

## Post-Exhibition Report – PP-2022-1137

*The planning proposal seeks to amend the Ku-ring-gai Local Environmental Plan 2015 to enable the redevelopment of the site for a residential flat building development at 130 Killeaton Street, St. Ives (approximately 40 dwellings)*

### 1 Introduction

The planning proposal is at the post exhibition stage, which is the last stage before an LEP may be made and finalised. The Sydney North Planning Panel (the Panel) determined at a rezoning review that the proposal had strategic and site merit, on 25 August 2023. Subsequently, a Gateway assessment was undertaken, and a Gateway determination was issued on 22 December 2023 for the proposal to proceed, subject to conditions. Consultation with agencies and the community required by the Gateway determination conditions (as altered) has now been completed.

The purpose of this report is to provide a summary of the key matters raised by members of the public, Ku-ring-gai Council (Council) and public agencies during the public exhibition of the planning proposal (**Attachment A**) for 130 Killeaton Street, St. Ives. The report makes a recommendation to the Panel that it submit the proposal to the Department of Planning, Housing and Infrastructure for finalisation.

| Element   | Description   |
|---|---|
| Date of request to exhibit PP                                     | 14 February 2024  |
| Date of panel determination on rezoning review                    | 25 August 2023  |
| Planning Proposal no.   | PP-2022-1137  |
| LGA   | Ku-ring-gai   |
| LEP to be amended   | Ku-ring-gai Local Environmental Plan (Ku-ring-gai LEP) 2015   |
| Address   | 130 Killeaton Street, St. Ives (Lot 1 DP 748682)  |
| Brief overview of the timeframe/progress of the planning proposal | <p><b>15 December 2021</b> – Pre-planning Proposal meeting held with Council and Proponent</p> <p><b>3 June 2022</b> – Proponent lodges complete planning proposal with Council</p> <p><b>1 September 2022</b> – 90-day timeframe since lodgement passes. Proponent can in theory lodge a rezoning review from this date</p> <p><b>19 September 2022</b> – Proposal considered by Ku-ring-gai Local Planning Panel (KLPP). KLPP concurred that the proposal has</p> |

| Element | Description  |
|---------|--|
|         | <p>strategic and site-specific merit and supported the proposal to be referred to the Department for a Gateway determination, subject to amendments (<b>Attachment M</b>)</p> <p><b>9 November 2022</b> – Councillor site inspection</p> <p><b>15 November 2022</b> – Proposal considered again by Council, however no resolution was made by Council.</p> <p><b>13 December 2022</b> – Council considered proposal and resolved to request the proponent to amend the biodiversity impact assessment and arborist report and for Council staff to reassess the planning proposal and review their recommendation as to whether the proposal should proceed to Gateway.</p> <p><b>9 February 2023</b> – Amended reports submitted to Council by proponent.</p> <p><b>6 April 2023</b> – Proponent lodges rezoning review through NSW Planning Portal.</p> <p><b>16 May 2023</b> – Proposal considered by Council and resolved not to support the proposal by Council.</p> <p><b>21 August 2023</b> – The Panel considers the rezoning review and determines the proposal should be submitted for a Gateway determination subject to amended supporting documentation (RR-2023-9)</p> <p><b>25 August 2023</b> – Notice of Decision issued by the panel with conditions, including determining that the panel assumes the role of the Planning Proposal Authority</p> <p><b>3 October 2023</b> – Amended documents submitted by proponent in response to panel conditions.</p> <p><b>26 October 2023</b> – The Panel confirms that the revised supporting documentation is satisfactory and for the proposal to proceed to a Gateway determination.</p> <p><b>22 December 2023</b> – Gateway Determination issued.</p> <p><b>12 February 2024</b> – Gateway Determination altered to identify that the proposal is to be publicly exhibited for a minimum of 20 working days rather than 28.</p> <p><b>14 February 2024</b> – The Panel determines the proposal should proceed for public exhibition.</p> <p><b>16 February to 15 March 2024</b> – Proposal on public exhibition.</p> <p><b>29 March 2024</b> – Deadline for all agency submissions.</p> <p><b>16 April 2024</b> – Response to Submissions package provided by the proponent.</p> <p><b>9 May 2024</b> – BCS confirms it has no outstanding issues or comments.</p> |

| Element   | Description   |
|---|---|
| Finalisation date required by Gateway Determination | 22 September 2024   |
| Department contact:                                 | Shruthi Sriram – Planning Officer, Planning Proposal Authority Team |

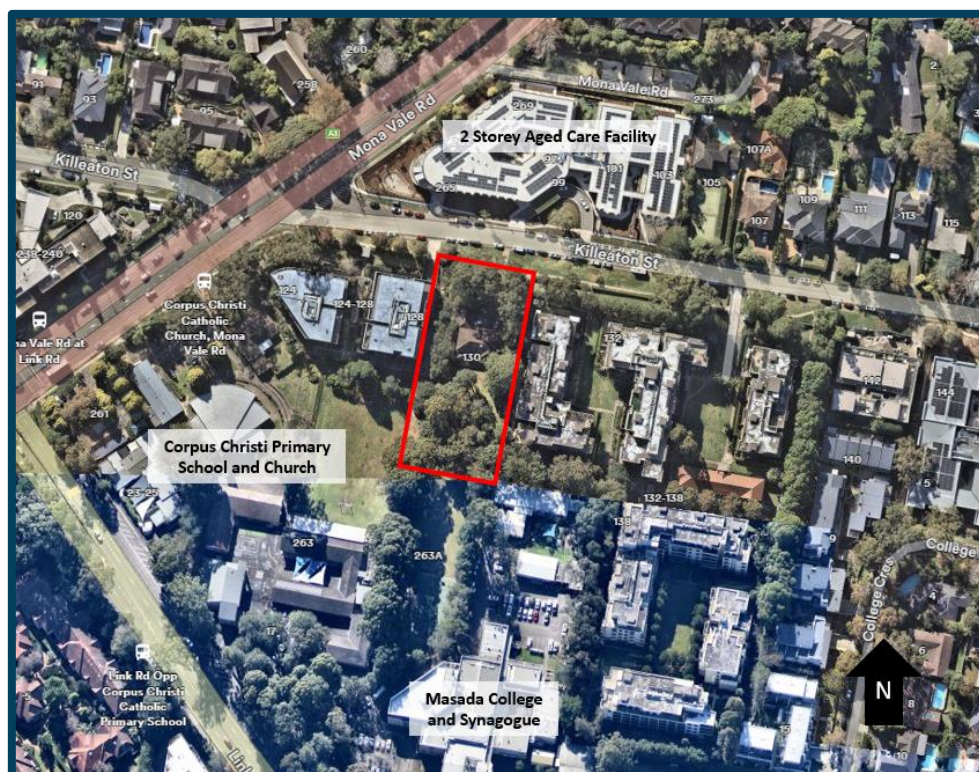
## 1.1 The Site and local context

The planning proposal applies to 130 Killeaton Street, St. Ives and comprises one lot which is legally described as Lot 1 DP 748682 (the site) and has an area of 2,803m<sup>2</sup>. The site is occupied by a 2-storey dwelling (**Figure 1**).

The area surrounding the site includes (**Figure 1**):

- residential flat buildings to the immediate east and west with the land zoned R4 High Density Residential;
- a two-storey aged care facility currently under construction to the north across Killeaton Street;
- the Corpus Christi Catholic Church and Primary school to the immediate south and west; and
- the Kehillat Masada Synagogue and College to the south.

The site is zoned SP2 Infrastructure (Educational Establishment) and is associated with the adjoining Church and Primary school. The site was previously owned by Corpus Christi Catholic Church and Primary School prior who used it for education purposes.



**Figure 1 – The site highlighted red (source: Nearmaps 2024)**

## 1.2 Planning Proposal

**Table 1 – Overview of planning proposal**

| Element   | Description   |
|---|---|
| Site Area   | 2,803m <sup>2</sup>   |
| Site Description  | 130 Killeaton Street, St. Ives (Lot 1 of DP 748682)   |
| Proposal summary  | <p>The exhibited planning proposal (<b>Attachment A</b>) seeks to enable a residential flat building development.</p> <p>In summary, the proposal seeks to amend the Ku-ring-gai LEP 2015 to:</p> <ul style="list-style-type: none"> <li>• rezone the site to R4 High Density Residential;</li> <li>• introduce a maximum building height of 17.5m; and</li> <li>• introduce a maximum floor space ratio (FSR) of 1.3:1.</li> </ul> <p>These provisions are consistent with land to the immediate east and west of the site.</p> <p>The planning proposal is accompanied by an urban design study and concept architectural plans for a 5 storey residential flat building (RBF) including approximately 40 dwellings. The building has a total gross floor area (GFA) of approximately 3,643.18m<sup>2</sup>.</p>  |
| Relevant State and Local Planning Policies, Instruments | <ul style="list-style-type: none"> <li>• Greater Sydney Region Plan</li> <li>• North District Plan</li> <li>• Ku-ring-gai LEP 2015</li> <li>• Ku-ring-gai Local Strategic Planning Statement March 2020 (LSPS)</li> <li>• Ku-ring-gai Housing Strategy and Housing Strategy Approval Letter Conditions</li> <li>• State Environmental Planning Policies: <ul style="list-style-type: none"> <li>○ SEPP (Resilience and Hazards) 2021</li> <li>○ SEPP (Transport and Infrastructure) 2021</li> <li>○ SEPP (Biodiversity and Conservation) 2021</li> <li>○ SEPP (Sustainable Buildings) 2022</li> <li>○ SEPP (Exempt and Complying Codes) 2008</li> <li>○ SEPP (Housing) 2021</li> </ul> </li> <li>• Section 9.1 Ministerial Directions: <ul style="list-style-type: none"> <li>○ 1.1 Implementation of Regional Plans</li> <li>○ 1.4 Site Specific Provisions</li> <li>○ 4.4 Remediation of Contaminated Land</li> <li>○ 5.1 Integrating Land Use and Transport</li> </ul> </li> </ul> |



| Element | Description   |
|---------|---|
|         | <ul style="list-style-type: none"> <li>6.1 Residential Zones</li> </ul> |

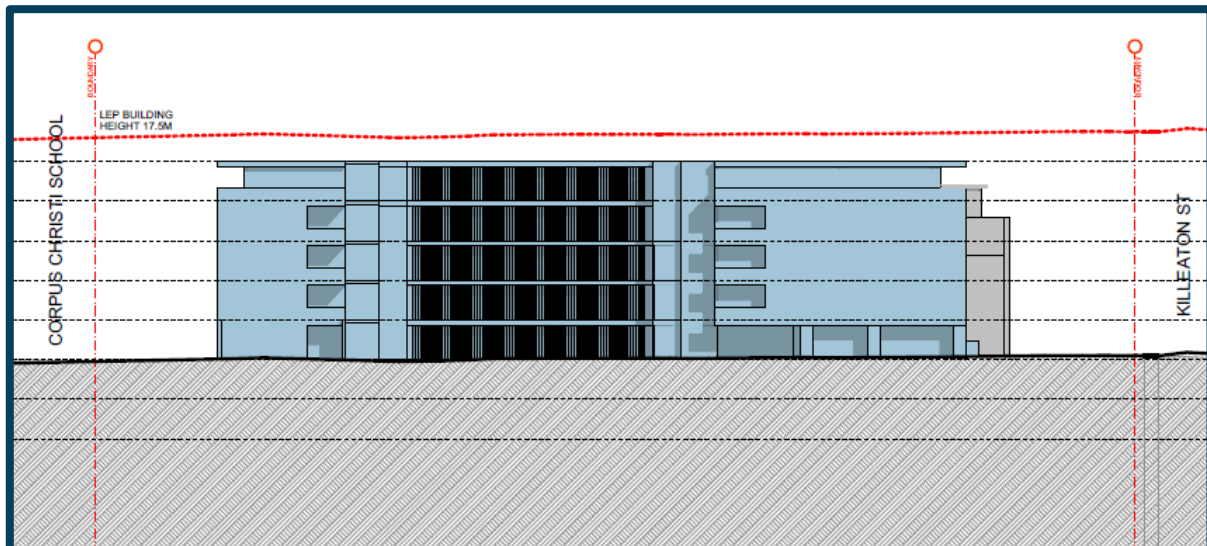


Figure 2: East Elevation of development concept (Mackenzie Architects, 2021)



Figure 3: Proposed ground floor/site layout plan (Mackenzie Architects, 2021)



**Figure 4: Proposed massing viewed from Killeaton Street (Mackenzie Architects, 2021)**

The exhibited planning proposal (**Attachment A** and **Table 1**) seeks to amend the Ku-ring-gai LEP 2015 as identified in **Table 2** below.

**Table 2 – Current and proposed controls**

| Control                                     | Current  | Proposed                    |
|---|--|-----------------------------|
| <b>Zone</b>                                 | SP2 Infrastructure (Educational Establishment) | R4 High Density Residential |
| <b>Maximum height of the building (HOB)</b> | N/A  | 17.5m                       |
| <b>Maximum Floor space ratio (FSR)</b>      | N/A  | 1.3:1                       |

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

## 1.2.1 Mapping

The proposed mapping amendments to the Ku-ring-gai LEP 2015 are found in **Figures 5 to 7** below:

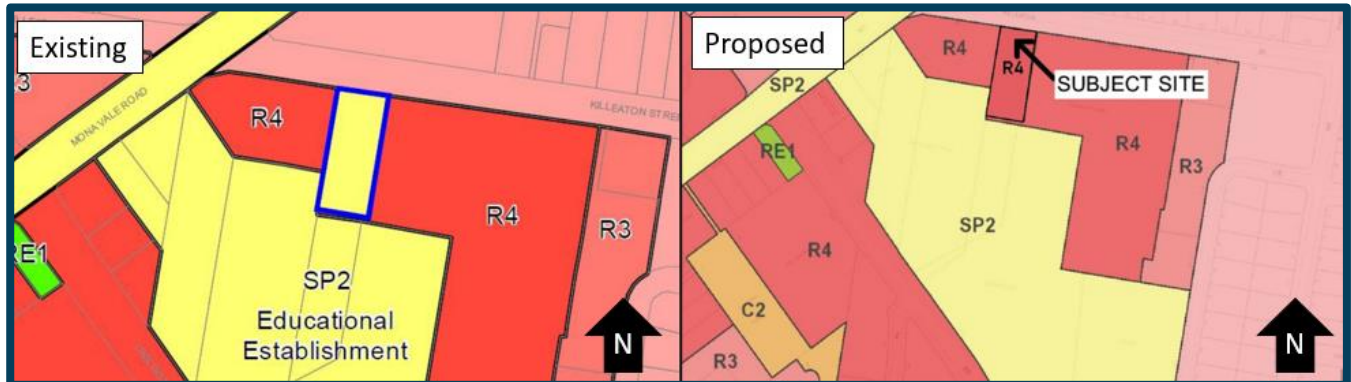


Figure 5: Existing and proposed zoning maps (source: Planning Proposal, 2022)

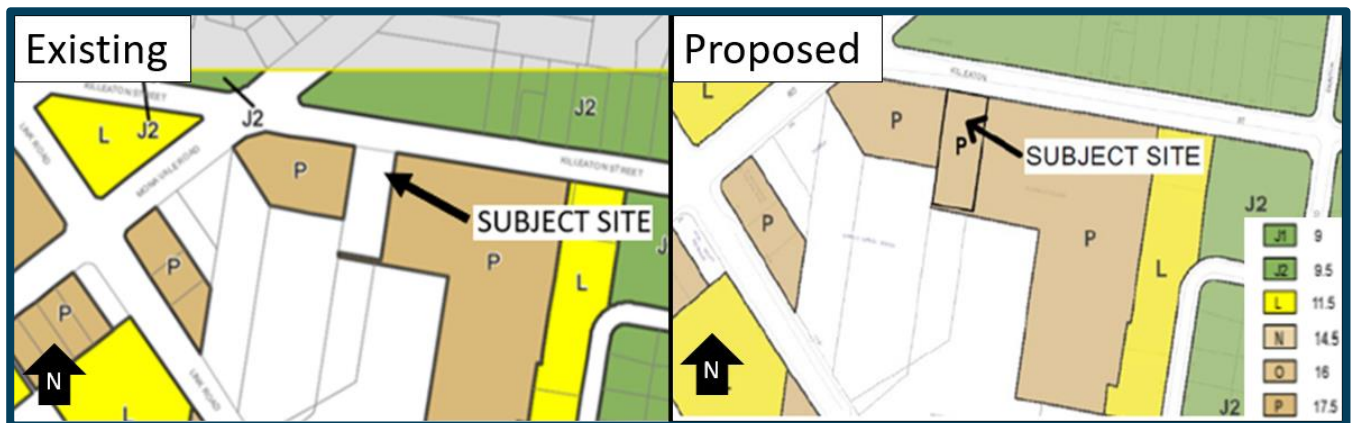


Figure 6: Existing and proposed maximum HOB maps (source: Planning Proposal, 2022)

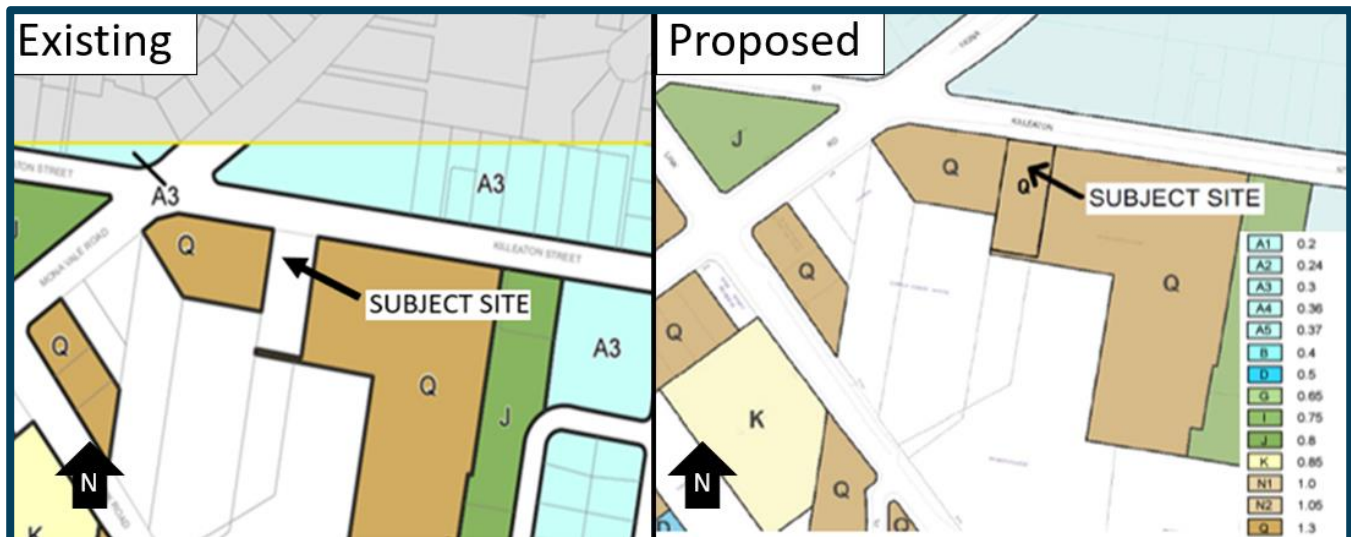


Figure 7: Existing and proposed maximum FSR (source: Planning Proposal, 2022)

## 1.3 Rezoning Review

On 21 August 2023, the Panel considered a rezoning review for this planning proposal because Council notified the proponent it will not support the proposal.

The Panel determined to support the planning proposal because the proposal has demonstrated strategic and site-specific merit and is consistent with State and Local Strategies. The Panel made the following recommendations (**Attachment B**):

- update Arborist Report to confirm the location, species identification, and level of significance of the tree (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; and
- prepare an affordable housing viability report to clarify housing affordability rates.

The Panel appointed itself as the planning proposal authority (PPA) as Ku-ring-gai Council previously resolved to not progress the proposal.

On 3 October 2023, the proponent provided the updated proposal and supporting documents in response to Panel conditions. An assessment of the updated package against the Panel conditions

On 25 October 2023, the Panel reconvened for a pre-lodgement meeting, confirming that the proponent's revised documentation adequately addressed the Panel's decision and could now be lodged for a Gateway determination (**Attachment B1**).

The Panel's decision encouraged the proponent to discuss with Council the available mechanisms to deliver affordable housing as part of the proposal. The proponent did not propose any affordable housing at this time, but advised they are open to providing it at a future date.

The Environmental Planning and Assessment Act 1979 (the Act) requires any condition imposed relating to contributions for affordable housing on a development consent must be authorised by an LEP and must be in accordance with a Council scheme for dedications or contributions set out in or adopted by the LEP.

To date, Ku-ring-gai Council has not sought to amend the Ku-ring-gai LEP 2015 to reference an affordable housing contribution scheme to levy for affordable housing on this site.

On 14 November 2023, the proposal was submitted to the Department for a Gateway determination.

## 1.4 Gateway determination

The Gateway determination issued on 22 December 2023 (**Attachment C**) determined that the 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).*
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 Act:*
  - *NSW Environment and Heritage Group;*



- *Transport for NSW (TfNSW); 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 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'.*

The Gateway determination was altered on 12 February 2024 to identify that the proposal is to be made publicly available for a minimum of 20 working days rather than 28 calendar days.

All conditions of the Gateway determination (as altered) have been met (**Attachment D**).

## 2 Community Consultation

### 2.1 Public Exhibition

On 14 February 2024, the former Agile Planning Team (now Planning Proposal Authority (PPA) Team) advised the Panel that the proposal have been satisfactorily amended to meet the Gateway Conditions for public exhibition to commence (**Attachment E**).

In accordance with the Gateway determination, the planning proposal and supporting material were publicly exhibited on the NSW Planning Portal for 20 working days from 16 February to 15 March 2024.

## 3 Submissions

### 3.1 Submissions during exhibition

A total of 67 submissions were received during the exhibition period, including:

- 63 community submissions, including 2 duplicates;
- three government agency submissions; and
- a submission from Ku-ring-gai Council.

A table outlining the PPA Team and Proponent's response to submissions is provided as **Attachments F** and **G**. The proponent's response to submissions is provided at **Attachment K**.

#### 3.1.1 Submissions from the community

A total of 59 community submissions (94%) objected (including the two duplicates) to the planning proposal.

Two submissions (3%) were received in support and two submissions (3%) raised concerns but were neither in support nor objected.

In summary, the concerns raised in community submissions, include:

- traffic congestion (63%)
- biodiversity loss (63%)

- lack of car parking (52%)
- need for infrastructure improvements (40%)
- privacy issues for nearby residents (6%)
- outdated studies (5%)
- noise due to traffic and construction (5%)

A table outlining the Proponent's and the PPA Team's responses to the community's submissions is provided at **Attachment F**.

No issues raised in the community submission prevent the progression of the planning proposal to finalisation.

### 3.1.2 Submissions from Agencies

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

- Transport for NSW (TfNSW);
- Environment and Heritage Group (EHG) (Now Biodiversity, Conservation and Science); and
- Ausgrid.

All agencies consulted made a submission. No agency submission raised objections with the planning proposal.

An assessment of the submissions made by agencies (**Attachment I**) is included in **Attachment G** and discussed in **Section Error! Reference source not found. of this report**.

No issues raised by agencies prevent the progression of the planning proposal to finalisation.

### 3.1.3 Submission from Council

A submission was received from Ku-ring-gai Council, which referred to the Council resolution from their 16 May 2023 meeting (**Attachment L1**), being:

*'A. That the planning proposal is not supported by Council.*

*B. That the NSW Department of Planning and Environment be advised of Council's position and the Planning Proposal not be submitted for a Gateway Determination in accordance with section 3.34 of the Environmental Planning and Assessment Act 1979.*

*C. That Council updates Greenweb mapping to reflect the occurrence of Sydney Turpentine Ironbark Forest (STIF) and Blue Gum High Forest (BGHF) at 130 Killeaton Street, St Ives.'*

An assessment of the issues raised by the Council is included in **Attachment G** and outlined in **Section Error! Reference source not found. of this report**. No issues raised by Council prevent the progression of the planning proposal to finalisation.

### 3.1.4 Representation from Parliamentary Members

To the team's knowledge, neither MP has made any written representations regarding the proposal.

There have been no meetings or communications with registered lobbyists with respect to this proposal.

## 3.2 Key Issues from submissions

The key issues raised during community and agency consultation are discussed in detail below, including the proponent's and PPA Team's responses.

### 3.2.1 Issue – Traffic congestion

#### Community submissions

Issues raised in community submissions concerning traffic impacts, include:

- existing construction near the site which is already causing many traffic issues; and
- cumulative traffic impacts of the proposal with the 2 existing aged care facilities and townhouses near the site.

#### TfNSW's submission

TfNSW has no objections to the proposed amendments because they consider the proposal is expected to generate low traffic volumes resulting in minimal traffic impacts. TfNSW's submission suggests solutions to reduce any traffic impacts, including:

- alternative travel modes such as public and active transport; and
- connecting cycling links to/from Killeaton Street to other established cycle networks in the area.

#### Proponent's Response:

TfNSW has raised no concerns with the planning proposal. Council has also raised no concerns about potential traffic impacts from the proposal.

#### PPA Team Response:

The proponent's response to traffic impacts is adequate, with TfNSW raising no objection with the planning proposal.

It is also noted that the Council officer's pre-Gateway assessment of the planning proposal did not identify unacceptable traffic impacts from the proposal.

### 3.2.2 Issue – Biodiversity impacts

#### Community submissions

Community submission raised concerns about potential biodiversity impacts, including:

- the loss of native vegetation and fauna; and
- mental health through further urbanisation and loss of bushland.

#### Council submission

Council's submission referred to the resolution from their Ordinary Meeting on 16 May 2023, which resolved for the planning proposal to not proceed for a Gateway Determination (contrary to the recommendation of the Council Officers' report).

Prior to this, Council resolved at the 13 December 2022 OMC (**Attachment L**) as recommended in the Council supplementary report:

*'A. That the proponent be requested to amend the Biodiversity Impact Assessment and the Arborists Report to correctly identify all trees currently listed as E. grandis (Flooded Gum) and E. saligna (Sydney Blue Gum). The findings and recommendations of the*

*Biodiversity Impact Assessment, Arborists Report and Planning Proposal are to be amended accordingly.*

## BCS (previously EHG) submission dated March 2024

On 27 March 2024, BCS made a submission stating:

- more measures are needed to avoid clearing Sydney Turpentine Ironbark Forest (STIF) on the site;
- priority should be given to retaining additional areas of native vegetation;
- measures should be taken to avoid or minimise clearing of native vegetation and threatened species in accordance with the Biodiversity Assessment Method (BAM) 2020; and
- justification is required to demonstrate why all trees but one on site are planted, otherwise, the language should be changed to reflect the possibility of regeneration.

## Proponent's Response

In response to community and agency submissions, the proponent states:

- other than the individual indicated tree (Turpentine #51), they have all appeared at once in historical aerial photographic record which is not consistent with natural regeneration;
- Biodiversity Offsets Scheme are not triggered and thus the NSW Biodiversity Assessment Method (BAM) is not directly relevant. However, the avoidance of impact has been demonstrated in the proposal by the tree retention plan which was in turn informed by the combined ecological assessments; and
- the proponent has considered retaining as many trees as viable. Any trees not retained would compromise basic and design and viability of the proposal due to the location and size of the trees being within the development footprint.

This response was subsequently sent to BCS for further comment.

## BCS further advice dated May 2024

On 9 May 2024, BCS provided an updated submission in response to the proponent's response to submission. This updated submission confirms that sufficient information and justification to adequately address the previous questions and concerns raised by BCS has been provided.

## PPA Team Response

The proponent has adequately addressed community and agency submissions on this matter, noting:

- BCS has confirmed they have no outstanding issues or comments, including tree retention and biodiversity impacts; and
- the Ku-ring-gai Development Control Plan (DCP) 2024 includes controls which can ensure appropriate consideration of tree retention as part of the development application process, including preparation of a vegetation management plan and a landscape plan.

### 3.2.3 Issue – Lack of car parking

#### Community submissions

Issues raised in community submissions concerning car parking impacts, include:

- existing area around the site lacks car parking; and



- approximately 40 additional dwellings will further there may be even less than it is currently.

## Proponent's Response

TfNSW and Council have raised no objections and concerns with the planning proposal concerning car parking. Application of reduced car parking rates would be better considered through Council's wider master planning process to ensure a consistent policy approach.

## PPA Team Response

The proponent has adequately addressed potential carparking impacts, which can be further considered during the development application process, including appropriately applying the car and bicycle parking rates in Council's Ku-ring-gai DCP 2024.

It is also noted that TfNSW's submission and the Council officer's pre-Gateway assessment of the planning proposal did not identify unacceptable car parking impacts from the proposal.

## 4 Next Steps

The Department's North, East and Central Coast Local Planning team is the Local Plan-Making Authority (LPMA) for this planning proposal.

The Panel's decision and the final planning proposal will be submitted to the LPMA 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 LPMA 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 Act, 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 should be submitted to the LPMA for finalisation:

The planning proposal is considered suitable for finalisation, because:

- it demonstrates strategic and site-specific merit;
- the conditions of the Gateway have been met;
- community and agency consultation has occurred in accordance with the Gateway determination; and
- there are no outstanding matters from community and agency consultation.

### 5.1 Attachments

**Attachment A** – Planning Proposal (The Planning Hub, May 2022)

**Attachment A1** – Urban Design Study (Mackenzie Architects International, March 2022)

**Attachment A2** – Concept Architectural Plans (Mackenzie Architects International, Mar 2022)

**Attachment A3** – Traffic and Transport Report (Terraffix Pty Ltd, May 2022)

**Attachment A4** – Biodiversity Impact Assessment (Keystone Ecological, September 2023)

**Attachment A5** – Arboricultural Impact Assessment (Russell Kingdom, September 2023)

**Attachment A6** – Preliminary Site Investigation (Alliance Geotechnical, April 2021)

**Attachment A7** – Feasibility Analysis (HillPDA Consulting, September 2023)

**Attachment B** – Rezoning Review Record of Decision (August 2023)

**Attachment B1** – Pre-Gateway Panel Record of Decision (October 2023)

**Attachment C** – Gateway Determination

**Attachment D** – Assessment Against Gateway Determination

**Attachment E** – Authorisation of exhibition

**Attachment F** – PPA Team's response to community submissions and response

**Attachment G** – PPA Team's response to Agency and Council submissions

**Attachment H** – Council submission

**Attachment I** – Agency submissions

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

**Attachment K** – Proponent's Response to Submissions (April 2024)

**Attachment L** – Council Meeting and Minutes ( December 2022)

**Attachment L1** – Council Meeting and Minutes (May 2023)

**Attachment M** – Ku-ring-gai Local Planning Panel Minutes (September 2022)



1 July 2024

Alexander Galea

Manager, Planning Proposal Authority



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(Signature)

\_\_\_\_\_  
11/7/2024 (Date)

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