

ITEM 8.5	RALSTON AVENUE PLANNING PROPOSAL - RELEVANT PLANNING AUTHORITY
REPORTING MANAGER	GROUP MANAGER STRATEGIC PLANNING
TRIM FILE REF	2014/338816
ATTACHMENTS	1 Letter from NSW Planning & Environment - Relevant Planning Authority Request

EXECUTIVE SUMMARY

PURPOSE

To seek Council's resolution to undertake the role of the Relevant Planning Authority in the assessment of the Ralston Avenue Planning Proposal (PEX2013/0003).

SUMMARY

NSW Planning & Environment, following a review by the Joint Regional Planning Panel, have determined that the Ralston Avenue Belrose Planning Proposal (the Planning Proposal) should proceed through to Gateway determination. They have asked if Council wishes to be the Relevant Planning Authority in the further assessment of this application. This report recommends that Council undertake this role.

FINANCIAL IMPACT

Application Fees can be charged to cover the cost of Council processing this application.

POLICY IMPACT

Nil

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That Council:

- A. Undertakes to be the Relevant Planning Authority for the Ralston Avenue Belrose Planning Proposal (PEX2013/0003), and
 - B. Submits the Ralston Avenue Belrose Planning Proposal (PEX2013/0003) to NSW Planning & Environment for Gateway Determination including the three conditions as articulated in this report, and
 - C. Requests NSW Planning & Environment to include within its Gateway Determination the requirement that State Agency consultation be required after the Gateway Determination and prior to public exhibition. Particular reference is made to the assessment of threatened ecology by the Office of Environment and Heritage and the assessment of bushfire risk by the Rural Fire Service. Further, that outcomes of this consultation be appropriately reflected in the Planning Proposal for community consultation.
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REPORT

BACKGROUND

On 26 April 2013 the applicant lodged a rezoning application (PEX2013/0003) for the residential development of land at Ralston Avenue Belrose.

On 13 November 2013 the Warringah Development Assessment Panel (WDAP) held a public meeting and made a recommendation to support the application.

On 17 December 2013 a report from Council staff following the WDAP meeting, supported the application to proceed to Gateway Determination. However, Council resolved not to support the Planning Proposal citing the high threat of bushfire and associated risk to life and property.

On 28 January 2014 the applicant lodged a Pre-Gateway Review of the Planning Proposal. Staff in NSW Planning & Environment assessed the proposal and recommended support for it to the Joint Regional Planning Panel (JRPP).

On 23 July 2014 the JRPP supported the proposal and recommended that it proceed to a Gateway Determination.

On 22 October 2014, NSW Planning & Environment wrote to Council (the Letter) informing that the application has been supported and that it should proceed to Gateway Determination, with the following conditions:

1. E2 Environmental Conservation zone be replaced with E3 Environmental Management zone
2. Introduce a minimum lot size of 600m², or lower
3. Apply a building height of 8.5 metres to the proposed residential land

In addition, the Letter asks whether Council wishes to be the Relevant Planning Authority (RPA) in the further assessment of the application. This report recommends that Council undertake this role.

Relevant Planning Authority

The Relevant Planning Authority's role is to assess the Planning Proposal following Gateway Determination, including undertaking public exhibition and reporting to NSW Planning & Environment (through a Council resolution) on the recommended outcomes. This is the role Council ordinarily undertakes with any Planning Proposal. Where the original RPA (Council) does not support the Gateway Determination and the refusal is appealed, an alternative RPA can be appointed, if the appeal is successful. Council can retain the role of RPA if amenable.

Issues for Consideration

The following key issues are noted with regards to Council undertaking to be the RPA in the planning assessment of this matter.

Planning Powers

If Council resolves not to be the RPA then the Minister for Planning will appoint this role to another authority. This could be NSW Planning & Environment or a Joint Regional Planning Panel. It is important to note that Council would have no further planning powers with respect to the Planning Proposal.

If Council agrees to be the RPA then the Planning Proposal would return to Council staff for assessment and would follow the usual course including referral to State Agencies, public exhibition etc. in accordance with the Gateway Determination. The Planning Proposal would be reported to Council following the consideration of submissions and the assessment of the proposal.

NSW Planning & Environment has determined that the application will proceed to Gateway Determination. A technical requirement is that if Council does take the role of RPA, then Council must submit the application to NSW Planning & Environment. This effectively means Council will overturn its previous resolution in order to be the RPA.

Creation of a Number of Future Council Assets

The proposal involves the development of 17.15 hectares of land on the north western periphery of Belrose for 169 residential dwellings. This will involve the creation of a range of future public assets and infrastructure to support the new community including, for example:

- Construction and (proposed) dedication of public roads servicing the site along with associated verges, footpaths, street trees etc.
- Embellishment and dedication of a neighbourhood park
- Construction of a section of Wyatt Avenue curb and roadway
- Works to the intersection of Ralston Avenue and Forest Way
- Storm water drainage linking into Council's established network

Council will have a range of design and quality requirements for the applicant to meet in delivering this infrastructure to a standard acceptable to Council.

There is the potential for a Voluntary Planning Agreement to be developed between the proponent and Council to establish the appropriate arrangements regarding dedication and maintenance (for a period of time) of this future infrastructure.

By undertaking the role of RPA, Council would have the opportunity to be involved in shaping a positive outcome in relation to these matters that meets Council's asset and infrastructure standards.

Threatened Ecology and Bushfire Risk

The issues of threatened ecology and bushfire risk have been raised by Council as needing further assessment following the Gateway Determination.

With regards to threatened ecology, Council has strong expertise in its Natural Environment Group, supported by detailed knowledge of local ecological issues in the area. The group's involvement in the further assessment of the proposal would contribute to achieving an acceptable ecological outcome on the land.

With regards to Bushfire Risk, Council has a strong working relationship with the local branch of the Rural Fire Service (RFS). Council is well positioned to work closely with the local RFS and the proponent's experts to achieve an acceptable bushfire planning outcome on the land.

There is the potential for the assessment of these issues to result in the need for future management plans, ecological surveys and agreements. Asset Protection Zone fuel management plan, vegetation management plan, biodiversity certification agreement / bio banking agreement.

By undertaking the role of Relevant Planning Authority, Council would be appropriately positioned to be involved in shaping an appropriate outcome in relation to these matters.

The preparation of further reports/studies and assessment of these more detailed matters are normally dealt with in detail at the post Gateway stage of the application.

Assessment Fees

If Council undertakes to be the Relevant Planning Authority it may charge further assessment fees under Section 11 of the Environmental Planning Regulation 2000. In doing so, Council would be compensated for the staff resource that will inevitably be required to assist the various Authorities (RFS, Roads and Maritime, Office of Environment and Heritage etc.) involved in assessing the application

However if Council declines to be the Relevant Planning Authority, and this role is appointed to the JRPP, the assessment fees will go to that authority.

FINANCIAL IMPACT

Application Fees can be charged to cover the cost of Council processing this application.

POLICY IMPACT

Nil



Mr Rik Hart
General Manager
Warringah Council
Civic Centre
725 Pittwater Road
DEE WHY NSW 2099

14/12494

Attention: Michael Haynes

Dear Mr Hart

Re: Request for pre-Gateway review – PGR_2014_WARRI_001_00

I refer to the request for a pre-Gateway review (PGR_2014_WARRI_001_00) to amend Warringah Local Environmental Plan 2000 and Warringah Local Environmental Plan 2011 to rezone the land at Ralston Avenue, Belrose (Lot 1 DP 1139826).

I have now determined that the proposal should proceed to Gateway determination stage. In making my decision, I considered the request for a pre-Gateway review together with the recommendation of the Sydney East Joint Regional Planning Panel and advice provided by Council.

Consequently, Council is asked to advise if it would like to be the Relevant Planning Authority (RPA) for this proposal. Should Council agree to be the RPA, it will need to prepare a planning proposal under section 55 of the Environmental Planning and Assessment Act (EP&A Act) 1979, and submit it for a Gateway determination within 28 days of the date of this letter.

If Council does not wish to progress this matter, an alternate Relevant Planning Authority may be appointed to prepare the planning proposal. Should Council not wish to be the Relevant Planning Authority for this proposal, please contact the Department of Planning and Environment to discuss this matter further. You can check the progress of the pre-Gateway review on the Tracking System at <http://pgrtracking.planning.nsw.gov.au/>

Please find attached a copy of the Sydney East Joint Regional Planning Panel's review and decision for your convenience.

If you have any further enquiries about this matter, I have arranged for Ms Lee McCourt of the Metropolitan Delivery (CBD) branch to assist you. Ms McCourt can be contacted on (02) 8575 4129.

Yours sincerely,

A handwritten signature in blue ink that reads 'Marcus Ray'.

Marcus Ray
Acting Deputy Secretary
Planning Services
22/10/14
Encl: Panel Recommendation

**Joint Regional Planning Panel – Planning Assessment Commission
Pre-Gateway Review**

The Joint Regional Planning Panel (JRPP) has considered the request for a review of the proposed instrument as detailed below.

The Pre-Gateway Review:

Date of Review:	23 July 2014
Dept. Ref. No:	PGR_2014_WARRI_001_00
LGA:	Warringah Council
LEP to be Amended:	Warringah LEP 2000
Address / Location:	Ralston Avenue, Belrose
Proposed Instrument:	Warringah LEP 2000
Panel Chair:	John Roseth
Panel Members:	Sue Francis, Tim Moore and Lloyd Graham

Reason for review:	<input checked="" type="checkbox"/>	The council has notified the proponent that the request to prepare a planning proposal has not been supported
	<input type="checkbox"/>	The council has failed to indicate its support 90 days after the proponent submitted a request to prepare a planning proposal

In considering the request, the JRPP has reviewed all relevant information provided by the proponent as well as the views and position of the Department of Planning and Environment and the relevant local government authority. Based on this review the JRPP recommends the following:

JRPP RECOMMENDATION:	<input checked="" type="checkbox"/>	The proposed instrument should be submitted for a Gateway determination, subject to the matters raised in the recommendation of the Panel
	<input type="checkbox"/>	The proposed instrument should not be submitted for a Gateway determination
Composition of Recommendation:	<input checked="" type="checkbox"/> Unanimous <input type="checkbox"/> Not unanimous	Comments:

JRPP Advice and Justification for Recommendation:

The panel resolves unanimously that the proposal to rezone Lot 1 DP 1139826 (Ralston Avenue, Belrose) proceed to Gateway subject to the land identified as E2 being zoned E3 Environmental Management.

The proposal for Lot 1 DP 1139829 (Ralston Avenue, Belrose) should proceed to Gateway with the following conditions:

- Rezoning the subject site R2 Low Density Residential, REI Public Recreation and E3 Environmental Management;
- Introduce a minimum lot size of 600m², or lower;
- Apply a building height of 8.5m to land zoned R2 Low Density Residential, consistent with nearby residential areas;

- Any future development approval to require the potential impacts upon threatened species listed in the schedules of the Threatened Species Conservation Act 1995 and Environmental Protection & Biodiversity Act 1999 to be adequately addressed and investigated, including measures to mitigate any significant impacts; and
- Development will need to be designed and constructed so as to manage the potential risk from bushfire. Future development applications will need to comply with the Environmental Planning and Assessment Act 1979 and the requirements of the NSW Rural Fire Service Planning for Bushfire Protection 2006.

Endorsed by



John Roseth
Chair, Sydney East
Joint Regional Planning Panel
23 July 2014