

## Post-Exhibition Report – PP-2021-7404

*159-167 Darley Street West, Mona Vale – The planning proposal seeks to rezone the site to R3 Medium Density Residential, amending clause 4.5A to exclude the site from the residential density limits and introducing an affordable housing clause.*

### 1 Introduction

The Planning Proposal is at the post exhibition stage, which is the last stage before a Local Environmental Plan may be made and finalised. The Sydney North Planning Panel (the Panel) determined at a Rezoning Review (7 September 2022) that the proposal had strategic and site-specific merit and was appointed as the Planning Proposal Authority on 20 June 2023. Following this, a Gateway assessment was undertaken, and a Gateway determination was issued on 8 September 2023 for the proposal to proceed, subject to conditions. Consultation with Agencies, Northern Beaches Council (Council) and the community, required by the Gateway determination conditions, has now been completed.

The purpose of this report is to provide a summary of the key matters raised by public agencies, Council and members of the public during the public exhibition of the Planning Proposal and attachments (**Attachment A-A11**) for 159-167 Darley Street West, Mona Vale (the site).

The report recommends that the Panel submit the proposal to the Department of Planning, Housing and Infrastructure (DPHI) for finalisation subject to recommended amendments.

**Table 1: Summary**

Element	Description
Date of request to exhibit PP	31 October 2023
Date of panel determination on rezoning review	7 September 2022
Planning Proposal no.	PP-2021-7404
LGA	Northern Beaches
LEP to be amended	Pittwater Local Environmental Plan (PLEP) 2014
Address	159-167 Darley Street West, Mona Vale (Lot 1, 2, 3, 4 and 5 of DP11108)
Brief overview of the timeframe/progress of the planning proposal	<b>8 July 2021</b> – Planning Proposal lodged with Council <b>26 October 2021</b> – Council resolved to not support the proposal <b>6 December 2021</b> – Rezoning review request lodged by proponent

Element	Description
	<p><b>13 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 the proposal should be submitted for a Gateway determination after conditions have been addressed</p> <p><b>25 October 2022</b> – Council resolved to accept the role of Planning Proposal Authority (PPA)</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> <p><b>20 June 2023</b> – Panel appointed PPA</p> <p><b>8 September 2023</b> – Gateway Determination issued</p> <p><b>3 November 2023 to 1 December 2023</b> – Public exhibition period (Council, agencies required by the gateway and community submissions were received)</p> <p><b>21 February 2024</b> – Proponent submitted response to submissions report which included a peer review of the flood and drainage related documents supporting the planning proposal and an additional biodiversity assessment to address issues raised during public exhibition.</p> <p><b>11 March 2024</b> – PPA team requested a response from the Biodiversity Conservation and Science Group (BCS) to the flood and biodiversity matters within the proponent's response to submissions</p> <p><b>3 April 2024</b> – BCS provided a response addressing flood and biodiversity matters within the proponent's response to submissions</p> <p><b>18 April 2024</b> – Proponent prepared a response to BCS's letter</p> <p><b>22 April 2024</b> – PPA team requested BCS to respond to the proponents letter dated 18 April 2024</p> <p><b>2 May 2024</b> – BCS provided their final response addressing flood and biodiversity matters</p>
<b>Finalisation date required by Gateway Determination</b>	17 July 2024
<b>Department contact</b>	Douglas Cunningham, Manager Planning Proposal Authority (PPA)

## 1.1 The Site and local context

The Planning Proposal applies to 159-167 Darley Street West, Mona Vale, and comprises five lots legally described as Lot 1-5 DP 11108 ([Figure 1](#)) with a combined site area of 6,120m<sup>2</sup>. The site



has one frontage to Darley Street West and comprises 5 single and two storey dwellings. The site adjoins A townhouse (multi-dwelling housing) development to the East containing 11 units, 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**



**Figure 2: Site Context**

## 1.2 Planning Proposal

Table 2 – Overview of Planning Proposal

Element	Description
Site Area	6,120m <sup>2</sup>
Site Description	<p>The site comprises 5 allotments, legally described as:</p> <ul style="list-style-type: none"> <li>• 159 Darley Street West – Lot 5 DP 11108</li> <li>• 161 Darley Street West – Lot 4 DP 11108</li> <li>• 163 Darley Street West – Lot 3 DP 11108</li> <li>• 165 Darley Street West – Lot 2 DP 11108</li> <li>• 167 Darley Street West – Lot 1 DP 11108</li> </ul>
Proposal summary	<p>The Planning Proposal (as exhibited) (<b>Attachment A</b>), sought to facilitate redevelopment of the site for medium density housing.</p> <p>The concept plan submitted with the Planning Proposal included the construction of two residential flat buildings and three 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 following 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>To facilitate this redevelopment, the proposal sought to amend the PLEP 2014 by:</p> <ul style="list-style-type: none"> <li>• amending the Land Zoning Map to rezone the site from R2 – Low Density Residential to R3 – Medium Density Residential</li> <li>• amending clause 4.5A(3) to include a reference to the site, which removes the applicability of density controls for the site</li> <li>• inclusion of a new Affordable Rental Housing Contribution Area Scheme Map which identifies the site.</li> </ul>
Relevant State and Local Planning Policies, Instruments	<ul style="list-style-type: none"> <li>• Greater Sydney Region Plan – A Metropolis of Three Cities</li> <li>• North District Plan</li> <li>• Northern Beaches Local Strategic Planning Statement (LSPS)</li> <li>• Northern Beaches Local Housing Strategy (LHS)</li> <li>• State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>• State Environmental Planning Policy (Housing) 2021</li> </ul>



Element	Description
	<ul style="list-style-type: none"> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Exempt and Complying Development) 2008</li> <li>State Environmental Planning Policy (Sustainable Buildings) 2022</li> <li>Pittwater Local Environmental Plan 2014</li> <li>9.1 Ministerial Direction 1.1 Implementation of Regional Plans</li> <li>9.1 Ministerial Direction 3.1 Conservation Zones</li> <li>9.1 Ministerial Direction 1.4 Site Specific Provisions</li> <li>9.1 Ministerial Direction 3.1 Conservation Zones</li> <li>9.1 Ministerial Direction 4.1 Flooding</li> <li>9.1 Ministerial Direction 4.4 Remediation of Contaminated Land</li> <li>9.1 Ministerial Direction 4.5 Acid Sulfate Soils</li> <li>9.1 Ministerial Direction 5.1 Integrating Land Use and Transport</li> <li>9.1 Ministerial Direction 6.1 Residential Zones</li> </ul>

The exhibited Planning Proposal (**Attachment A and described within Table 1**) sought to amend the PLEP 2014 per the changes in Table 2 below.

**Table 3 – Current and proposed controls**

Control	Current	Proposed
<b>Zone</b>	R2 Low Density Residential	R3 Medium Density Residential
<b>Maximum height of the building</b>	8.5m	No change
<b>Floor space ratio</b>	N/A	No change
<b>Density controls for residential development</b>	Applies to all land zoned R3 Medium Density Residential	Exclude the site so density controls do not apply
<b>Number of dwellings</b>	5 current dwellings (10 potential dual occupancies)	41 dwellings
<b>Affordable housing</b>	N/A	5%

## 1.3 Mapping

The exhibited Planning Proposal sought to include a new Affordable Rental Housing Contribution Area Scheme Map and amend the land zoning map. The proposed maps are provided below.

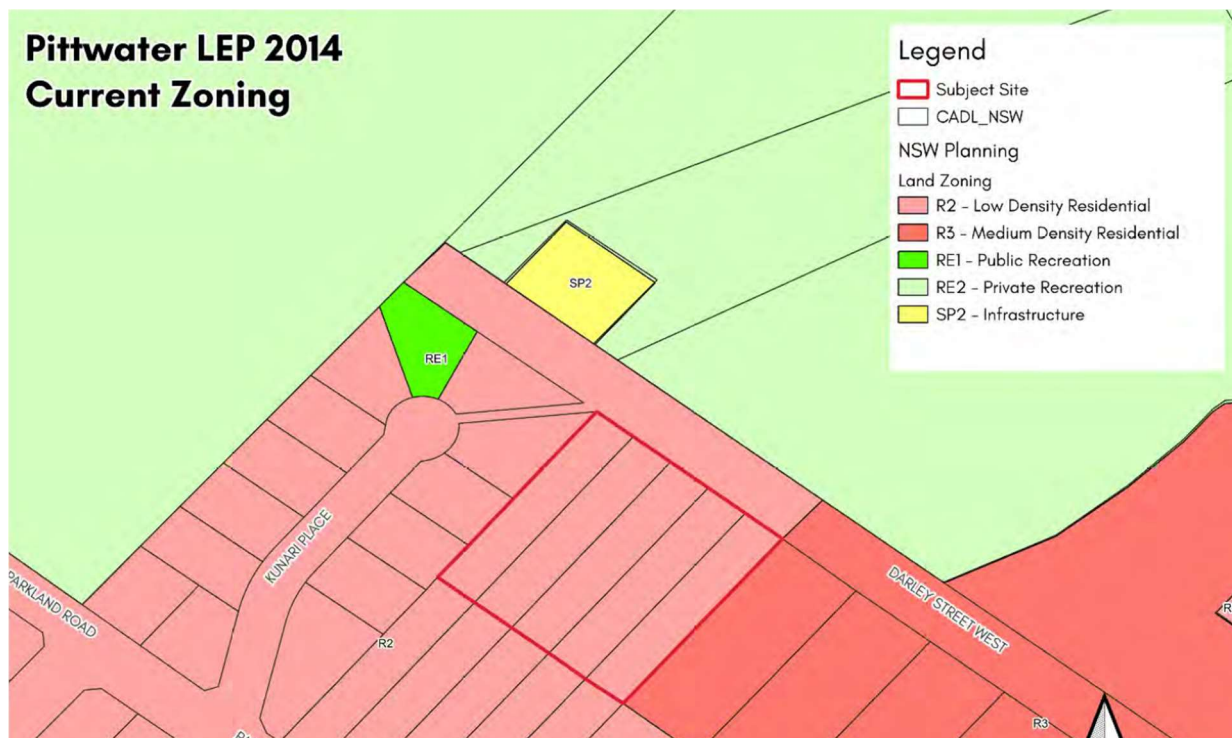


Figure 3: Current Zoning Map (Source: Planning Proposal)

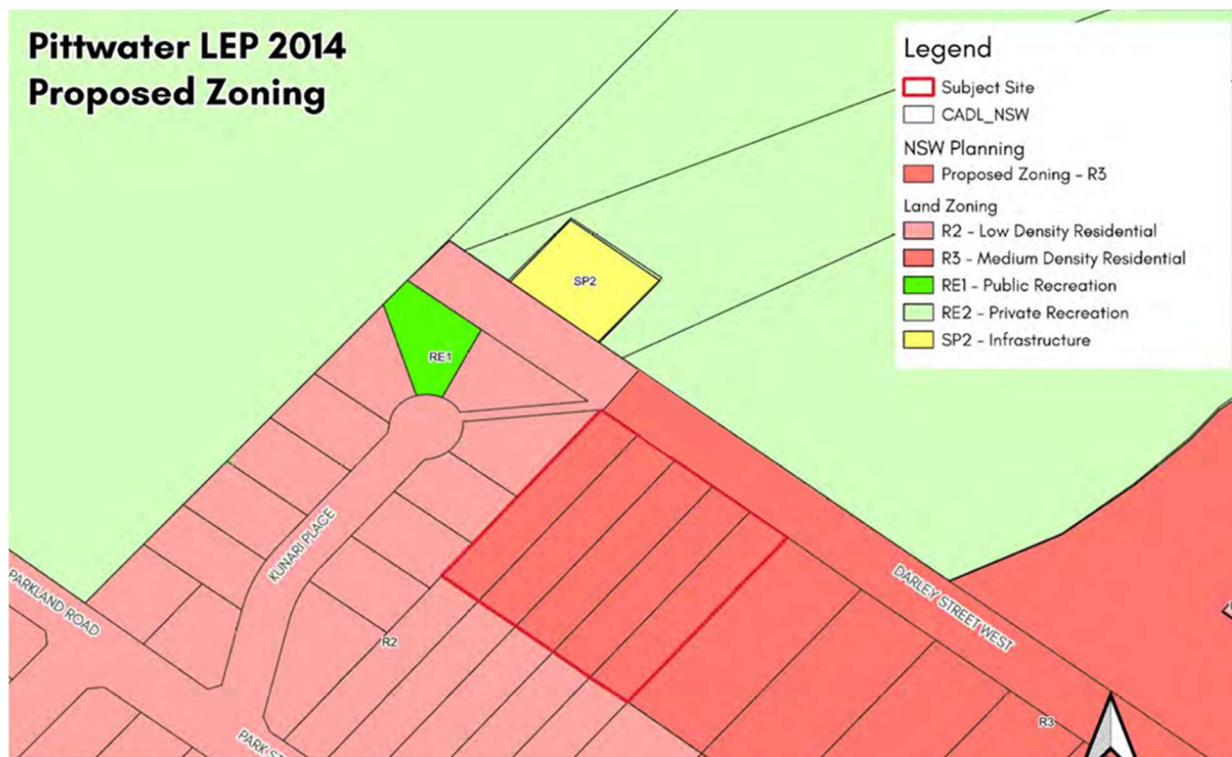


Figure 4: Proposed Land Zoning Map (Source: Planning Proposal)

## Pittwater LEP 2014 Proposed Affordable Housing Contributions Scheme Map

### Legend

 5%

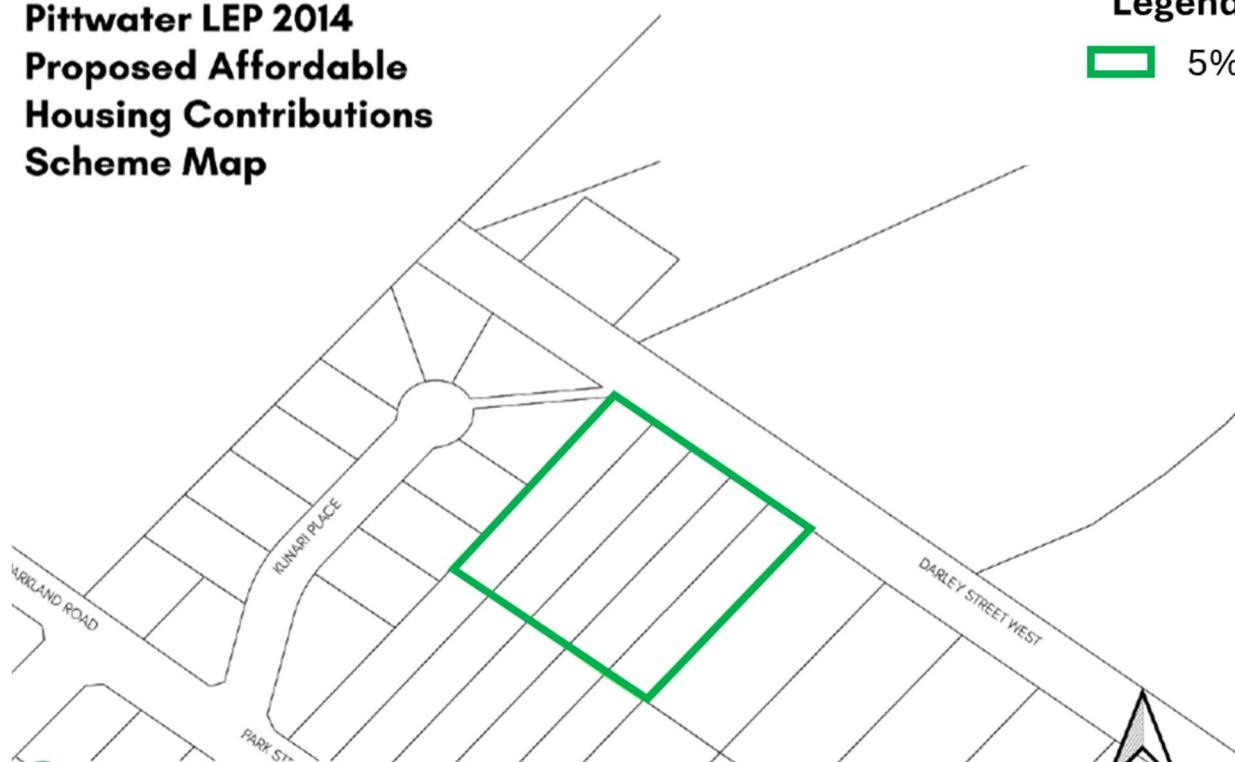


Figure 5: Proposed Affordable Housing Contributions Scheme Map (Base source: Planning Proposal)

## 1.4 Rezoning Review

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

The Panel determined to support the Planning Proposal because the proposal demonstrated strategic and site-specific merit and is consistent with State and Local Strategies. The Panel noted that:

- The proposal's strategic merit included consistency with the North District Plan, LSPS and LHS and provision of affordable housing.
- The proposal is consistent with the R3 Medium Density Residential zone and the remainder of Darley Street West which is also zoned R3 Medium Density Residential.
- The proposal has site-specific merit in that it satisfies flooding constraints.

The Panel's determination and reasons for its decision are provided in **Attachment B**.

Northern Beaches Council advised the Panel it wished to undertake the role of Planning Proposal Authority. Council failed to submit the proposal within the 42-day timeframe and therefore the delegate of the Minister for Planning appointed the Panel as the Planning Proposal Authority for the planning proposal on 20 June 2023.

On 14 August 2023, the Panel considered a way to progress with the planning proposal given Council and the Proponent were unable to agree to an affordable housing contribution rate. The Panel determined that a 5% affordable housing contribution rate was suitable and recommend that as part of the Gateway Determination the proposal be updated to include this rate (**Attachment B1**).

## 1.5 Gateway determination

The Gateway determination issued on 7 September 2023 (**Attachment C**) determined that the proposal should proceed subject to several conditions including:

- updating the Planning Proposal and supporting studies prior to community consultation to:
  - address relevant State Environmental Planning Policies, Ministerial 9.1 Directions
  - consider the proposal against the *Mona Vale Place Plan*
  - include a new Affordable Housing clause in the PLEP 2014 with associated Affordable Housing Contributions Scheme Map
  - identify an affordable housing contribution rate of 5% for the site on the proposed Affordable Housing Contributions Scheme Map
- Consultation with the identified public authorities and government agencies

The PPA team have undertaken an assessment of the gateway conditions and all conditions have been met (**Attachment D**).

## 2 Community Consultation

### 2.1 Public Exhibition

On 31 October 2023, the PPA team advised the Planning Panel team that the planning proposal was consistent with the Gateway Determination and could proceed to public exhibition. (**Attachment E**).

In accordance with the Gateway determination, the Planning Proposal and supporting material was publicly exhibited on the NSW Planning Portal from 3 November 2023 to 1 December 2023.

## 3 Submissions

### 3.1 Submissions during and after exhibition

A total of 43 submissions were received, including:

- 33 public submissions, 2 submission that provided identical petitions signed by the same 14 residents of Kunari Place, and 2 submissions that provided identical proforma letters (**Attachment F**).
- 1 submission from the proponent (**Attachment G**)
- 6 Agency submissions, with BCS providing 3 separate responses (**Attachment H**).
- 1 Council submission from Northern Beaches Council (**Attachment I**).

All but two public submissions objected to the proposal (94%), two community members provided support for the proposal.

The proponent provided a response to submissions, which can be found at **Attachment J**.

A table outlining the Department and Proponent's response to Council submission is provided as **Attachment K**, Agency submissions is provided as **Attachment L**, and community submissions is provided as **Attachment M**.

#### 3.1.1 Submission from the proponent

The proponent lodged a submission during the exhibition period (**Attachment G**).



With regard to the affordable housing contribution, the proponent emphasises that the fixed affordable housing rate of 5% exhibited with the Planning Proposal is not suitable as it does not account for project viability at the time of contribution calculation. The proponent recommends the affordable housing clause be drafted so that the contribution is calculated at 5% of new residential floor space, subject to viability.

### 3.1.2 Submissions from the community

A total of 33 public submissions were received during the exhibition period that included 2 submissions that provided identical petitions signed by the same 14 residents of Kunari Place, and 2 submissions that provided identical proforma letters.

Two community submissions supported the Planning Proposal for the following reasons:

- the site has already been developed and is appropriate for urban infill
- rezoning will diversify housing types, including a portion of affordable housing which results in better dwelling choice within the local area
- rezoning will assist in achieving housing targets

One of these submissions requested the adjoining properties on Park Street (zoned R2 Low Density Residential) be rezoned to R3 Medium Density Residential as part of this Planning Proposal.

All but two community submissions objected to the proposal (94%). In summary the community submissions raised the following concerns:

- Biodiversity
- Flooding
- Strategic merit
- Density and built form
- Traffic, parking and public transport
- Privacy
- Precedent setting
- Environmental factors (acid sulfate and odour)
- Affordable housing
- Walkability

Redacted copies of all public submissions are provided in **Attachment F**. No issues raised by community prevent the progression of the Planning Proposal to finalisation.

### 3.1.3 Submissions from Agencies

In accordance with the Gateway Determination, the following agencies were consulted:

- Ausgrid
- Sydney Water
- Biodiversity, Conservation and Science Group (noting this division has been amalgamated with Environment and Heritage Group)
- NSW State Emergency Service
- Transport for NSW
- Greater Cities Commission

Greater Cities Commission supported the proposal on the basis of consistency with the Greater Sydney Region Plan, North District Plan and existing character of the locality. Specifically, the provision of housing choice in proximity to the Mona Vale strategic centre, contribution to housing targets identified within the LGA and North District Plan and the affordable housing contribution of 5% over the site.

Transport for NSW, Ausgrid and Sydney Water raised no objection to the proposal, noting further consultation would be needed when a future development application is lodged for the site.

Biodiversity Conservation and Science Group (BCS) prepared three submissions, one lodged during exhibition and the other two post exhibition in response to the proponent's response to submissions and further information provided (**Attachments H, N, and O**) respectively.

On all occasions BCS conclude the ecology assessments (exhibited and attached to the proponent's response to submissions) provide insufficient information to clearly indicate the extent of impacts on threatened species, populations or ecological communities as a result of the proposed development. With regard to flooding, BCS considered the proposal to be 'generally consistent with the flood risk of the land' and was satisfied the ministerial direction was appropriately considered, subject to further consideration of various matters in their first submission.

The SES did not object to the proposal. However, it noted the Planning Proposal should consider Ministerial Direction 4.1 – Flooding and should also be consistent with the Flood Risk Management Manual 2023 and relevant guidelines.

A table outlining the response to Agency submissions is provided at **Attachment L**. Copies of the agency submissions are provided in full at **Attachment H**. No issues raised by the relevant agencies prevent the progression of the Planning Proposal to finalisation.

### 3.1.4 Submissions from Council

Council was consulted in accordance with the Gateway determination. Council's submission (**Attachment I**) raised the following key issues:

- Strategic merit assessment: the Planning Proposal does not demonstrate consistency with key aspects of the Greater Sydney Region Plan, North District Plan, Northern Beaches Local Strategic Planning Statement - Towards 2040 and Northern Beaches Local Housing Strategy.
- Flooding assessment: the Planning Proposal is inconsistent with the Local Planning Direction 4.1 – Flooding.
- Ecological assessment: entry into the Biodiversity Offset Scheme cannot be ruled out, and therefore a Biodiversity Assessment should be included as part of any future development application.
- Affordable housing: the Planning Proposal is inconsistent with Gateway condition 1(d) which requires a contribution rate of 5% of the site, meaning 5% of the total Gross Floor Area of any development (not just the value uplift component). The Planning Proposal was exhibited with an affordable housing contribution rate of 5% for developments with new residential floor space and the final contribution should be subject to viability testing.
- Traffic assessment: no objection to the proposal on traffic and transport grounds subject to various matters being addressed as part of a future development application.

An assessment of the issues raised by the Council is included in **Attachment K**. No issues raised prevent the progression of the Planning Proposal to finalisation.

## 3.1.5 Representation from Parliamentary Members

At the time of writing this report, it is understood that no Parliamentary Members have made any written representations regarding the Planning Proposal. Additionally, there have been no meetings or communications with registered lobbyists with respect to this proposal.

## 3.2 Key Issues from submissions

In summary, the key concerns raised in within submissions include:

- Affordable housing
- Biodiversity
- Flooding
- Density and built form
- Traffic

### 3.2.1 Issue No.1 – Affordable housing

#### Community:

The submissions note the Planning Proposal's affordable housing contribution history (described below):

- The original proposal included an offer from the applicant to enter into a voluntary planning agreement and provide affordable housing at a rate of 2.085% of the investment value (\$1,122,627).
- The Gateway Determination dated 8 September conditioned that the Planning Proposal be exhibited with an affordable housing rate of 5%.
- The exhibited Planning Proposal proposed an affordable housing contribution equivalent to 5% of the new residential floor space with the contribution subject to viability testing.

The submissions do not support the proposed viability testing as any reduction in the contribution will have an adverse impact on affordable housing within the Northern Beaches Local Government Area.

#### Council

Council's strategic plans identify an undersupply of affordable housing on the Northern Beaches. Specifically, the Affordable Housing Policy and Local Strategic Planning Statement aim to provide 10% affordable rental housing in areas subject to zoning uplift. Council referenced the feasibility analysis for the site, prepared by Hill PDA on behalf of Council, which recommended the provision of 5% of total GFA for affordable housing. Council emphasised the Gateway condition affordable housing rate of 5% relates to the total GFA of any development, not just the uplift component.

#### Proponent response:

The proposal seeks to deliver affordable housing through:

- housing diversity through the provision of a range of dwelling sizes rather than large unaffordable dwellings
- financial contribution

Viability is an important consideration as the North District Plan recognises that contributions must be viable. Whilst the aspiration of the North District Plan is to achieve a contribution of 5-10% of new residential floor space, the contribution must ultimately be determined having regard to



viability. Failure to do so will result in further deterioration of housing supply in an already constrained area.

The proponent emphasised within their submission (received during exhibition) and response to submissions (received post exhibition), project viability cannot be determined at the rezoning stage given the passage of time that will follow between the land being rezoned and the development application being lodged and determined and that the following matters could potentially undermine the viability of a project at the time contribution is calculated:

- Bank interest
- Construction contingency
- Credit existing gross floor area

The proponent requested the inclusion of 'viability' within the PLEP 2014 clause is consistent with page 45 of the North District Plan that *'affordable rental housing targets that are generally in the range of 5-10 per cent or new residential floor space are subject to viability'* and precedent Local Environmental Plans such as the *Penrith Local Environmental Plan 2010*. It will also avoid the need for an amendment to the PLEP 2014 should the nominated rate not be viable at the time a future development application is lodged.

#### Planning Proposal Authority team response:

Whilst there are differing community, Council and proponent positions regarding affordable housing contributions, the PPA team has engaged an independent peer review of the affordable housing contributions to support this report.

As outlined within the table below, two feasibility assessments were prepared prior to public exhibition (one on behalf of the proponent and the other on behalf of Council). Both assessments were used to determine the recommended affordable housing contribution exhibited with the Planning Proposal (5%).

**Table 4 – Summary of feasibility assessments**

Feasibility Assessment	Proposed affordable housing rate
<b>Macroplan (Attachment A11)</b> (on behalf of the proponent)	2.085% (equivalent to \$1,122,627)
<b>Hill PDA (Attachment O)</b> (on behalf of Council)	5% (equivalent to \$3,374,872)

#### **Atlas Economics Peer review**

Following public exhibition, the PPA team engaged Atlas Economics to undertake a peer review of both feasibility assessments and provide advice on the most appropriate affordable housing contribution rate (**Attachment Q**). The peer reviewed provides a detailed comparison of both the Macroplan and Hill PDA feasibility assumptions and methodology.

Both Macroplan and Hill PDA identify that Affordable Housing contributions should be calculated on 'new' floorspace. However, Atlas Economics note Macroplan and Hill PDA deduct 'existing/built' floorspace, rather than the permissible floorspace under the current controls. As an overall observation, assumptions in the two studies are mostly aligned except on build cost and contingency where there is an almost \$3 million difference.

## Atlas Economics Feasibility Testing

The objective was to test whether redevelopment of the site still achieves commercial returns following the payment of Affordable Housing contributions.

The Affordable Housing Targets were calculated as a proportion of residential floor space above the base floor space ratio in accordance with Greater Cities Commission Information Note 4. Under the existing planning controls (R2 Low Density Residential Zone, 8.5m height limit and no floor space control) and site area (6,120sqm), the site has the potential to accommodate 10 dwellings (dual occupancies).

The Planning Proposal seeks to amend the PLEP 2014 to permit 41 dwellings, thereby resulting in 31 additional dwellings. The table below is an extract from Atlas's report and identifies the quantum of Affordable Housing which could result from 5% and 10% of the 31 new dwellings.

**Table 5 – New residential floorspace from rezoning**

	<i><b>Before rezoning</b></i>	<i><b>Planning Proposal</b></i>
<i>Dwelling potential</i>	<i>10 (dual occupancy)</i>	<i>41</i>
<i>New dwellings (enabled by Planning Proposal)</i>	<i>N/A</i>	<i>31</i>
<i>5% x 31 new dwellings (% of 41 dwellings)</i>	<i>N/A</i>	<i>1.55 dwellings (3.8%)</i>
<i>10% x 31 new dwellings (% of 41 dwellings)</i>	<i>N/A</i>	<i>3.1 dwellings (7.6%)</i>

Atlas Economics tested Affordable Housing contributions at 5% and 10% of new dwellings and found that it was viable to contribute 2 dwellings (equivalent to 5%) but not 3.1 dwellings (10%).

Given this, Atlas's view is that 5% affordable housing contribution (of the overall 41 dwellings) is viable and equivalent to:

- 2 average dwellings (41 dwellings x 5%)
- 184sqm of Gross Floor Area (3,683sqm GFA x 5%).
- 6.5% of the 31 'new' dwellings enabled by the rezoning

The Greater Sydney Region Plan and North District Plan identify affordable housing targets of 5%-10% of new residential floorspace (that is, floorspace resulting from a rezoning), subject to viability. The Greater Cities Commission (GCC) issued Information Note 4 to clarify application of the Affordable Rental Housing Targets for sites. This note recommends that any affordable housing targets be calculated as a proportion of all residential floor space above the base floor space ratio, that is, the residential floor space ratio that was permissible before the upzoning.

The Northern Beaches Council (Council) Affordable Housing Contributions Scheme (the AHCS) applies in the Frenchs Forest Planned Precinct and specified sites in Narrabeen. Under the scheme contributions are required on total floorspace, not just on the floorspace enabled by the rezoning. This goes against the GCC recommendations and the Departments Policy position regarding affordable housing contribution rates. The PPA team recommends that the 5% Affordable Housing Contributions rate applies to residential uplift, rather than gross floor area, in line with the GCC and Department position.

Furthermore, the PPA team supports Atlas's conclusion that 5% of the uplift or new dwellings, is an appropriate affordable housing contribution and recommends the DPHI draft the affordable housing contribution clause accordingly at the finalisation stage of the Planning Proposal. Consistent with the Gateway Determination, Clause 6.11 of the *Warringah Local Environmental Plan 2011* should be used as the basis for the wording and structure of the clause.

## 3.2.2 Issue No.2 – Biodiversity

### Community:

The Planning Proposal and preliminary ecological assessment lack adequate detail in identifying the extent of impacts on threatened species, populations or ecological communities as a result of the proposed development.

It is unclear how the endangered vegetation proposed for retention will be managed and protected. The proposal should identify the methods to be undertaken to conserve native vegetation on site.

### Council:

Indirect and prescribed impacts are required to be considered when determining if the Biodiversity Offset Scheme applies. Therefore, entry into the Biodiversity Offset Scheme and preparation of a Biodiversity Development Assessment Report cannot be ruled out. Council recommends submission of a Biodiversity Assessment as part of any future DA.

### Biodiversity, Conservation and Science Group

BCS provided three separate responses to the Planning Proposal.

The 14 December 2023 submission (**Attachment H**) responded to the exhibited Planning Proposal material, whilst the 3 April 2024 letter (**Attachment N**) responded to the proponent's response to submissions which included additional flood and ecological technical information. The 2 May 2024 letter responded to the additional information (**Attachment O**) submitted by the proponent in response to BCS's second submission (**Attachment R**).

An overview of each submission is provided in the table below.

**Table 6 – Summary of Biodiversity, Conservation and Science Group submissions**

BCS submission date	Response to	Summary relating to ecology matters
14 December 2023	Exhibited Planning Proposal (27 October 2023)	<p>BCS note the findings of the exhibited Preliminary Ecological Assessment that:</p> <ul style="list-style-type: none"><li>the site contains 0.19ha of Pittwater and Wagstaffe Spotted Gum Forest (PWSGF), which is listed as an endangered ecological community under the Biodiversity Conservation Act 2016 (BC Act)</li><li>the future development is anticipated to impact 0.09ha of PWSGF and it is unclear how it will be managed and protected in the future</li><li>the assessment of significance prepared by the proponent did not adequately justify the conclusion that there will be 'no significant impact' on biodiversity and therefore not require entry into the Biodiversity Offset Scheme</li></ul>



BCS submission date	Response to	Summary relating to ecology matters
		<ul style="list-style-type: none"> <li>the Preliminary Ecological Assessment has not provided adequate information to be able to understand the biodiversity values on the site and the impacts to those biodiversity values from the proposal</li> </ul> <p>BCS recommends:</p> <ul style="list-style-type: none"> <li>an assessment of biodiversity values be undertaken through application of Stages 1 and 2 of the Biodiversity Assessment Method (BAM).</li> <li>the concept design avoids and minimises impacts to the PWSGF</li> <li>a permanent barrier be provided at the edge of the PWSGF that is to be retained</li> <li>a vegetation management plan be prepared and implemented</li> <li>a site-specific development control plan be prepared with objectives and controls to protect, rehabilitate and conserve the PWSGF</li> </ul>
<b>3 April 2024</b>	Proponents Response to submission (21 February 2024)	<p>The proponent has not adequately addressed BCS's previous submission.</p> <p>BCS conclude the proponent's additional ecology documentation, prepared in response to their December 2023 submission, is insufficient as it fails to clearly indicate the extent of impacts on threatened species, populations or ecological communities as a result of the proposed development.</p>
<b>2 May 2024</b>	Proponents additional information (18 April 2024)	<p>BCS maintains their view (expressed in their submission dated 14 December 2023) that a BAM should be undertaken.</p> <p>BCS is not satisfied that the proponent's response (dated 18 April 2024) and assessment of significance for the PWSGF provides sufficient information to determine there will not be significant impacts. Specifically, that:</p> <ul style="list-style-type: none"> <li><i>not enough is known about the biodiversity values on the site</i></li> <li><i>the lack of details provided for the design of the proposal including the impacts to trees and therefore the extent of removal of PWSGF</i></li> <li><i>protections in planning provisions for retained vegetation have not been proposed at the PP stage.</i></li> </ul>

## Proponent Response:

Cumberland Ecology on behalf of the proponent prepared two responses dated 21 February 2024 (**Attachment J**) and 18 April 2024 (**Attachments R**) which directly respond to concerns raised by BCS on 14 December 2023 and 3 April 2024 respectively.

- Table 7 below provides a summary of the proponent's response to BCS's recommendations within their submission dated 14 December 2023.

- Table 8 below provides a summary of the additional Tests of Significance, prepared by the proponent in their response to submissions dated 21 February 2024, to further assess the impacts on threatened species, populations or ecological communities.

The table below provides a summary of Cumberland Ecology's response to BCS's recommendations within their submission dated 14 December 2023.

**Table 7 – Summary of Cumberland Ecology's response to BCS's recommendations**

BCS's recommendation	Cumberland Ecology response
An assessment of biodiversity values be undertaken through application of Stages 1 and 2 of the Biodiversity Assessment Method (BAM).	<i>The concept plan submitted as part of the planning proposal provided an appropriate indication of potential impacts of future development of the subject site. Although the PEA (Preliminary Ecology Assessment) was prepared prior to the current LEP Making Guidelines being published, the PEA has addressed the minimum requirements of the current guidelines. The PEA provides an in-depth assessment of the biodiversity values of the subject site and potential impacts that may arise from future development and is considered to be relevant and adequate for use in 2024. The preparation of biodiversity assessments in support of planning proposals utilising components of the BAM is a valid approach and is becoming more common in practice for complex planning proposal projects. However, given that the planning panel cannot specify or approve a development concept, components of Stage 2 of the BAM would be difficult to apply to the project with confidence at this stage. Nevertheless, Stage 1 of the BAM is more feasible to apply at the planning proposal stage with the exception of identifying prescribed additional biodiversity impacts which may still be unknown. However, given the very small area and limited biodiversity values of the subject site, and highly urbanised nature of the surrounding area, the PEA is considered entirely adequate (and appropriate) to give an informed reader an understanding of the ecological context and potential impacts of the project and future development. Due to the existence of the PEA, a BAM assessment would be more appropriately prepared at the DA stage of the project if the BOS thresholds are exceeded. This is in line with the conclusions of the PEA which discusses the various options for biodiversity assessment at the DA stage.</i>
The concept design avoids and minimises impacts to the PWSGF.	<i>As discussed in the PEA, a suitable area of PWSGF has been avoided from impacts as shown on the concept plan. Future management under a VMP will facilitate the continued presence, expansion and recovery of PWSGF throughout the subject site in the future.</i>
A permanent barrier be provided at the edge of the PWSGF that is to be retained.	<i>Whilst a fauna-friendly fence would be a desirable mitigation measure, it is important to note that the subject site is also addressing an existing stormwater drainage issue in the area. As a result, the inclusion of permanent fauna-friendly fencing surrounding the revegetation area is not practical as it may not be compatible with stormwater infrastructure and associated ongoing management.</i>

BCS's recommendation	Cumberland Ecology response
A vegetation management plan (VMP) be prepared and implemented.	<i>Cumberland Ecology agrees that a VMP must be prepared for the subject site at the DA stage or as a condition or consent. Any such VMP must be prepared by a suitably qualified and experienced ecologist rather than a bush regenerator as stated in the EHG comment. This is to ensure that proposed management and revegetation is ecologically sound. Suitably experienced bush regenerators must be engaged to undertake the implementation of the VMP and associated on-ground works if a DA were to proceed.</i>
A site-specific development control plan be prepared with objectives and controls to protect, rehabilitate and conserve the PWSGF.	<i>Given the small size of the subject site and the highly urbanised context, a site specific DCP is considered unnecessary, particularly when a future DA is required to be submitted to the Northern Beaches Council (as Consent Authority). Any such DA will include a VMP</i>

Cumberland Ecology also acknowledge a key concern raised by BCS that insufficient information has been provided to justify the conclusions of the Test of Significance that there will be an insignificant impact on any vulnerable, endangered or critically endangered species within the site.

In response, Cumberland Ecology provided a high level summary of the Preliminary Ecology Assessment exhibited with the Planning Proposal (which concludes no significant impacts are anticipated) and additionally, prepared further tests of significance for Pittwater and Wagstaffe Spotted Gum Forest, Microchiropteran Bats, Large Forest Owls and the Grey-headed Flying-fox were prepared. A summary of the Tests of Significance is below and concludes there will be no significant impact.

**Table 8 – Test of Significance summary**

Submission date	Summary of Test of Significance	No significant impact?
<b>Pittwater and Wagstaffe Spotted Gum Forest</b>	<p>Future development is anticipated to remove a small area (0.09 hectares) of highly degraded PWSGF.</p> <p>Due to the degraded condition and the relatively small, future development will not significantly impact PWSGF or influence the viability of other remnants in the surrounding urban landscape.</p> <p>The proposed 0.12 hectares of retained vegetation, provides opportunities to improve the biodiversity value of retained PWSGF.</p>	✓
<b>Microchiropteran Bat Species</b>	<p>The following threatened microchiropteran bat species have been assessed collectively in the following Test of Significance:</p> <ul style="list-style-type: none"> <li>• Eastern Coastal Free-tailed Bat (<i>Micronomus norfolkensis</i>)</li> <li>• Eastern False Pipistrelle (<i>Falsistrellus tasmaniensis</i>)</li> <li>• Large Bent-winged Bat (<i>Miniopterus orianae oceanensis</i>)</li> <li>• Large-eared Pied Bat (<i>Chalinolobus dwyeri</i>)</li> </ul>	✓



Submission date	Summary of Test of Significance	No significant impact?
	<ul style="list-style-type: none"> <li>Little Bent-winged Bat (<i>Miniopterus australis</i>)</li> </ul> <p>Local populations of the assessed microchiropteran bat species are unlikely to depend on the limited and degraded habitat resources contained within the subject site for their survival given high-quality foraging areas are available within surrounding areas including Kuring-gai Chase National Park, Warriewood Wetlands, Robert Dunn Reserve, Mona Vale Golf Club and Bayview Golf Club.</p> <p>Future development of the site is not likely to place a viable local population of these species at risk of extinction. All five species are highly mobile and are expected to move between areas of remaining habitat within the immediate vicinity of the subject site and wider area. Nevertheless, a 0.12 ha retention/revegetation area will provide a small area of habitat within the subject site that will be managed under a VMP as part of a future DA.</p>	
<b>Large Forest Owl Species</b>	<p>The following threatened large forest owl species have been assessed collectively in the following Test of Significance:</p> <ul style="list-style-type: none"> <li>Barking Owl (<i>Ninox connivens</i>)</li> <li>Powerful Owl (<i>Ninox strenua</i>)</li> </ul> <p>Local populations of the assessed large forest owl species are unlikely to depend on the limited and degraded habitat resources contained within the subject site for their survival high-quality foraging areas are available within surrounding areas including Kuring-gai Chase National Park, Warriewood Wetlands, Robert Dunn Reserve, Mona Vale Golf Club and Bayview Golf Club.</p> <p>Future development of the site is not likely to place a viable local population of these species at risk of extinction. Both species are highly mobile and are expected to move between areas of remaining habitat within the immediate vicinity of the subject site and wider area. Nevertheless, a 0.12 ha retention/revegetation area will provide a small area of habitat within the subject site that will be managed under a VMP as part of a future DA.</p>	✓

Submission date	Summary of Test of Significance	No significant impact?
<b>Grey-headed Flying-fox</b>	<p>Local populations of the Grey-headed fox are unlikely to depend on the limited and degraded habitat resources contained within the subject site for their survival high-quality foraging areas are available within surrounding areas including Ku-ring-gai Chase National Park, Warriewood Wetlands, Robert Dunn Reserve, Mona Vale Golf Club and Bayview Golf Club.</p> <p>Future development of the site is not likely to place a viable local population of the species at risk of extinction. The species is highly mobile and expected to move between areas of remaining habitat within the immediate vicinity of the subject site and wider area.</p> <p>Nevertheless, a 0.12 ha retention/revegetation area will provide a small area of habitat within the subject site that will be managed under a VMP as part of a future DA.</p>	✓

## PPA team response:

PPA team note concerns raised within all submissions, particularly BCS's responses which state insufficient information has been provided.

The PPA team have reviewed all three Ecology Assessments prepared by Cumberland Ecology and considers that these assessments, particularly the Tests of Significance (which assessed likely impacts of future development on vulnerable, endangered or critically endangered species within the site), provide adequate information to support the progression of the Planning Proposal to finalisation.

The PPA team acknowledges that the concept plan included with the proposal demonstrates that there maybe a loss of some existing vegetation on site, including 0.09ha of PWSGF. The vegetation identified to be removed is largely located within the centre of the site and towards Darley Street. It is noted this portion of the PWSGF would likely be impacted if the site was redeveloped in accordance with the existing controls that apply to the site under the PLEP 2014.

Specifically, the PPA's teams view is that a BAM is not required at the Planning Proposal stage given the small area impacted, limited biodiversity values, and highly urbanised nature of the site. Rather, it is appropriate to prepare the BAM at Development Application stage consistent with Cumberland Ecology's recommendations. The submission of the BAM at this stage in the project would not give any further certainty of the true impacts of this development, as a further Development Application with an alternate footprint can still be considered by Council. Protections included in the LEP are a more appropriate mechanism to ensure the biodiversity values are protected at the development stage.

BCS has recommended a site-specific development control plan for the site and the preparation of a Vegetation Management Plan to address these impacts.

Although it is considered that the ecological values at the site can be suitable managed at the development application stage, certainty is needed at the planning proposal stage to ensure all impacts on these communities are minimised and avoided.

The PLEP 2014 includes clause 7.6 Biodiversity, the clause aims to protect and conserve biodiversity at the development application stage, through mapping sites with biodiversity values. This clause is an appropriate protection mechanism for the sites biodiversity values and resolving BCS concerns related to ensuring impacts are minimised and avoided.

Therefore, it is recommended the following changes are made to the planning proposal:

- Inclusion of the site in Clause 7.6 Biodiversity of the PLEP 2014 by mapping the site on the Biodiversity Map,
- Inclusion of a local clause, or similar mechanism, requiring the preparation of a site-specific Development Control Plan, prior to development consent being issued, which includes:
  - includes objectives and controls to protect, rehabilitate and conserve the site.
  - requires preparation of a Vegetation Management Plan which restricts development on the southern portion of the site where the vulnerable, endangered or critically endangered species are predominantly located.

Subject to the above changes, the PPA team is satisfied that the issues relating to biodiversity have been sufficiently addressed and do not prevent the proposal from progressing to finalisation.

### 3.2.3 Issue No.3 – Flooding

#### Community:

The subject site is affected by Low Risk and Medium Risk flood hazards in accordance with Northern Beaches Council's Flood Hazard Map, adopted in 2019. The Stormwater Management Report refers to overland flow paths extending to Darley Street West stormwater system but there is no mention of the impact on the creek system bordering the Bayview Golf Course and the properties on the lower side of Kunari Place.

The development will cover most of the site with hard stand surfaces which will increase run-off and flooding issues.

The submissions note the Planning Proposal is inconsistent with Direction 4.1 – Flooding because:

- It permits additional development in floodway areas
- It substantially increases by over 300% the dwelling density in the Flood Planning Area
- It has not been demonstrated that the increase of the probable maximum flood on 155 Darley Street can be mitigated

#### Council

Council notes the site is affected by Low Risk and Medium Risk flood hazards in accordance with Council's Flood Hazard Map adopted in 2019.

An existing overland flowpath traverses through the subject properties and continues towards Kunari Place (number 6, 8 and 10). The proposal involves diverting approximately 70% of the peak 1% AEP flows arriving from the south-east through a new shared access driveway to Darley Street West.

The diverted flows arrive at Darley Street West and subsequently discharge overland towards Mona Vale Golf Course. The additional flows within Darley Street West will generally achieve flood depths and velocities that maintain the current flood risk hazard ( $h_1 - h_2$ ).

The Planning Proposal is consistent with the Pittwater LEP 2014 Clause 5.21 and 5.22, Pittwater 21 DCP Clause B3.11 Flood Prone Land and B3.12 Climate Change and NSW Government Flood Prone Land Policy. However, it is inconsistent with Ministerial Direction 4.1 – Flooding for the following reasons:

- The intensity of the development on the land is increasing and therefore is inconsistent with Direction 4.1(3)(a)
- The flood level increases in the probable maximum flood on the neighbouring property of 155 Darley Street, Mona Vale. The increases exceed 50mm which is the threshold for adverse

impacts within the PDCP. Therefore, the Planning Proposal is inconsistent with Direction 4.1(3)(b).

- The dwelling density is significantly increasing (over 300%, from 5-10 dwellings to over 40 dwellings) and therefore is inconsistent with Direction 4.1(3)(d)

## Agency

As noted previously, BCS provided three separate responses to the Planning Proposal.

The 14 December 2023 submission (**Attachment H**) responds to the exhibited material, whilst the 3 April 2024 letter (**Attachment N**) responds to the proponent's response to submissions which included additional flood and ecological technical information. The 2 May 2024 letter responded to the additional information request (**Attachment O**).

**Table 9 – Summary of Biodiversity, Conservation and Science Group submissions**

Submission date	Summary relating to flooding matters
14 December 2023	<p>BCS considered the proposal to be generally consistent with the flood risk of the land and was satisfied the Ministerial Direction 4.1 – Flooding has been appropriately considered subject to further consideration of the matters below:</p> <ul style="list-style-type: none"><li>• the new overland flow path along the driveway will be unsafe for small vehicles during a 1% Annual Exceedance probability (AEP) event.</li><li>• the new overland flow path along the driveway would lead to the creation of a high flood island whereby the occupants of Buildings C, D and E would be unable to safely evacuate from at the 1% AEP flood event, noting smaller events have not been modelled.</li><li>• the proposed stormwater drainage was not included in the flood modelling – it is recommend this is included and that the flood hazard on the driveway is limited to category H1 in a 1% AEP event</li><li>• recommended the flood maps and modelling be updated, including to show impacts greater than 0.01m and providing mapping for hazard categories H1 to H6.</li></ul>
3 April 2024	<p>BCS supports the recommendations of the peer review prepared by Lyall and Associates; however, does not support the implementation of recommendations at DA stage. BCS considers it prudent to implement the recommendation at the Planning Proposal stage.</p>
2 May 2024	<p>BCS considers the proposal to be generally consistent with the flood function of the land.</p> <p>However, 'for completeness' and in accordance with BCS's previous submissions, recommends the flood impact maps are updated to show impacts greater than 0.01 m and mapping for hazard categories H1-H6 should also be provided for existing and proposed conditions.</p>

## Proponent Response:

Lyall & Associates were engaged by the proponent to undertake a peer review of the flooding and drainage related documents exhibited with the Planning Proposal (**Attachment J**). They also provided additional advice in response to BCS's second submission (**Attachment R**).



The peer review identifies that the Planning Proposal is generally consistent with the requirements of Direction 4.1 – Flooding and that any inconsistency would be of minor nature and therefore able to be addressed and assessed as part of a future Development Application.

Specifically in response to the issues raised in submissions regarding consistency with Direction 4.1 – Flooding, Lyall & Associates provide the following assessment:

- The Planning Proposal does not result in additional development in a floodway area as the overland flow path will be realigned and relocated within a landscaped area at the rear of the site. The flood maps within Royal Haskoning DVH 2017 (refer to Lyall & Associates peer review) demonstrate the floodway is of low hazard nature and can be appropriately modified as part of a future development application.
- Despite the increase in density at the site, the proposed realignment of the overland flow path will ensure that there are no habitable rooms located within the extent of the Flood Planning Area
- The proposed development will alter flooding patterns when compared to present day conditions; however, given the minor nature of the overland flow path, its diversion onto Darley Street West is unlikely to result in significant impacts to other properties during storms more intense than 1% AEP. This can be demonstrated as part of any future Development Application.

The peer review concludes that the flooding and drainage related issues that have been identified through public and agency consultation and the peer review process, can be satisfactorily resolved in accordance with clause 5.22 of the PLEP 2014 and the Pittwater Development Control Plan.

On this basis, Lyall & Associates recommend that the Planning Proposal be finalised subject to a list of actions being implemented at Development Application stage. These actions are summarised below:

- Update the flood model to:
  - take account of the blocking effects of buildings that are located upslope of the site
  - include details of the new stormwater drainage line;
  - define the nature of flooding under pre- and post-development conditions for storms with intensities of 20, 10, 5 and 1% AEP, as well as the PMF event.
- Results of the flood model are to be presented in a clear and consistent manner
- Preparation of figures for the design storm events discussed by Lyall and Associates
- A landscaped feature be made of the overland flow path
- 300mm freeboard to be provided to the 1% AEP
- New stormwater drainage line is to be sized to convey the peak 1% AEP flow
- Flow in excess of the new stormwater drainage line to be permitted to discharge in the same direction as its currently takes
- Provision be made along the common boundary with 6, 18 and 10 Kunari Place for flow in excess of the capacity of the new stormwater drainage line to be conveyed overland onto Darley Street West and thence to Kunari Place via the public thoroughfare
- The existing stormwater drainage line be upgraded downstream of the cul-de-sac in Darley Street West to cater for the 1% AEP flow discharging from the proposed development in addition to the flow in Council's existing stormwater drainage line

#### PPA team response:

The PPA team notes that the proponent has submitted a Stormwater Management Strategy and have provided a peer review of this strategy as part of their response to submissions.

The PPA team has reviewed both of these documents and considers that they generally address compliance with Direction 4.1 and the flooding and drainage issues raised within the public submissions.

The PPA team agree that some issues raised in submissions around flooding and drainage can be satisfactorily resolved at the DA stage through the implementation of the peer review recommended actions.

Although some matters can be addressed at DA stage, the PPA team have identified some technical matters, flood modelling details, which are more appropriately dealt with at the planning proposal stage.

Both the Stormwater Management Strategy and the Lyall & Associates work both address the potential flood hazard on site through depth and velocity results at point locations across the site. They have also provided maps to visually show this data, however, have not provided flood hazard classification maps for existing and post development scenarios to visually show the hazard classification. Although the PPA team agrees with both the Proponent and BCS conclusion that flood hazard on site is relatively low, these maps are needed to support these conclusions. BCS has requested this work be undertaken in all of their submissions.

The PPA team recommend that prior to proceeding to finalisation, flood hazard vulnerability classification maps for existing and post development scenarios, are provided to the Department.

Subject to the above additional information being provided, the PPA team is satisfied that the issues relating to flooding do not prevent the proposal from progressing to finalisation.

### 3.2.4 Issue No.4 – Density and built form

#### Community submission:

The proposed development is out of character with the surrounding streetscape. It is not correct to state that the redevelopment of the site is consistent with other housing developments in the street given two apartment buildings of 38 apartments over four blocks have much higher density than other sites in the street.

The proposal has a bulk and scale which is unsympathetic to the surrounding development types that consist of apartments and townhouses abiding by the Council density limits.

#### Proponent response:

The proposed medium density residential zoning and scale of the development is consistent with the existing built form along Darley Street West.

Density limits within the PLEP 2014 have significantly contributed to a lack of housing diversity and unaffordability within the Northern Beaches Local Government Area.

#### PPA team response:

The development concept consists of two 2-storey residential flat buildings and three 2-storey townhouses to the north, which transition to the lower density development at Kunari Place. This is consistent in scale and the streetscape character of Darley Street West which is largely characterised by 2 storey medium density development residential flat buildings and townhouses to the east.

It is noted that the Panel's position within the Rezoning Review was that given Darley Street West is predominantly zoned R3 Medium Density Housing and, therefore, it is logical to extend this zoning for the whole street to achieve consistency in built form.

The PPA team consider that the proposed rezoning and scale of the development will be consistent with the surrounding character and appropriately addresses the topography by stepping

the built form with the sloping site. Therefore, PPA team is satisfied that the matters raised do not preclude the proposal from proceeding to finalisation. The bulk and scale of the development will be addressed as part of a future development application.

### 3.2.5 Issue No.5 – Traffic

#### Community submission:

The Planning Proposal will have a negative impact on the traffic flow of cars entering and existing Darley Street West. The traffic light at the end of Darley Street West generates significant congestion and increased road users as a result of additional residents will exacerbate this issue.

Several submissions note the existing and future traffic issues as a result of the development could be mitigated through improvements to the existing traffic lights. Specifically, through the installation of a right turn arrow onto Pittwater Road.

The proposal will result in a general loss of on-street parking availability and increase competition for parking spaces in a street already lacking sufficient spaces.

The Traffic Impact Assessment identifies numerous bus stops within 800m of the site; however, these services are rarely used. The main commuter bus services, including the B1 to the city and 199 to Warringah Mall and Manly, are located well outside the 800m radius. The site's location on a steep hill makes the walk to B1 bus stop untenable for many, meaning there will be further parking impacts as residents will not walk.

#### Council submission:

Council does not object to the proposal on traffic and transport grounds subject to various matters being addressed as part of a future development application.

#### Transport for NSW submission:

TfNSW anticipates the traffic impacts will be minor as a result of future development entering and existing from the local road network.

#### Proponent response:

The exhibited Traffic Impact Statement (TIS) provides an assessment of the Darley Street West intersection and Pittwater Road performance. The TIS found the existing intersection has good level of service during both morning and evening peak periods and that the proposed development would maintain a good level of service during peak periods with a negligible increase in the average delay (less than 1 second).

#### PPA team response:

The PPA team finds it acceptable to evaluate the traffic impacts as part of a future development application given:

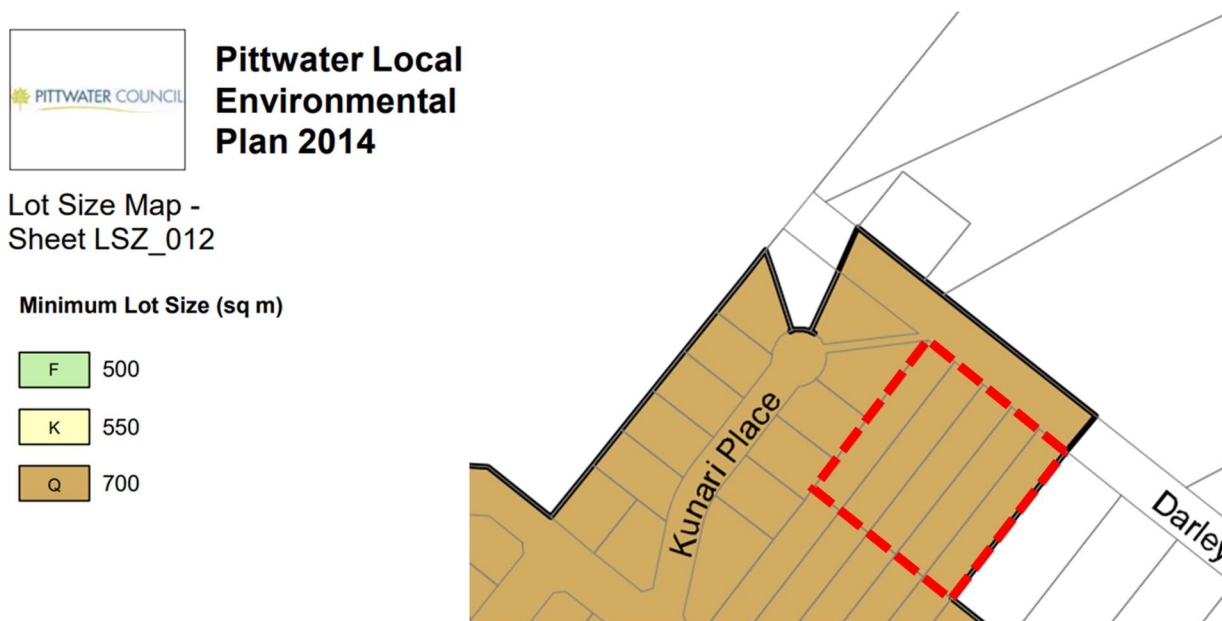
- The Traffic impact Assessment concludes that there will be negligible impacts on the intersection and congestion.
- Council and Transport for NSW do not object to the Planning Proposal on traffic matters.
- On street parking is a matter regulated by Council – the proposal at the development application stage will be assessed with regard to compliance with the applicable Development Control Plan car parking rates.
- The site is 400m from an bus service route

## 3.3 Proponent lead Post-exhibition changes

In response to the Council submission, the proponent proposes to amend the Planning Proposal to include the following additional provisions:

- remove the site from the Minimum Lot Size Map consistent with all land zoned R3 Medium Density Residential in the PLEP 2014; and

As shown within the figure below, a 700m<sup>2</sup> minimum lot size control applies to the site in accordance with clause 4.1 of the PLEP 2014.



**Figure 6: Current Minimum Lot Size Map (Source: PLEP 2014)**

Council noted within its submission that sites zoned R3 Medium Density Residential under the PLEP 2014 do not have a minimum lot size and recommended the Planning Proposal be amended post exhibition to remove the current minimum lot size control.

Consistent with Council's recommendation and the R3 Medium Density Residential zone within the PLEP 2014, the proponent has sought to amend the Planning Proposal to remove the minimum lot size control.

The PPA team support the removal of the minimum lot size control to achieve consistency with other R3 zones within the PLEP 2014.

## 3.4 Planning Proposal Authority team lead Post-exhibition changes

As discussed in Section 3.2.2 and 3.2.3, PPA team has made the following recommendations to ensure a future development application thoroughly assesses ecological impacts:

- Inclusion of the site in Clause 7.6 Biodiversity of the PLEP 2014 by mapping the site on the Biodiversity Map,
- Inclusion of a local provision in PLEP 2014 that requires the preparation of a site-specific Development Control Plan which:
  - includes objectives and controls to protect, rehabilitate and conserve the site



- requires preparation of a Vegetation Management Plan which restricts development on the southern portion of the site where the vulnerable, endangered or critically endangered species are predominantly located.

## 4 Next Steps

As outlined in this report the project has been the subject of a rezoning review and was then recommended by the Panel to proceed to Gateway. The Department subsequently issued a Gateway determination and the project progressed to a public exhibition. Consultation with Agencies and the community has been completed. The Panel as the PPA is now tasked with confirming if the proposal should proceed to the finalisation stage.

The Department is the Local Plan-Making Authority for this Planning Proposal.

The Panel's decision and the final Planning Proposal will be submitted to the Department through the NSW Planning Portal for finalisation.

The Department will prepare a finalisation report in accordance with the LEP Making Guidelines (August 2023) and will determine whether to make the LEP, with or without variation. The Department may defer the inclusion of a matter in the proposed LEP or not make the LEP.

In accordance with section 3.36(1) of the *Environmental Planning and Assessment Act 1979*, the Department will organise drafting of the LEP and finalisation of maps and will consult the panel on any draft instrument.

## 5 Recommendation

Based on this post-exhibition report, it is recommended that the Panel determine that the Planning Proposal be submitted to the Department for finalisation with the following changes, to address the matters discussed in this report relating to the issues raised in submissions:

- The Planning Proposal and supporting documents are updated to incorporate the following changes:
  - amend the Minimum Lot Size Map so that the site is not subject to a minimum lot size control in accordance with Council's recommendation.
  - amend the Biodiversity Map so that Clause 7.6 of the PLEP 2014 applies.
  - flood hazard vulnerability classification maps for existing and post development scenarios, are prepared and provided to the Department.
  - Insert a local provision seeking to not allow development consent unless a Site-Specific Development Control Plan is prepared that:
    - Includes objectives and controls to protect, rehabilitate and conserve the site
    - requires preparation of a Vegetation Management Plan which restricts development on the southern portion of the site where the vulnerable, endangered or critically endangered species are predominantly located.

The Planning Proposal (as amended above) is considered suitable for finalisation because:

- The proposal demonstrates strategic and site-specific merit.
- The conditions of the Gateway have been met.
- Agency and community consultation has occurred in accordance with the Gateway determination.

- The post-exhibition changes do not alter the intent of the Planning Proposal and are proposed in accordance with Council's recommendations.

## 5.1 Attachments

**Attachment A -A11**– Planning Proposal and attachments (October 2023)

**Attachment B** – Rezoning Review Record of Decision (September 2022)

**Attachment B1** – Panel Record of Decision (August 2023)

**Attachment C**– Gateway Determination (September 2023)

**Attachment D** – Assessment Against Gateway Determination

**Attachment E**– Authorisation of exhibition

**Attachment F** – Community submissions (redacted)

**Attachment G** – Proponent submission

**Attachment H** – Agency submissions

**Attachment I** – Council submission

**Attachment J** – Proponent response to submissions (February 2024)

**Attachment K**– Summary of council submissions and responses

**Attachment L**– Summary of agency submissions and responses

**Attachment M** – Summary of community submissions and responses

**Attachment N**– BCS Second Submission (April 2023)

**Attachment O** – BCS Third Submission (May 2023)

**Attachment P** – Council's Feasibility Assessment (Hill PDA)

**Attachment Q** – Affordable Housing Viability Assessment Peer Review

**Attachment R** - Proponent Response to BCS's Submission (April 2024)




\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
14/05/2024 (Date)

Douglas Cunningham

Manager, Planning Proposal Authority Team



\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
24/5/2024 (Date)

Louise McMahon

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