

## Planning and Assessment

IRF18/5514

### Gateway determination report

<b>LGA</b>	Ku-ring-gai
<b>PPA</b>	Ku-ring-gai Council
<b>NAME</b>	4 Pennant Avenue, Gordon (43 homes, 0 jobs)
<b>NUMBER</b>	PP_2018_KURIN_004_00
<b>LEP TO BE AMENDED</b>	Ku-ring-gai Local Environmental Plan 2015
<b>ADDRESS</b>	4 Pennant Avenue, Gordon
<b>DESCRIPTION</b>	Lot Y DP387680
<b>RECEIVED</b>	3 October 2018
<b>FILE NO.</b>	IRF18/5514
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal.

## 1. INTRODUCTION

### 1.1 Description of planning proposal

The site comprises of the former Gordon Bowling Club, a 11,200m<sup>2</sup> area of land owned by Ku-ring-gai Council that is surrounded by low density residential development.

The planning proposal (**Attachment A**) for the former Gordon Bowling Club at 4 Pennant Avenue, Gordon (**Figure 1**) seeks to amend the Ku-ring-gai Local Environmental Plan 2015 (KLEP 2015) for:

- rezone the land from RE1 Public Recreation to R3 Medium Density Residential;
- introduce a maximum FSR of 0.8:1;
- introduce a maximum a maximum building height of 11.5m;
- introduce a minimum lot size of 1200m<sup>2</sup>; and
- reclassify the land from Community Land to Operational Land and discharge any interests.

Reclassification from 'community land' to 'operational' land will remove the restrictions that apply to community land under the *Local Government Act 1993*, thereby allowing Council to sell the land.

Lot X DP387680 is to retain the current RE1 Public Recreation zoning and Community Land classification. (**Figure 2**).

## 1.2 Site description

The site is a slightly irregular shaped area located at 4 Pennant Avenue, Gordon. It is legally described as Lot Y DP387680 with an area of 1.12ha (11,200m<sup>2</sup>) (**Figure 1**).

The site is the former Gordon Bowling Club (closed since early 2018) which comprises a clubhouse, a hard stand car park, three bowling greens, a greenskeeper storage shed and a single access handle containing a pedestrian link to Bushlands Avenue to the north. The site is currently vacant, and Council states the bowling club closed in early 2018 due to declining membership. The lease between Council and the bowling club has since expired.

The adjoining parcel of land legally known as Lot X DP387680, has an area of 1,668m<sup>2</sup> and contains the endangered ecological community Sydney Turpentine-Ironbark Forest vegetation. This is to be retained as a public reserve for passive recreation purposes.

Both sites are owned by Council (**Attachment E**) and are classified in the Ku-ring-gai LEP 2015 as 'Community Land' under the *Local Government Act 1993*.

Within the immediate area Council recently constructed Greengate Park which is located 500m from the proposal site. In 2016 Ku-ring-gai Council resolved to convert Gordon Golf Course, 350m from the site, to a regional park in 2023.



**Figure 1:** Subject site (Source: Near Map – overlay by DPIE)





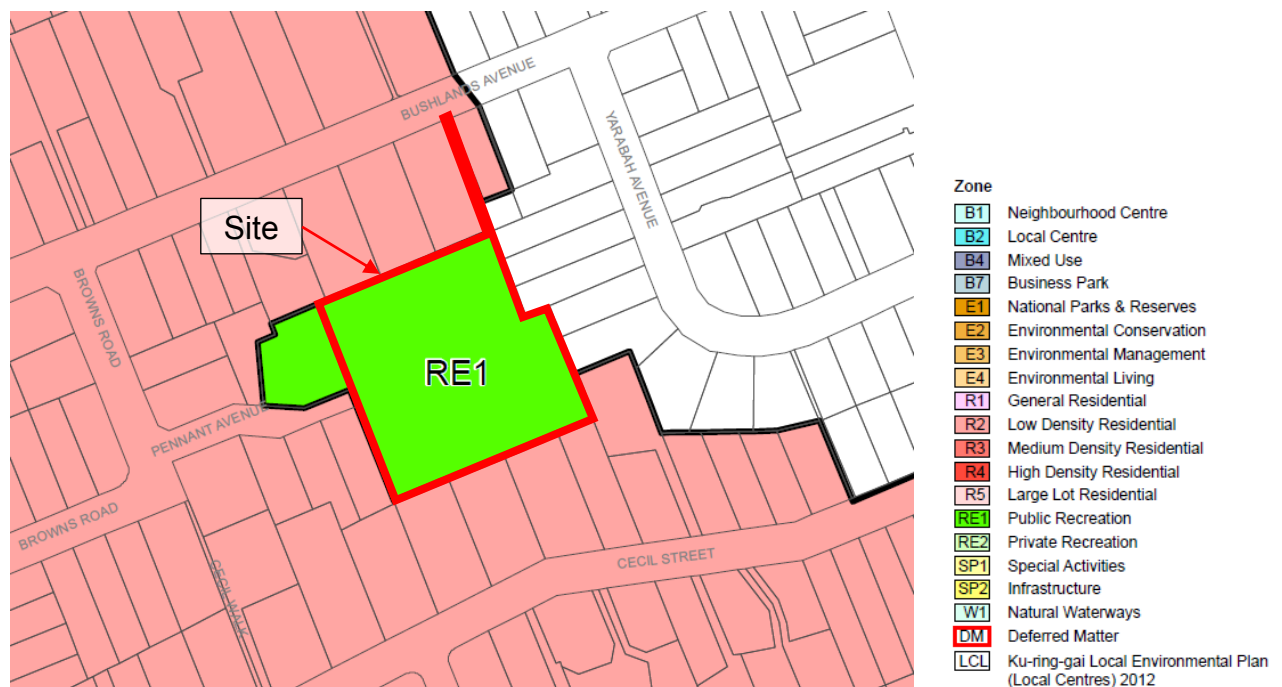
### 1.3 Existing planning controls

Under the Ku-ring-gai LEP 2015, the site:

- is zoned RE1 Public Recreation (**Figure 4**);
- has no maximum building height control (**Figure 5**);
- has no maximum FSR control (**Figure 6**); and
- has no minimum lot size (**Figure 7**);

Part of the site is identified as 'category 3a' on the Riparian Land Map and (**Figure 9**) which refers to a discontinuous or piped watercourse. Some development types within 40m of the land will require referral to the NSW Office of Water as integrated development.

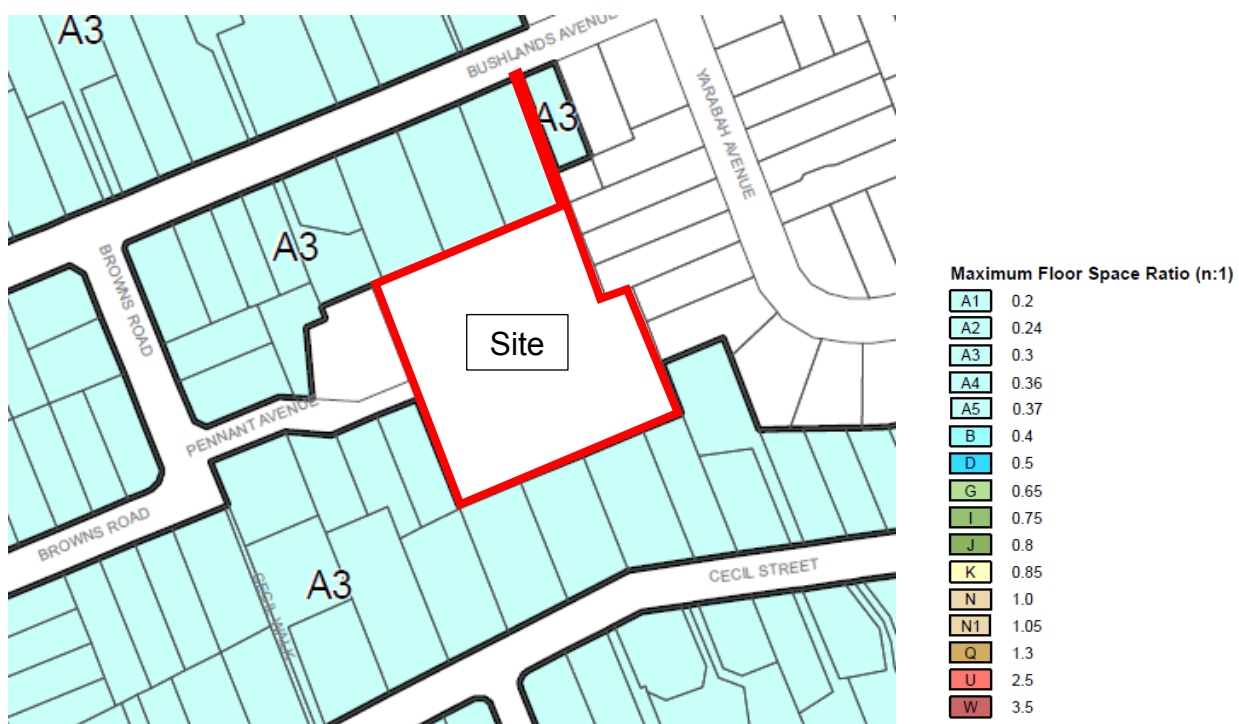
The land is identified on the Terrestrial Biodiversity Map (**Figure 10**) as an area potentially containing significant ecological flora or fauna habitats.



**Figure 4: Ku-ring-gai LEP 2015 Land Zoning Map (LZN\_014)**

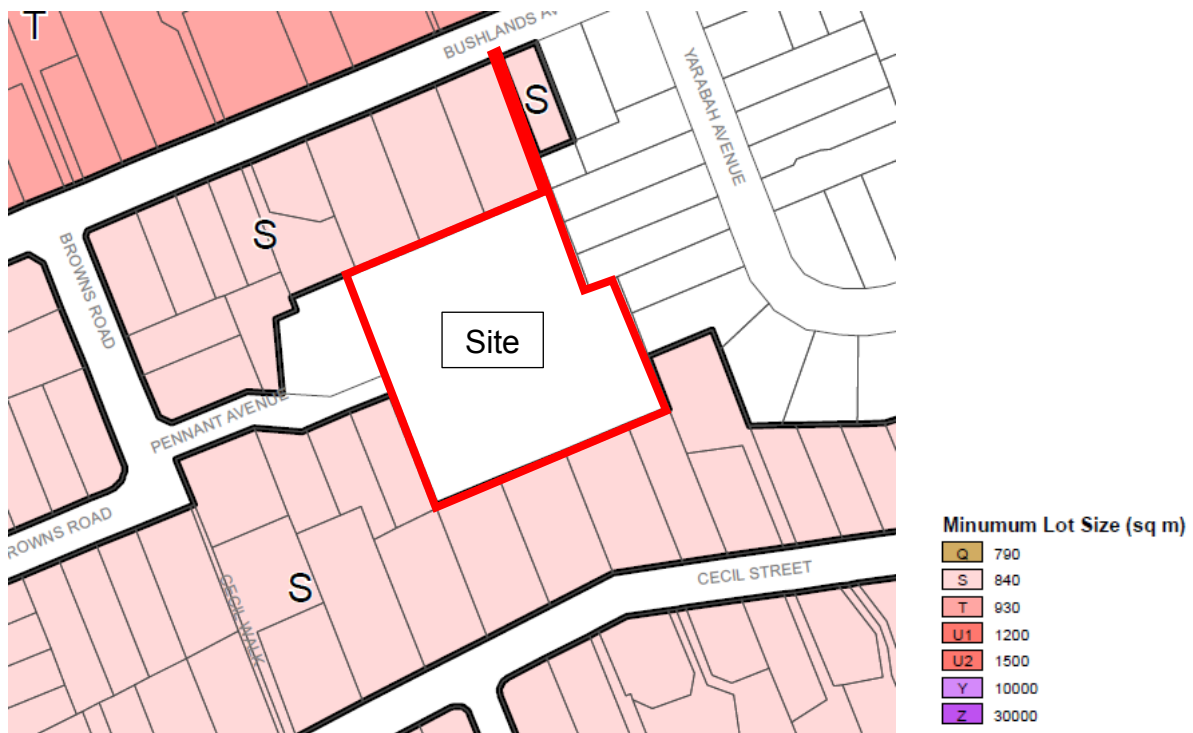


**Figure 5:** Ku-ring-gai LEP 2015 Height of Buildings Map (HOB\_014)

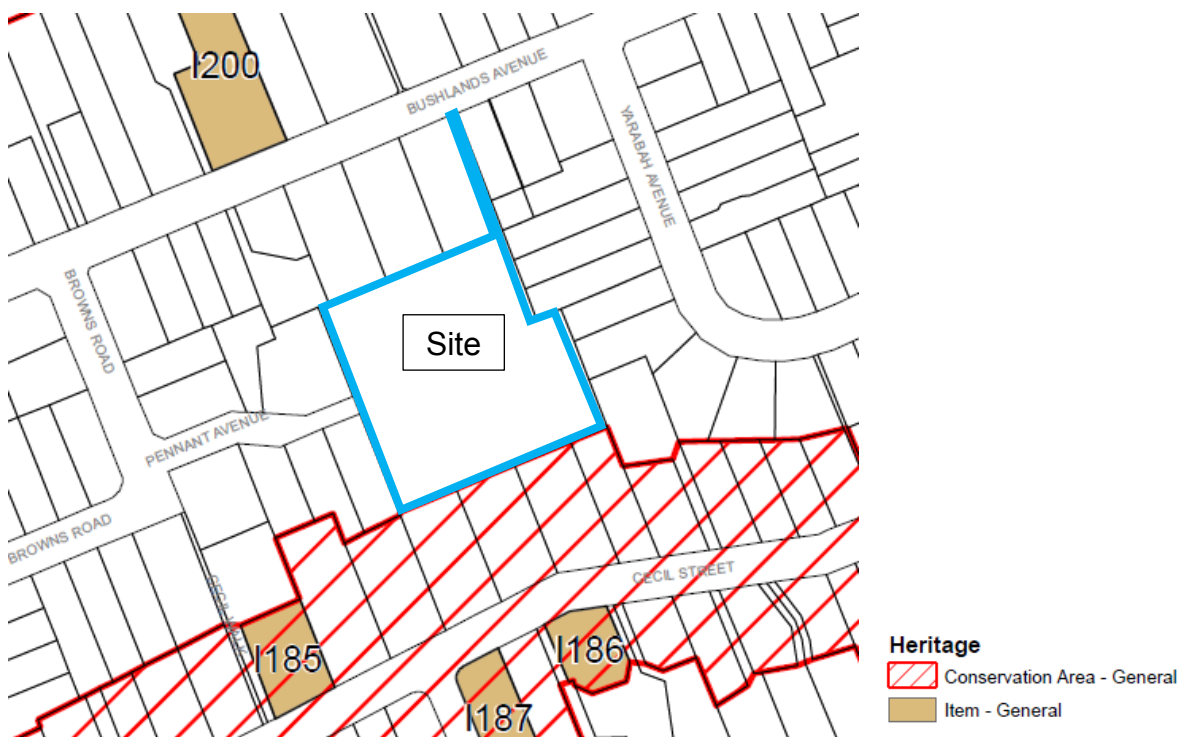


**Figure 6:** Ku-ring-gai LEP 2015 FSR Map (FSR\_014)





**Figure 7: Ku-ring-gai LEP 2015 Lot Size Map (LSZ\_014)**



**Figure 8: Ku-ring-gai LEP 2015 Heritage Map (HER\_014)**



**Figure 9:** Ku-ring-gai LEP 2015 Riparian Lands and Watercourses Map (WCL\_014)



**Figure 10:** Ku-ring-gai LEP 2015 Terrestrial Biodiversity Map (BIO\_014)

#### 1.4 Surrounding area

The site is zoned RE1 Public Recreation under the Ku-ring-gai LEP 2015 (**Figure 4**). It is surrounded to the north, east, south and west by land zoned R2 Low Density Residential that generally comprises single detached dwellings (**Figure 1**).

The site adjoins the rear or side boundaries of approximately 18 properties with one and two storey residential dwellings (**Figures 11 to 14**).

There are no heritage items listed on the site and the site is not within a heritage conservation area. There are several listed heritage items in the vicinity (**Figure 8**):

- residential dwelling 'Birralee', 25 Bushlands Avenue (item 200); and

- residential dwellings, 37, 38 and 42 Cecil Street (items 185, 186 and 187).

The site adjoins the Smith Grant Heritage Conservation Area (C19) directly to the south (**Figure 8**). Council's documentation (**Attachment A**) states that the eastern boundary adjoins the Yarabah Avenue Conservation Area (C18), this area is not identified in the Ku-ring-gai LEP 2015.

The site is located 600m, or 10-minutes walking distance from Gordon Station and the Gordon Local Centre. Approximately 170 metres east of the site and closer to the Pacific Highway is an area zoned R3 Medium Density Residential and R4 High Density Residential.



**Figure 11:** View of residential dwellings at the end of Pennant Avenue and the entry to the Gordon Bowling Club, looking north (Source: Google Maps)



**Figure 12:** View of residential dwellings in Bushlands Avenue bordering the north of the site, looking south (Source: Google Maps)





**Figure 13:** View of residential dwellings in Cecil Street bordering the south of the site, looking north (Source: Google Maps)



**Figure 14:** View of residential dwellings in Yarabah Avenue bordering the east of the site, looking south (Source: Google Maps)

## 1.5 Background

Council acquired the rear portions of properties fronting Bushlands Avenue and Cecil Street between 1951 and 1953 for the Gordon Bowling Club, including pedestrian access to Bushlands Avenue.

On 15 August 2017 Gordon Bowling club Limited advised Council that they wanted to terminate their lease and vacate the property in early 2018.

On 8 May 2018, at the Ordinary Meeting (**Attachment F and F1**), Council considered two options for the site and resolved to adopt 'Option 1' to rezone Lot Y DP 387680 and change the development controls to allow residential development. 'Option 2' was to reclassify and rezone both Lot Y and Lot X for residential development. Council states that the future sale of the Gordon Bowling Club could raise funds for the restoration and expansion of Council assets such as the Marian Street Theatre.

On 17 September 2018, the Ku-ring-gai Planning Panel (KLPP) (**Attachment G**) stated that the planning proposal had strategic and site-specific merit and recommended that the planning proposal be sent to the Department for Gateway

On 1 November 2018, in an email to the Department (**Attachment H**), council stated that the inconsistency with *Planning Priority N20 Delivering high quality open space* was justifiable as Council had acquired 22,300m<sup>2</sup> of land and constructed six new parks in their Local Government Area.

Council found that the site was not suitable as a park due to its limited access, its lack of visibility and because of potential contamination. The park is close to the recently constructed Greengate Park, approximately 500m from the site. On 5 April 2016, Council resolved to develop Gordon Golf Course which is less than 350m from the site as a regional park following the expiration of the club's lease in 2023 (**Attachment K**).

The Department has received submissions from residents opposing the planning proposal raising concerns of site suitability, loss of public open space and traffic impacts. Some of the correspondence is at **Attachments L and M**.

It is noted that there is a similar planning proposal by Council for reclassification of 3,445sqm of land near to the subject site at 9,15 and 17 Dumaresq Street, Gordon. The other land is proposed to form part of the Gordon Civic and Community Facilities Precinct, that is expected to include a new 3,465sqm park backing onto the existing Council building in the Gordon Town Centre.

This other planning proposal was given a Gateway determination in October 2017 to allow Council to implement the master planning for a Cultural Hub on this site. The proposal was exhibited between November 2017 and February 2018, and a public hearing was held by Council on 22 March 2018. For reasons not clear to the Department the proposal has not since been reported back to the Department for finalisation to enable the Dumaresq Street plan to be made. While the Dumaresq proposal land was acquired using Section 94 Contribution Plan funds, it is unclear how Council was to fund the works to implement and deliver the precinct. For these reasons it is requested that Council consider the utilising the benefits of the sale of the land at 4 Pennant Avenue, Gordon to assist in finalising Dumaresq planning proposal and supporting the delivery of the Gordon Civic and Community Facilities Precinct.

## **2. PROPOSAL**

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### **2.1 Objectives or intended outcomes**

The intended outcomes of the planning proposal are to:

- rezone the site to R3 Medium Density Residential to enable potential residential development;
- reclassify the site to enable Council to sell the land;
- better provide for the orderly, economic and prompt development of the site;
- ensure development within the Ku-ring-gai LGA supports the objectives of planning policies and plans such as Council's Community Strategic Plan, the Greater Sydney Regional Plan – A Metropolis of Three Cities and the North district Plan;
- assist Council to effectively manage its financial position to meet community expectations for projects and service delivery, particularly in relation to Council's Resourcing Strategy 2018-2028, Long Term Financial Plan 2018-2028 and Asset Management Strategy 2018-2028.

The proposal would facilitate the construction of approximately 43 medium-density dwellings.

### **2.2 Explanation of provisions**

The following amendments for the site are proposed to Ku-ring-gai LEP as follows:

- rezone the site from RE1 Public Recreation to R3 Medium Density Residential;
- introduce a maximum FSR of 0.8:1;
- introduce a maximum building height of 11.5m;
- introduce a minimum lot size of 1200m<sup>2</sup>; and
- reclassify the site from Community Land to Operational Land and discharge any interests.

The proposal is expected to result in the provision of approximately 43 residential dwellings and the future sale of the site will enable Council to fund improvements to community infrastructure such as the Marion Theatre.

### **2.3 Mapping**

The planning proposal seeks to amend the following maps in the Ku-ring-gai LEP 2015:

- land zoning map sheet LZN\_014;
- FSR map sheet FSR\_014;
- height of building map sheet HOB\_014; and
- lot size map sheet LSZ\_014.



### 3. NEED FOR THE PLANNING PROPOSAL

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The planning proposal is not a result of any strategic study or report. The site is Council owned land and occupied by the former Gordon Bowling Club that closed in early 2018 due to declining membership. The lease between Council and the club has expired. The site is currently classified as 'community land'.

Council has stated that the site is no longer required for the public recreation purposes which it was originally acquired for. Council states that the future (2023) development of the Gordon Golf Course regional park, located less than 350m from the site, will provide recreational open space for the area. Council states that the loss of the bowling club open space will be offset by this new regional space and Greengate Park which is approximately 500m from the site.

Council plans to sell the site in order to fund other Council projects. Council is unable to develop, sell, exchange or dispose of community land under the *Local Government Act 1993*. Therefore, a planning proposal is necessary to reclassify the land as 'operational land' to facilitate Council's plans to dispose of the site.

### 4. STRATEGIC ASSESSMENT

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#### 4.1 North District Plan

The North District is of relevance to the site and contains 24 planning priorities and associated actions that are important to achieving a liveable, productive and sustainable outcome for the district.

The planning proposal is consistent with the following liveability and productivity planning priorities:

#### Planning Priority N3 – Providing services and social infrastructure to meet people's changing needs

This planning priority seeks to ensure appropriate services and infrastructure are provided to support the future population. Council has stated that the site is no longer required for the public recreation purposes which it was originally acquired for.

Council states that the future development of the Gordon Golf Course regional park, located less than 350m from the site, will provide recreational open space for the area. Council argues that the loss of the bowling club open space will be offset by this new regional space and Greengate Park (500m from the site).

The sale of the land will aid in the funding of other community infrastructure and the renewal and replacement of existing assets.

#### Planning Priority N5 – Providing housing supply, choice and affordability, with access to jobs, services and public transport

This planning priority seeks to ensure housing supply and diversity. The proposal provides for local infill development and will contribute towards the north district's housing target of 92,000 from 2016 to 2036. The proposal will provide residential dwellings close to existing services, public transport and infrastructure.

#### Planning Priority N12 – Delivering integrated land use and transport planning and a 30-minute city

This planning priority aims to ensure land use and transport are integrated. The site located 600 metres and approximately a 10-minute walk from Gordon Station, providing access to several strategic centres including Macquarie Park, Chatswood, St Leonards, North Sydney and Hornsby, enabling access to services and jobs.

## Planning Priority N20 – Delivering high quality open space

This planning priority aims to ensure high-quality public open space is delivered. This planning priority has not been addressed in the planning proposal.

It is recommended as a condition of the Gateway that Council amend the planning proposal to address Planning Priority N20, including Action 73(b) requiring investigation of opportunities to provide open space.

### **4.2 Future Transport Strategy 2056**

This 40-year strategy covers the future planning for the transport system in greater Sydney. It is to shift the focus away from private car usage towards a more integrated solutions such as public transport and to support the character of places and communities.

The site is located approximately 10 minutes' walk (800 metres) south west of Gordon Station which provides transport connectivity for the future residents of this site. Gordon Station is serviced by the T1 line which provides access to Sydney's CBD, and the strategic centres of Chatswood, Hornsby, Macquarie Park and St Leonards. The site is walking distance (600 metres) to Gordon local centre, which also provides access to goods and services.

Access to transport should also be addressed in more detail in the traffic study which needs to be prepared for the site, prior to undertaking public exhibition, to assess the impacts of the proposal and the capacity of the local road network.

### **4.3 Ku-ring-gai Community Strategic Plan 2038**

Council's strategic plan was adopted in June 2018 and outlines plans to preserve the area's character combined with the need to plan and provide for a growing and changing population.

The proposal was assessed against the objectives in the strategy. The proposal is in an area that is well serviced by existing public transport with direct links to existing services, infrastructure and open space, reducing the reliance on private vehicles. The proposal provides for additional and diverse residential opportunities within walking distance of Gordon Station.

The future sale of the site is understood to provide Council with the opportunity to meet community expectations to fund the renewal and replacement of existing community assets.

A requirement of the Gateway determination proposes to clarify the public benefits from the sale of the land to better

### **4.4 Open Space Acquisition Strategy 2007**

The proposal has been assessed by Council against its Open Space Acquisition Strategy, which establishes principles for acquiring open space in Ku-ring-gai. This open space is significantly dated, being prepared in 2007, which is why Council is preparing the updated *Open Space, Sports and Recreation Needs Study*.

The site was assessed by Council against this Strategy who determined that the suitability of the site for open space was minimal as:

- Location – The site is in an area where significant residential growth is unlikely to occur in the surrounding area.
- Proximity to alternative open space - Council has constructed Greengate Park 500m from the site. Council also resolved in 2016 to convert Gordon Golf Course (350m from the site) to a regional park in 2023. Council considers that

there is sufficient public open space in the immediate area to service the residential population without this site.

- Biodiversity will be protected and preserved - The adjoining site, Lot X DP387680 is 1,668m<sup>2</sup> contains an endangered ecological community Sydney Turpentine-ironbark Forest vegetation will be retained in Council ownership and will remain available for public use.
- Access - The site has only one active street frontage; the strategy requires that new parks have at least two street frontages.
- Safety - Access to the site is limited, not consistent with safe design principles and, Council believes, not suitable for public open space. The location is consistent with 'Safe by Design' principles in terms of passive surveillance but would be improved with the development of the site.
- Contamination - Council has identified the site as likely to be affected by contamination as identified in the Stage 1 and Stage 2 report (**Attachment I and J**). Remediation of the site would significantly increase the cost to Council of constructing a viable park. If Council sells the site this remediation will be undertaken by the developer.

For the above reasons Council considered the site unsuitable for public open space and therefore wish to rezone the site for a residential use.

#### **4.5 Section 9.1 Ministerial Directions**

The proposal is consistent with the relevant section 9.1 Directions except Directions 4.3 and 6.2.

##### Direction 4.3 Flood Prone Land

The objectives of this direction are:

- a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and
- b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

The proposal is inconsistent with this Direction as part of the site is flood-prone land and Council proposes to rezone the land from public recreation to residential uses.

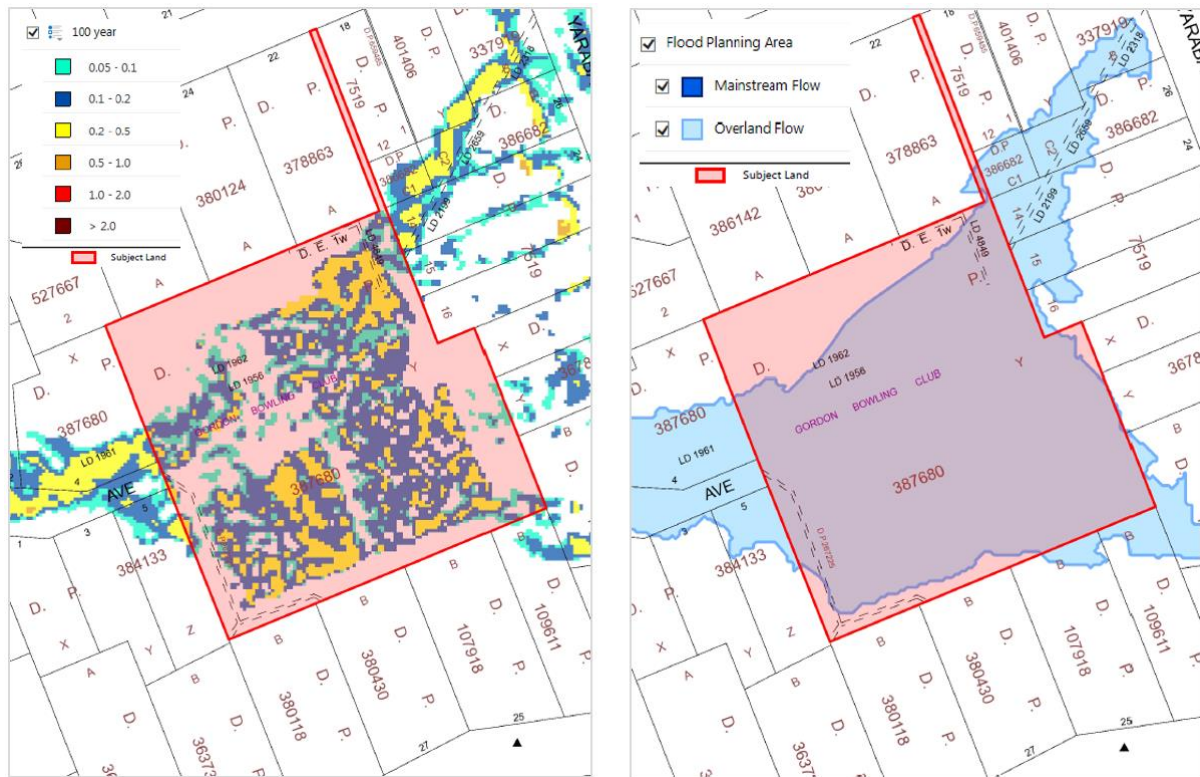
The site is within the Blackbutt Creek catchment, draining to the Lane Cove River, and is identified as being partially flood prone. Council's Blackbutt Creek Flood Study and Plan (2014) and Blackbutt Creek Floodplain Risk Management Study (2018) identify the site as being within the 1-in-100-year flood event (**Figure 15**), within the overland flow path and within a flood evacuation risk zone. The site is mapped under the LEP 2015 as 'category 3a' Riparian Land and is a discontinuous or piped watercourse (**Figure 9**).

The planning proposal states that due to the flooding of surrounding roads, access to the site during a flood event may be problematic from a safety perspective and this will require further investigation.

It is recommended that the proposal be updated to include a flood map of the site prior to community consultation.



To determine the impacts of the proposal on flooding characteristics, flood planning levels for the site, overland flows, the duration of flood events, flood risk management and emergency evacuation, a flood risk management assessment will need to be undertaken prior to community consultation to justify the inconsistency with this Section 9.1 Direction.



**Figure 15:** 1 in 100 Year Flood and Flood Planning Area maps (Source: Ku-ring-gai Council)

### Direction 6.2 Reserving Land for Public Purposes

The objectives of this direction are:

- a) to facilitate the provision of public services and facilities by reserving land for public purposes, and
- b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.

Clause 4 of the Direction dictates that a planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Secretary of the Department of Planning, Industry and Environment (or the Secretary delegate). While the proposal is inconsistent with this part of the Direction, it is recommended that the Secretary's delegate agree that the inconsistency can be justified.

The site is no longer used by the former Gordon Bowling Club and is vacant. Council assessed the site against the criteria in Council's *Open Space Acquisition Strategy* (discussed above) and identified in May 2018 that Council no longer requires the land for public open space.

Council have prepared a planning proposal requesting that the site be zoned R3 Medium Density Residential and indicated that any funds from the sale of the site would contribute to social infrastructure in the area, namely the Marian Street Theatre.

The Department considers that there is merit to zoning this site for residential development, however, there has been insufficient reasoning and justification provided to demonstrate that R3 Medium Density Residential is an appropriate land use.

The Department considers that Gateway determination can be given to amend the site's zone from RE1 Public Recreation to R2 Low Density Residential. This is consistent with the character, height of buildings, floor space area and the minimum lot size of the existing low-density surrounding area (**Figures 4 to 7**).

As the proposal involves the reclassification of land, Council will be required to hold a public hearing. Council must provide the community with an additional opportunity to present to an independent person after Council's report on the planning proposal has gone on exhibition.

While the proposal is inconsistent with this Direction, the site is not considered suitable for use as public open space as identified by Council's *Open Space Acquisition Strategy* and it is recommended that the Secretary's delegate agree that the inconsistency can be adequately justified.

#### 4.6 State environmental planning policies (SEPPs)

##### SEPP No 55 – Remediation of Land

Stage 1 and stage 2 contamination investigations have been undertaken by Council for the site (**Attachments I and J**). The reports conclude that the site contains areas of environmental concern due to uncontrolled demolition and filling, the use of herbicides and chemical storage and detected contaminants of potential concern.

The reports indicate that the site can be remediated to be suitable for residential purposes. The reports recommend further studies and for a remedial action plan (RAP) to be prepared.

**Table 1** provides an assessment of the proposal against other relevant SEPPs applying to the site and its development.

**Table 1:** Other relevant SEPPS

State Environmental Planning Policy (SEPP)	
SEPP (Vegetation in Non-Rural Areas) 2017	Consistent. Any future development application on the site would be subject to the provisions of the SEPP.
SEPP 65 Design Quality of Residential Apartment Development	Consistent. Any future development application on the site would be subject to the provisions of the SEPP.
SEPP (Affordable Rental Housing) 2009	Consistent. Any future development application on the site would be subject to the provisions of the SEPP.
SEPP (Housing for Seniors or People with a Disability) 2004	Consistent. Any future development application on the site would be subject to the provisions of the SEPP.
SEPP (Building Sustainability Index: BASIX) 2004	Consistent. Any future development application on the site would be subject to the provisions of the SEPP.
SEPP (infrastructure 2007)	Consistent. Any future development application on the site would be subject to the provisions of the SEPP.
SEPP (Exempt and Complying Development Codes) 2008	Consistent. Any future development application on the site would be subject to the provisions of the SEPP.
SEPP (Urban Renewal) 2010	Consistent. Any future development application on the site would be subject to the provisions of the SEPP.
SREP (Sydney Harbour Catchment) 2005	Consistent. Any future development application on the site would be subject to the provisions of the SEPP.

## 5. SITE-SPECIFIC ASSESSMENT

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### 5.1 Social

As identified in the Ku-ring-gai Local Strategic Planning Statement (LSPS) Council intends to employ “asset recycling”, whereby the future sale of the site will raise funds to contribute to the restoration and expansion of Council assets, such as the Marion Theatre. It is the Department’s preference that any monetary benefit obtained from the sale of this land should be utilised for open space in another location. In this regard consideration should be given to the divestment of funds from the sale of the land into another open space opportunity that will directly benefit the locality of Gordon such as the Gordon Civic and Community Facilities Precinct.

### 5.2 Environmental

#### Built form

The surrounding zoning and local character of the area is low-density detached housing. The Department considers that prior to community consultation that the proposal be updated to reflect the intension to rezone the site to a R2 Low Density Residential zone with complementing development controls.

It is noted that the proposal has not been accompanied by any scheme to demonstrate what type of development and how this relate to the adjoining land. However, and despite this, it is considered that there has been insufficient justification that the R3 Medium Density Residential is appropriate for the site as this zone is not in keeping with existing low density zoning and character of the surrounding and adjoining land.

It is considered that Gateway determination can be given with the site’s zone being amended from RE1 Public Recreation to R2 Low Density Residential, to ensure future development of the site is consistent with the surrounding area.

Accordingly, it is recommended that the development standards applied to this site be consistent with the development controls and character of the adjoining low-density residential area:

- rezone from RE1 Public Recreation to R2 Low Density Residential;
- alter the maximum floor space ratio (FSR) permitted on site from no FSR to 0.3:1;
- alter the maximum building height permitted on site from no maximum building height to 9.5m; and
- alter the minimum permissible lot size from no minimum lot size identified to 790m<sup>2</sup>.

The Gateway determination has been conditioned for Council to provide an urban design study demonstrating how low-density residential development on this site will achieve appropriate setbacks, privacy, built form and have regard to the surrounding local character.

#### Flooding

The site is within the Blackbutt Creek catchment, draining to the Lane Cove River, and is identified as being partially flood prone. Council’s Blackbutt Creek Flood Study and Plan (2014) and Blackbutt Creek Floodplain Risk Management Study (2018) identify the site as being within the 1-in-100-year flood event (**Figure 15**), within the overland flow path and within a flood evacuation risk zone.



The site is identified in the Ku-ring-gai LEP 2015 as Riparian Land discontinuous or piped watercourse (**Figure 9**). The site contains Council drainage infrastructure, including several drainage easements.

To determine the impacts of the proposal on flooding characteristics, flood planning levels for the site, overland flows, the duration of flood events, flood risk management and emergency evacuation, a flood risk management study or assessment will need to be undertaken before community consultation and to justify the inconsistency with section 9.1 Direction 4.3 Flood Prone Land.

### Biodiversity

The site is identified on the Ku-ring-gai LEP 2015 Terrestrial Biodiversity Map (**Figure 10**) and contains land mapped as canopy remnant, biodiversity corridors and buffer areas. The site contains remnant components of the critically endangered ecological community (CEEC) Blue Gum High Forest. The remnant trees are on the boundary of the site and may provide marginal habitat for mobile and urban-adapted species.

The adjoining parcel of land, also owned by Council (Lot X DP387680), is to be retained as a public reserve for passive recreation (**Figure 1**). This site contains the endangered ecological community Sydney Turpentine-Ironbark Forest vegetation.

The proposal states that any future development would be designed to avoid impact on the Blue Gum High Forest. However, given the site contains mapped biodiversity, it is recommended that Council consult with Environment, Energy and Science (EES) regarding the vegetation on the site. Subject to feedback from EES, further details or reporting may be required.

### Contamination

The Stage 1 and Stage 2 site investigations (**Attachments I and J**) have confirmed that the site contains areas of environmental concern. The reports conclude that the site could be made suitable for future residential uses, subject to further assessment, management and remediation.

The Stage 2 report recommended a supplementary contamination assessment is undertaken to identify the extent of asbestos in the soil and the nature of soil contamination following the removal of the clubhouse. It was also recommended that a remedial action plan be prepared. These studies are recommended to be undertaken at the development application stage.

## **5.3 Economic**

As the Gordon Bowling Club has not been in operation since early 2018, the proposal will not have an impact on any businesses or jobs.

In reclassifying the site from community land to operational land, Council may sell, long-term lease, exchange or otherwise divest the site. Subject to rezoning, this would enable the future development of the site.

On 8 May 2018 Council resolved that the future sale of the site could raise funds to contribute to the restoration and expansion of Council assets, such as the Marian Street Theatre (**Figure F and F1**). However and in light of the Dumaresq planning proposal outlined in Section 1.5, which seeks to deliver new public domain space in the vicinity of the subject site, it is requested that Council look to divest the benefits of the sale of the 4 Pennant Avenue site to support the delivery of the Gordon Civic and Community Facilities Precinct to enable this longer term project to proceed and provide a new open space for the community.

The rezoning and reclassification may have economic benefits for the community as it assists Council manage its financial position towards the upgrade of assets in its long-term financial plan.

#### **5.4 Infrastructure**

It is anticipated that the proposal will result in additional traffic generation in the surrounding area. A traffic study is required to be prepared before exhibition of the proposal in order to assess the access to the site and the capacity of the local road network. Access to the site is currently provided via the adjoining Council-owned lot (Lot X DP387680).

The Ku-ring-gai Local Planning Panel recommended retaining the pedestrian link to Bushlands Road in the north-east of the site (**Attachment G and G1**). This is a matter to be discussed and decided at development application stage, however this approach is broadly supported by the Department.

The proposal does not include any details on the infrastructure and servicing of the site as consultation has not been undertaken. It is recommended that Council consult with Sydney Water and Ausgrid to determine if there is capacity to service the proposed development.

#### **5.5 Heritage**

The site does not contain any heritage items but directly adjoins the Smith Grant Heritage Conservation Area (HCA) to the south (**Figure 8**). A heritage impact statement was not submitted with the proposal. It is recommended as a condition of Gateway that the proposal be updated before community consultation to include a map showing the adjoining HCA and any surrounding heritage items. The proximity of the site to this HCA also underscores the importance of providing an urban design study before exhibition.

It is recommended that Council consult with Environment, Energy and Science (EES) regarding the adjoining conservation area. Subject to feedback from EES, further details may be required.

#### **5.6 Summary of Assessment**

It is considered that the planning proposal has general strategic merit in relation to providing residential development and residential diversity in a location close to public transport and services.

However, the Department considers that there has not been sufficient reasoning or justification to demonstrate that R3 Medium Density Residential zoning is appropriate, as it is not in keeping with the existing surrounding land use. It is considered that the Gateway determination can be given to amend the site's zone from RE1 Public Recreation to R2 Low Density Residential, which will be consistent with the character of the surrounding area.

Accordingly, it is recommended that the development standards applied to this site be consistent with the character of the low-density residential area and the following be applied to the site:

- rezone from RE1 Public Recreation to R2 Low Density Residential;
- alter the maximum floor space ratio (FSR) permitted on site from no FSR to 0.3:1;
- alter the maximum building height permitted on site from no maximum building height to 9.5m;

- alter the minimum permissible lot size from no minimum lot size identified to 840m<sup>2</sup>; and
- reclassify the site from community land to operational land and discharge interests.

As identified in the Ku-ring-gai Local Strategic Planning Statement (LSPS), Council need to plan for open space, sport and recreation in an integrated manner. It is noted that there is public open space close approximately 500m from the site at Greengate Park and a regional park proposed for 2023 less than 350m from the site. However, the loss of the RE1 Public Recreation land will need to be addressed and mitigated by Council.

The provision, timing and upgrade of suitably located open space to service existing and new residents in the site's area needs to be addressed as part of this proposal. As identified in the draft Ku-ring-gai Local Strategic Planning Statement (LSPS), Council needs to plan for open space, sport and recreation in an integrated manner.

The potential impacts of the proposal associated with traffic, flooding and heritage have not been assessed. As such it is recommended that the proposal proceed with conditions requiring studies to be prepared in relation to traffic and flooding prior to community consultation.

## **6. CONSULTATION**

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### **6.1 Community**

A community consultation period of 28 days is considered appropriate for this proposal.

In addition, under the *Local Government Act 1993*, a public hearing is required as the proposal seeks to reclassify public land from community use to operational use.

### **6.2 Agencies**

The following agencies and public authorities should be consulted as part of the public exhibition of the planning proposal:

- Transport for NSW, incorporating Roads and Maritime Services;
- Sydney Water;
- Ausgrid; and
- Environment, Energy and Science (EES).

## **7. TIME FRAME**

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The time frame for the planning proposal is recommended to be 12 months from the date of the Gateway determination. It is also recommended that the planning proposal be updated to include a project timeline.

## **8. LOCAL PLAN-MAKING AUTHORITY**

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Given the nature of the proposal, Council should not be authorised to be the plan-making authority considering Council's interest in the subject land and as the proposal involves the discharge of interests requiring the Governor's approval.

## **9. CONCLUSION**

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It is considered that the planning proposal has general strategic merit in relation to providing residential development and residential diversity in a location close to public transport and services.

The planning proposal will repurpose surplus land allowing the divestment of this land, and allow Council to “recycle their assets”, thereby providing open space public benefits in another location.

While R3 Medium Density Residential is not considered an appropriate land use in this location, it is considered the site can be zoned R2 Low Density Residential. The low density residential character and development standards will be consistent with the surrounding area.

## **10. RECOMMENDATION**

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It is recommended that the delegate of the Secretary:

1. agree that the inconsistency with section 9.1 Direction 6.2 Reserving Land for Public Purposes can be justified; and
2. note that the inconsistency with section 9.1 Direction 4.3 Flood Prone Land is unresolved and will require justification prior to community consultation.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to undertaking public exhibition, the planning proposal should be amended to:
  - (a) Update the proposal for the site to reflect the following development standards on the site to:
    - R2 Low Density Residential zone;
    - an FSR of 0.3:1;
    - a maximum building height of 9.5m; and
    - a minimum lot size of 840m<sup>2</sup>.
  - (b) Provide further justification to demonstrate the wider consequences of this loss of open space and how Council can offset or compensate for this loss;
  - (c) Provide clear information showing what public benefits the sale of the land could have in progressing and delivering the Gordon Civic and Community Facilities Precinct;
  - (d) Update the proposal maps to reflect the above development standards;
  - (e) Update the planning proposal to include the following maps for the site:
    - Heritage Map;
    - Riparian Land Map; and
    - Terrestrial Biodiversity Map.
  - (f) Address *Planning Priority N20 – Delivering high quality open space* in the North District Plan;

- (g) Prepare a flood risk management assessment or study for the site to address the inconsistency with section 9.1 Direction 4.3 Flood Prone Land;
  - (h) Prepare a traffic study for the site to assess the impacts of the proposal and the capacity of the local road network;
  - (i) Prepare a concept development scheme incorporating an urban design study demonstrating how low-density residential development on this site will achieve appropriate setbacks, privacy and a sympathetic built form;
  - (j) Prepare a heritage impact statement addressing the effect of the concept development on the adjoining heritage conservation area and the local heritage items in the vicinity;
  - (k) Include an updated project timeline consistent with section 2.6 of part 6 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016). The project timeline is to provide a mechanism to monitor the progress of the planning proposal; and
  - (l) Update the planning proposal to provide specifics regarding the timing of delivery of the Gordon Golf Course Regional Park. What mechanisms are in place to ensure this space will be funded and delivered in a timely manner should also be addressed.
2. Once the planning proposal is revised in accordance with condition 1, this must be submitted to the Department for approval prior to public exhibition.
  3. Public consultation is required under section 3.34(2)(c) and schedule 1, clause 4 of the *Environmental Planning and Assessment Act 1979* (the Act) as follows:
    - (a) the planning proposal must be made publicly available for a minimum of 28 days;
    - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be publicly available along with planning proposals as identified in section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016); and
    - (c) a copy of practice note PN 16-001 *Classification and reclassification of public land through a local environmental plan* is to be included in the public exhibition material.
  4. Consultation is required with the following public authorities under section 3.34(2)(d) of the Act:
    - Transport for NSW, incorporating Roads and Maritime Services;
    - Sydney Water;
    - Ausgrid; and
    - Environment, Energy and Science (ESS).

Each public authority/organisation is 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.

5. Council must conduct a public hearing for the proposed reclassification of land under the *Local Government Act 1993*. Council must provide the community

with an additional opportunity to present to an independent person after Council's planning proposal report has gone on exhibition;

6. The time frame for completing the LEP is to be **12 months** from the date of the Gateway determination.
7. Given the nature of the proposal, Council should not be authorised to be the plan-making authority to make this plan as the proposal involves the discharge of interests.



**Ashley Richards**  
**Specialist Planning Officer,**  
**North District**  
**Eastern Harbour City**



**Amanda Harvey** 17 February 2020  
**Acting Executive Director,**  
**Eastern Harbour City**  
**Department of Planning**  
**Industry and Environment**

Noted BW  
17/2/20