

Department of Planning and Environment

DOC23/960241

Mr Douglas Cunningham
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Department of Planning and Environment
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PARRAMATTA NSW 2150

14 December 2023

Subject: EHG comments on Planning Proposal – PP-2021-7404 - Rezoning of 159-167 Darley Street West Mona Vale

Dear Mr Cunningham

Thank you for your email of 31 October 2023 requesting advice from the Environment and Heritage Group (EHG) on this planning proposal (PP).

The PP proposes to rezone the five lots from a R2 Low Density Residential Development zone under PLEP 2014 to a R3 Medium Density Residential zone to facilitate the redevelopment of the site for medium residential housing. EHG has reviewed the planning proposal and provides its comments and recommendations at Attachment A.

If you have any queries regarding this matter, please contact rog.gsrplanning@environment.nsw.gov.au.

Yours sincerely,



Susan Harrison
Senior Team Leader Planning
Greater Sydney Branch, Biodiversity and Conservation
Environment and Heritage Group

Subject: EHG comments on Planning Proposal – PP-2021-7404 – Rezoning of 159-167 Darley Street, West Mona Vale

The Environment and Heritage Group (EHG) has reviewed the following documents:

- Planning Proposal (PP) by Solve Property - dated October 2023
- Gateway Determination report – September 2023
- Preliminary Ecological Assessment (PEA) – dated 2 July 2021
- Concept Design by Giles Tribe - dated 29 June 2021
- Urban Design Study – June 2021
- Stormwater Management Strategy - dated 30/6/21 and addendum letter dated 10 October 2023 by AECOM

and provides the following comments.

Flood

The PP seeks to alter a provision that affects flood prone land.

The site is opposite the Bayview Golf Club in the Cahill Creek catchment. The site is elevated above the mainstream flooding from Cahill Creek. A minor overland flow path traverses the rear of site with relatively shallow depths, generally less than 0.4m in the 1% Annual Exceedance Probability (AEP) flood event and less than 0.6m in the Probable Maximum Flood (PMF) event.

The proposed design appears to be generally sympathetic to existing flooding conditions and the existing overland flow path is retained in the design. Flood risk mitigation works are proposed to reduce flooding severity on downstream lots in Kunari Place by diverting a portion of the flow to a proposed driveway. It appears there are no basement car park entries from that driveway, but from the other to the east.

The new overland flow path along the driveway is shown to convey flood depths typically 0.3-0.5m in the 1% AEP flood event, which will be unsafe for small vehicles. Further, the new flow path 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 least the 1% AEP flood event (smaller events have not been modelled). The proposed stormwater drainage was not included in flood modelling, and it is therefore impossible to make accurate conclusions about the flood behaviour in the driveway. It is recommended that the stormwater drainage is included and that the flood hazard on the driveway is limited to category H1 in a 1% AEP flood event, either by increasing the drainage size or by diverting less flow from the existing flow path. Council may have additional requirements restricting the flow on the driveway. While the reduction of flooding to the lots in Kunari Place would be a positive outcome, this should not be achieved at the expense of creating a new flood hazard.

The flood impact mapping should be updated to show impacts greater than 0.01m, instead of 0.05m as currently shown. Mapping for hazard categories H1-H6 should also be provided. It would also be

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beneficial to include the surrounding existing buildings in flood modelling for accuracy, specifically those to the southeast of the site, where adverse impacts may occur, and northwest of the site, where benefits are predicted. It is also recommended that the maps for existing and proposed conditions use the same level of transparency to aid comparison between scenarios.

In conclusion, EHG considers the proposal to be generally consistent with the flood risk of the land. EHG is satisfied that the ministerial direction for flooding has been appropriately considered subject to further consideration of issues raised above.

Biodiversity

Pittwater and Wagstaffe Spotted Gum Forest

The PP notes (page 25) the subject site contains 0.19ha of Pittwater and Wagstaffe Spotted Gum Forest (PWSGF) in the Sydney Basin Bioregion and is listed as endangered ecological community (EEC) under the *Biodiversity Conservation Act 2016* (BC Act). The NSW Scientific Committee in listing the EEC stated that it is threatened by, amongst other things, clearing for urban development, urban runoff, dumping of rubbish and garden refuse, weed invasion and fragmentation

<https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Animals-and-plants/Scientific-Committee/Determinations/2013/pittwater-wagstaffe-spotted-gum-forest-nsw-scientific-committee-final-determination.pdf> .

The future development is anticipated to impact 0.09ha of PWSGF while an area of PWSGF is proposed to be retained along the southern boundary adjoining native vegetation in an adjacent lot. The PP indicates the area to be retained is of the highest ecological retention value (pages 41-42). EHG recommends the design of the Concept Plan avoids and minimises impacts to the PWSGF as a priority.

The PP states it is unlikely that future development of the subject land will trigger the Biodiversity Offset Scheme (BOS) and not require the preparation of a biodiversity development assessment report in accordance with the Biodiversity Assessment Method (BAM) (page 76). One of the triggers for entry into the BOS is the assessment of significance. The Assessment of Significance provided within Appendix C of the Preliminary Ecological Assessment concludes no significant impact. However, EHG considers the conclusions of the Assessment of Significance have not been adequately justified.

Section 3.25 of the *Environmental Planning and Assessment Act 1979* requires the relevant planning authority, before making a LEP, to consult with the Chief Executive of the Office of Environment and Heritage, if, in the opinion of the relevant authority, critical habitat or threatened species, populations or ecological communities, or their habitats, will or may be adversely affected by the proposed instrument. 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.

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EHG recommends that at a minimum, assessment of biodiversity values and impacts be undertaken through application of Stages 1 and 2 of the BAM. This approach will ensure biodiversity outcomes are optimised and future development can proceed with greater certainty. It will also allow EHG to adequately consider any proposed biodiversity impacts.

Given the lack of adequate information regarding the significance of any impacts, it remains unclear what the impacts of the planning proposal will be on local biodiversity values.

The proposal does not adequately avoid and minimise impacts by appropriately locating and designing the proposal and reducing the scale of the development in accordance with Section 7 of the BAM.

Long Term Management and Protection of PWSGF

It is unclear how the endangered vegetation on the site which is proposed for retention will be managed and protected in the future. The PP should identify methods by which to actively manage and conserve native vegetation across the site to ensure the security and protection of the retained EEC, threatened species and threatened species habitat.

EHG recommends:

- the proposal should be accompanied by a biodiversity assessment report that is compliant with Stages 1 and 2 of the BAM
- areas of PWSGF should be avoided in the proposal design and an adequate buffer is provided around PWSGF remnants to avoid degradation of the PWSGF by future development and use of the site
- a permanent barrier (such as a fence) is placed at the outside edge of the PWSGF that is to be retained and protected to delineate and prevent inadvertent damage to the PWSGF during the construction and future use of the site. The fence needs to be appropriate to the site and be designed to:
 - allow for small native fauna passage underneath
 - be suitable as a maintenance edge for management such as mowing/slashing etc.
- a vegetation management plan is prepared and implemented for the site by a suitably qualified bush regenerator for the rehabilitation, management, and long-term maintenance any retained PWSGF.
- a site specific DCP is prepared with objectives and controls to protect, rehabilitate and conserve the PWSGF on the site.

Avoidance and Mitigation Measures

The Preliminary Ecological Assessment recommends several Avoidance and Mitigation Measures (page 76):

1. Vegetation Retention
2. Inductions
3. Access Restrictions

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4. Erosion, Sedimentation and Pollution Control
5. Pre-clearing and Clearing Surveys
6. Landscaping and Understorey Replanting
7. Weed Control Measures
8. Nest-box installation

Avoidance and mitigation measures are generally supported and should be included within any planning control measures for the site given the sensitive nature of the remnant native vegetation.

Open Space

The site is located within 100m of public open space and is directly opposite private open space the Bayview Golf Club. The proposal does not propose to provide any additional RE1 public open space on the site. Increasing the number of residents on the site has the potential to increase use of existing open space areas in the locality and Ku-ring-gai National Park. The proposal does not propose to provide any additional RE1 public open space on the site.

EHG recommends consideration be given to the provision of open space on the site for future residents given the cumulative impact of rezoning this site and other nearby sites on existing open space.

End of Submission