



14 February 2025

Mr Graham Towers
Manager, Southern, Western and Macarthur Region
Local Planning and Council Support
Department of Planning, Housing and Infrastructure
PO Box 5475
Wollongong NSW, 2520

Subject: Council response to Gateway Review application for both Allfarthing, 2 Brisbane Grove Road (PP_2024_295) and land at 137 Brisbane Grove Road (PP_2024_291) Planning Proposals.

Dear Graham Towers,

I am writing in response to the Department of Planning, Housing and Infrastructure's (DPHI) invitation to provide comment on the Gateway Review application for planning proposals at Allfarthing, 2 Brisbane Grove Rd (PP_2024_295) and land at (137) Brisbane Grove Rd (PP_2024_291).

Council considers that both the planning proposals share the same flood risk characteristics and have both received a Gateway refusal on the same grounds. As such, the Council response to the Gateway reviews applies equally to both planning proposals.

Urban and Fringe Housing Strategy

In July 2020 Council adopted its *Urban and Fringe Housing Strategy* (UFHS) following extensive consultation with the community and State Government agencies. The Strategy was subsequently endorsed by the Department of Planning, Industry and Environment in November 2020, and Council has been working with landholders since to achieve its objectives and ultimately, make provision for further housing opportunities within the LGA.

Both proposal sites are included in the UFHS as a release area in the Brisbane Grove Precinct.

The recommendations for this precinct are:

- Rezone land that is least constrained by topography and environmental constraints to large lot residential zone (un-serviced)
- A comprehensive Aboriginal Cultural Heritage Assessment
- Consider suitable Environmental Zone for flood affected land
- Any development within the Sydney drinking water catchment must have a neutral or beneficial effect (NorBE) on water quality, and
- High priority

The Strategy defines the Precinct as a development opportunity for un-serviced residential lots with a minimum lot size of 2 hectares. Development of this area would accommodate a small proportion of the overall Local Government Area's large lot land release¹.

¹ Approximately 7% of the overall housing supply for the LGA up to 2036 consists of large lot residential both in Goulburn and Marulan (the planning proposals would account for a minor uptake of this overall 7%)

The planning proposals both outline their consistency with the UFHS and its recommendations which are summarised below:

- Proposed lots to be rezoned to facilitate large lot residential
- All proposed lots exceed 2 hectares in area
- All land within the flood planning area is proposed to be rezoned a suitable environmental zone (C2 Environmental Conservation)
- Proposed lots will be unserviced by Goulburn's reticulated water and sewer system.
- The proposals have demonstrated their ability to achieve a neutral or beneficial effect on water quality
- Aboriginal cultural heritage has been adequately addressed through Aboriginal Cultural Heritage Assessments accompanying the proposals.

As summarised above, both planning proposals are consistent with the *Urban and Fringe Housing Strategy* and its recommendations.

Refusal Reasons

The reasons provided for the Gateway refusal are presented below:

1. The planning proposal is not consistent with the South East and Tablelands Regional Plan (Directions 16: "Increase resilience to natural hazards" and 28: "Manage rural lifestyles") and with the draft South East and Tablelands Regional Plan 2041 (Theme 2: "Enhancing sustainable and resilient environments" and Theme 4: "Planning for fit purpose housing and services") and Section 9.1 Ministerial Directions 1.1 Implementation of Regional Plans and 4.1 Flooding. I am not satisfied the inconsistencies have been adequately justified.
2. The planning proposal poses an unacceptable risk to future residents/occupants, as well as to emergency services workers, due to the risk associated with isolation of the site due to flooding of Braidwood Road for approximately 23 hours during the 1% annual exceedance Probability (AEP) flood event and rarer. This time period is excessive and far exceeds the isolation period maximum in State Flood Policy.
3. The planning proposal has the potential to significantly increase the need for government investment on emergency management services, flood mitigation and emergency response measures

The inconsistency with the current and emerging Regional Plans and Ministerial Direction 4.1 as presented in refusal reason 1, are flood related and derived from the issues presented in reasons 2 and 3. If the Gateway review process determines reasons 2 and 3 of the Gateway refusal are invalid or unsubstantiated, then reason 1 would also not stand.

As such, Council's Gateway review statement specifically relates to reason 2 and 3 for the Gateway refusal for both planning proposals.

Council officers have prepared a planning proposal report for each of the Brisbane Grove planning proposals (submitted at Gateway). These documents are still considered to reflect Council's overall position in relation to the relative flood risk and potential for increased government investment.

Responding to Refusal Reasons

In response to reason 2 and reason 3 of the Gateway refusal for both planning proposals please see below:

Reason 2- Unacceptable risk to future residents and emergency services workers due to periods of isolation which exceed the maximum period within the Shelter in Place Guide.

Firstly, it is important to note that neither planning proposals have accounted for either the Draft or adopted Shelter in Place Guidance. The Draft Shelter in Place guide was first published and exhibited in January 2023 which was after receipt and initial council endorsement of the Brisbane Grove Planning proposals (March 2022)². In addition, the initial draft did not clearly apply to rezoning proposals and no adoption timescale was provided. The Draft Shelter in Place guide also explicitly stipulated that the draft was “*Not Government Policy*”. As such, council did not attribute any consideration or weight to the draft Shelter in Place guide at the time of preparing the Brisbane Grove PP’s.

The final adopted Shelter in Place Guide was published in January 2025 and whilst this document stipulates it applies to greenfield rezoning planning proposals, its publication was after the Gateway refusal for the Brisbane Grove planning proposals (12 Nov 2024³). Council has not considered the adopted Shelter in Place Guide when preparing the Brisbane Grove planning proposal reports. In addition, DPHI in their Gateway determination, have based a refusal on a document that was not published, could not be incorporated into the planning proposals, was substantially different from the initial draft exhibition version of the document and wasn’t available for appropriate scrutiny or review.

The Floodplain Risk Management Manual highlights the requirement for a robust understanding and analysis of flood risk which can then be deployed to determine whether the risk is acceptable and determine if additional action is required to further reduce identified residual risk.

Council officers have a robust understanding of flood risk as it relates to these two planning proposals through flood data provided through the *Goulburn Floodplain Risk Management Study and Plan* and through the *Flood Impact and Risk Assessment* accompanying the planning proposals.

The proposed avoidance of all development from flood prone land (up to and including the PMF) through zoning⁴, dwelling placement, Development Control Plan provisions and the application of the Special Flood Consideration clause⁵ to future proposals, all ensure future residents will not become inundated during any flood event including the PMF. This avoids the need for future residents to evacuate their homes during any flood event, thereby eliminating any risk of flood inundation of future properties and significantly reducing risk to future residents.

It is recognised however that residents can become isolated during 1% AEP flood events⁶ and rarer and that consideration should be given to residual secondary risks and those relating to human behaviour. These secondary risks include the potential for fire and/or medical emergencies occurring during periods of isolation. The risk associated with human behaviour involves individuals re-entering floodwaters to access services and/or shelter.

The *Flood Impact and Risk Assessment* submitted in support of the planning proposals quantified this risk in numerical terms to provide an indication of the likelihood of properties being isolated and a fire and/or medical emergency occurring at the same time. The FIRA estimated the probability of a fire or medical emergency occurring whilst access roads are inundated to be a 1 in 1,000 AEP or 0.1% probability.

² Council authorised the first submitted Brisbane Grove planning proposals (PP_2021_6932 & PP_2021_7390) (approved at Gateway).

³ Gateway refusal on resubmitted Brisbane Grove planning proposals (PP_2024_101 & PP_2024_291)

⁴ The Flood Planning Area (defined as floodway areas where inundation exceeds 0.1m in a 1% AEP event for overland affected areas) is proposed to be C2 Environmental Conservation

⁵ Areas between the Flood Planning Area and the Probable Maximum Flood extent will be subject to GMLEP Special Flood Consideration clause 5.22 and prohibitions for development placement on all flood prone land through the precinct-specific DCP chapter.

⁶ Isolation during a 1% AEP flood event occurs to unsafe levels (levels unsafe for emergency vehicles) for a period of approximately 8.5 hours and not the 23 hours of isolation stated in the reason for refusal 2.

Despite no dwellings being sited within any flood prone land and the relative joint risk of isolation and emergency occurring simultaneously, being low, council have considered further residual secondary and human behaviour risk reduction measures as follows:

Secondary Risks

- **Fire Emergency-** the provision and maintenance of a Home Fire Safety Kit which includes as a minimum 1kg dry chemical powder fire extinguisher and wall bracket, fire extinguisher location sticker and fire blanket to be required for future dwellings. This can be implemented through a Development Control Plan and through s.88b provisions.
- **Medical Emergency-** the provision and maintenance of an Automated External Defibrillator and First Aid Kit to reduce the risk of medical emergencies, required for future dwellings.

Human Behaviour

- **Provision of adequate services-** access to adequate ablutions, water, power and basic first aid equipment will be required for future dwellings for the duration of flooding. The proposed lots will include on-site effluent management areas and potable water storage to provide access to adequate ablution services and water. A s.88b provision to require domestic electricity generation and storage to ensure adequate power supplies in the event mains supply is interrupted. Basic first aid equipment is proposed for secondary risk mitigation as above.
- **Notification of flood isolation risk-** the site is to be nominated as a Special Flood Consideration area due to the isolation risk and defined in the Development Control Plan, identified on 10.7 certificates and on s.88b certificates to ensure future owners are aware of the flood risks and the required mitigations.

Special Flood consideration Clause 5.22 of the GMLEP will be applied to all future development proposals to ensure no development is placed on any flood prone land and consideration for safe occupation is required for all developments proposed in the Brisbane Grove precinct.

Future residents will therefore not only have completely flood free homes at all times but will also be advised of potential flood isolation before purchasing a property through a 10.7 planning certificate. These provisions stand alongside Development Control Plan requirements to be applied via a S.88b instrument requiring:

- A home fire safety kit
- A First Aid Kit
- An Automated External Defibrillator;
- A source of on-site electricity generation and adequate storage capacity to store enough power for an average home for at least 24 hours;
- Provision for the on-site storage of a minimum 46,000 litres of potable water;
- An effluent management area which is sited outside flood prone land, and
- Dwelling pads which are sited outside flood prone land.

These measures directly seek to reduce the occurrence, frequency and/or severity of residual secondary risks from emergencies and those of human behaviour by limiting the need for residents to call emergency services or leave their properties in search of required services or shelter. Future properties will not experience flood inundation thereby limiting electrical fires, small scale emergencies can be addressed through the first aid kit and home fire safety kit and properties will have an independent water and power supply. These measures will largely negate the need to leave the property during the rare periods of isolation and would not therefore result in unacceptable pressures or risk to emergency services workers.

Collectively all the above measures serve to further reduce residual risk to one which has been quantified, assessed and considered to be acceptable by Council. Council does not agree with the assertion of refusal reason 2 that the risks to future residents or emergency services workers is at an unacceptable level.

Reason 3: The potential to significantly increase the need for government investment on emergency management services, flood mitigation and emergency response measures

The Council considers refusal reason 3 to be unfounded and unsupported by any substantial evidence to justify the claim that the proposals would lead to a "significant increase" in government investment. At no point during the planning proposal process, nor after the Gateway refusal decision, has any evidence been presented to substantiate the following:

- How has "potential" been defined? What is the likelihood of this potential materializing? The Council asserts that the proposals would likely have minimal to no impact on the need for government investment in emergency management services, flood mitigation, and emergency response measures.
- What qualifies as "significant," and where is the threshold set? How has this been determined?
- What additional spending is anticipated? What amounts are expected to be spent, and on which specific items?
- How does this spending directly relate to the proposed rezonings, particularly in terms of their scale?

Omission of this information fails to adequately and robustly justify why there would be potential for significantly increased spending, what the spending amounts are predicted to be and how it directly relates to the two planning proposals.

The proposals collectively will provide 34 new lots over a totaling area of 117 hectares (density of approximately 0.19 DPH). The additional residential population resulting from the proposed rezonings is considered negligible and not of a quantum which would support the assertion the proposals would lead to significantly increased requirements for government investment.

On a cumulative, precinct-scale, Council also considers the development potential of the Brisbane Grove precinct to be low. The Brisbane Grove precinct equates to approximately 523 hectares in total area and with an expected density of 0.19 dwellings per hectare⁷ (due to appropriate environmental zoning for flood affected land), the overall precinct would deliver approximately 99 additional lots. When accounting for the two current planning proposals the Brisbane Grove precinct has a remaining development capacity of approximately 65 additional lots.

The development capacity of the Brisbane Grove precinct as a whole is not considered to be of an overall quantum which would support the assertion that the proposals would lead to significantly increased requirements for government investment.

This reason for refusal appears unjustified, un evidenced and unlikely to occur for the scale of the proposals individually or on a precinct-scale. Council disputes refusal reason 3. A robust justification of what the anticipated significant additional government investment might be, how much spending is required, where it is to be spent and how it directly relates to the proposed rezoning is required to justify refusal reason 3 which is currently lacking in any material supplied to Council.

Conclusion

Overall Council supports the Allfathing and 137 Brisbane Grove planning proposals as presented in the planning proposal reports submitted for Gateway determination. The overall risk from flood isolation has been considered and quantified.

⁷ Dwelling density for the precinct is calculated based upon the dwelling density proposed to be delivered through the Allfathing, 2 Brisbane Grove Rd and 137 Brisbane Grove Road planning proposals.



Your References: IRF25/112 (GR-2025-3) &
IRF25/113 (GR-2025-2)

The rezoning of land to provide 34 large lot residential lots with flood free dwelling pads, does not present an unacceptable risk to future residents or to emergency services workers. In addition, Council does not support DPHI's conclusion the proposals have the potential to significantly increase the need for government investment on emergency management services, flood mitigation and emergency response measures as this is unsubstantiated.

For further information, please contact either Kate Wooll (Business Manager Strategic Planning) or David Kiernan (Senior Strategic Planner) on [REDACTED] [REDACTED]

Yours sincerely

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Marina Hollands
Acting Chief Executive Officer