; however, the lack of certainty on geotechnical solutions introduces a degree of uncertainty. To remove this uncertainty for Council, the proponents have offered to absorb the cost of whatever geotechnical solutions are necessary to deliver ten playing fields to the standard provided at The Ridge. This fundamentally changes the balance of risk. It allows Council to move forward with certainty because the financial implications of the geotechnical issues have been moved from Council to the proponents. Should the geotechnical solutions ultimately prove excessive and undermine the financial feasibility of the proponents' projects, they will not proceed to sign the agreement. The offer as it stands will be withdrawn. The alternatives then open to the proponents are to either develop their land for industrial uses or other land uses permissible in the 7(b) zone under SREP 17, or seek Council's support for a revised masterplan with lesser facilities. These costs will be known before the matter proceeds to community consultation.

On this basis, it is considered that the offer is in the public interest. It will fundamentally improve the environmental and recreational qualities of the Kurnell Peninsula into the future. As such it is recommended that Council formally request the Minister to amend SREP 17 to facilitate this outcome, and exhibit the amendment to SREP 17 concurrently with the draft Voluntary Planning Agreement and the draft masterplan for the site.

▼ **Report Recommendation:**

1. That upon the General Manager, Director - Engineering and Manager - Environmental Science being satisfied that the geotechnical solutions identified in the detailed geotechnical report will deliver ten playing fields to the standard provided at The Ridge, and the General Manager being satisfied as regards to the final draft Voluntary Planning Agreement, including that it ensures that the proponents are responsible for the cost of implementing the engineering solutions to the geotechnical constraints, Council accept the draft masterplan as the preferred layout for the site for the purposes of public exhibition.
2. That upon the resolution of 1 above, Council inform the Minister for Planning, the Hon. Frank Sartor MP, that it has reached an agreement with Australand Holdings, Breen Holdings Pty Ltd and Consolidated Development Pty Ltd in relation to the dedication and embellishment of land and request that the Minister now proceed to amend Sydney Regional Environmental Plan No. 17, consistent with Council's resolution of 10 December 2007, and concurrently exhibit the draft Voluntary Planning Agreement and the draft Masterplan for the site. Further, that the letter to the Minister for Planning include a request that the amendment not be gazetted until such time as Council has informed the Minister in writing that all parties have signed the VPA
3. That, pursuant to Clause 400 (Part 13) of the Local Government (General) Regulation 2005 the Voluntary Planning Agreement, when finalised to the satisfaction of the General Manager, be executed under the Common Seal of the Council of Sutherland Shire in the

presence of the Mayor and General Manager, as this document relates to the business of the Council.

▼ **Committee Recommendation:**

1. That upon the General Manager, Director - Engineering and Manager - Environmental Science being satisfied that the geotechnical solutions identified in the detailed geotechnical report will deliver ten playing fields to the standard provided at The Ridge, and the General Manager being satisfied as regards to the final draft Voluntary Planning Agreement, including that it ensures that the proponents are responsible for the cost of implementing the engineering solutions to the geotechnical constraints, Council accept the draft masterplan as the preferred layout for the site for the purposes of public exhibition.
2. That upon the resolution of 1 above, Council inform the Minister for Planning, the Hon. Frank Sartor MP, that it has reached an agreement with Australand Holdings, Breen Holdings Pty Ltd and Consolidated Development Pty Ltd in relation to the dedication and embellishment of land and request that the Minister now proceed to amend Sydney Regional Environmental Plan No. 17, consistent with Council's resolution of 10 December 2007, and concurrently exhibit the draft Voluntary Planning Agreement and the draft Masterplan for the site. Further, that the letter to the Minister for Planning include a request that the amendment not be gazetted until such time as Council has informed the Minister in writing that all parties have signed the VPA.
3. That, pursuant to Clause 400 (Part 13) of the Local Government (General) Regulation 2005 the Voluntary Planning Agreement, when finalised to the satisfaction of the General Manager, be executed under the Common Seal of the Council of Sutherland Shire in the presence of the Mayor and General Manager, as this document relates to the business of the Council.

▼ **Council Resolution:**

This matter was considered in conjunction with PLN123-08.

1. That upon the General Manager, Director - Engineering and Manager - Environmental Science being satisfied that the geotechnical solutions identified in the detailed geotechnical report will deliver ten playing fields to the standard provided at The Ridge, and the General Manager being satisfied as regards to the final draft Voluntary Planning Agreement, including that it ensures that the proponents are responsible for the cost of implementing the engineering solutions to the geotechnical constraints, Council accept the draft Masterplan as the preferred layout for the site for the purposes of public exhibition.
2. That upon the resolution of point 1 above, Council inform the Minister for Planning, the Hon. Frank Sartor MP, that it has reached an agreement with Australand Holdings, Breen Holdings Pty Ltd and Consolidated Development Pty Ltd in relation to the dedication and embellishment of land and request that the Minister now proceed to amend Sydney Regional Environmental Plan No. 17, consistent with Council's resolution

of 10 December 2007, and concurrently exhibit the draft Voluntary Planning Agreement and the draft Masterplan for the site. Further, that the letter to the Minister for Planning include a request that the amendment not be gazetted until such time as Council has informed the Minister in writing that all parties have signed the Voluntary Planning Agreement.

3. That, pursuant to Clause 400 (Part 13) of the Local Government (General) Regulation 2005 the Voluntary Planning Agreement, when finalised to the satisfaction of the General Manager, be executed under the Common Seal of the Council of Sutherland Shire in the presence of the Mayor and General Manager, as this document relates to the business of the Council.

4. That further briefings regarding the Kurnell Open Space Feasibility and Voluntary Planning Agreement be held during future rounds of Committees.