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## PLANNING PROPOSAL FOR 169-177 MONA VALE ROAD, ST IVES

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### EXECUTIVE SUMMARY

**PURPOSE OF REPORT:**

To refer the Planning Proposal for 169-177 Mona Vale Road, St Ives 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*.

**BACKGROUND:**

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)*” to 169-177 Mona Vale Road, St Ives under Schedule 1.

**COMMENTS:**

The site has been recently developed with a 5 storey mixed-use building, comprising commercial/office/medical suites on the ground floor and residential units above.

The Planning Proposal outlines that the purpose of the amendment to the KLEP Local Centres 2012 is to allow for a gymnasium on the ground floor of the current mixed-use building, which would be subject to a future Development Application.

**RECOMMENDATION:**

That the Ku-ring-gai Local Planning Panel make a recommendation to Council that the Planning Proposal be submitted to the Department of Planning and Environment for a Gateway Determination.

## PURPOSE OF REPORT

To refer the Planning Proposal for 169-177 Mona Vale Road, St Ives 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*.

## BACKGROUND

The Planning Proposal was submitted on 17 October 2017. The Planning Proposal submitted was incomplete. Following submission of revised documentation, the assessment of the Planning Proposal formally commenced on 8 May 2018. The Planning Proposal is included at **Attachment A1**.

The Planning Proposal seeks to make the following amendment to the *Ku-ring-gai Local Environmental Plan (Local Centres) 2012*:

- Amendment to Schedule 1 – Additional Permitted Uses for 'Recreational Facility (indoor)' to apply to land at 169-177 Mona Vale Road, St Ives

## Site Description and Local Context

The site that is the subject of this Planning Proposal is collectively known as 169-177 Mona Vale Road, St Ives (Lots 11 and 12 DP1230991). The site has an area of 3,647sqm and is irregular in shape. The site has a frontage to Mona Vale Road. Vehicle access to the site is provided via an access handle off Shinfield Avenue. The site has been recently developed with a 5 storey mixed-use building, which comprises commercial/office/medical suites on the ground floor, and residential units above. Parking for the development is provided by basement carparking.

Located adjacent to the site to the north is the Shell Service Station and located adjacent to the site to the south is a commercial building currently used as a real estate agent. To the rear (east) of the site are a mix of residential properties, including dwelling houses, dual occupancies, town houses and residential flat buildings.

The site is located within the St Ives Local Centre, which includes a mix of commercial, retail, religious, recreational and residential uses (including medium and high density). St Ives Shopping Centre is located on the opposite side of Mona Vale Road, approximately 300m north of the site. The site is also within close proximity to Pymble Golf Club, St Ives Village Green, St Ives Memorial Park and The St Ives Anglican Church.



Image 1 – 169-177 Mona Vale Road, St Ives

The site is currently zoned R4 High Density Residential under the Ku-ring-gai Local Environmental Plan (Local Centres) 2012.

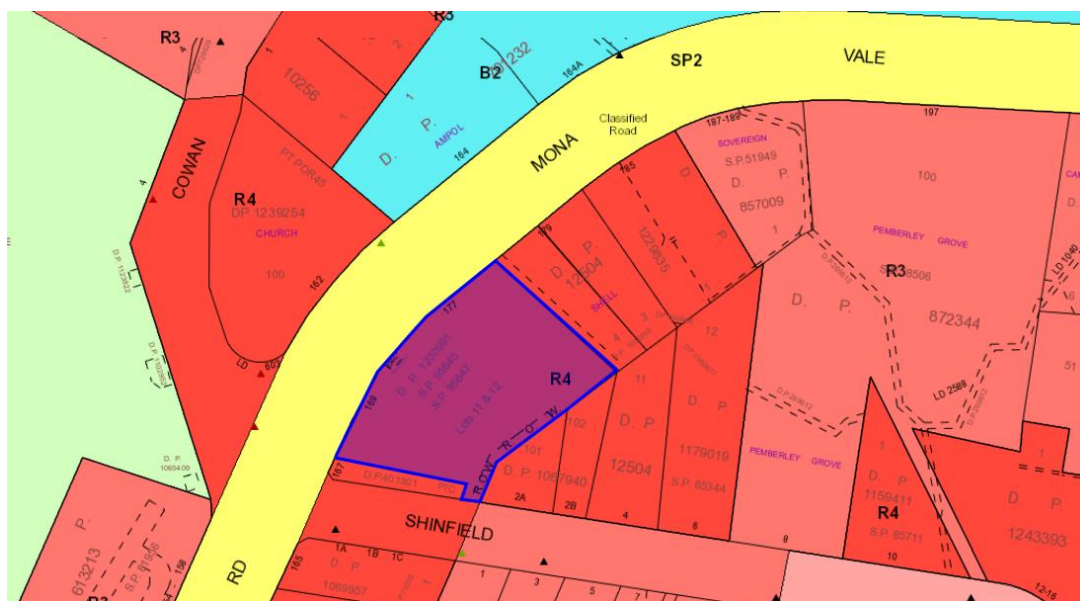


Image 2 – Zoning Map Extract KLEP Local Centres 2012

Permitted land uses under the KLEP Local Centres 2012 R4 High Density Residential zone include:

*Attached dwellings; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dwelling houses; Environmental protection works; Exhibition homes; Flood mitigation works; Home-based child care; Home businesses; Home industries; Hostels; Multi dwelling housing; Neighbourhood shops; Places of public worship; Recreation areas; Residential flat buildings; Respite day care centres; Roads; Seniors housing; Shop top housing.*

The subject site also benefits from Additional Permitted Uses of 'Commercial Premises' and 'Office Premises' under Schedule 1:

**21 Use of certain land at 167, 169, 169A and 171 Mona Vale Road, St Ives**

- (1) *This clause applies to land at 167, 169, 169A and 171 Mona Vale Road, St Ives, being Lot C, DP 401301, Lots 1 and 2, DP 856121 and Lot 1, DP 578867.*
- (2) *Development for the purpose of commercial premises is permitted with development consent.*
- (3) *Development for the purpose permitted in subclause (2) must not exceed a floor space ratio of 0.5:1.*

**22 Use of certain land at 173, 177, 183, 183A and 185 Mona Vale Road, St Ives**

- (1) *This clause applies to land at 173, 177, 183, 183A and 185 Mona Vale Road, St Ives, being Lot 1, DP 653503, Lot 1, DP 126732, Lot 5, DP 12504, Lots 10 and 11, DP 829668 and Lot 1, DP 1084135.*
- (2) *Development for the purpose of office premises is permitted with development consent.*
- (3) *Development for the purpose permitted in subclause (2) must:*
  - (a) *be confined to the ground floor, and*
  - (b) *not exceed a floor space ratio of 0.5:1.*

**History of zoning and additional permitted uses on site**

The additional permitted uses relating to commercial and office premises on this site and adjoining sites within the St Ives town centre were established during the preparation of the (repealed) Town Centres LEP 2010, which formed the basis for the now current KLEP Local Centres 2012.

The Council Report from 19 July 2005 on St Ives Town Centre Planning outlined that 167 -185 Mona Vale Road from the corner of Shinfield Avenue east along Mona Vale Road was to be rezoned to allow for mixed-use residential, with non-retail commercial uses. The report notes that a mixed-use zone recognises that there are already several shops in the strip on the corner of Shinfield Avenue that are used for viable retail and commercial purposes and which may have had existing use rights that would permit continuation of such uses in the event of redevelopment. The requirement for non-retail uses came from the Ku-ring-gai Retail Centres Study 2005 prepared by Hill PDA. The rationale was to provide for commercial floorspace in the St Ives Centre to cater for the wide range of small businesses, medical practitioners and professional services that currently operate in the centre and to allow for future demand for space to cater for such uses.

Due to the Standard Instrument Template requiring that mixed-use zones have to permit retail uses, Council's approach at the time was to use the R4 High Density Residential zone, and then permit commercial uses via Schedule 1 Additional Permitted Uses.

**Development History of Site**

DA0321/13 - Development Application DA0321/13 was granted development consent by the Land and Environment Court of NSW on 4 June, 2014. Consent was granted for demolition of the existing commercial buildings and construction of a 5 storey mixed-use development, comprising 17 commercial/office/medical suites and 58 residential units.

**MOD0187/14** – Was approved on 21 July 2015 for various alterations and additions to the consent including, reduction in size to basement carpark, changes to commercial tenancies, overall reduction in FSR, external changes to buildings and extra bedrooms to some apartments.

**DA0429/16** – Stratum subdivision of mixed-use development (as approved under DA0321/13 and further modified under MOD0187/14).

**MOD0130/16** – Modified approval was granted on 12 April 2017 for combining tenancies (G.01 and G.02), outdoor seating area, changes to shopfront doors and windows, and changes to hours of use.

**DA0600/16** – Approved on 18 May 2017 for the change of use to units G8, G9, and G10 to be used as a medical suite, and the fit out of the tenancies to facilitate the use.

**DA0373/16** – Approved 1 June 2017 for change of use from retail to food and drink premises, including associated fit-out works Units G.01 and G.02

**MOD0074/17** – Approved on 26 July 2017 which proposed internal changes to the ground floor layout of units.

**DA0236/17** – Alterations and additions including new deck, roof and landscaping to rear of G01 and G02 tenancies. Currently under assessment.

## COMMENTS

### Planning Proposal – Proposed Amendments to KLEP Local Centres 2012

The Planning Proposal seeks to make the following amendment to the *Ku-ring-gai Local Environmental Plan (Local Centres) 2012*:

- Amendment to Schedule 1 – Additional Permitted Uses for ‘*Recreational Facility (indoor)*’ to apply to land at 169-177 Mona Vale Road, St Ives

‘*Recreational Facility (indoor)*’ is defined in the Standard Instrument LEP as – ‘*a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club*’.

The Planning Proposal outlines that the purpose of the amendment is to allow for a gymnasium on the ground floor of the current mixed-use building, which would be subject to a future Development Application.

Advice from Development Assessment and a review of Development Applications indicates that gyms/gymnasiums are defined as ‘*Recreation Facilities (indoors)*’.

### Merit

As noted above, the stated purpose of the amendment is to allow for a gymnasium on the ground floor of the current mixed-use building, which would be subject to a Development Application. However, the Planning Proposal cannot be tied to a specific development.

A Planning Proposal must demonstrate strategic and site specific merit of the proposed amendments to the Local Environmental Plan. The following is an assessment of the relevant merits of the Planning Proposal:

### Strategic Merit

The Planning Proposal is consistent with the following objectives of the Greater Sydney Region Plan – A Metropolis of Three Cities:

- Objective 6 – Services and Infrastructure meet communities changing needs;
- Objective 7 – Communities are healthy, resilient and socially connected;
- Objective 22 – Investment and business activity in centres

A Metropolis of Three Cities outlines that liveability incorporates *access to housing, transport and employment as well as social, recreational, cultural and creative opportunities*. Improved health, public transport and accessibility outcomes are achieved through the provision of schools, recreation, transport, arts and cultural, community and health facilities in walkable, mixed-use places co-located with social infrastructure and local services. Mixed-use neighbourhoods close to centres and public transport improve the opportunity for people to walk and cycle to local shops and services. Enhancing the safety, convenience and accessibility has many benefits, including healthier people, more successful businesses and centres.

The Planning Proposal is consistent with the following planning priorities of the North District Plan:

- Planning Priority N3 Providing Services and Social Infrastructure to meet peoples' changing needs;
- Planning Priority N4 Fostering healthy, creative, culturally rich and socially connected communities;
- Planning Priority N6 Creating and renewing great places and local centres, and respecting the District's heritage.

The site the subject of the Planning Proposal contains a mixed-use building, and is well located within the St Ives town centre. The additional permitted use provides for increased local services for residents within the town centre. Co-locating activities, social infrastructure and local services in mixed-use areas is a more efficient use of land and enhances the viability of and access to centres and public transport.

The Planning Proposal is not inconsistent with the SEPPs applicable to the site.

The Planning Proposal is consistent with the s117 Directions 3.1 and 3.4 relating to Residential Zones, and Integrating Land Use and Transport. The Planning Proposal will not reduce the permissibility of residential development on the site as it will only apply to the ground floor commercial tenancies within an existing mixed-use building, and the site is well located within the St Ives town centre, providing convenient access to public transport and services.

The submitted Planning Proposal does not provide sufficient detail to justify inconsistencies with s117 Direction 6.3 Site Specific Provisions. This direction applies when a Planning Proposal will amend an LEP in order to allow a particular development to be carried out – which is the stated

## Item GB.2

S11745

purpose of this Planning Proposal, to allow for a gymnasium on the ground floor of the current mixed-use building, which would be subject to a future Development Application. The direction states that a Planning Proposal must:

- a) *Allow the land use to be carried out in the zone the land is situated on;*
- b) *Rezone the site to an existing zone already applying in the LEP that allows the land use without imposing any development standards or requirements in addition to those already contained within the zone;*
- c) *Allow the land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the LEP.*

The Planning Proposal needs to be amended prior to being submitted for a Gateway Determination to sufficiently address this inconsistency.

It is considered that the Planning Proposal is justifiably inconsistent with s117 Direction 6.3 Site Specific Provisions, and the inclusion of the proposed additional permitted use is justified as follows:

- It is inappropriate to include the proposed additional permitted use '*Recreation Facility (indoor)*' in the Land Use Table for the R4 High Density Residential zone, which would apply to all land zoned R4 under the KLEP Local Centres 2012.
- There are unique circumstances applying to the site:
  - The site was specifically zoned for mixed-use residential, with non-retail commercial uses. This was achieved by zoning the site R4 High Density Residential and then specifying additional permitted uses of commercial and office premises under Schedule 1. Other R4 zoned sites within Ku-ring-gai do not permit such commercial uses.
  - The site has been developed as a mixed-use building, consistent with a mixed-use building that would be developed within the B2 Local Centre and B4 Mixed-Use zones. The B2 and B4 zones permit the use '*Recreation Facility (indoor)*' with consent. In this regard, the outcome of the Planning Proposal is consistent with the outcomes for other mixed-use buildings, and mixed-use zoned land in Ku-ring-gai.
  - The site is located in close proximity to the St Ives local centre, and land zoned B2 Local Centre.
- The Planning Proposal has been prepared in response to a site specific development that requires the additional permitted use to proceed.

### Site Specific Merit

The site was specifically zoned for mixed-use residential uses, with non-retail commercial uses. This was achieved by zoning the site R4 High Density Residential, and then specifying additional permitted uses of commercial and office premises under Schedule 1 of the KLEP Local Centres 2012.

The site has been developed with a 5 storey mixed-use building, which comprises commercial/ office/medical suites on the ground floor, and residential units above. Parking for the development is provided by basement carparking.

## Item GB.2

S11745

The mixed-use development that has been built on the site is consistent with mixed-use developments permitted within the B2 Local Centre and B4 Mixed-Use zones within Ku-ring-gai. Both the B2 Local Centre Zone and B4 Mixed-Use zone permit *'Recreation Facilities (indoor)'* as a land use permitted with consent. It is therefore considered that the outcome of the Planning Proposal will be consistent with the land uses permitted within the mixed-use zones, and would result in subsequent development outcomes that are consistent with other mixed-use developments within Ku-ring-gai.

The Planning Proposal notes *'For future flexibility, the additional permitted use is to apply to the whole of the subject site comprising Strata Plan 95647 and includes 169-177 Mona Vale Road, St Ives. It is intended that the use will be confined to the ground floor'*. Strata Plan 95647 is the commercial strata plan within the mixed-use development on site. The additional permitted use needs to be linked to the commercial strata plan to ensure it is confined to the ground floor of the mixed-use building.

### Traffic and Parking

Despite requests from Council, the Planning Proposal has failed to address the potential traffic and parking generation resulting from the proposed additional use on the site. The Planning Proposal needs to give consideration as to whether the proposed additional use of *'Recreation Facility (indoor)'* will result in an increase to the traffic and parking requirements generated by the approved commercial and medical uses on the ground floor of the existing building.

Council's Strategic Transport Engineer has reviewed the approved development, and subsequent modification applications for the mixed-use building and found that the commercial and medical uses in underlying development (DA0321/13) appear to be approved with an effective parking rate of 1 space/28sqm GFA (i.e. 1,728sqm GFA and 62 car parking spaces). According to the strata plan, the 62 spaces provided in the basement are divided into 38 employee/long stay and 24 visitor spaces. Long stay/employee parking is allocated for specific tenancies, and appears to be unallocated/shared for visitors.

Normally for commercial uses, parking is to be provided at a rate of 1 space/33sqm GFA, medical suites (health consulting rooms) at a rate of 1 space/40sqm GFA and medical centres at a rate of 1 space/25sqm GFA (Ku-ring-gai DCP 2015).

A change of use of 2 of the commercial suites to food and drink premises (effectively restaurant/café/coffee shop under the DCP) has recently been approved. The parking allocation for these 2 commercial suites under the strata plan is 8 spaces. According to the Ku-ring-gai DCP, parking is required for restaurant/café/coffee shop at the rate of 1 space per 17sqm GFA, so for strata lots G.01 and G.02 (207.6sqm GFA) which were the subject of the change of use, the parking required for this change of use would be 12.2 spaces (assume 13 spaces for the purpose of this assessment), which is more than its allocation, and relies on the use of some of the unallocated visitor parking for its shortfall. If retail/restaurant uses extended to the whole ground floor, the parking requirement would be 102 spaces (1,728 sqm/17). Based on this, the site would not be able to support the change of use to the whole ground floor to restaurant/café/coffee shop use given that there are 62 spaces in the basement.

If the Planning Proposal was to be approved to permit recreation facility (indoor) (i.e. gym), parking would also need to be provided at the rate of 1 space per 17sqm GFA (Ku-ring-gai DCP 2015). If the



## Item GB.2

S11745

change of use to recreation facility (indoor) was notionally applied to the whole ground floor, 102 car parking spaces would also be required, which would also not be able to be supported by the site. But gyms typically have peak periods early in the morning or late in the evening, at a time which does not normally conflict with other land uses that typically experience peak parking demand during the middle hours of the day (such as commercial and medical suites uses). Despite this, there would still be an upper limit of floor area that could be changed from commercial / medical suites to either recreation facility (indoor) or retail (or any other use that requires parking to be provided at a rate higher than 1 space/28sqm GFA), due to the fixed amount of parking provision in the basement.

The additional permit use Recreation Facility (indoor) (gym) could be supported but the impacts to parking would need to be assessed at the Development Application stage to determine if there is sufficient car parking in the basement to cater for the proposed floor area to be changed at the time of peak parking of the use (gym).

**Amenity Impacts**

It is acknowledged that gymnasiums, and other uses that 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 and vibration would be assessed as part of a merit assessment for any such Development Application.

A Planning Proposal is not a Development Application, and does not consider the specific detailed matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*. A Planning Proposal only relates to an LEP amendment, and the proposed amendment needs to be acceptable as an outcome on the site, regardless of the subsequent approval or refusal of a specific Development Application.

**Amendments required to Planning Proposal**

The Planning Proposal does not sufficiently address a number of critical matters, and is required to be amended prior to being sent to the Department of Planning and Environment for a Gateway Determination, as follows:

- s117 Direction 6.3 Site Specific Provisions – The submitted Planning Proposal does not provide sufficient detail to justify inconsistencies with s117 Direction 6.3 Site Specific Provisions. This direction applies when a planning proposal will amend an LEP in order to allow a particular development to be carried out – which is the stated purpose of this Planning Proposal, to allow for a gymnasium on the ground floor of the current mixed-use building, which would be subject to a future Development Application. The Planning Proposal needs to be amended prior to Gateway to sufficiently address this inconsistency.
- Part D, Q.10 *Is there adequate public infrastructure for the planning proposal?* – Despite requests from Council, the Planning Proposal has failed to address the potential traffic and parking generation resulting from the proposed additional use on the site. The Planning Proposal needs to be amended in order to provide information as to whether the proposed additional use of '*Recreation Facility (indoor)*' will result in an increase to the traffic and

parking generated by the approved commercial and medical uses on the ground floor of the building.

## 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	Implement and monitor the Local Environmental Plans and supporting Development Control Plans.

## 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*.

If Council fails to make a decision within 90 days (from the commencement of the review of the application) or if Council makes a decision to not support the Planning Proposal, the proponent can request the Department of Planning and Environment for a Rezoning Review.

Local Planning Panels Direction – Planning Proposals issued by the Minister for Planning under Section 9.1 of the *Environmental Planning and Assessment Act 1979* requires Council to refer all Planning Proposals prepared after 1 June 2018 to the Local Planning Panel for advice, before it is forwarded to the Minister for a Gateway Determination under Section 3.34 of the *Environmental Planning and Assessment Act 1979*.

## RISK MANAGEMENT

This is a privately initiated Planning Proposal. Council needs to determine its position on the matter as to whether the Planning Proposal should be sent to the Department of Planning and Environment for a Gateway Determination and proceed to public exhibition.

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 Councils 2017/2018 Fees and Charges Schedule. The cost of the review and assessment of the Planning Proposal is covered by this fee.

## SOCIAL CONSIDERATIONS

The Planning Proposal will not result in any adverse social impacts.

## ENVIRONMENTAL CONSIDERATIONS

The site is not mapped as containing land identified as Biodiversity Significance or Riparian Lands under the KLEP (Local Centres) 2012.

## COMMUNITY CONSULTATION

In the event that the Planning Proposal is granted a Gateway Determination by the Department of Planning and Environment, the Planning Proposal would be placed on statutory public exhibition in accordance with the requirements of the Gateway Determination, and the Department of Planning and Environment's publication '*A Guide to Preparing Local Environmental Plans*'.

The public exhibition would include notification to the surrounding properties and advertisement within the North Shore Times and on Council's website.

## INTERNAL CONSULTATION

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

## SUMMARY

A Planning Proposal has been submitted for 169-177 Mona Vale Road, St Ives which seeks to make the following amendment to the KLEP (Local Centres) 2012:

- Amendment to Schedule 1 to allow an additional permitted use of '*Recreation Facility (indoor)*'.

The Planning Proposal has been assessed against the Section 3.33 of the Environmental Planning and Assessment Act 1979, and the Department of Planning and Environments *A Guide to Preparing Planning Proposals* (August 2016) and it is considered that there is sufficient merit to enable the Planning Proposal to be submitted to the Department of Planning and Environment for a Gateway Determination, subject to amendments to better address s117 Direction 6.3 Site Specific Provisions and potential traffic and parking issues.

## RECOMMENDATION:


That the Ku-ring-gai Local Planning Panel makes a recommendation to Council that the Planning Proposal be submitted to the Department of Planning and Environment for a Gateway Determination, subject to the amendments to address s117 Direction 6.3 Site Specific Provisions and Part D, Q.10 *Is there adequate public infrastructure for the planning proposal* as detailed in this report.

Alexandra Plumb  
Urban Planner

Craige Wyse  
Team Leader Urban Planning

Antony Fabbro  
Manager Urban & Heritage Planning

Andrew Watson  
Director Strategy & Environment

**Attachments:** A1  Planning Proposal - 169-177 Mona Vale Road, St Ives 2018/123812