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## **REVIEW - CONDITIONS ON GATEWAY DETERMINATIONS FOR 4 PENNANT AVENUE, GORDON AND 47 WARRANE ROAD, ROSEVILLE CHASE**

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### **EXECUTIVE SUMMARY**

**PURPOSE OF REPORT:**

To inform Council of the outcome of the request that the Department of Planning, Industry and Environment (DPI&E) undertake a 'soft review' and reconsider the conditions attached to the Gateway Determinations for 4 Pennant Avenue, Gordon and 47 Warrane Road, Roseville Chase.

**BACKGROUND:**

On 17 February 2020 DPI&E issued Gateway Determinations for the Planning Proposals to rezone 4 Pennant Avenue, Gordon and 47 Warrane Road, Roseville Chase (former bowling club sites).

The Gateway Determinations included a condition which required the Planning Proposals to be amended from a proposed R3 Medium Density Residential zone to a R2 Low Density Residential zone.

At OMC on 28 April 2020 Council considered a report on the Gateway Determinations and resolved to request DPI&E undertake a 'soft review' and reconsider the conditions attached to the Gateway Determinations.

**COMMENTS:**

A letter was sent to DPI&E on 1 May 2020 requesting the 'soft review'. No response has been received. Council needs to determine how to proceed with the change in zoning for these sites.

**RECOMMENDATION:**

That at this stage Council proceeds with the Planning Proposals for an R2 Low Density Residential zone as conditioned by the Gateway Determinations.

## PURPOSE OF REPORT

To inform Council of the outcome of the request that the Department of Planning, Industry and Environment (DPI&E) undertake a 'soft review' and reconsider the conditions attached to the Gateway Determinations for 4 Pennant Avenue, Gordon and 47 Warrane Road, Roseville Chase.

## BACKGROUND

On 8 May 2018 Council resolved to prepare Planning Proposals for two Council owned sites:

- 4 Pennant Avenue, Gordon; and
- 47 Warrane Road, Roseville Chase.

The Planning Proposals sought to rezone the sites from RE1 Public Recreation to R3 Medium Density Residential, with associated development standards. The Planning Proposal also sought to reclassify 4 Pennant Avenue, Gordon from Community classified land to Operational land.

The Planning Proposals were submitted to the Department of Planning, Industry and Environment (DPI&E) on 2 October 2018. DPI&E issued Gateway Determinations on 17 February 2020. The Gateway Determinations were issued with a number of conditions which require the Planning Proposals to be amended from a proposed R3 Medium Density Residential to a R2 Low Density Residential prior to public exhibition. The Gateway Determinations and letters from DPI&E are included at **Attachment A1** and **Attachment A2**.

At OMC of 28 April 2020 Council considered a report which set out a number of options for how best to proceed with each site. The options included:

1. Discontinue the Planning Proposals and retain the RE1 Public Recreation zoning on the sites;
2. proceed with the Planning Proposals for R2 Low Density Residential zone as conditioned by the Gateway Determinations;
3. formal Gateway Review; or
4. 'soft review' of Gateway Determination conditions.

Council resolved to proceed with Option 2, request the DPI&E undertake a 'soft review' and reconsider the conditions attached to the Gateway Determinations.

- A. *That Council write to the Secretary of the Department of Planning, Industry and Environment and request that the conditions attached to the Gateway Determinations for Planning Proposals for 4 Pennant Avenue, Gordon and 47 Warrane Road, Roseville Chase be reconsidered for the reasons outlined in this report.*
- B. *That should an unfavourable response or no response be received within 30 days of the soft review, then an application for a formal Gateway Review be prepared and submitted to Department of Planning, Industry and Environment.*

A letter was submitted to the DPI&E on 1 May 2020 requesting the conditions attached to the Gateway Determinations be reconsidered, and the Gateway Determinations be altered as per Section 3.34(7) of the *Environmental Planning and Assessment Act 1979*.

At the time of writing this report, no formal response has been received from the DPI&E.

## COMMENTS

As per Council's resolution of 28 April 2020, no response has been received from DPI&E within 30 days. Part B of the resolution outlines that if no response is received within 30 days, then an application for a formal Gateway Review be prepared and submitted to DPI&E, however as discussed during the Council meeting of 28 April 2020, the outcome of the review request would be reported to Council prior to any further action being taken on this matter.

Since the outcome of the 'soft review' has not been timely, Council needs to decide how to proceed with the Planning Proposals. Options include:

- **Formal Gateway Review** as per the resolution of OMC 28 April 2020. The Gateway Review process includes assessment by DPI&E and the Independent Planning Commission (IPC). The Minister for Planning will make the final decision on whether to alter the Gateway Determinations based on advice from the IPC. Councils experience with the formal Gateway Review process is that it is a considerably lengthy process, and there is no guarantee that review will be successful.
- **Proceed with Planning Proposal for R2 Low Density Residential zone** as conditioned by the Gateway Determinations issued by the DPI&E on 17 February 2020. Land uses permitted under the R2 Low Density Residential zone include dwelling houses, and Seniors Housing is permitted under the *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004*.

Despite the Council Resolution from OMC of 28 April 2020 to proceed to a formal Gateway Review should the 'soft review' be unfavourable or untimely, it is recommended that Council proceed with the Planning Proposals for the R2 Low Density Residential zone as conditioned by the Gateway Determinations. This recommendation is out of economic necessity for Council to continue to plan and deliver its planned community infrastructure in a timely manner and will ensure the first step in rezoning the sites to a residential use. Council may then seek to reconsider the R3 Medium Density Residential zone on the sites, potentially as part of a wider Planning Proposal for the implementation of the Housing Strategy.

In progressing the Planning Proposals with the R2 Low Density Residential zone for these sites at this stage, it will be made clear that during any future engagement processes that Council considers an R3 Medium Density Residential zoning on the sites has sufficient justification and strategic merit, and it is Council's intention that an R3 zoning would be sought on the sites in the future.

In order to proceed to public exhibition, a number of studies are required to be undertaken to support the Planning Proposals, including:

- Flood risk management assessment/study (4 Pennant Avenue, Gordon);
- Traffic study (both sites);
- Urban Design Study incorporating a concept development scheme (both sites);
- Heritage impact statement (4 Pennant Avenue, Gordon).

It is recommended that the supporting studies should be undertaken having consideration for both options of R2 Low Density Residential and R3 Medium Density Residential development on the site.

Once these studies are completed, amended Planning Proposals are required to be submitted to the DPI&E for approval prior to public exhibition.

## INTEGRATED PLANNING AND REPORTING

Theme 6 – Leaderships and Governance

Community Strategic Plan Long Term Objective	Delivery Program Term Achievement	Operational Plan Task
L2.1 Council rigorously manages its financial resources and assets to maximise delivery of services	L2.1.3 Council maintains its commitment to infrastructure asset management priorities	L2.1.3.1 Identify funding sources in the Long Term Financial Plan and allocate to priority projects and assets.

## GOVERNANCE MATTERS

The process for the preparation and implementation of Planning Proposals is governed by the provisions contained in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

## RISK MANAGEMENT

There is a significant risk to Council's overall budget position if asset sales are not achieved at a maximum level or on schedule. There is also a reputation risk to Council if it fails to proceed with projects, such as the St Ives Indoor Sports Courts and Marian Street Theatre, which rely on asset sales for funding.

## FINANCIAL CONSIDERATIONS

The sites present an opportunity for Council to utilise asset recycling, to invest in new assets or revitalisations of existing assets, such as the Marian Street Theatre and St Ives High School Indoor Sports Courts.

There is a significant difference in value of the sites with an R2 Low Density Residential zone conditioned by the Gateway Determination, compared to the R3 Medium Density Residential zone originally sought by Council. The difference in value is in the range of \$8.5m-\$18.0m based on indicative market advice prepared by AEC.

It is recommended that Council proceed with the Planning Proposals for an R2 Low Density Residential zone at this stage due to economic necessity, as it will provide a faster funding stream for the planning and delivery of new and upgraded community infrastructure.

## SOCIAL CONSIDERATIONS

The proposed rezoning of the redundant sites to a residential zone will assist in the provision of additional housing within Ku-ring-gai. An R3 Medium Density Residential zone would have provided improved housing choice, consistent with community feedback over a number of years.

Future divestment of the sites would assist Council in meeting community expectations for the renewal and replacement of community infrastructure, such as the Marian Street Theatre, and St Ives High School Joint Use Indoor Courts, as well as Council's ordinary capital works program where it requires a "co-contribution".

## **ENVIRONMENTAL CONSIDERATIONS**

As a result of past land uses and activities on both sites, that Stage 1 and Stage 2 investigations have confirmed there are areas of environmental concern (contamination) on both sites. The sites are able to be made suitable for future residential uses, subject to further assessment, management and remediation.

4 Pennant Avenue, Gordon contains flood prone land, and located within the catchment of Blackbutt Creek. Council has prepared the Blackbutt Creek Flood Study and Blackbutt Creek Flood Plain Risk Management Study. The Gateway Determination requires a Flood Risk Management Study to be prepared for the site. The Flood Study should consider both an R2 Low Density Residential zone and R3 Medium Density Residential zone on the site.

4 Pennant Avenue is also mapped as containing Biodiversity Significance under the KLEP 2015. 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. Future development on the site would need to be designed to avoid impact on the Blue Gum High Forest. As part of the requirements of the Gateway Determination, consultation with Environment, Energy and Science is required.

## **COMMUNITY CONSULTATION**

The Planning Proposals have not yet been the subject of community consultation. The Gateway Determinations require a number of amendments to the Planning Proposals, and supporting studies to be undertaken for each site prior to public exhibition.

The Gateway Determinations require the Planning Proposals to be publically exhibited for a minimum of 28 days. Additionally, the reclassification of 4 Pennant Avenue, Gordon will require a public hearing presided by an independent chairperson.

## **INTERNAL CONSULTATION**

Internal consultation with other Departments of Council, the Major Project Steering Committee and Major Project Advisory Committee has been undertaken in the preparation of this report.

## **SUMMARY**

On 17 February 2020 DPI&E issued Gateway Determinations for the Planning Proposals to rezone 4 Pennant Avenue, Gordon and 47 Warrane Road, Roseville Chase (former bowling club sites). The Gateway Determinations included a condition which required the Planning Proposals to be amended from a proposed R3 Medium Density Residential zone to a R2 Low Density Residential zone.

There is a significant difference in financial value of the sites with an R2 Low Density Residential zone conditioned by the Gateway Determination, compared to the R3 Medium Density Residential zone originally sought by Council, which has an impact on Council's ability to invest in new assets

or revitalisations of existing assets, such as the Marian Street Theatre and St Ives High School Indoor Sports Courts.

At OMC of 28 April 2020 Council considered a report on the Gateway Determinations and resolved to request DPI&E undertake a 'soft review' and reconsider the conditions attached to the Gateway Determinations. No response has been received from DPI&E to the review request.

It is recommended that out of economic necessity, Council proceed with the Planning Proposals for the R2 Low Density Residential zoning on the site at this stage, with the view to reconsider the R3 Medium Density Residential zone on the sites as part of a wider Planning Proposal for the implementation of the Housing Strategy.

### RECOMMENDATION:

- A. That Council proceeds with the Planning Proposals as per the Gateway Determinations issued by the Department of Planning, Industry and Environment on 17 February 2020.
- B. That in progressing the Planning Proposals with the R2 Low Density Residential zone for these sites, it will be made clear that Council considers an R3 Medium Density Residential zoning on the sites has sufficient justification and strategic merit, and an R3 zoning would be sought on the sites in the future.
- C. That Council reconsiders the R3 Medium Density Residential zone on the sites, potentially as part of a wider Planning Proposal for the implementation of the Housing Strategy.

Alexandra Plumb  
Urban Planner

Craig Wyse  
Team Leader Urban Planning

Antony Fabbro  
Manager Urban & Heritage Planning

Andrew Watson  
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<b>Attachments:</b>	A1 Combined Letter and Gateway Determination - 4 Pennant Avenue, Gordon	2020/166065
	A2 Combined Letter and Gateway Determination - 47 Warrane Road, Roseville Chase	2020/166062

# FOR ACTION

## ORDINARY MEETING OF COUNCIL – 30/06/2020

TO: Acting Senior Urban Planner (Alexandra Plumb)

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**Subject:** OMC115 - Review - Conditions on Gateway Determinations for 4 Pennant Avenue, Gordon and 47 Warrane Road, Roseville Chase  
**Minute Number:** 115  
**Notes:**  
**File Reference:** S11890 2020/130648

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### Resolved:

[Moved: Councillors Clarke/Szatow]

That:

- A. Council proceed with the Planning Proposals as per the Gateway Determinations issued by the Department of Planning, Industry and Environment on 17 February 2020.
- B. In progressing the Planning Proposals with the R2 Low Density Residential zone for these sites, it will be made clear that Council considers an R3 Medium Density Residential zoning on the sites has sufficient justification and strategic merit, and an R3 zoning would be sought on the sites in the future.
- C. Council reconsider the R3 Medium Density Residential zone on the sites, potentially as part of a wider Planning Proposal for the implementation of the Housing Strategy.

*For the Resolution:*                      *The Mayor, Councillor Anderson, Councillors Clarke, Greenfield, Kay, Kelly Pettett, Spencer, Smith and Szatow.*

*Against the Resolution:*              *Councillor Ngai.*

[Open Item in Minutes](#)

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