

## Pre-Gateway Report – PP-2021-7404

*Rezone land at 159-167 Darley Street West, Mona Vale from R2 Low Density Residential to R3 Medium Density Residential and amend clause 4.5A so that the maximum dwelling density requirements to not apply to the site (41 homes)*

### 1 Introduction

The purpose of this report is to update the Sydney North Planning Panel (Panel) on the status of the planning proposal at 159-167 Darley Street West, Mona Vale and seek their direction on progressing the Planning Proposal to the gateway assessment stage. Further information has been provided by the proponent and Council regarding an appropriate Affordable Housing mix.

**Table 1 – Overview of planning proposal**

Element	Description
LGA	Northern Beaches Council
LEP to be amended	Pittwater Local Environmental Plan 2014
Address	159-167 Darley Street West, Mona Vale
Reason for review	<input checked="" type="checkbox"/> Council notified the proponent it will not support the proposed amendment. <input type="checkbox"/> Council failed to indicate support for the proposal within 90 days.
Brief overview of the timeframe/ progress of the planning proposal	<p><b>8 July 2021</b> – Planning proposal lodged with Council (<b>Attachment A</b>).</p> <p><b>26 October 2021</b> - Council resolved to not support the proposal.</p> <p><b>6 December 2021</b> – Rezoning review request lodged by proponent.</p> <p><b>April 2022</b> - Panel deferred a decision to allow time to obtain further information from Council and the proponent.</p> <p><b>7 September 2022</b> – Panel determined that proposal should be submitted for a Gateway determination after conditions have been addressed (<b>Attachment B</b>).</p> <p><b>25 October 2022</b> – Council resolved to accept the role of PPA (<b>Attachment C</b>).</p> <p><b>7 December 2022</b> – Proponent requests alternate PPA as Council has failed to progress the planning proposal within 43 days of accepting the role of PPA.</p> <p><b>18 April 2023</b> - Council considered the planning proposal at its meeting but did not adopt the recommendation to submit the proposal to the Department for Gateway Determination.</p>

Element	Description
	<b>20 June 2023</b> – Panel appointed PPA ( <b>Attachment D</b> ).
Department contact:	Wayne Williamson, Specialist Planning Officer, Agile Planning

## 1.1 The site and local context

The subject site (see Figure 1) comprises five lots in total, legally described as Lot 1-5, DP 11108 with an approximate area of 6,120m<sup>2</sup>. The site contains five single or two storey dwellings, and adjoins:

- A residential flat building to the East containing 11 units (155 Darley Street West),
- Bayview Golf Course to the North,
- Detached dwellings and a residential flat building containing four units (10 Kunari Place) to the West; and
- A mix of one and two storey detached dwellings located in Park Street to the South.



Figure 1 Subject site outlined in red (source: Nearmap)

## 1.2 Planning proposal

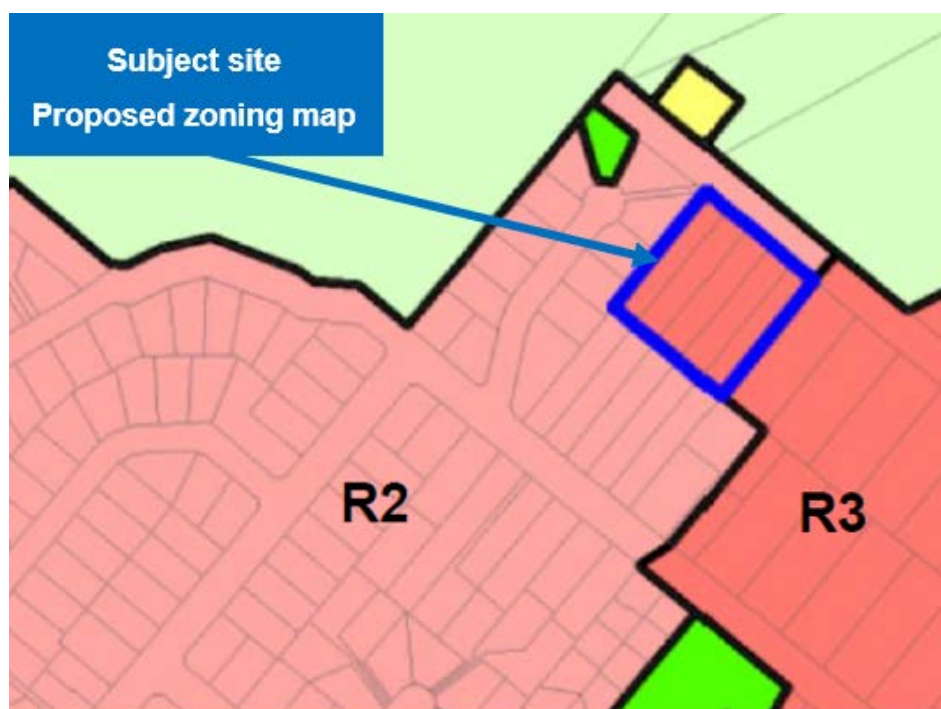
Table 2 – Overview of planning proposal

Element	Description
Site area	6120m2
Proposal summary	<p>The intended outcome of the planning proposal is to Rezone 159-167 Darley Street West, Mona Vale from R2 Low Density Residential to R3 Medium Density Residential and to amend clause 4.5A of the Pittwater Local Environmental Plan 2014 (PLEP 2014) so that the maximum dwelling density requirements do not apply to the site.</p> <p>The concept plan submitted with the planning proposal included the construction of two (2) residential flat buildings and three (3) townhouses. The residential flat buildings proposed to include a mix of one, two and three bedroom apartments and basement carparking with a total of 38 apartments. Therefore, 41 dwellings have been proposed under the current concept plan with the proposed dwelling mix:</p> <ul style="list-style-type: none"><li>• 12 x 1 Bedroom apartments</li><li>• 20 x 2 Bedroom apartments</li><li>• 6 x 3 Bedroom apartments</li><li>• 3 x Townhouses</li></ul> <p>The planning proposal is not the result of a specific strategic study. A planning proposal is an appropriate means to change the Land Use Zone and amend the maximum dwelling density requirements for the site.</p>
Relevant State and Local Planning Policies, Instruments	<ul style="list-style-type: none"><li>• Greater Sydney Region Plan</li><li>• The North District Plan</li><li>• Northern Beaches Local Strategic Planning Statement</li><li>• Northern Beaches Local Housing Strategy</li><li>• SEPP 65 Design Quality of Residential Apartment Buildings</li><li>• SEPP 55 Remediation of Land</li><li>• Draft Housing Diversity SEPP</li><li>• SEPP 70 Affordable Housing (Revised Schemes)</li><li>• SEPP (Building Sustainability Index: BASIX) 2004</li><li>• SEPP (Coastal Management) 2018</li><li>• SEPP (Exempt and Complying Development Codes) 2008</li></ul>

**Table 3 – Current and proposed controls**

Control	Current	Proposed
Zone	R2 Low Density Residential	R3 Medium Density Residential
Maximum height of the building	8.5m	No Change
Minimum lot size	700m2	No Change
Number of dwellings	5 Dwellings	41 Dwellings

The planning proposal contains an explanation of provisions that explain how the objectives of the proposal will be achieved.



**Figure 2 Current and proposed zoning map**

The Planning Proposal also seeks to amend Clause 4.5A(3) to include reference to 159-167 Darley Street West, Mona Vale (thereby confirming that clause 4.5A does not apply to the subject site):

*Clause 4.5A Density controls for certain residential accommodation*

*(1) The objectives of this clause are as follows—*

*(a) to achieve planned residential density in certain zones,*

*(b) to ensure building density is consistent with the desired character of the locality.*

*(2) Development consent must not be granted to development for a purpose specified in Column*

*1 of the table to this clause on land in the zone shown opposite that development in Column*

*2 of that table unless the development complies with the density requirements specified in Column 3 of that table.*

*(3) This clause does not apply to land in the Warriewood Valley Release Area and 159-167 Darley Street West, Mona Vale.*

## 2 Rezoning review

On 7 September 2022, the Panel considered a rezoning review for the planning proposal because Council notified the proponent that the request to prepare a planning proposal has not been supported.

The Panel unanimously resolved that the planning proposal demonstrated Strategic Merit and Site-Specific Merit. The Panel considered that the proposal's strategic merit included being consistent with the relevant District Plan, LSPS and LHS and notably the provision of affordable housing. Further, in respect of both strategic and site-specific merit, the Panel noted that, not only is the remainder of Darley St West zoned R3 but that it is also development consistent with that zone. The only remaining lots not so zoned or developed form the subject site. The Panel also noted that its site-specific merit included satisfaction of flooding constraints. It resolved that prior to proceeding to Gateway Determination the Proponent should work with the Department and Council to resolve an appropriate Affordable Housing mix consistent with the North District Plan and address any flooding constraints of the site (**Attachment B**).

On 25 October 2022, Northern Beaches Council advised the panel it wished to undertake the role of Planning Proposal Authority (PPA) (**Attachment C**). Council failed to submit the proposal within the 42-day timeframe and therefore the delegate of the Minister for Planning appointed the Sydney North Planning Panel as the PPA for the planning proposal (**Attachment D**).

## 3 Assessment against Panel conditions

### Affordable Housing Mix

In response to the Panel's condition to resolve an appropriate affordable housing mix consistent with the North District Plan, the proponent prepared a feasibility assessment (**Attachment E**) and Council commissioned HillPDA to undertake a peer-review of the proponent's feasibility assessment (**Attachment F**). Discussions have taken place between Council, the proponent and the Department to determine a viable affordable housing contribution for the planning proposal, but no agreement was reached.

The proponent's feasibility assessment concludes 5% or 10% affordable housing contribution rates would generate residual land values that are below the existing land value. The proponent's analysis found that a contribution rate of 2.085% is the viable break-even point.

The HillPDA peer-review and additional feasibility analysis shows that a 10% contribution rate is not viable, but a 5% contribution rate is viable, based on their assumptions. HillPDA also undertook additional analysis to identify a break-even point of 6.4%.

The main points of difference between the feasibility assessments are:

**Construction costs** – HillPDA notes the proponent's construction costs are higher than benchmark costs but also acknowledges there have been significant increases to

construction materials pricing in the past 12 months and the quality of finishes is unknown at this stage of the planning process.

**Construction period** – The proponent has based their analysis on a 2 year construction period, while HillPDA suggests 16 months is more appropriate.

**Contingency** – HillPDA notes a 5% construction cost contingency is the industry benchmark, however, the proponent has adopted a 10% contingency based on uncertainty for supply chains, labour costs, inflation and interest rates.

**Interest rates** – The proponent adopted an interest rate of 10%, while HillPDA used an interest rate of 8.5%. The proponent notes their current interest rate is 8.6% but is factoring in further interest rate rises that are expected later this year.

The proponent also identifies significant holding costs due to delays in the planning making process experienced so far. Both viability assessments have assumed the same holding cost, but the proponent advises this may increase.

The Agile Planning team notes the proponent is taking a low-risk approach at this early stage of the planning process and acknowledges the proponent's concerns with the current economic conditions, including future interest rate increases, construction costs, and weakened demand for housing in the Mona Vale area. However, the North District Plan recommends an affordable housing contribution rate of between 5-10%, subject to viability. This policy is reinforced by Council's Local Strategic Planning Statement (LSPS), which contains principles and actions in relation to affordable housing and new planning proposals. Council has also adopted an Affordable Housing Contribution Scheme (AHCS) based on a significant undersupply of affordable housing across the local government area.

### *Agile Planning Comments*

Given no agreement was reached between the proponent and Council, the Agile Planning team has considered the feasibility assessments prepared by the proponent and council as they relate to the panel's condition.

The Agile Planning team recommends the planning proposal be updated to include an affordable housing contribution rate of 5%, which is broadly consistent with the North District Plan and the LSPS. The implementation of the rate should be consistent with the Northern Beaches AHCS. The proponent will have opportunities to refine their feasibility analysis and provide further information throughout the plan making process.

The Panel may consider a reduced contribution rate based on the current economic conditions and holding costs identified by the proponent. It should be noted that if the site is included in the Northern Beaches AHCS, any contribution would be a condition of development consent and payable prior to the issue of any construction certificate for development.

If the Panel agrees with the Agile Planning team recommendations, the Gateway determination would require the planning proposal to be updated to introduce an Affordable Housing clause in the Pittwater LEP 2014 and include the site on an Affordable Housing Contributions Scheme Map.

### Flooding constraints

The site is identified as partially flood affected. The planning proposal shows general compliance with requirements for planning on flood affected land and generally meets the flood controls in the LEP and DCP. However, a full assessment cannot be undertaken until a future development application is lodged.

On 22 December 2022, Council noted the planning proposal has not addressed the most recent Ministerial direction 4.3 Flooding - released on 14 July 2021 (**Attachment G**), it is noted the

Council submission refers to Direction 4.3 but the Directions were updated on 20 February 2023 and the relevant Flood Direction is now 4.1. Notwithstanding, Council considers the proposal to be generally consistent with Direction 4.1 (previously 4.3). A full assessment will be undertaken when a more detailed development application is lodged and would be subject to approval by the development engineers.

## *Agile Planning Comments*

Given the Gateway assessment will require the planning proposal and stormwater management strategy be updated to address the most recent version of Ministerial direction 4.1, the planning proposal should proceed to gateway and the flooding be dealt with at that stage.

## 4 Recommendation

The Panel notes the Agile Planning teams comments and agrees the planning proposal be updated to include an affordable housing contribution rate of 5% which is to be mapped and included in a new Affordable Housing clause in the Pittwater LEP 2014 and address the most recent version of Ministerial direction 4.1 Flooding.

## Attachments

**Attachment A** – Planning proposal

**Attachment B** – Panel's decision on Rezoning Review

**Attachment C** – Council acceptance of the role of PPA

**Attachment D** – Panel appointed PPA

**Attachment E** – Proponent prepared viability assessment

**Attachment F** – Peer-review by HillPDA

**Attachment G** – Flooding advice from Council



Wayne Williamson

Specialist Planning Officer, Agile Planning

1/08/2023

date



Louise McMahon

Director, Agile Planning

3/8/23

date

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