



Randwick City Council Gateway Review Submission

Kingsford and Kensington Town Centres Planning Proposal



5 March 2018

Contents

Executive Summary	2
Introduction.....	3
Background	4
Gateway Conditions Requested to be Removed or Amended	5
Dwelling Capacity.....	5
Opportunity Sites.....	6
Community Infrastructure Contribution	6
Consultation with public agencies	7
Endorsement by Department	8
Timeframe	8
Gateway Conditions Accepted.....	9
Affordable Housing.....	9
Community Consultation	9
Consultation with public authorities.....	9
Public Hearing	10
Conclusion.....	11

Attachments

Attachment A	Council Response to AJ+C Recommendations 18 October 2017
Attachment B	Conybeare Morrison Assessment of AJ+C Recommendations Report March 2018
Attachment C	EMM Anzac Parade Corridor Future Light Rail System Capacity Analysis Addendum Report 1 March 2018
Attachment D	ARUP Stage 2 Transport Modelling Report 18 May 2017

Executive Summary

- This submission supports Randwick City's request for a Gateway Review of the Gateway Determination issued for the Kingsford and Kensington Planning Proposal dated 12 December 2017.
- The Kensington and Kingsford Planning Proposal seeks to amend the Randwick Local Environmental Plan 2012, to introduce revised height and FSR controls to accommodate sustainable housing and employment growth, with local provisions to provide for affordable housing and essential community infrastructure.
- Council is requesting that the Gateway Determination be reconsidered, amended and re-issued. We contend that the conditions imposed have not been adequately substantiated, are unnecessary and will have far-reaching consequences on the liveability of the town centres and the amenity of surrounding residential areas.
- Council requests removal or amendment of the following Gateway Conditions for the reasons summarised below:
 - 1(a) The requirement for an additional 600 dwellings within the town centre boundary will result in adverse environmental impacts and thus the Gateway Condition should be removed.
 - 1(b) The requirement to increase the FSR associated with opportunity sites would result in adverse environmental impacts inconsistent with the urban design and accessibility objectives of the planning strategy and thus this Gateway Condition should be removed.
 - 1(c) The CIC is a legal, transparent and legitimate way for Council to fund community infrastructure to support growth and thus this Gateway Condition should be removed.
 - 2 This Gateway Condition should be removed as consultation with the Sydney Airport Corporation Limited, Department of Infrastructure, Regional Development and Cities and Air Services Authority regarding building heights and Transport for NSW and RMS regarding traffic modelling and road widening is underway and will be complete by the conclusion of this Gateway Review.
 - 3 As outlined in this justification, revisions to the planning proposal are not necessary, and thus the Gateway Condition requiring the Department to endorse the revised Planning Proposal should be removed.
 - 7 Given the unknown time to be taken by the Gateway Review process, the Gateway Condition should be amended so the timeframe for completion of the LEP is 12 months from the date the amended Gateway Determination is issued.
- This submission justifies our request to review the Gateway Determination to ensure that the Planning Proposal provides for the sustainable residential and economic growth of the town centres.

Introduction

- On 12 December 2017, the Department of Planning and Environment issued a Gateway Determination for the Planning Proposal for Kensington and Kingsford town centres (Department Ref: PP_2017_RANDW_001_00).
- The Planning Proposal seeks to amend the height and floor space ratio controls and introduce new local provisions for Kensington and Kingsford Town Centres,
- Council received a copy of the Gateway Determination on 13 December 2017.
- The Gateway Determination Review is in response to conditions 1(a)-(c), 2, 3 and 7 which have not been adequately substantiated and are inconsistent with Council's comprehensive evidence-based Planning Strategy for the town centres.
- On 22 January 2018, the Department granted an extension of time for the submission of Council's Gateway Review application to 5 March 2018.
- The Gateway requires a substantial increase in dwelling capacity for the town centres, which will have unacceptable environmental impacts.
- The Gateway determination also requires the removal of the proposed community infrastructure contribution clause which is a necessary, transparent and legal mechanism to provide essential infrastructure for the expected growth in the Kensington and Kingsford town centres.

Background

- In 2015, in response to site-specific planning proposals, Council began a review of the Kensington and Kingsford town centres, and in March 2016 Council adopted the Issues Paper for Kensington and Kingsford Town Centres.
- Council's comprehensive planning review of the Kensington and Kingsford town centres was informed by considerable background research and analysis, including:
 - Economic Needs Analysis by Macroplan Dimasi,
 - Kingsford Heritage Study by Colin Brady Heritage Consultant,
 - Urban Design Report by Conybeare Morrison,
 - Transport System Capacity Analysis by EMM Consulting
 - Traffic and Parking Study by ARUP,
 - Infrastructure Contribution Financial Feasibility Assessment by HillPDA,
 - Development Contributions Framework by Sam Haddad Consulting,
 - Liveability and walkability analysis by City Futures, UNSW; and
 - K2K International Urban Design Competition
- The K2K International Urban Design Competition run in 2016 sought innovative ideas from multi-disciplinary teams to support the future of the area and involved extensive community consultation to inform the competition brief and provide feedback on the competition entries to the judges.
- The Planning Strategy for Kensington and Kingsford Town Centres outlines the vision, strategies and implementation actions to guide the sustainable growth and development of the town centres over the next 15 years. The Planning Strategy utilised community feedback from the competition to inform the vision for the town centres, including the urban design approach and key local infrastructure.
- The comprehensive planning process has received three industry awards, including most recently the Planning Institute of Australia's Award for Excellence for its outstanding contribution to the creation of great places and communities.

Gateway Conditions Requested to be Removed or Amended

Dwelling Capacity

1(a) *Identify additional opportunity sites in order to increase the dwelling capacity by a minimum of 600 dwellings within the planning proposal boundary currently zones B2 Local Centre Zone in the Kensington and Kingsford Town Centres*

- Council's proposed built form controls have been established through careful 3D modelling and urban design specialist advice.
- An additional 600 dwellings in both town centres amounts to a 40% increase in additional dwelling capacity.
- The proposed increase in dwelling capacity will have significant adverse environmental impacts on the town centres and surrounding residential areas.
- Council has carefully considered the 'peer review' by Allen Jack and Cottier which recommended additional opportunity sites and increases to capacity of Council-identified opportunity sites (see Council response to AJ+C recommendations dated 18 October 2017 at Attachment A)
- Additional work by Conybeare Morrison has concluded that increased heights and densities are inappropriate and ill-considered (see Conybeare Morrison Assessment of Recommendations Report dated March 2018 at Attachment B).
- Transport network analysis by EMM has demonstrated that an additional 600 dwellings within the town centres will place greater demand on the public transport network and require additional buses in addition to the light rail to provide for the increased population (see EMM Report dated 1 March 2018 at Attachment C).
- Having considered the opportunities and constraints of each centre, Council's strategy provides for an optimal and well-considered distribution of dwelling growth.
- Work is underway to inform a local housing strategy for the entire LGA. A development capacity audit of the LGA has demonstrated that Council is well on track to meet the 2016-2021 dwelling growth target of 2,250 dwellings in the Revised Draft Eastern City District Plan.
- There is also sufficient development capacity outside of the existing town centres to contribute to any longer term housing targets for the District.
- These areas identified for future growth are adjacent to town centres and along key transport corridors and represent a more balanced approach in planning for additional dwelling growth across the LGA, while also providing for amenity.
- Future upzoning associated with a housing strategy will allow for an appropriate urban design transition to surrounding residential areas and provide for diverse housing stock within a walkable catchment of the town centres and transport.
- In 2018, Council will prepare a housing strategy as required by the district plan, which will provide for dwelling growth across the Local Government Area rather than burdening the town centres.
- Thus additional capacity for 600 dwellings in the Kensington and Kingsford town centres is unwarranted and excessive.
- Council has received verbal advice from the Department of Planning and Environment that they will support the 600 extra dwellings being provided within 400 metres of the light rail alignment, outside of the town centre boundary.
- **This Gateway requirement will result in adverse environmental impacts and should be removed.**

Opportunity Sites

1(b) *specify appropriate heights and floor space ratios (FSRs) for the additional opportunity sites and specify FSR increases for sites where additional height (ie. additional 2 storeys) can be attained under design excellence provisions*

- Increasing the dwelling capacity of the town centres by identifying additional opportunity sites is unnecessary and will have adverse environmental impacts, as detailed above and in Attachments A, B and C.
- Given the constraints of the opportunity sites, including access, setbacks, contributory buildings, tower floorplate controls and shadowing impact, 5:1 is an appropriate FSR for an 18 storey height limit.
- Any FSR above 5:1 for opportunity sites would be unachievable and inconsistent with the urban design and accessibility outcomes outlined in the planning strategy and key objective of maintaining suitable amenity to nearby residential areas.
- **The Gateway requirement to increase the FSR associated with opportunity sites would result in adverse environmental impacts and should be removed.**

Community Infrastructure Contribution

1(c) *remove the proposed draft Community Infrastructure Contributions clause (Attachment C – Clause 6.14 Community Infrastructure height of buildings Kensington and Kingsford Town Centres) and amend to remove references throughout the proposal to a Community Infrastructure Clause*

- Draft clause 6.14 has been developed to support and guide possible Voluntary Planning Agreements (VPAs) for the collection of certain community infrastructure for the expected growth in the Kensington and Kingsford town centres as outlined in the planning proposal.
- The draft clause provides a clear policy in an open and transparent way for specific VPAs which can be put forward at the discretion of a developer and then considered in the usual way by the Council.
- The draft clause complies with the fundamental principles of planning agreements as outlined in the Department's draft practice note for planning agreements dated November 2016 (copy attached).
- The draft clause is modelled on clause 6.14 'Community Infrastructure floor space at Green Square' in Sydney Local Environmental Plan 2012 (SLEP) which has been in operation since 2012 in its current form. The difference between the clauses is that the Green Square clause is for floor space ratio whereas Council's proposed clause is for height. Given that the Green Square clause (6.14) has been in operation for a number of years this provides further rigour to the Council's proposed draft clause 6.14 in terms of power and policy merit.
- A review of case law on clause 6.14 in Sydney Local Environmental Plan 2012 has shown that there is no case law which suggests that the clause is unlawful and/or beyond the LEP making power available under the Act.
- Legal advice determines that the assertion in the Gateway determination which indicates that the draft clause is beyond the LEP making power available under the Act is incorrect.
- Importantly, draft clause 6.14 is supported by a clear policy framework and evidence base including a comprehensive planning strategy which identifies the infrastructure needed to support growth; a feasibility assessment (which demonstrates that the community infrastructure contribution can be afforded); and community input undertaken as part of the K2K International Urban Design Competition.
- **The CIC is a legal, transparent and legitimate way for Council to fund community infrastructure to support growth and thus this Gateway condition should be removed.**

Consultation with public agencies

2. *Prior to community consultation, initial consultation on the revised Planning Proposal is to be undertaken with the following public agencies:*

- *Sydney Airport Corporation Limited (SACL), Civil Aviation Safety Authority (CASA) and Air Services Australia (AsA) in relation to maximum building heights and to satisfy the requirements of Section 117 Direction 3.5 Development Near Licensed Aerodromes; and*
- *Transport for NSW and Roads and Maritime Services in relation to the scope of detailed traffic modelling and potential future road corridor widening to support growth in the corridor.*

These public authorities are to be provided with a copy of the Planning Proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

- Council undertook consultation with SACL and the Department of Infrastructure, Regional Development and Cities (DIRDC) during the preparation of the draft Planning Strategy and all heights proposed in Kingsford are below the PANS-OPS obstacle clearance.
- Council submitted the required technical information to AsA and for approval (assessment number YSSY-MA-002), and AsA has indicated a timeframe for their response of approximately 6 weeks. It is expected consultation with AsA and will have been resolved by the date of the Planning and Assessment Commission meeting.
- CASA's response to Council's request for advice is that this planning proposal is a land use matter not within their jurisdiction but rather within the jurisdiction of DIRC.
- Council has been working closely with TfNSW and ALTRAC on carriageway widenings along Anzac Parade as part of the light rail project.
- TfNSW has been working with RMS as part of this process to ensure optimum lane widths and functionality of the road corridor is achieved.
- Widenings are proposed at a number of locations along the corridor, including the town centres.
- This process has been ongoing since 2014 and carriageway widths and resulting footpaths widths are now finalised and set. Kerb and guttering is now being constructed as part of the Light Rail contract works.
- Council's draft Planning Strategy has also responded to the reductions in footpath widths and the changed character of Anzac Parade through a number of design initiatives, most importantly building setbacks.
- Council has undertaken detailed traffic modelling using the TfNSW model, enhanced by ARUP, to test the traffic impacts of the planning proposal (see ARUP Stage 2 Traffic Modelling Report dated 18 May 2018 at Attachment D).
- A meeting between Council and TfNSW and RMS was scheduled for Tuesday 27 February, and was postponed at the request of TfNSW to Wednesday 14 March. This meeting will enable explanation of the traffic modelling and road widenings already occurred as part of the Light Rail and Council's Planning Strategy.
- Details on the process and outcome of the consultation will be forwarded to the Department of Planning and Environment as the consultation is completed.
- **Consultation with CASA is not required. Consultation with SACL, DIRDC, AsA, TfNSW and RMS has begun and will be complete before this Gateway Review is resolved and thus these Gateway requirements should be removed.**

Endorsement by Department

3. *Prior to community consultation, the revised planning proposal is to be submitted to the Department of Planning and Environment for endorsement.*
- As outlined in this submission, revisions to the planning proposal are not necessary, and thus this requirement should be removed.

Timeframe

7. *The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.*
- Due to the Department's shut-down over the Christmas-New Year period, on 22 January 2018, the Department granted an extension of time for the submission of Council's Gateway Review application to 5 March 2018.
- Council cannot commit additional resources towards planning for the town centres until the formal Gateway Review process is completed.
- Once Council's application is submitted, the timing of the Gateway Review is outside of Council's control and therefore it is unreasonable to hold Council to a timeframe based on the Gateway Determination.
- **The Gateway Condition should be amended so the timeframe for the completion of the LEP is 12 months from the date the amended Gateway Determination is issued.**

Gateway Conditions Accepted

Affordable Housing

- 1(d) *remove the proposed clause in the planning proposal for Affordable Housing and instead provide a statement of intent for the inclusion of a clause in a draft LEP for Affordable Housing (Attachment A - draft Affordable Housing Clause).*
- 1(e) *include in the statement of intent for Affordable Housing a reference to:*
 - i. *determining an appropriate figure (\$/m2) for the town centres, equivalent to the value of the properties; and*
 - ii. *providing more detail, including an example of how the contribution is calculated and further explanation of the "accountable total floor space".*
- Noted and accepted.

Community Consultation

- 4. *Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:*
 - (a) *the planning proposal must be made publicly available for a minimum of 28 days; and*
 - (b) *the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (NSW Department of Planning and Environment 2016).*
- Noted and accepted. Council has resolved to exhibit the planning proposal for a minimum period of 6 weeks.

Consultation with public authorities

- 5. *Consultation is required with the following public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant section 117 Directions:*
 - *Commonwealth Department of Infrastructure and Regional Development*
 - *Sydney Airport Corporation;*
 - *Air Services Australia*
 - *Office of Environment and Heritage;*
 - *Heritage Office;*
 - *Transport for NSW;*
 - *Roads and Maritime Services;*
 - *Energy Australia;*
 - *Sydney Water*
 - *Family and Community Services - Housing NSW*
 - *Department of Education;*
 - *NSW Ministry of Health;*
- Noted and accepted.

Public Hearing

6. *A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).*
- Noted and accepted.

Conclusion

- Council has undertaken a comprehensive planning review, including an International Urban Design Competition, to guide the sustainable growth and development of Kensington and Kingsford town centres.
- This robust and evidence-based process has been recognised by a number of industry awards for its planning best practice and excellence.
- Conditions 1(a) and 1(b) requiring an increase in capacity by 600 dwellings and subsequent increase in the height and FSR of certain sites to accommodate the additional capacity are unsubstantiated and will result in unacceptable environmental impacts.
- Additional dwelling capacity in the town centres is unnecessary as Randwick City is on track to achieve its 5 year dwelling target and its existing planning approach for 40% of dwelling provision in town centres.
- Council has received verbal advice from the Department of Planning and Environment that they will support amending the Gateway Condition to provide the capacity for 600 additional dwellings outside the town centre boundary, within 400m of the light rail alignment.
- The community infrastructure charge is a necessary and legal mechanism to provide essential infrastructure within the Kensington and Kingsford town centres and Condition 1(c) requiring its deletion from the planning proposal should be removed from the Gateway Determination.
- Amendments to the planning proposal are unnecessary, and therefore Condition 3 requiring the Department to approve the revised planning proposal should be removed.
- Given the unknown time to be taken by the Gateway Review process, Condition 7 should be amended so the timeframe for completion of the LEP is 12 months from the date the amended Gateway Determination is issued.