



IRF23/3213

Gateway determination report – PP-2022-1137

130 Killeaton Street, St Ives

December 23

Published by NSW Department of Planning and Environment

dpie.nsw.gov.au

Title: Gateway determination report – PP-2022-1137

Subtitle: 130 Killeaton Street, St Ives

© State of New South Wales through Department of Planning and Environment 2022. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning and Environment as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (December 23 and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning and Environment), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

Contents

1	Planning proposal.....	1
1.1	Overview.....	1
1.2	Objectives of planning proposal	1
1.3	Explanation of provisions	2
1.4	Site description and surrounding area.....	2
1.5	Mapping.....	4
1.6	Background	6
1.6.1	Rezoning Review (RR-2023-9)	7
1.7	Reference Scheme	9
2	Need for the planning proposal	12
3	Strategic assessment	12
3.1	Regional Plan	12
3.2	District Plan	12
3.3	Local.....	13
3.3.1	Ku-ring-gai Local Strategic Planning Statement (LSPS).....	13
3.3.2	Ku-ring-gai Housing Strategy and Approval Letter Conditions.....	14
3.4	Local planning panel (LPP) recommendation.....	14
3.5	Section 9.1 Ministerial Directions	15
3.6	State environmental planning policies (SEPPs)	17
4	Site-specific assessment	19
4.1	Environmental.....	19
4.1.1	Ecological Impact.....	19
4.1.2	Built Form	21
4.1.3	Traffic and Access	21
4.2	Social and economic.....	21
4.3	Infrastructure	22
5	Consultation.....	22
5.1	Community	22
5.2	Agencies.....	22
6	Timeframe	23
7	Local plan-making authority	23
8	Assessment summary	23
9	Recommendation.....	23

Table 1. Reports and plans supporting the proposal

Relevant reports and plans
Attachment A1 - Planning proposal - 130 Killeaton Street, St Ives – May 2022
Attachment A2 - Urban Design Study - 130 Killeaton Street, St Ives – Mar 2022
Attachment A3 - Concept Architectural Plans - 130 Killeaton Street, St Ives – Mar 2022
Attachment B1 - RR-2023-9 - Record of Decision 130 Killeaton Street St Ives
Attachment B2 - PP-2022-1137 - Pre Gateway Record of Decision 130 Killeaton Street St Ives
Attachment C - Traffic and Transport Report - 130 Killeaton Street, St Ives – May 2022
Attachment D - Biodiversity Impact Assessment - 130 Killeaton St, St Ives – Sep 2023
Attachment E - Arboricultural Impact Assessment - 130 Killeaton St, St Ives – Sep 2023
Attachment F1 - Council Meeting Agenda - Oct 2022
Attachment F2 - Council Meeting Agenda - Nov 2022
Attachment F3 - Council Meeting Agenda - Dec 2022
Attachment F4 - Council Meeting Agenda - May 2023
Attachment G1 - Council Meeting Minutes - Oct 22
Attachment G2 - Council Meeting Minutes - Nov 22
Attachment G3 - Council Meeting Minutes - Dec 22
Attachment G4 - Council Meeting Minutes - May 23
Attachment H1 - KLPP Agenda - Sep 22
Attachment H2 - KLPP Minutes - Sep 2022
Attachment I - Preliminary Site Investigation - 130 Killeaton Street, St Ives – Apr 2021
Attachment J - Feasibility Analysis - 130 Killeaton St, St Ives – Sep 2023

1 Planning proposal

1.1 Overview

Table 2. Planning proposal details

LGA	Ku-ring-gai Council
PPA	Sydney North Planning Panel
NAME	130 Killeaton Street, St Ives (40 dwellings)
NUMBER	PP-2022-1137
LEP TO BE AMENDED	Ku-ring-gai LEP 2015
ADDRESS	130 Killeaton Street, St Ives
DESCRIPTION	Lot 1 of DP 748682
RECEIVED	14/11/2023
FILE NO.	IRF23/3213
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal (**Attachment A1**) contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to amend the planning controls in the Ku-ring-gai Local Environmental Plan (LEP) 2015 as they apply to the site at 130 Killeaton Street, St Ives to facilitate a residential flat building development. The changes are appropriate as they are considered to:

- Facilitate a high density residential development with maximum building height and floor space ratio controls consistent with adjoining R4 zoned sites.
- Provide high density development in an accessible location catering to the housing needs of the community.
- Be consistent with the Sydney North Planning Panel finding the proposal to have strategic merit given its consistency with the Greater Sydney Region Plan, Sydney North District Plan, and the Ku-ring-gai Local Strategic Planning Statement, particularly relating to the general objectives for housing.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The site is proposed to be redeveloped to facilitate a residential flat building at 130 Killeaton Street, St Ives. The planning proposal seeks to amend the Ku-ring-gai LEP 2015 by:

- Rezoning the site from SP2 Infrastructure (Educational Establishment) to R4 High Density Residential;
- Introduce a maximum building height of 17.5m;
- Introduce a maximum floor space ratio of 1.3:1

The proposed and current changes are summarised in **Table 3**.

Table 3. Current and proposed controls

Control	Current	Proposed
Zone	SP2 Infrastructure (Educational Establishment)	R4 High Density Residential
Maximum height of building	No height applies	17.5m
Maximum FSR	No FSR applies	Maximum FSR of 1.3:1
Number of dwellings	1	40 dwellings 3,643sqm GFA
Number of jobs	0	0

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

The proponent originally lodged the planning proposal with Council on 3 June 2022, however, Council did not indicate support within 90 days. The proponent initiated a rezoning review on 6 April 2023 for this reason, and the proposal was considered by the Sydney North Strategic Planning Panel (the Panel) on 25 August 2023. In between this time, Council resolved not to support the proposal at its May 2023 Ordinary Meeting of Council, contrary to the Council officer's recommendation.

The Panel determined that the proposal should be submitted for a gateway determination (subject to conditions), with the proposal demonstrating both strategic and site-specific merit. The conditions relate to an updated arborist report and biodiversity assessment, revisions to council's biodiversity mapping, and the preparation of an affordable housing viability report (**Attachment B1**).

The updated documentation was received, and the Panel was briefed on 25 October 2023; determining that the proponent met the Panel conditions to proceed to Gateway (**Attachment B2**).

1.4 Site description and surrounding area

The subject site is 130 Killeaton Street, St Ives, legally described as Lot 1 of DP 748682. The site has a northern frontage of 34.6m to Killeaton Street, side boundaries of 84m, and a rear boundary of 34.6m. The total site area is 2,803sqm. The site currently contains a 2 storey dwelling accessed from Killeaton Street.

A site context map is provided at **Figure 1**.

The site exists within an established residential area characterised by residential flat buildings to the east and west of the site. These adjoining sites are zoned R4 High Density Residential. Opposite the site to the north side of Killeaton Street is a two-storey aged care facility currently under construction. Adjacent to the site is the Corpus Christi Catholic Church and Primary school to the south west and the Kehillat Masada Synagogue and College to the south east, both within SP2 Infrastructure (Educational Establishment) zoned land.

An aerial view of the site is provided at **Figure 2**.



Figure 1 Site context map (Source: Edited Google Maps and Nearmap)



Figure 2 Aerial view of subject site (Source: Edited Nearmap)

1.5 Mapping

The planning proposal includes proposed changes to the Ku-ring-gai LEP 2015 maps. They are suitable for community consultation and should be included in the planning proposal report.

The current Ku-ring-gai LEP 2015 mapping indicates the existing site is subject to the following provisions:

- SP2 Infrastructure zone (Educational Establishment) (**Figure 3**);
- No applicable maximum building height (**Figure 4**); and
- No applicable maximum floor space ratio (**Figure 5**)

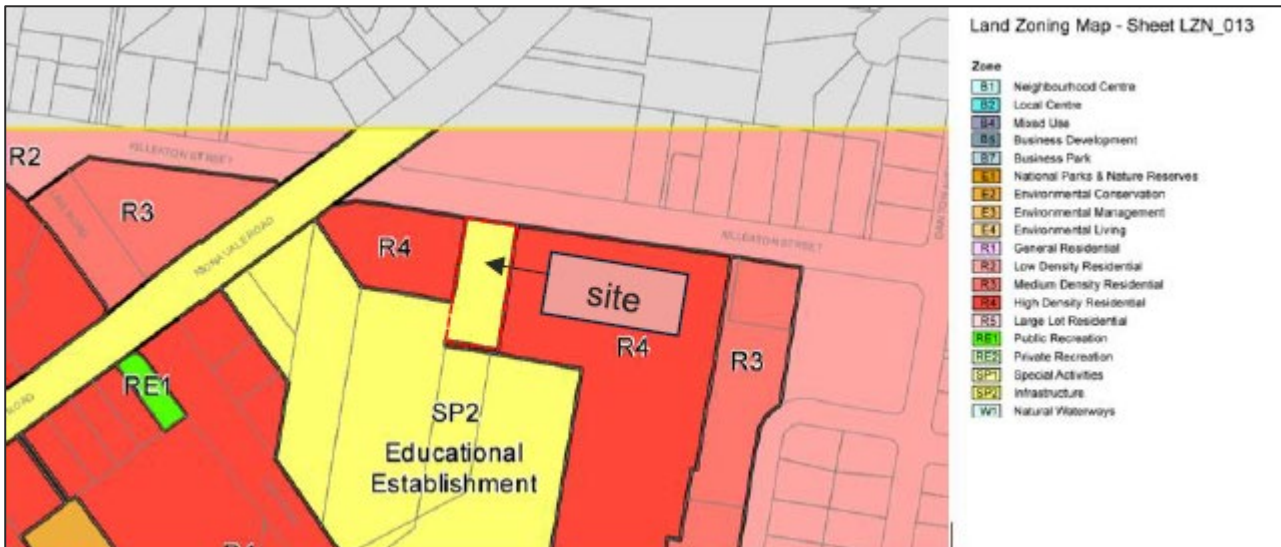


Figure 3. Current zoning map – Sheet LZN_013 (Source: Edited Ku-ring-gai LEP 2015)



Figure 4. Current height of building map – Sheet HOB_013 (Source: Edited Ku-ring-gai LEP 2015)



Figure 5. Current floor space ratio map – Sheet FSR_013 (Source: Edited Ku-ring-gai LEP 2015)

The proposed mapping indicate that the site will be subject to the following provisions:

- Rezone the site from SP2 Infrastructure (Educational Establishment) to R4 High Density Residential (**Figure 6**);
- Maximum height of building of 17.5m (**Figure 7**); and
- Maximum floor space ratio of 1.3:1 (**Figure 8**)

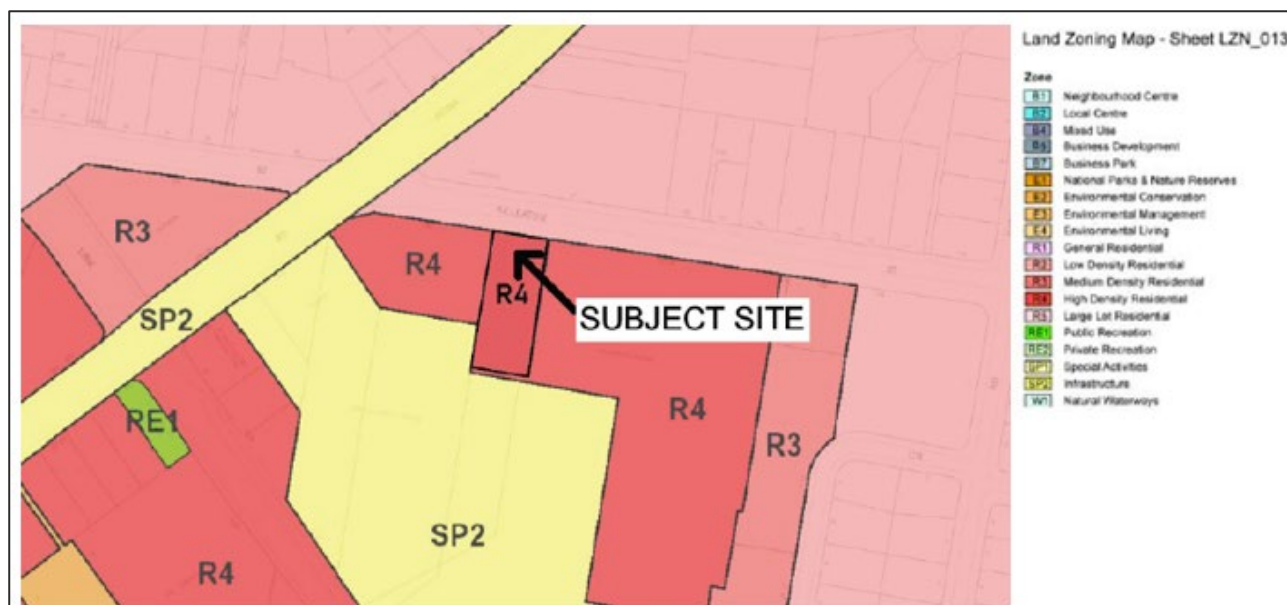


Figure 6. Proposed floor space ratio map – Sheet LZN_13 (Source: The Planning Hub)



Figure 7. Proposed height of building map – Sheet HOB_13 (Source: The Planning Hub)

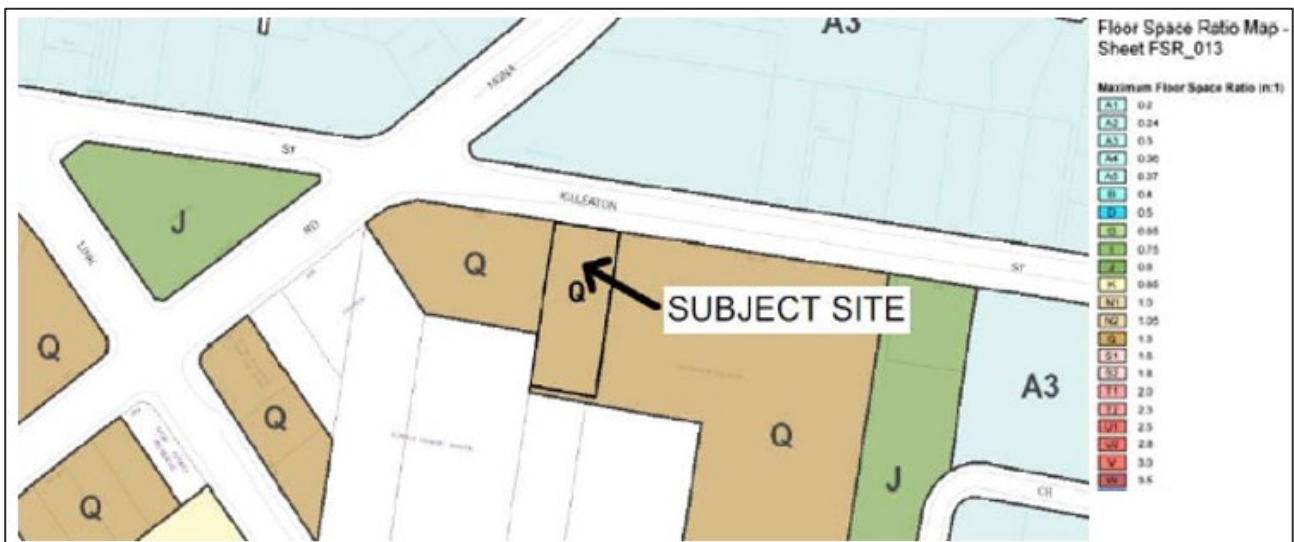


Figure 8. Proposed Floor space ratio map – Sheet FSR_13 (Source: The Planning Hub)

1.6 Background

Table 4. Background to the planning proposal

Date	Comment
15 December 2021	Pre-Planning Proposal meeting held with Council and the proponent.
3 June 2022	Proponent lodges complete planning proposal with Council.
1 September 2022	90-day timeframe since lodgement passes. Proponent can in theory lodge a rezoning review from this date.

Date	Comment
19 September 2022	Proposal considered by KLPP. The panel concurred that the proposal has strategic and site-specific merit and supported the proposal to be referred to the department for a Gateway determination, subject to amendments (as outlined in the table of assessment).
18 October 2022	Proposal considered by Council. The report recommendation was to submit the proposal for a Gateway determination subject to amendments, however Council resolved to defer the matter to enable a site inspection.
9 November 2022	Councillor site inspection.
15 November 2022	Proposal considered again by Council. The report recommendation was to submit the proposal for a Gateway determination subject to amendments, however no resolution was made by Council.
13 December 2022	Proposal again considered by Council. The report recommendation was to submit the proposal for a Gateway determination subject to amendments. An Aboricultural Assessment Report commissioned by Council was also tabled, which concluded that approximately 45 Sydney Blue Gum trees had been misidentified. Council resolved to request the proponent to amend the biodiversity impact assessment and arborist report to correctly identify specific trees and for Council staff to reassess the planning proposal with the corrected information and review their recommendation as to whether the proposal should proceed to Gateway.
9 February 2023	Amended reports submitted to Council by proponent.
6 April 2023	Proponent lodges rezoning review through NSW Planning Portal.
16 May 2023	Proposal considered by Council. The Council officers' report recommends the Planning Proposal be submitted for a Gateway determination, however Council resolved not to support the proposal by Council, noting that updates to the Greenweb mapping are required to reflect the occurrence of Sydney Turpentine Ironbark Forest (STIF) and Blue Gum High Forest (BGHF).
21 August 2023	Sydney North Planning Panel considers the rezoning review and determines the proposal should be submitted for a Gateway determination subject to amended supporting documentation (RR-2023-9).
25 August 2023	Notice of Decision issued by the panel with conditions, including determining that the panel assumes the role of the Planning Proposal Authority.
3 October 2023	Amended documents submitted by proponent in response to panel conditions.
26 October 2023	Sydney North Planning Panel confirms that the revised supporting documentation is satisfactory and for the proposal to proceed to a Gateway determination.

1.6.1 Rezoning Review (RR-2023-9)

On 6 April 2023, the proponent lodges a rezoning review with the department as council had not indicated support for the proposal within 90 days. The department prepared a briefing for the Sydney North Planning Panel (the panel) who decided on 21 August 2023 the proposal should be

submitted for a gateway determination as it demonstrated strategic and site-specific merit (**Attachment B1**). In summary, the panel:

- Agreed the proposal had strategic merit given that the proposal is consistent with applicable strategic planning documents, delivering housing is a priority issue for Sydney across all levels of government, and the proposal is responding to a change in circumstance in that the land was previously owned by Corpus Christi Catholic Church and Primary School who in no longer requiring the land for educational purposes sold the lot for its current residential use. In the absence of the school zoning on the land it is likely the site would have been zoned the same as its neighbours.
- Agreed that the proposal had site-specific merit in that the proposal seeks to zone the site the same as the neighbouring land with the same height and FSR controls and bound by the same DCP provisions.
- Acknowledges the likely impact on planted trees and vegetation but accepts that these trees are not remnant Blue Gum High Forest, but planted post 1945. The panel understands that through any development application the retention of trees where possible will be incorporated into any design as indicated in the reference proposal.
- Recommends that prior to submitting the planning proposal for a gateway determination, the following revisions are made:
 - Update Arborist Report to confirm the location, species identification, and level of significance of the trees (all included on the one map);
 - Update Biodiversity Impact Assessment, including recommendations on the impact on significant tree species and potential Biodiversity offsets;
 - Update council's terrestrial biodiversity map and greenweb mapping as required;
 - Prepare an affordable housing viability report to clarify housing affordability rates.
- Appoints itself as the principal planning authority (PPA) for this planning proposal as Ku-ring-gai Council has since resolved to not progress the proposal.

The panel meets again on the 25 October 2023 for a pre-lodgement meeting, confirming that the proponent's revised documentation submitted on 3 October 2023 requested in the rezoning review are satisfactory, and for the proposal to proceed to gateway. The panel also noted that the housing viability assessment prepared by Hill PDA (September 2023) found that a contribution rate of 5% is marginally affordable. No additional conditions are imposed aside from a recommendation for the proponent to proactively discuss with council the available mechanisms to deliver affordable housing as part of the proposal.

Table 5. Comparison of existing and proposed LEP controls

Control	Current	Proposed
Zone	SP2 Infrastructure (Educational Establishment)	R4 High Density Residential
Max height of building	No height applies	17.5m
Max FSR	No max FSR applies	1.3:1
Number of dwellings	1	40 (3,643sqm GFA)

1.7 Reference Scheme

The planning proposal is accompanied by an urban design study and concept architectural plans (**Attachment A2-A3**) by Mackenzie Architects demonstrating the potential built form of the proposal. **Figures 9 – 14** illustrate the proposed built form scheme.

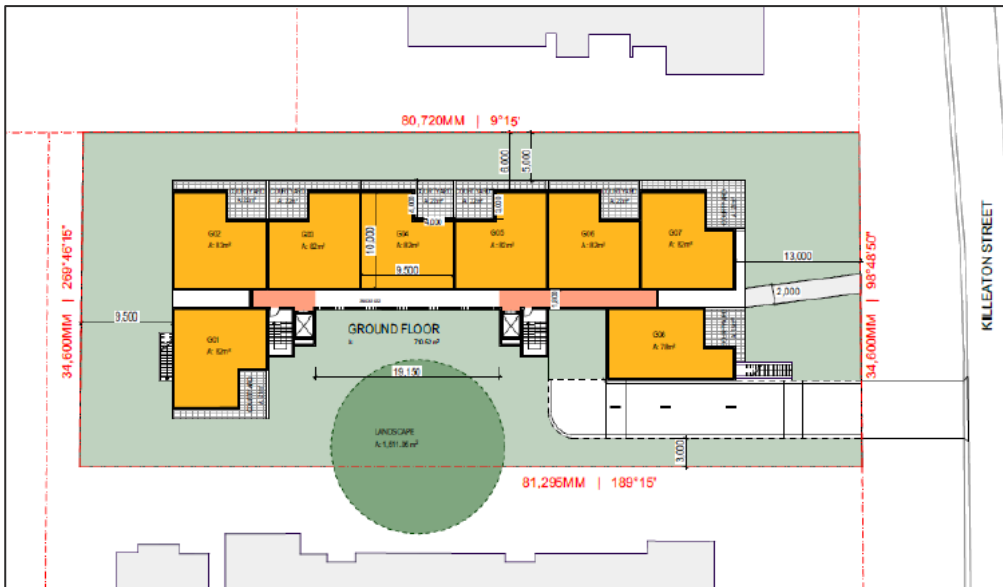


Figure 9. Proposed ground floor plan (Source: Mackenzie Architects concept architectural plans)



Figure 10. Proposed typical floor plan (Source: Mackenzie Architects concept architectural plans)

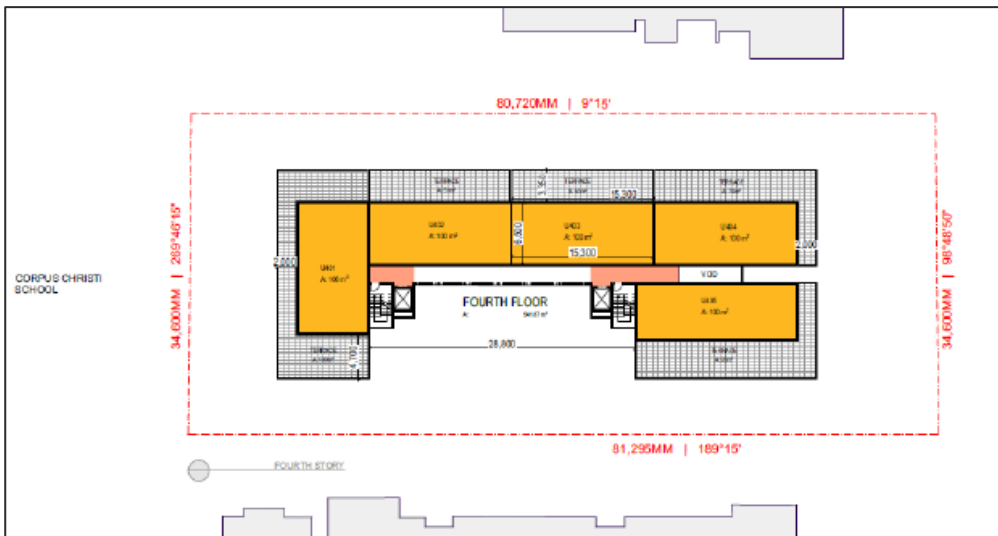


Figure 11. Proposed fourth floor plan (Source: Mackenzie Architects concept architectural plans)

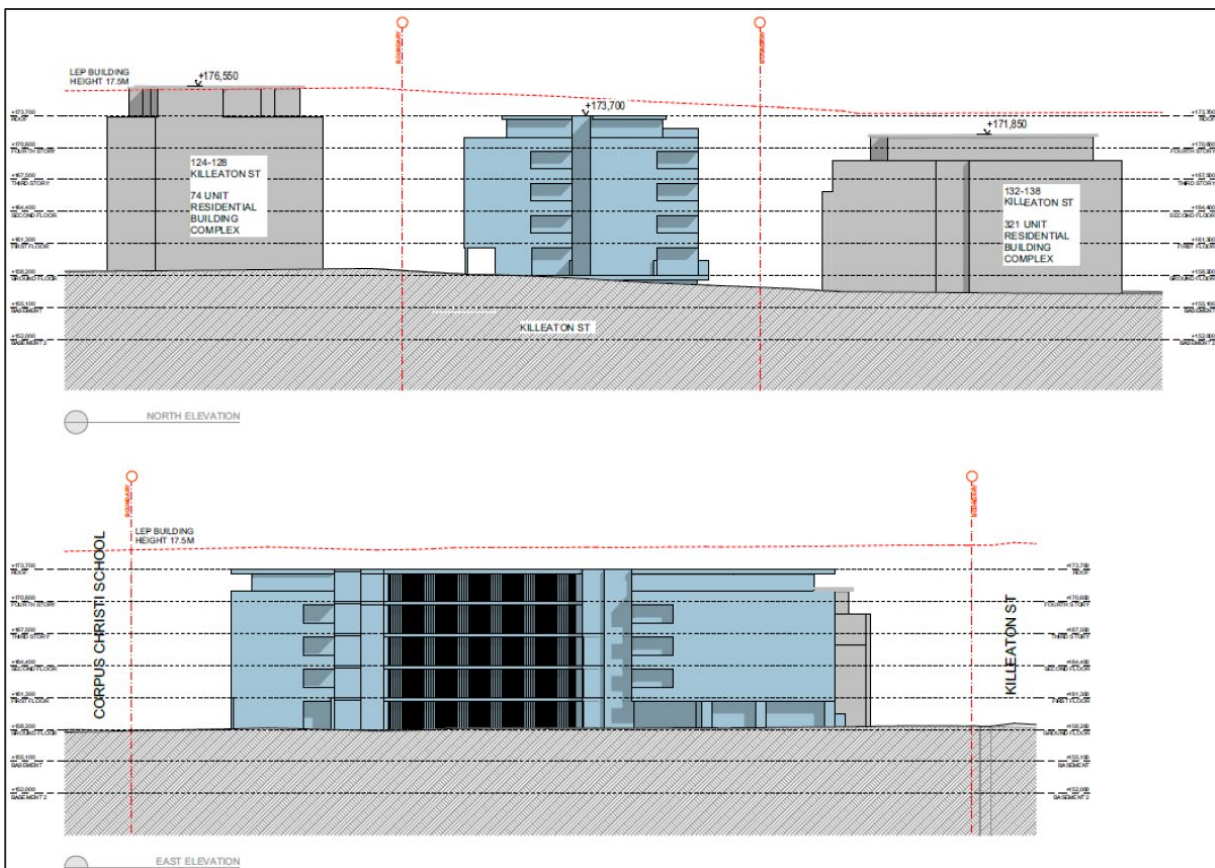


Figure 12. Proposed north and east elevations (Source: Mackenzie Architects concept architectural plans)

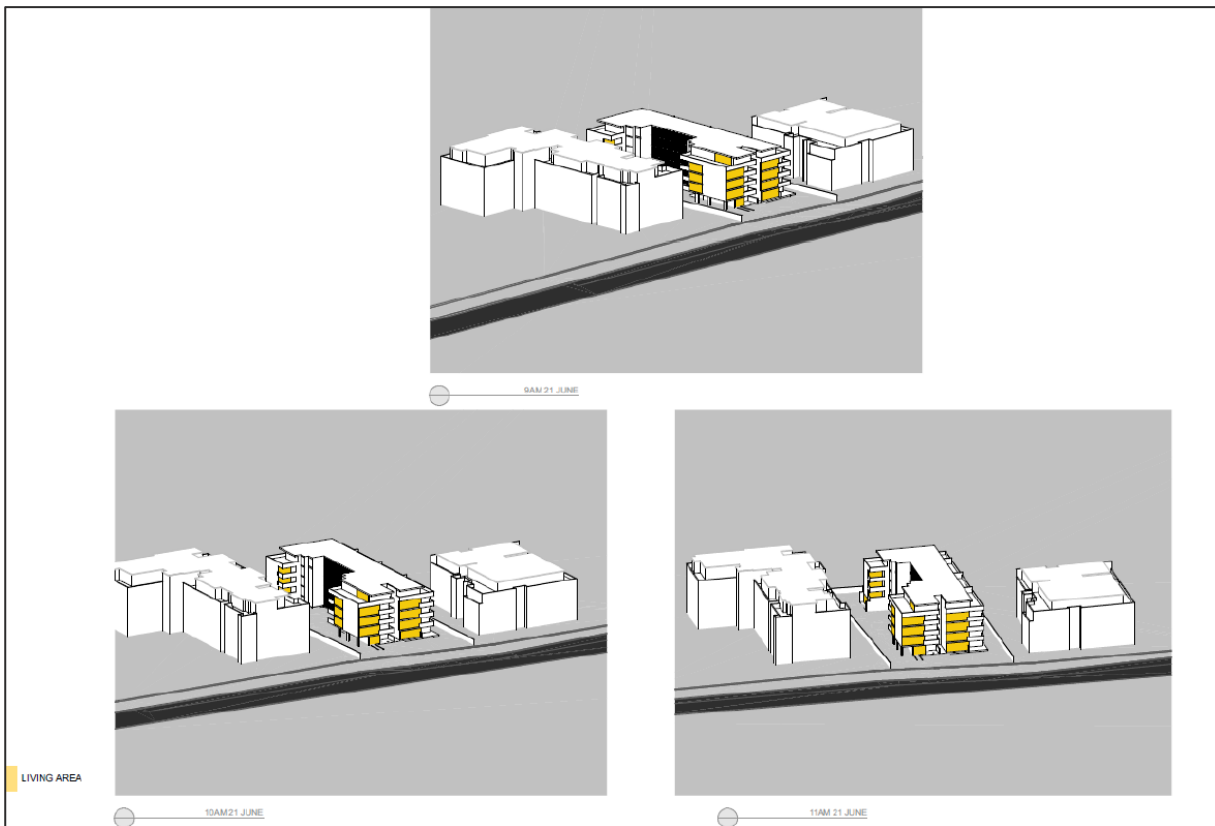


Figure 13. Proposed building massing with 9am - 11am solar access (Source: Mackenzie Architects concept architectural plans)



Figure 14. Proposed building massing with 12pm - 3pm solar access (Source: Mackenzie Architects concept architectural plans)

2 Need for the planning proposal

The intent of the planning proposal is to facilitate high density residential development through the amendment of the Ku-ring-gai LEP 2015. The current SP2 zoning Infrastructure (Educational Establishment) of the site is a historic zoning associated with the adjoining church and primary school. The site is located on its own lot of land and is no longer utilised by the church. The proposed rezoning to R4 High Density Residential is to create consistency with adjoining sites and to provide an integrated streetscape on the southern side of Killeaton Street.

The proposal is not a result of any specific strategic study or report. However, supporting studies have been provided which demonstrates the suitability of the site for rezoning to enable high density residential development. The planning proposal is the best and only means of amending the existing development standards in the Ku-ring-gai LEP 2015 to achieve the intended outcomes of the site and those determined in the Sydney North Planning Panel.

3 Strategic assessment

3.1 Regional Plan

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

- *Objective 4. Infrastructure use is optimised*
- *Objective 10. Greater housing supply*
- *Objective 11. Housing is more diverse and affordable*
- *Objective 14. Integrated land use and transport creates walkable and 30-minute cities*
- *Objective 27. Biodiversity is protected, urban bushland and remnant vegetation is enhanced*

A Metropolis of Three Cities outlines that liveability incorporates access to housing, transport and employment, as well as social, recreational, cultural and creative opportunities. Provision of housing close to public transport and services and facilities improves the opportunity for people to walk and cycle to local shops and services. The plan advocates for the protection and enhancement of biodiversity values. The proposal is consistent with these principles.

3.2 District Plan

The site is within the North District and the Greater Sydney Commission released the North District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The planning proposal is consistent with the priorities for infrastructure and collaboration, liveability, productivity, and sustainability in the plan as outlined below:

- *Planning Priority N1. Planning for a city supported by infrastructure*
- *Planning Priority N5. Providing housing supply, choice and affordability, with access to jobs, services and public transport*
- *Planning Priority N6. Creating and renewing great places and local centres, and respecting the districts heritage*
- *Planning Priority N12. Delivering integrated land use and transport planning and a 30-minute city*
- *Planning Priority N16. Protecting and enhancing bushland and biodiversity*

The Planning Proposal will allow for additional residential land that can be developed to provide housing choice and supply for the existing and future population in the area. The site is located in an accessible area in proximity to a range of services, facilities and public open space as well as public transport. The Planning Proposal is therefore in accordance with the North District Plan priorities to focus housing in locations that support the 30-minute city and provide access to jobs, services and public transport, as well as the priorities to protect biodiversity.

The department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*.

3.3 Local

The proposal states that it is consistent with the following local plans and endorsed strategies:

3.3.1 Ku-ring-gai Local Strategic Planning Statement (LSPS)

The Ku-ring-gai Local Strategic Planning Statement (LSPS) came into effect on 17 March 2020 and provides a 20-year vision, local planning priorities, and associated actions for land use planning in Ku-ring-gai. The Planning Proposal is consistent with the following local planning priorities:

- *K3. Providing housing close to transport, services and facilities to meet the existing and future requirements of a growing and changing community;*
- *K4. Providing a range of diverse housing to accommodate the changing structure of families and households and enable ageing in place;*
- *K12. Managing change and growth in a way that conserves and enhances Ku-ring-gai's unique visual and landscape character;*
- *K21. Prioritising new development and housing in locations that enable 30-minute access to key strategic centres;*
- *K31. Increasing, managing, and protecting Ku-ring-gai's urban tree canopy.*

The planning proposal is consistent with the overarching local planning priority to provide housing close to transport, services and facilities. The LSPS sets out that the St Ives Primary Local Centre is suitable for additional housing as it contains a bus route on an arterial road corridor and meets the criteria for 30-minute access to a strategic centre, and is supported by council's community hub projects with retail services and community facilities. The LSPS outlines the timing for future housing delivery in the St Ives centre as 6-10 year (2021-2026) and 11-15 year (2026-2031) subject to the provision of priority bus infrastructure from Mona Vale to Macquarie Park.

This planning proposal seeks to allow for approximately 40 additional dwellings in the centre prior to the provision of the rapid bus line between Mona Vale and Macquarie Park, which is inconsistent with the LSPS. To address this inconsistency, and as part of this gateway assessment, Transport for NSW will be included as part of consultation with state agencies. Clarification regarding future upgrade to bus services and the Rapid Bus Line would be provided by Transport for NSW as part of that process. It is also noted that council's Strategic Transport Engineer has reviewed the transport report (**Attachment C**) submitted with the proposal which indicates a modest amount of traffic increase that is unlikely to result in significant additional impacts.

This planning proposal is generally consistent with the principles for the location of additional housing as set out in the LSPS:

- Stage housing delivery around centres of retail and economic activity that are serviced by the North Shore railway line or major bus routes along arterial roads, including provision of housing diversity, affordability and accessibility.

- Locate high density housing types within a 10min walk (800m radius) of Primary and Secondary Local Centres: Gordon, Lindfield, Turramurra, St Ives (subject to the provision of priority bus infrastructure), Roseville, Killara, Pymble and Wahroonga.

Given that the scale of the adjoining developments that comprise of 4-5 storey apartment developments, the proposed height of 5-storeys is a suitable response to this site and context. The development standards proposed and the built form outcomes enabled by the proposal are consistent with the adjoining R4 High Density Residential zoned sites. The site, the subject of the Planning Proposal, is not constrained by a Heritage conservation area, scenic or cultural landscape or bushfire prone land.

The vegetation on the subject site is comprised of planted trees and lawns of turf grasses and native groundcovers. The trees are predominantly Australian natives, including several local native species. The species composition of parts of the garden is consistent with Sydney Turpentine-Ironbark Forest (STIF), as determined by Biodiversity Assessment Methodology surveys. The future development associated with a floorspace ratio of 1.3:1 would result in some loss of STIF vegetation.. Council officers has identified that given the degraded condition of the STIF vegetation on site and its isolation from significant vegetation patches and corridors, the impact to STIF vegetation is considered acceptable on the basis that losses are offset in accordance with relevant legislation and council's DCP requirements (**Attachment F4**).

The rezoning review recommendations of 25 August 2023 required the proponent to prepare an updated arborist report, biodiversity assessment, and updates to council's biodiversity mapping. The panel met with the department for a pre-gateway briefing to consider whether the additional information addressed these recommendations. The panel was satisfied that these conditions had been adequately met (**Attachment B2**).

3.3.2 Ku-ring-gai Housing Strategy and Approval Letter Conditions

Council's adopted Housing Strategy provides all new dwellings to 2036 from capacity within the existing planning controls. As the Planning Proposal is seeking to amend the development controls to enable delivery of additional residential housing on the site, it is inconsistent with the Housing Strategy. However, in approving the Housing Strategy in 2021, the department issued a number of conditions, one of which is:

4. Consistent with Priority K3 of the Ku-ring-gai LSPS, Council is to prepare a masterplan, or accommodate a proponent-led planning proposal with good planning outcomes, for the St Ives local centre. Planning is to occur in consultation with TfNSW and align with its Movement and Place Framework.

Council has not yet prepared a Masterplan for the St Ives Local Centre in accordance with Condition 4. However, the proposal is consistent with this condition for council to accommodate proponent-led planning proposals with good planning outcomes within the St Ives local centre. TfNSW will be consulted during the exhibition stage of the gateway process.

3.4 Local planning panel (LPP) recommendation

On 19 September 2022, the Ku-ring-gai Local Planning Panel concurred that the proposal has strategic and site-specific merit and supported the proposal to be referred to the department for a Gateway determination, subject to amendments (**Attachment H1-H2**).

The proponent provides the requested amended documents on 9 February 2023. These same documents are the ones the rezoning review panel considered at its meeting on 21 August 2023.

3.5 Section 9.1 Ministerial Directions

On 1 March 2022, the Section 9.1 Ministerial Directions were renumbered and ordered into thematic framework focus areas.

The planning proposal's consistency with the section 9.1 Directions is discussed in **Table 9**.

Table 6. 9.1 Ministerial Direction assessment

Directions	Consistent / Not Applicable	Reasons for Consistency or Inconsistency
Planning Systems – Place Based		
1.4 Site-Specific Provisions	No	<p>The objective of this direction is to discourage unnecessarily restrictive site-specific planning controls. This includes not imposing any development standards or requirements in addition to those already contained in the principle environmental planning instrument being amended.</p> <p>The proposal is consistent with the direction as it involves the rezoning of the site to R4 High Density Residential; an existing zone under KLEP 2015. The proposal does not impose any development standards or requirements in addition to those already contained in that zone.</p>
Biodiversity and Conservation		
3.2 Heritage Conservation	Not Applicable	<p>The objective of this direction is to conserve items, areas, objects and places of environmental heritage and indigenous significance.</p> <p>The proposal is not near any heritage items.</p>
Resilience and Hazards		
4.1 Flooding	Not Applicable	<p>The objective of this direction is to ensure the proposal corresponds with flood hazards and includes consideration of the potential flood impacts both on and off the site.</p> <p>The site is not identified as flood prone land. Any future development will need to consider Council's Flood Study Plan and clause 5.21 Flood planning.</p>

Directions	Consistent / Not Applicable	Reasons for Consistency or Inconsistency
4.4 Remediation of Contaminated Land	Yes	<p>This direction was introduced on 17 April 2020 and aims to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered at the planning proposal stage.</p> <p>The site is not located within an investigation area and has contained only residential land uses for an extended period. A Preliminary Site Investigation (Attachment I) prepared by Alliance Geotechnical supports this application finding that any potential contamination at the site is unlikely to preclude rezoning and can be managed during development application (DA) stage.</p>
Transport and Infrastructure		
5.1 Integrating Land Use and Transport	Yes	<p>The key objectives of this direction are to improve access to housing, jobs and services by walking, cycling and public transport; and reducing dependency on private vehicles.</p> <p>A Traffic and Transport Assessment (Attachment C) prepared by Terraffix Pty Ltd finds that the proposal will have a minor effect on the road network capacity as the site is in proximity to existing and future pedestrian and cycling facilities. Additionally, strategic centres such as Macquarie Park and Hornsby is easily accessible from the site.</p> <p>The planning proposal is consistent with this direction.</p>
5.3 Development Near Regulated Airports and Defence Airfields	Yes	<p>This direction aims to ensure effective and safe operation of airports and to ensure development is not adversely affected by aircraft noise.</p> <p>The site is not affected by the Obstacle Limitation Surface (OLS) and will not require any consultation with the Civil Aviation Safety Authority (CASA).</p>
Housing		
6.1 Residential Zones	Yes	<p>Under this direction, a planning proposal should broaden housing choice, make efficient use of existing infrastructure, reduce consumption of land for housing on the urban fringe and be of good design.</p> <p>The proposal is consistent in that it will facilitate 40 apartments on a site previously containing one residential dwelling. The proposal will increase the</p>

Directions	Consistent / Not Applicable	Reasons for Consistency or Inconsistency
		location and availability of residential development that will broaden the choice of building types and locations available in the housing market. These dwellings will be located close to existing and proposed services and public transport.

3.6 State environmental planning policies (SEPPs)

On 1 March 2022, the department consolidated 45 SEPPs and deemed SEPPs into 11 new thematic SEPPs. The 45 SEPPs were consequently repealed. The provisions contained in the repealed SEPPs have been carried over into the new SEPPs as 'chapters'.

The SEPP consolidation does not substantially change the effect of the repealed SEPPs.

However, any redundant or outdated provisions of the repealed SEPPs have not been carried over to the new consolidated SEPPs.

The consistency of the planning proposal with the SEPPs is discussed in **Table 7**.

Table 7 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistency	Reasons for Consistency or Inconsistency
SEPP (Biodiversity and Conservation) 2021	On 1 March 2022, 11 SEPPs relating to biodiversity and conservation were consolidated into one SEPP. The consolidated SEPP aims to reserve, conserve and manage NSW's natural environment and heritage.	Yes	<p>The proposal is consistent with this SEPP as outlined in the amended arboricultural assessment (Attachment E) and biodiversity impact assessment (Attachment D) submitted in support of this application, and as requested by the SNPP.</p> <p>The amended Biodiversity Impact Assessment confirms that: the site does not contain any significant trees, no Biodiversity Offset requirements are triggered due to the fragmented nature and small scale loss of STIF on site, and outlines the potential mitigation measure of the loss of STIF vegetation on site.</p> <p>The assessment also provided an assessment of the vegetation on site based on the Ku-ring-gai Biodiversity and Riparian Lands Study (V5, June 2016) and considers that the vegetation on site does not satisfy any criteria for LEP or DCP mapping.</p>
SEPP (Resilience and Hazards) 2021	On 1 March 2022, 3 SEPPs relating to resilience and hazards were consolidated into one SEPP. The consolidated	Yes	The site is not identified as being within coastal use area in the map associated

SEPPs	Requirement	Consistency	Reasons for Consistency or Inconsistency
	SEPP aims to manage risks and build resilience in the face of hazards.		<p>with SEPP (Resilience and Hazards) 2021.</p> <p>The site is not located within an investigation area and has contained only residential land uses for an extended period of time.</p> <p>The proposed changes to the development controls will facilitate a residential flat building, with no hazardous or offensive development proposed.</p>
SEPP (Resources and Energy) 2021	On 1 March 2022, 3 SEPPs relating to resilience and hazards were consolidated into one SEPP. The consolidated SEPP aims to promote the sustainable use of NSW's resources and transitioning to renewable energy.	Not Applicable	The site is in an existing urbanised area and the proposal does not include any provisions contrary to this SEPP.
SEPP (Transport and Infrastructure) 2021	On 1 March 2022, 3 SEPPs relating to transport and infrastructure were consolidated into one SEPP. The consolidated SEPP aims to provide well designed and located transport and infrastructure integrated with land use.	Yes	<p>The planning proposal is accompanied by a Traffic and Transport Assessment (Attachment C) that indicates the development will not have a major impact on the surrounding road network.</p> <p>During public exhibition, Transport for NSW will be consulted about the proposal and provided the opportunity to include a submission.</p>
SEPP (Housing) 2021	On 26 November 2022, 3 SEPPs relating to transport and infrastructure were consolidated into one SEPP. The consolidated SEPP aims to deliver a sufficient supply of safe, diverse and affordable housing.	Yes	The proposed development controls on the site will facilitate 40 residential dwellings with a mix of 2 and 3 bedroom apartments within close proximity to public transport.
SEPP (Building Sustainability Index: BASIX) 2004	This SEPP aims to encourage sustainable residential development through establishing targets for thermal comfort, energy and water use.	Yes	Development applications (DAs) for all future residential development will need

SEPPs	Requirement	Consistency	Reasons for Consistency or Inconsistency
			to comply with the targets established under BASIX. The reference scheme has been designed to comply with any future BASIX compliance.
SEPP (Exempt and Complying Development Codes) 2008	The policy aims to provide streamlined assessment processes for development that complies with specified standards.	Not Applicable	The assessment of the proposed changes to the planning controls and the reference scheme are not carried out under complying development and therefore, this SEPP will not apply.
SEPP 65 – Design Quality of Residential Apartment Development	The aim of this policy is to improve the design quality of residential apartment development in NSW.	Yes	The site is capable of accommodating future residential apartment development as detailed in the urban design study (Attachment A2) and concept architectural plans (Attachment A3). All future DAs on the site will need to demonstrate compliance with this SEPP

4 Site-specific assessment

4.1 Environmental

The following provides an assessment of the potential environmental impacts associated with the proposal.

4.1.1 Ecological Impact

Two sets of documents discuss the ecological impacts of the proposal – the amended arborist report and biodiversity impact assessment (BIA) received in February 2023; and a revised set received August 2023 (**Attachments D and E**) as requested by the SNPP in the rezoning review. Only the August set has been attached as the findings builds on the February documents.

The updated biodiversity impact assessment has addressed the Panel conditions and confirms that there are no significant trees on the site, based on the following qualifiers of a Significant Tree in the Ku-Ring-Gai Development Control Plan (DCP) (Part 18 – Biodiversity):

- has the presence of habitat (e.g. a hollow); and/or
- provides food for wildlife; and/or
- is exceptional in form or size.

Specifically, the BIA considered that no significant trees are located on the site because: “no hollows were observed in the trees on site and are not remarkable in the potential habitat they provide. The trees in the garden were planted between 1989 and 1991 and therefore are not of an exceptional form or size”.

Whilst the BIA concludes that there are no ‘significant trees’ located on the site, both the original and updated BIA identified that the site accommodates approximately 365sqm of Sydney Turpentine Ironbark Forest (STIF), which is considered a Critically Endangered Environmental Community (CEEC) under the BC Act 2016.

The report confirms that the concept scheme would result in the following tree and vegetation loss:

- 72 total trees
- 32 out of 55 foraging trees
- 14 STIF-equivalent trees
- 287sqm of 365sqm of STIF-equivalent vegetation

The updated BIA also provides an assessment of the proposed tree removals against relevant biodiversity legislation including the federal Environmental Protection and Biodiversity Conservation (EPBC) Act (1999) and the NSW Biodiversity Conservation (BC) Act (2016). The BIA states that:

“There is no formal requirement for offsetting of this impact, as the Biodiversity Offsets Scheme is not triggered. Notably, even if the scheme was triggered, there would still be no requirement for offsetting as the vegetation on site is Planted Native Vegetation which is specifically exempt in accordance with Appendix D of the Biodiversity Assessment Method 2020. The losses can otherwise be ameliorated on site by the enhancement of the remaining garden areas with an emphasis on STIF species”.

The BIA employed the ‘Test of Significance’ under the BC Act 2016 to determine the impact of removing STIF vegetation from the site, concluding that a significant adverse impact is unlikely to occur given that:

- The local occurrence of STIF is in the order of 22 hectares, and the proposed removal of STIF vegetation from the subject site represents only 0.13% of this total area. As such, it’s removal is unlikely to place local STIF vegetation at risk of extinction.
- While the local STIF vegetation is already highly fragmented, the proposed loss of STIF vegetation is unlikely to have a significant impact at the local or regional scale.
- The subject site is not strategically located so that its contribution to local connectivity is critical for any plant or animal species.

The assessment has been updated to clarify that there are no significant trees on site, based on a definition from the Ku-Ring-Gai Biodiversity DCP. The report continues to identify the site as being represented by vegetation classified as Critically Endangered Ecological Communities (CEEC) (being the Sydney Turpentine Ironbark Forest).

It is noted that the Arborist Report and BIA have employed different definitions of ‘significant tree’ due to different reporting requirements and methodologies. While this means that the term is not consistent throughout the reports, the definition employed by each report is appropriate for the purpose of the proposal. A significant focus of the BIA report was the assessment of CEEC vegetation on the site, the ‘significance’ of which is identified within a pre-determined framework of legislation and specific terminology.

In place of formal offset requirements, the updated BIA has outlined opportunities to ameliorate the loss of vegetation through such considerations as the preparation of a management plan, enrichment of STIF vegetation including appropriate species diversity and a focus on mid-storey planting, and appropriate weed control methods. Accordingly, NSW Environment and Heritage Group (EHG) be included as an agency for consultation purposes which is recommended to be a condition of Gateway.

The revised Arborist has also incorporated all of elements requested in the Panel conditions on the same map, including:

- location of all trees on site;
- the species of each tree; and
- the level of significance each tree.

This report has defined significant tree as taken from the IACA 'Dictionary for Managing Trees in Urban Environments' (Draper & Richards, 2009), which identified trees as having high significance in a landscape if the tree:

- *is in good condition, or normal vigour and form typical of the species*
- *is a remnant or is a planted locally indigenous specimen and/or is rare or uncommon in the local area or of botanical interest or of grand age*
- *is listed as a Heritage Item, Threatened Species or part of a Threatened Community or listed on council's significant tree register*
- *is visually prominent and visible from a considerable distance when viewed from more directions within the landscape by bulk and scale and makes a positive contribution to the local amenity*
- *has been influenced by historic figures, events, or part of the heritage development of the place*
- *supports social and cultural sentiments or spiritual associations, reflected by the broader population or community group, or has commemorative values.*

The Arborist report has been appropriately updated to include a revised map at Appendix 1 showing all relevant items on the same map.

4.1.2 Built Form

The planning proposal will facilitate the future development of the site for high density residential development consistent with the adjoining sites on Killeaton Street. The urban design study (**Attachment A2**) by Mackenzie Architects includes an analysis of the site: its opportunities, constraints, and surrounding context to confirm suitability of the site to accommodate future high density residential development. It also informs future design on the appropriate siting, bulk, form, and scale for the site as demonstrated in the concept architectural plans (**Attachment A3**).

Based on the site characteristics and surrounding context, the site is suitable to accommodate a 5-storey residential flat building that provide a consistent built form and character with adjoining site fronting Killeaton Street. Proposed built form of this scale would not adversely impact the existing educational establishments to the south of the site.

It is noted that the concept architectural plans did not require updating as a result of the rezoning review recommendations.

4.1.3 Traffic and Access

A traffic and transport assessment has been prepared by Terraffix Pty Ltd (**Attachment C**) concludes that the proposal will not have any noticeable or unacceptable effect on the road network serving the site in terms of road network capacity or traffic-related environmental effects as the site is in proximity to existing and future pedestrian and cycling facilities and liveability destinations such as recreational, leisure and community facilities.

It is noted that this report did not require updating as a result of the rezoning review recommendations.

4.2 Social and economic

The following **Table 12** provides an assessment of the potential social and economic impacts associated with the proposal.

Table 12. Social and economic impact assessment

Social and Economic Impact	Assessment
Social	<ul style="list-style-type: none"> The amendments sought by the Planning Proposal will enable the delivery of approximately 40 dwellings of varying sizes on the subject site to meet the existing and future requirements of a growing and changing community. Renewal of an under-utilised site and provision of high-quality, high density development in a well-connected location. Delivery of a development capable of achieving compliance with current Apartment Design Guide requirements close to transport, employment centres, and a range of services and facilities within walking distance
Economic	<ul style="list-style-type: none"> Additional employment during construction processes.

4.3 Infrastructure

The following **Table 13** provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

Table 13. Infrastructure assessment

Infrastructure	Assessment
Utilities	The site is within an established urban area serviced by water, sewer, and electricity infrastructure which can be upgraded as necessary.
Public transport	The site is in an accessible location with ample public transport connections utilising the existing road structure, with a number of travel routes available particularly along Killeaton Street, and nearby Mona Vale Road.

5 Consultation

5.1 Community

The planning proposal provides a timeframe of 28 days for community consultation.

The exhibition period proposed is considered appropriate, and forms the conditions of the Gateway determination.

5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 30 calendar days to comment:

- NSW Environment and Heritage Group (EHG);
- Transport for NSW; and
- Ausgrid

6 Timeframe

The Department recommends a time frame of **9 months** to ensure it is completed in line with its commitment to reduce processing times. It is recommended that if the gateway is supported it also includes conditions requiring the exhibition and post-exhibition report on the proposal be completed by specified dates.

As such, from the date of the Gateway determination, the planning proposal must be:

- exhibited within **3 months**; and
- reported to the Sydney North Planning Panel for a recommendation within **6 months**.

It is recommended that a **9 month** timeframe is appropriate for this planning proposal from the date of the Gateway determination.

A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

The Sydney North Planning Panel approved the proposal to proceed to Gateway determination.

As the proposal is a result of a rezoning review, the department will be the local plan-making authority.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- It is generally consistent the Greater Sydney Region Plan, North District Plan, and Ku-ring-gai Local Strategic Planning Statement as determined by the Sydney North Planning Panel;
- It is generally consistent with the housing objectives of the Greater Sydney Region Plan, North District Plan, and Ku-ring-gai Local Strategic Planning Statement by facilitating additional residential dwellings; and
- Changes to the planning controls on the site are consistent as the neighbouring land with the same maximum building height and FSR controls and bound by the same DCP provisions.
- The trees impacted by the proposal are not remnant Blue Gum High Forest. The retention of trees will be incorporated into the design of any future development application.

9 Recommendation

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - (a) the planning proposal is categorised as standard as described in the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 28 working days; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, September 2022).

Exhibition must commence within **3 months** following the date of the gateway determination.

2. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the EP&A Act:

- NSW Environment and Heritage Group;
- Transport for NSW; and
- Ausgrid

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 days to comment on the proposal.

3. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
4. The timeframe for completing the LEP is to be **9 months** from the date of the Gateway determination.

19.12.2023

David Hazeldine

Manager, Place and Infrastructure



22 December 2023

Brendan Metcalfe

Director, North District

Assessment officer

Andy Ng

Planning Officer, North District, Metro Central and North

9585 6438