

CONSIDERATION OF SUBMISSIONS - PLANNING PROPOSAL 169-177 MONA VALE ROAD, ST IVES

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

For Council to consider the submissions received in response to the exhibition of the Planning Proposal to amend the KLEP (Local Centres) 2012 to allow '*Recreation Facilities (indoor)*' as an additional permitted use at 169-177 Mona Vale Road, St Ives.

BACKGROUND:

The Planning Proposal was submitted to Council on 17 October 2017. Following submission of revised documentation, the review of the Planning Proposal formally commenced on 8 May 2018.

On 14 August 2018 Council resolved to forward the Planning Proposal to the Department of Planning and Environment for a Gateway Determination.

A Gateway Determination was issued on 21 September 2018.

COMMENTS:

The Planning Proposal was placed on public exhibition from 11 October 2018 to 26 October 2018. The two (2) submissions received have been assessed for Council's consideration.

RECOMMENDATION:

That Council adopts the Planning Proposal and makes the plan under delegation.

PURPOSE OF REPORT

For Council to consider the submissions received in response to the exhibition of the Planning Proposal to amend the KLEP (Local Centres) 2012 to allow '*Recreation Facilities (indoor)*' as an additional permitted use at 169-177 Mona Vale Road, St Ives.

BACKGROUND

Planning Proposal

The Planning Proposal was submitted to Council on 17 October 2017. The Planning Proposal was incomplete. Following submission of revised documentation, the review of the Planning Proposal formally commenced on 8 May 2018.

The Planning Proposal seeks to amend the *Ku-ring-gai Local Environmental Plan (Local Centres) 2012* to allow an additional permitted use of '*Recreation Facility (indoor)*' at 169-177 Mona Vale Road, St Ives.

On 23 July 2018 the Planning Proposal was reported to the Ku-ring-gai Local Planning Panel for advice as required by the Local Planning Panels Direction – Planning Proposals issued by the Minister for Planning under Section 9.1 of the *Environmental Planning and Assessment Act 1979*.

On 14 August 2018 Council considered a report on the Planning Proposal, and the advice received from the Ku-ring-gai Local Planning Panel and resolved:

- A. *That the Planning Proposal for 169-177 Mona Vale Road, St Ives be sent to the Department of Planning and Environment for a Gateway Determination.*
- B. *That prior to being sent for a Gateway Determination, the Planning Proposal be amended by the applicant as outlined in the body of this report.*
- C. *That Council requests to be authorised as the local plan-making authority to exercise the functions under Section 3.36(2) of the Environmental Planning and Assessment Act 1979 for this Planning Proposal.*
- D. *The upon receipt of a Gateway Determination, the Planning Proposal be placed on public exhibition in accordance with the requirements of the Gateway Determination and the Environmental Planning and Assessment Act 1979.*
- E. *That a report be brought back to Council at the conclusion of the exhibition period.*

The applicant amended the Planning Proposal in accordance with Resolution (B) above as follows:

- s117 Direction 6.3 Site Specific Provisions – amended to sufficiently address the inconsistency with this direction.
- Part D, Q.10 *Is there adequate public infrastructure for the planning proposal?* – amended to further address this question in relation to traffic and parking.
- Maximum floor space ratio of 0.5:1 – amended Part 1 of the Planning Proposal to limit the additional permitted commercial uses and *Recreation Facility (indoor)* use to a combined maximum floor space ratio of 0.5:1 as per the advice of the Ku-ring-gai Local Planning Panel.

The amended Planning Proposal is included at **Attachment A1**.

Gateway Determination

The amended Planning Proposal was submitted to the Department of Planning and Environment on 24 August 2018 requesting a Gateway Determination. Council also requested the plan-making delegation in accordance with Resolution C (above).

The Department of Planning issued a Gateway Determination on 21 September 2018. The Department also issued the authorisation for Council to exercise delegation to make this plan. The Gateway Determination is included at **Attachment A2**.

Public Exhibition

The Planning Proposal was placed on public exhibition from 11 October 2018 to 26 October 2018, in accordance with the conditions of the Gateway Determination.

The exhibition material included:

- The amended Planning Proposal (**Attachment A1**);
- The Gateway Determination (**Attachment A2**);
- Council Report and Resolution OMC 14 August 2018 (**Attachment A3**);
- Ku-ring-gai Local Planning Panel Report and Advice 23 July 2018 (**Attachment A4**).

COMMENTS

Community Submissions

A total of two (2) of submissions were received from the community in response to the public exhibition of the Planning Proposal.

The following are the key matters raised in the submissions and Council's comments on those matters:

- *Request for restriction on hours of operation. No 24 hour access for public or private use*

Comment: This is a Planning Proposal which only considers an amendment to the Local Environmental Plan. A Planning Proposal cannot consider the detailed design or operational matters. These matters would be considered and assessed as part of a merit assessment of any future Development Application lodged.

- *Object to extend permitted use of indoor recreation facility at 169-177 Mona Vale Road, St Ives*

Comment: Objection noted.

- *Should proposed amendment be made to LEP the following needs to be implemented:*
 - *Protection of residential amenity*
 - *Hours of operation restricted to business hours*
 - *Sound proofing must be installed*
 - *Adequate levels of staffing during operational hours*

Comment: It is acknowledged that uses, such as gyms, which fall under the 'Recreation facility (indoor)' definition, may have the potential to result in noise and amenity impacts. Some uses will generate more noise than others – this depends on the size, but also the types of activities and equipment used. At the Planning Proposal stage, this detailed information is not available and is unable to be considered. Impacts such as noise, hours of operation, staffing, etc. would be considered and assessed as part of a merit assessment for any such Development Application lodged.

State Agency Consultation

The Gateway Determination issued by the Department of Planning and Environment did not condition any consultation to be undertaken with public authorities due to it being of a minor nature.

INTEGRATED PLANNING AND REPORTING

Theme 3 – Places, Spaces and Infrastructure

Community Strategic Plan Long Term Objective	Delivery Program Term Achievement	Operational Plan Task
P2.1 A robust planning framework is in place to deliver quality design outcomes and maintain the identity and character of Ku-ring-gai.	P2.1.1 Land use strategies, plans and processes are in place to effectively manage the impact of new development.	P2.1.1.2 Continue to review the effectiveness of existing strategies, local environmental plans, development control plans and processes across all programs.

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*.

Council requested to be authorised as the local plan-making authority to finalise this Planning Proposal. In issuing the Gateway Determination, the Department of Planning and Environment considered the nature of the Planning Proposal and decided to issue authorisation to Council to exercise the functions under Section 3.36(2) of the Act, subject to the following:

- The Planning Proposal Authority has satisfied all the conditions of the Gateway Determination;
- The Planning Proposal is consistent with Section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
- There are no outstanding written objections from public authorities.

In the letter to Council dated 21 September 2018 regarding the issuing of the Gateway Determination, the Department noted “*I have also agreed, as delegate of the Secretary, the planning proposal’s inconsistency with Section 9.1 Direction 6.3 Site Specific Provisions is justified in accordance with the terms of the Direction. No further approval is required in relation to this Direction*”.

The Gateway Determination did not require any consultation with public authorities, and accordingly there are no outstanding written objections from public authorities.

All the conditions of the Gateway Determination have been satisfied and accordingly Council is authorised to act as the local-plan making authority.

RISK MANAGEMENT

This is a privately initiated Planning Proposal. Council needs to determine its position on this Planning Proposal. Council risks damage to its reputation if it does not undertake strategic land use planning in an effective and timely manner.

FINANCIAL CONSIDERATIONS

The Planning Proposal was subject to the relevant application fee under Council's Fees and Charges Schedule. The Planning Proposal was also subject to a further fee following the issue of the Gateway Determination for the advertisement of the Planning Proposal. The cost for the review, assessment and advertisement of the Planning Proposal is covered by this fee.

SOCIAL CONSIDERATIONS

The site is well integrated with the surrounding public transport and pedestrian routes. The Planning Proposal will not result in any adverse social impacts.

ENVIRONMENTAL CONSIDERATIONS

The site is not identified as having Biodiversity or Riparian mapping under the KLEP (Local Centres) 2012.

COMMUNITY CONSULTATION

The Planning Proposal was publically exhibited from 11 October 2018 to 26 October 2018 in accordance with the requirements of the Gateway Determination. The public exhibition was advertised in the North Shore Times and on Council's website. Surrounding properties were notified.

The exhibition material was available on Council's website, and a hard copy was available at Customer Service.

All persons who made a formal submission were notified of this matter being reported to Council.

INTERNAL CONSULTATION

The assessment of the Planning Proposal has included consultation with Council's Strategic Transport Engineer and staff from Development Assessment.

SUMMARY

The Planning Proposal seeks to amend the KLEP (Local Centres) 2012 to allow '*Recreation Facility (indoor)*' as an additional permitted use at 169-177 Mona Vale Road, St Ives.

The Planning Proposal was publically exhibited from 11 October 2018 to 26 October 2018.

This report considers and assesses the submissions made in response to the public exhibition of the Planning Proposal. This report recommends that Council adopt the Planning Proposal and make the plan under delegation.

RECOMMENDATION:

- A. That Council adopts the Planning Proposal to allow '*Recreation Facility (indoor)*' as an additional permitted use at 169-177 Mona Vale Road, St Ives.
- B. That Council as the local plan-making authority exercise the functions under Section 3.36(2) of the *Environmental Planning and Assessment Act 1979* and proceed to make the Plan under delegated authority.
- C. Those who made submissions be notified of Council's decision.

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RESOLUTION:

Consideration of submissions - Planning Proposal 169-177 Mona Vale Road, St Ives

File: S11745

Vide: GB.6

For Council to consider the submissions received in response to the exhibition of the Planning Proposal to amend the KLEP (Local Centres) 2012 to allow '*Recreation Facilities (indoor)*' as an additional permitted use at 169-177 Mona Vale Road, St Ives.

Resolved:

(Moved: Councillors Szatow/Greenfield)

- A. That Council adopts the Planning Proposal to allow '*Recreation Facility (indoor)*' as an additional permitted use at 169-177 Mona Vale Road, St Ives.
- B. That Council as the local plan-making authority exercise the functions under Section 3.36(2) of the *Environmental Planning and Assessment Act 1979* and proceed to make the Plan under delegated authority.
- C. Those who made submissions be notified of Council's decision.

CARRIED UNANIMOUSLY