

Resource Planning and Development Commission

***Land Use Planning and Approvals Act 1993 and
Resource Planning and Development Commission Act 1997***

Decision and Reasons for Decision

**KINGBOROUGH PLANNING SCHEME 2000
Draft Amendment 2008-3**

Draft amendment

The draft amendment is to rezone part of lots 500 and 501 Redwood Road, Kingston (CT 56907/500 and 56907/501) from Recreation to Residential.

Date and Place of Hearing: Thursday 2 April 2009 Kingborough Council
Chambers Kingston.

Delegation

In accordance with its decision dated 2 March 2009 and in exercise of the power conferred upon it by s.8 of the *Resource Planning and Development Commission Act 1997*, the Resource Planning and Development Commission hereby delegates to Mr Robin Nolan:

1. its powers and functions under sections 40, 41, 41A, 41B, 42(1) and 42(2) of the *Land Use Planning and Approvals Act 1993* in relation to draft amendment 2008-3 to the Kingborough Planning Scheme 2000; and
2. in connection with the exercise of those powers in performance of those functions, its powers under Part 3 of the *Resource Planning and Development Commission Act 1997*.

Representations

Thirty six representations were received from the following:

Ms Jennie Holmes	A Glenn
Mr John Mills	Ms Anne Warren
Ms Jean Clarke	P M Roberts
Ms Shirley Hayden	D Charlton
Ms Margaret Broadby	Ms Jenny Weld
Ms Lorraine Amphlett	N J Potter
Mr & Mrs D & V Holvey	Mr Michael Williams
E Adler	M E Petterd
C Halloran	C Davies
F A Hodges	Pat Miller
Mr & Mrs J & L Cannell	Mr & Mrs N & J Russell-Green
Ms Maria Bucher	Mr & Mrs D & J Wikeley
M Brahan	S P Howard
Mr John Langford and Ms Daisy Langford	W J & G L Martyn
E Kellaway	A O'Flaherty

Ms Joan Perrett
Ms Nora Durell
One representation - illegible

D Morgan
Ms Anthea Eddy

Issues raised in Representations

Of the 36 representations received, 30 were in support of the draft amendment, three opposed the draft amendment and the intention of the remaining 3 representations was unclear. Thirty one representations were presented in a standard letter format simply indicating whether or not the representor agreed with the draft amendment, providing little or no further justification or explanation.

Representations in support of the draft amendment indicated that Residential zoning will provide opportunities for additional apartments and allow the restoration of community facilities.

The issues raised in the representations opposing the draft amendment include:

- Concerns regarding the loss of recreation zoned land and the loss of access to community based facilities;
- Increased residential development will cause a loss of existing amenity;
- Lack of detail regarding future development of the site;
- The need for community consultation in planning the redevelopment and community involvement in management of the recreational facilities;
- Concerns regarding increased traffic on Village Drive and costs associated with maintenance;
- Public transport in the area should be restored;
- Retention of the age restriction of the retirement village to over 50 years of age;
- Concerns surrounding ensuring final plans are complied with.

Council's Response to the Representations

Council's s.39(2) of LUPAA report considered the representations and the draft amendment. Council resolved that issues raised in the representations warranted modification to the draft amendment by including an additional provision within the Residential zone for the Kingston area to provide a Desired Future Character Statement and Strategy for 500/501 Village Drive Redwood Village.

Appearances at the hearing

Council: Mr D Masters Kingborough Council

Applicant: Mr A Goodsell, Town and Country Planning Pty Ltd obo the applicant.

Representors:

The Commission heard from the following:

Mrs J Holmes

Mr J Mills

Ms A Eddy

Mr C Halloran

Mr P Roberts.

Mrs M Hodgson (interested person who asked to be heard)

In addition Mr D Wikeley, Mr R Goodwin, Mr M Brahan, Mrs J Clarke, Ms D Langford, Mr D Barrell, and Mrs J Barrel were in attendance.

Commission's assessment of the draft amendment

The draft amendment

The draft amendment is to rezone lot 500 and part of lot 501 Village Drive from Recreation to Residential.

Site and locality

Redwood Village is an 8 hectare private retirement village located southwest of central Kingston. The village was granted planning approval in 1985. The original concept included approximately 400 dwelling units, nursing home and community and recreational facilities. The community and recreational facilities are located on lots 500 and 501 Village Drive which, in part, form the site subject to the draft amendment.

Frontage for the Redwood Village site is Redwood Road. Village Drive and the internal access drives comprise a network of private roads. Village Drive is part of Lot 500. Strata lots within Redwood Village have rights of carriage way and rights of drainage over Village Drive. Village Drive is managed and maintained by the various corporate bodies comprising Redwood Village.

Lot 500 is located centrally within Redwood Village and is adjacent to lot 501 which is an irregular shaped lot that extends southwest, parallel to the boundary of the village. Lots 500 and 501 are zoned Recreation and have a combined area of 3.5 hectares. The surrounding land is zoned Residential. The draft amendment proposes to rezone lot 500 and part of lot 501 comprising 1.3 hectares of the existing Recreation zoned land to Residential.

The development on lots 500 and 501 includes a golf course, tennis courts, bowling greens and a community complex with indoor swimming pool, meeting rooms and commercial kitchen. The complex was owned and operated by the RSL from 1996-2003, since that time the building has been closed and the associated outdoor facilities have not been maintained. The facilities on lots 500 and 501 are in a state of disrepair. The purpose of the draft amendment is to facilitate the redevelopment of the site.

Consideration of issues raised by the Representors

Loss of recreational and community facilities

It would appear that the original concept of the Village comprising housing and shared access to a wide range of recreational facilities disassembled with the recreational facilities being placed on separate strata lots that were subsequently sold to other parties. There remains an expectation by the residents that they should have access rights to the facilities. However, there are no mechanisms by which the residents' right of access, perceived or otherwise, can be undeniably restored. It is acknowledged that the site has significant community values and the suggested modifications to the draft amendment endeavour to provide, so far as practicable, that community uses remain on a site that is privately owned.

The representors' view that retaining recreation zoning will assist in the rehabilitation of the recreational facilities has not been the experience with facilities lying idle since 2003. Similarly, it is not for the approval of the draft amendment to be conditional on the restoration of the recreational facilities. The zoning of the land is inconsequential to the current state of the community facility, other than the residential zone provides for mixed use and development of the site providing the potential to financially supplement the restoration of the facilities and offers opportunities for their ongoing social and economic viability.

While Recreational zoning or the proposed Residential zoning will not necessarily secure the retention, restoration or access to the recreational facilities, there is merit in Council's view that residential zoning provides greater scope for the reuse of the site and potentially the availability of some of the facilities previously enjoyed by some of the residents.

Roads, Traffic and Access

Representors were concerned that redevelopment of the site will increase traffic on Village Drive which in turn will increase maintenance and repair costs for residents.

The traffic generation as a consequence of residential zoning or retention of recreational zoning cannot be assessed until specific use and development is known, nor will either zoning escape the consequence of the Village being established based on private roads and the strata unit holders sharing the cost of maintenance repairs. Residential zoning however will mean redevelopment of the site is oriented to residential amenity considerations.

Loss of residential amenity

Redevelopment of the site for other than recreational or industrial uses can proceed under Recreational zoning. In contrast Residential zoning provides greater scope for protecting and improving residential amenity than is otherwise available under the current zoning.

Other issues

Representor concerns about what is proposed for the site and consultation in relation to those proposals are matters for subsequent permit applications. Issues on restoration of public transport, age restrictions on residents and revised covenants on titles are not matters for the planning scheme to address.

Planning scheme provisions

Clause 10.3 of the scheme contains the status of use classes in the Recreation zone as follows.

10.3.1 Planning permit required Use Classes in this zone are:

- *Environmental Protection*
- *Recreation*
- *Utilities*
- *Business and Civic*
- *Primary Industries*

10.3.2 Prohibited Use Classes in this zone are:

- *Industrial*
- *Residential*

Clause 5.3 of the scheme contains the status of use classes in the Residential zone as follows.

5.3.1 *Planning permit required Use Classes in this zone are:*

- *Residential*
- *Utilities*
- *Recreation*
- *Environmental Protection*
- *Business and Civic*

5.3.2 *Prohibited Use Classes in this zone are:*

- *Industrial*
- *Primary Industries*

The draft amendment would allow residential use classes on the site and prohibit primary industries and industrial uses. The status of other use classes are the same in both zones.

Development standards in the Recreation zone are principally confined to maximum building height and building setbacks. By comparison the standards for development in the Residential zone are comprehensive for residential development and residential amenity.

In addition to the zone standards Council has recommended the inclusion of a site specific Desired Future Character Statement and Strategy in response to the representations seeking retention of a mix of facilities on the site. Council’s recommended additional Desired Future Character Statement and Strategy is as follows:

Desired Future Character Statement		Strategy	
DFCS8	The properties identified as Lots 500/501 Village Drive are important in the provision of commercial and community facilities to the Redwood Village locality. Future development of the site must not be solely residential and must allow continued provision of community, business and recreational facilities.	S1	New development should incorporate a mix of residential, community and commercial uses that provide services and recreational facilities for the Redwood Village locality. Lots 500 and 501 Village Drive will serve as a focal point for community activity for the Redwood Village community. In planning for future use and development on this site the needs of future Redwood Village residents must be a priority and facilities for their use are to be incorporated into any future development at the site.

The recommended Desired Future Character Statement and Strategy provides context for assessing developments for the site that would provide for a range of residential, community and commercial uses. The additional provision is accepted subject to modification to rationalise the statement and strategy.

Application of State Policies

State Coastal Policy 1996.

The site is not within 1km from the coast and therefore the *State Coastal Policy 1996* is not applicable.

State Policy on Water Quality Management 1997

There is no evidence to suggest that the draft amendment will impact on water quality as the site is fully serviced.

The draft amendment is assessed as being prepared in accordance with the Policy.

Interim State Policy on the Protection of Agricultural Land 2008

The draft amendment does not involve agricultural land as defined in the Policy.

NEPMs

The national environmental protection measures are not applicable to the draft amendment.

Schedule 1 Objectives

Part 1 Objectives

- (a) *to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity.*
The area subject to the rezoning has been modified from its original bushland state. Although some individual native trees remain, the draft amendment is not considered to threaten ecological processes and genetic diversity.
- (b) *to provide for the fair, orderly and sustainable use and development of air, land and water.*
The draft amendment provides for the fair, orderly and sustainable use of land that is suitably serviced and located for residential use.
- (c) *to encourage public involvement in resource management and planning.*
The application has been through processes with public involvement under LUPAA.
- (d) *to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c).*
The draft amendment facilitates the economic viability of the complex by allowing a mixed use development to proceed on the site and is in accordance with the above objectives.
- (e) *to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the*

State.

The draft amendment has involved the sharing of responsibility for resource management and planning between different spheres of government and the community.

Part 2 Objectives

The part 2 objectives are furthered principally in terms of establishing a system of planning instruments to be the principal way of setting objectives, policies and controls for the use, development and protection of land and to secure a pleasant, efficient and safe working, living and recreational environment.

Conclusion

In accordance with s.40(1) of LUPAA, the draft amendment, representations and Council's report have been considered. The draft amendment will allow for residential use for the site within the Redwood Village and the prospect of all or some of the existing recreation facilities being retained and available for use by the Village residents. The rezoning from Recreation to Residential demonstrates planning merit and should be approved subject to modification.

DECISION

Pursuant to Section 41(ab) of the *Land Use Planning and Approvals Act 1993* the Commission modifies the draft amendment as set out in Annexure A and gives its approval to the draft amendment as modified pursuant to Section 42 of the Act.

Robin Nolan

Delegate
Resource Planning and Development Commission.
27 April 2009

Annexure A: The modified amendment

ANNEXURE A

Resource Planning and Development Commission

Kingborough Planning Scheme 2000
 Draft Amendment 2008/3

(i) The ordinance is amended as follows:

Insert the following in section 5.2.1(b)

Desired Future Character Statement		Strategy	
DFCS8	The properties identified as Lots 500 and 501 Village Drive Kingston are important in the provision of facilities to the Redwood Village locality. Future development of the site must not be solely residential and must make provision for community, business and recreational facilities.	S1	<p>Lots 500 and 501 Village Drive will serve as a focal point for community activity for the Redwood Village community. Development should incorporate a mix of residential, community and commercial uses that provide services and recreational facilities for the Redwood Village locality.</p> <p>In planning for use or development on this site the needs of the Redwood Village residents must be a priority and facilities for their use are to be incorporated into any future development on the site.</p>

(ii) the Plans are amended as attached.