

Post-Exhibition Report – PP-2022-658

Lourdes Retirement Village - 95-97 Stanhope Road, Killara (provision of a maximum 141 independent living units, residential aged care facility (110 beds) and 63 private dwellings)

1 Introduction

The planning proposal is at the post exhibition stage, which is the last stage before a local environmental plan (LEP) may be finalised and made. The Sydney North Planning Panel (Panel) determined at Rezoning Review that the proposal had strategic and site-specific merit (7 November 2018). The Panel was appointed the Planning Proposal Authority (PPA) as Ku-ring-gai Council (Council) declined the role.

A Gateway assessment was undertaken, and a Gateway determination was issued on 10 May 2022 for the proposal to proceed, subject to conditions. Consultation with State Government Agencies and the community required by the Gateway determination has now been completed.

The purpose of this report is to provide a summary of the key matters raised by members of the public, Council and State Government agencies during the public exhibition of the planning proposal (**Attachment A**) for 95-97 Stanhope Road, Killara.

The report includes a recommendation made by the Agile Planning team, in their role supporting the Panel, that the proposal is submitted to the Department of Planning and Environment for finalisation subject to the planning proposal being updated to reflect proponent lead changes and Agile team recommendations outlined in Section 6 of this report.

Following a decision of the Panel, the planning proposal will be sent to the North District Planning, Land Use Strategy and Housing (PLUSH) team as the Local Plan Making Authority (LPMA) to determine whether to finalise the proposal.

Table 1 – Planning proposal details and timeline

Element	Description
Date of request to exhibit PP	27 July 2022
Date of panel determination on rezoning review	7 November 2018
Planning Proposal no.	PP-2022-658
LGA	Ku-ring-gai
LEP to be amended	Ku-ring-gai LEP (KLEP) 2015
Address	95-97 Stanhope Road, Killara (Lot 21 & 22 DP 634645)

Element	Description
Brief overview of the timeframe/progress of the planning proposal	<p>2018 – A planning proposal (PP-2020-687) for the site was considered by Council, who resolved to not support the planning proposal.</p> <p>7 November 2018 – Panel determined the proposal should be submitted for Gateway subject to conditions.</p> <p>4 December 2018 and 21 December 2018 – Council resolved to not accept PPA role and Panel becomes the PPA.</p> <p>18 June 2021 – Revised planning proposal (PP-2021-4968) addressing the Panel's conditions was submitted to the Department.</p> <p>8 September 2021 – The Department briefed the Panel regarding changes made to the proposal.</p> <p>21 September 2021 – Additional information requested by the Panel from the proponent.</p> <p>October 2021 to January 2022 – Consultation between the Department, proponent and NSW Rural Fire Service (RFS) to address bushfire concerns.</p> <p>18 January 2022 – RFS confirmed performance-based approach satisfies Ministerial Direction 4.3 Planning for Bushfire Protection and did not object to planning proposal progressing.</p> <p>21 February 2022 – The Department requests a consolidated revised planning proposal.</p> <p>10 March 2022 – Updated planning proposal lodged with Department for Gateway.</p> <p>10 May 2022 – Department issues Gateway Determination.</p> <p>27 July 2022 – The Panel determines the planning proposal suitable to proceed to exhibition.</p> <p>17 August to 27 September 2022 – Public exhibition period.</p> <p>23 December 2022 – Proponent submits response to submissions (RTS).</p> <p>8 February 2023 - RFS provides submission on RTS</p> <p>28 February 2023 - EHG provides second submission on RTS.</p> <p>4 May 2023 – Proponent provides revised Ecological Assessment in response to EHG February submission.</p> <p>29 May 2023 – EHG provides submission on revised</p>

Element	Description
	<p>Ecological Assessment.</p> <p>13 July 2023 – Proponent provides further revised Ecological Assessment in response to EHG May 2023 submission.</p> <p>3 August 2023 – EHG lodges submission formally not support the proposal.</p> <p>6 October 2023 – Proponent provides further revised Ecological Assessment in response to EHG August submission.</p> <p>9 November 2023 – EHG provides submission supporting the progression of planning proposal subject to several revisions.</p> <p>20 November 2023 – Proponent provides revised Urban design and Bushfire report in response to EHG November submission.</p> <p>27 November 2023 – RFS supports the revised Urban Design (including updated Bushfire response) proceeding to finalisation.</p>
Finalisation date required by Gateway Determination (as amended)	22 December 2023
Department contacts:	Renee Ezzy, Senior Planning Officer

1.1 The site and local context

The planning proposal applies to 95-97 Stanhope Road, Killara and comprises two lots (Lot 21 & 22 DP 634645) (**Figure 1**) with a combined area of 5.25 hectares. The site contains the Lourdes Retirement Village, which includes Headfort House (Chapel) used for administration purposes, 108 Independent Living Units (ILU), 49 self-care housing apartments and an 83-bed Residential Aged Care Facility (RACF). The facility has a total of 157 dwellings and 83 beds, a community centre and pool and BBQ facilities. The site is located approximately 1.3km east of Killara Railway Station and 1.8km north-east of Lindfield Railway Station and local centres (**Figure 2**).

The Headfort House building, interiors and grounds are a locally listed heritage item (I184) (**Figure 3**) constructed in c1917 as part of Headfort School. Council initiated a planning proposal (PP-2022-3365) for the listing of this item following the submission of this planning proposal by the proponent. The planning proposal to list Headfort House was finalised on 20 January 2023.

The site is surrounded by predominately residential development to the north of the site, consisting of one and two storey single detached dwellings. To the south, the site adjoins the Seven Little Australians Park and Swain Gardens, both locally listed heritage items (I1103 and I1100). To the west, the site adjoins the Crown Blocks Conservation Area (**Figure 3**).

Access to the site is via the main entry driveway from Stanhope Road, with two secondary access points which are used for emergency and resident parking access. The site contains two internal concentric loop roads connected with a series of secondary roads. First Avenue provides access to the RACF, chapel, administration buildings and facilities and some of the ILUs. Lourdes Avenue

extends along the southern boundary of the site providing access to the independent living units in the lower portion of the site and provides a paved buffer to the adjoining bushland.

The site is identified as being affected by bushfire, with most of the site identified as a vegetation buffer (**Figure 4**). The adjacent bushland to the south, east and north-east is identified as vegetation category 1.



Figure 1 – Subject site (source: Planning Proposal – FDP Planning)

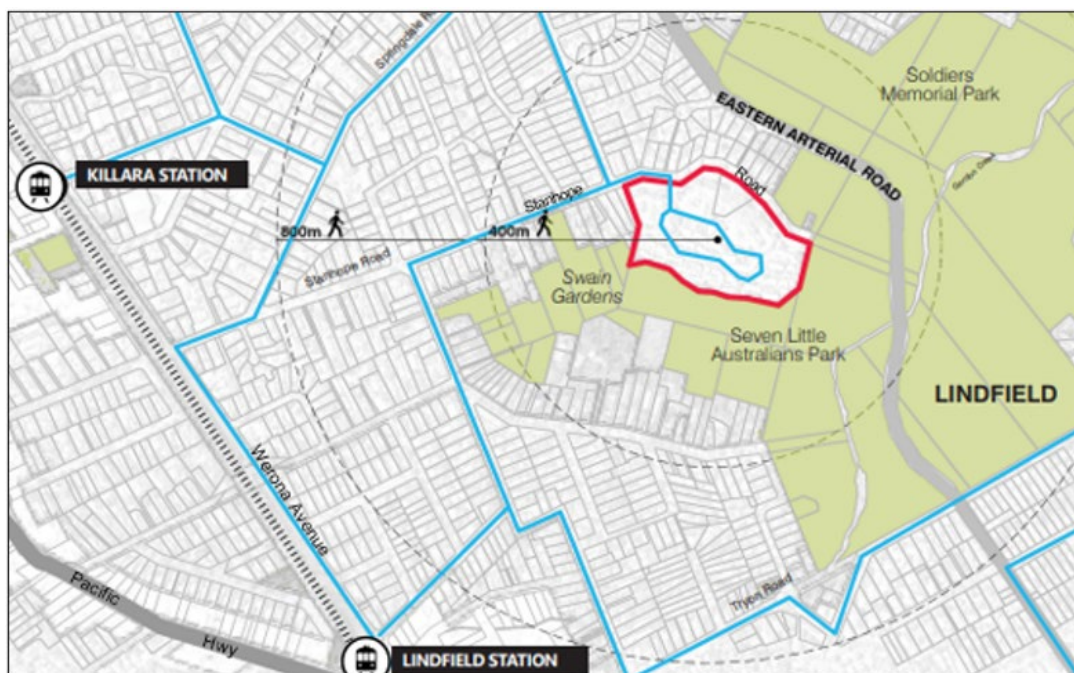


Figure 2 – Location context (source: Urban Design Report, Plus Architecture)

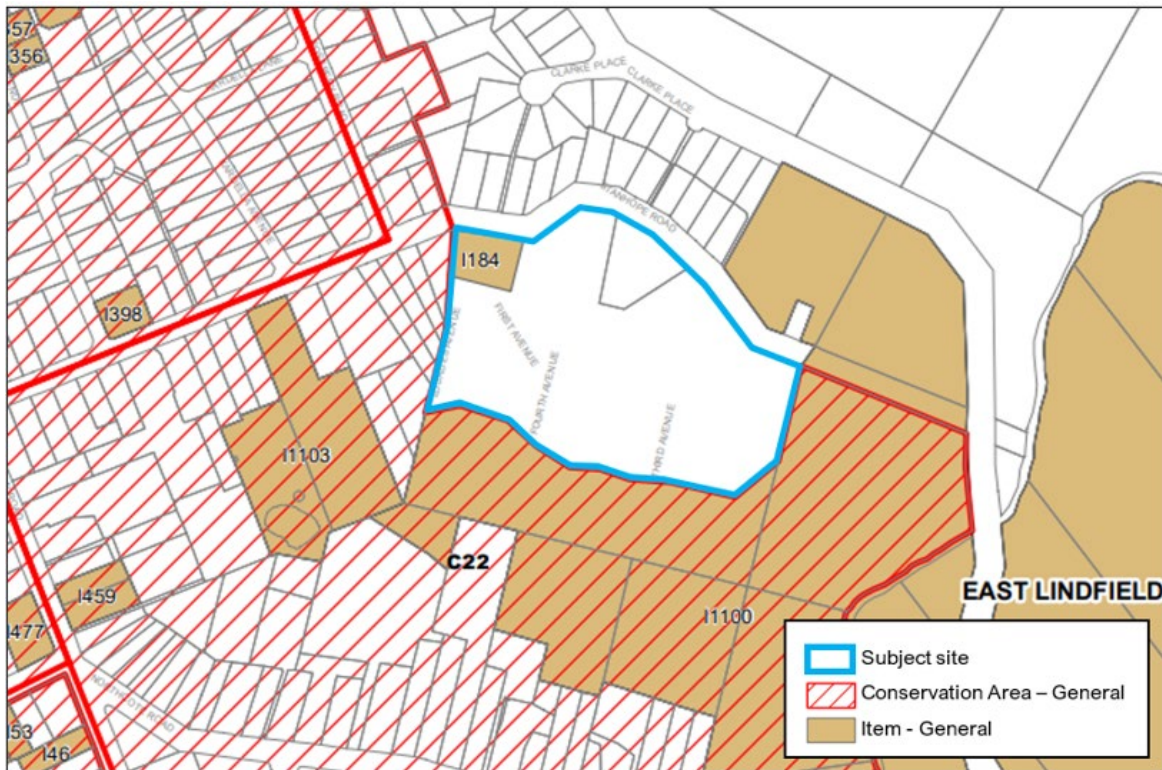


Figure 3 – Heritage Map (source: Ku-ring-gai LEP 2015)

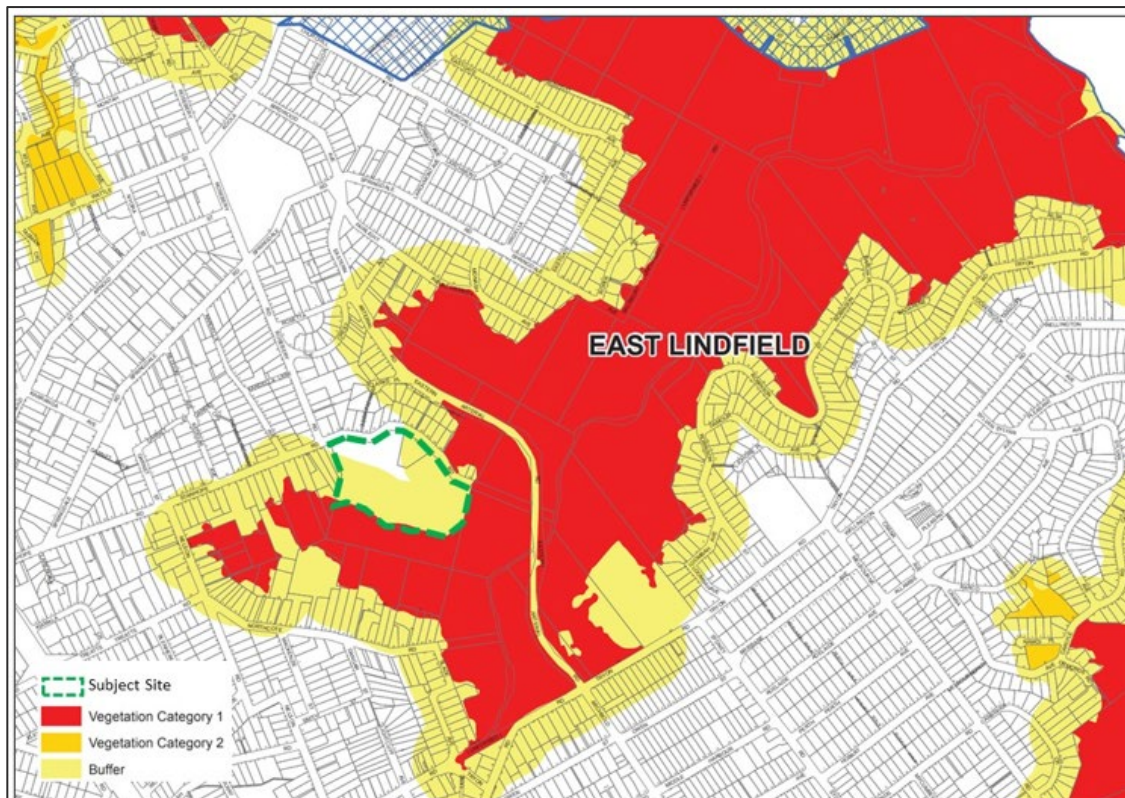


Figure 4 – Bush Fire Prone Land Map (source: Ku-ring-gai 2017)

1.2 Planning Proposal

Table 2 – Overview of planning proposal

Element	Description
Site Area	5.25 hectares
Site Description	Lot 21 & Lot 22 DP 634645
Proposal summary	<p>The planning proposal (as lodged and exhibited) (Attachment A) sought to facilitate the renewal of the Lourdes Retirement Village to provide a new senior housing development, comprising of:</p> <ul style="list-style-type: none"> • 141 ILU. • 110 bed RACF. • 1,400m² of internal communal space. • 63 privately owned townhouses. <p>To facilitate this development, in summary, the proposal sought to amend the KLEP 2015 to:</p> <ul style="list-style-type: none"> • rezone the site from R2 Low Density Residential to R3 Medium Density Residential. • increase the maximum Height of Buildings (HOB) from 9.5m to a range of heights up to 22m. • increase the maximum Floor Space Ratio (FSR) from 0.3:1 to 0.75:1. • introduce a site-specific clause so that the bonus FSR provisions for seniors housing in the Housing SEPP do not apply to the site. <p>Since the lodgement and exhibition of the planning proposal, the proponent has submitted a revised Urban Design report and is now seeking the following changes to the KLEP 2015:</p> <ul style="list-style-type: none"> • rezone the site from R2 Low Density Residential to part R3 Medium Density Residential and part C2 Environmental Conservation. • increase the maximum FSR from 0.3:1 to 0.85:1. • increase the maximum HOB from 9.5m to a range of heights up to 22m. • introduce a site-specific clause so that the bonus FSR provisions for seniors housing in the Housing SEPP do not apply to the site. <p>The concept scheme supporting the proposal has been revised to remove 4 of the privately owned townhouses for a total of 59 townhouses.</p>
Relevant State and Local Planning Policies, Instruments	<ul style="list-style-type: none"> • The Greater Sydney Region Plan – A Metropolis of Three Cities • North District Plan • 9.1 Ministerial Direction 1.4 Site Specific Provisions • 9.1 Ministerial Direction 3.1 Conservation Zones • 9.1 Ministerial Direction 3.2 Heritage Conservation

Element	Description
	<ul style="list-style-type: none"> 9.1 Ministerial Direction 4.3 Planning for Bushfire Protection 9.1 Ministerial Direction 4.5 Acid Sulfate Soils 9.1 Ministerial Direction 5.1 Integrating Land Use and Transport 9.1 Ministerial Direction 6.1 Residential Zones State Environmental Planning Policy (Housing) 2021 (SEPP Housing) SEPP (Resilience and Hazards) 2021 SEPP (Biodiversity and Conservation) 2021 SEPP 65 - Design Quality of Residential Apartment Buildings Ku-ring-gai Local Strategic Planning Statement (LSPS) Ku-ring-gai Local Housing Strategy (LHS) Ku-ring-gai LEP 2015.

The planning proposal (**Attachment A** and **Table 2**) seeks to amend the KLEP 2015 per the changes in **Table 3** below.

Table 3 – Current and proposed controls

Control	Current	Originally proposed and exhibited	Post Exhibition Proponent Proposed
Zone	R2 Low Density Residential	R3 Medium Density Residential	Part R3 Medium Density Residential, Part C2 Environmental Conservation (Figure 5)
Maximum HOB	9.5m	Range of heights between 9.5m and 22m (Figure 5)	R3 Medium Density Residential – Range of heights between 9.5m and 22m (Figure 6) C2 Environmental Conservation – no height limit
Maximum FSR	0.3:1	0.75:1	R3 Medium Density Residential – FSR 0.85:1 (Figure 7) C2 Environmental Conservation – no max. FSR
Site specific provision	N/A	Exclude the operation of clause 84 and 87 of SEPP Housing.	Exclude the operation of clause 84 and 87 of SEPP Housing.

Control	Current	Originally proposed and exhibited	Post Exhibition Proponent Proposed
Number of dwellings	240 dwellings/beds incorporating: <ul style="list-style-type: none"> 108 ILU's 49 serviced apartments 83 RACF beds 	314 dwellings/beds incorporating: <ul style="list-style-type: none"> 141 ILU's 110 RACF beds 63 townhouses (non-seniors) 	310 dwellings/beds incorporating: <ul style="list-style-type: none"> 141 ILU's 110 RACF beds 59 townhouses (non-seniors)

1.2.1 Mapping

The below maps show the current KLEP 2015 planning controls on the left, and the post-exhibition proponent proposed controls on the right. The proposal, as amended by the proponent, includes the following maps:

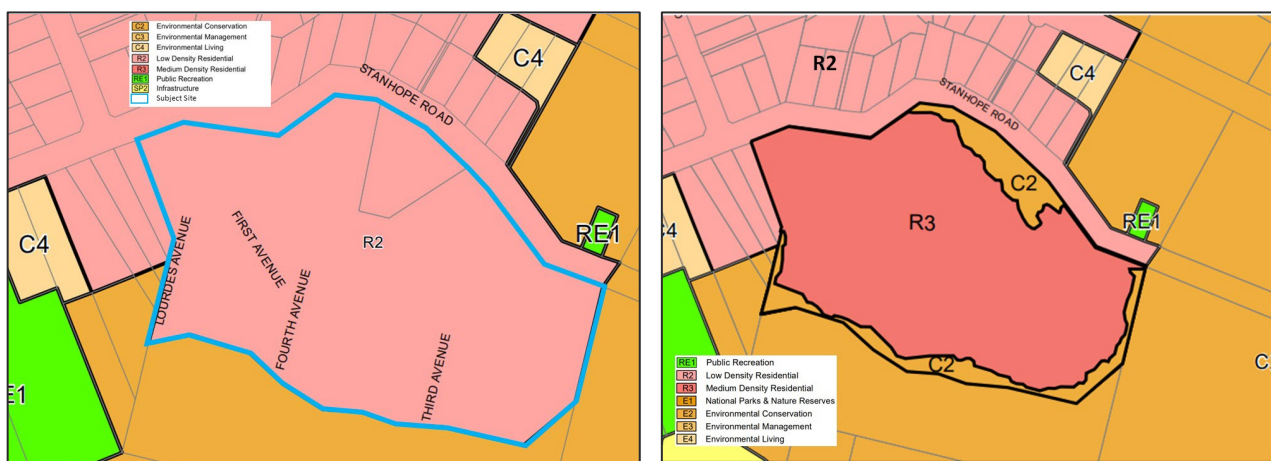


Figure 5 – Existing zoning on the left (source: KLEP 2015, November 2023) and proponent proposed zoning on the right (Urban Design Report, November 2023)



Figure 6 – Existing HOB on the left (source: KLEP 2015, November 2023) and proponent proposed HOB on the right (source: Urban Design Report, November 2023)



Figure 7 – Existing FSR on the left (source: KLEP 2015, November 2023) **and proponent proposed FSR on the right** (source: Urban Design Report, November 2023)

1.3 Rezoning Review

On 7 November 2018, the Panel considered a rezoning review for the site and determined that the planning proposal should be submitted for Gateway determination subject to several conditions. The Panel's determination and reasons for its rezoning review decision are provided in **Attachment B**.

On 4 December 2018, Council resolved not to take on the PPA role for the planning proposal. The Panel was appointed the PPA on 21 December 2018 and the proposal was submitted to the Department for a Gateway determination on 10 March 2022 (**Attachment B**).

A summary of the entire rezoning review process is provided at **Attachment C**.

1.4 Gateway determination

The Gateway determination issued on 10 May 2022 (**Attachment D**) determined that the proposal should proceed subject to several conditions, including updates to the following documents:

- Transport Assessment
- Urban Design Study
- Draft Site Specific DCP.

On 3 August 2023, the Gateway determination was altered to extend the time to report the post exhibition report to the Panel by the end of September 2023 and to finalise the planning proposal by 22 December 2023 (**Attachment D**).

The Agile Planning team have undertaken an assessment of the gateway conditions and all conditions have been met (see **Attachment E**).

2 Public Exhibition

2.1 Public Exhibition

On 27 July 2022, the Panel authorised the exhibition of the planning proposal (**Attachment B**).

In accordance with the Gateway determination, the planning proposal and supporting material were publicly exhibited on the NSW Planning Portal for 30 working days, from 17 August 2022 to 27 September 2022.

3 Submissions

3.1 Submissions

A total of 59 submissions, objections emails and petitions were received both during and after the exhibition period including:

- 33 public submissions, including 3 organisations/groups
- 15 email objections, from 3 unique submitters
- 2 petitions, which included 45 unique signatures each.
- 1 submission from the former local Member of Parliament, Mr Jonathan O'Dea
- 7 Government Agency submissions
- 1 Council's submission.

From all the public submissions, including during and after the exhibition period, all but one objected to the proposal. One submission neither fully objected to nor supported the development.

A table outlining the Agile Planning team's response to public submissions received during exhibition is provided as **Attachment F**. The submissions received post public exhibition period did not raise any unique issues that hadn't been captured during the public exhibition period. The proponent's response to submissions is provided at **Attachment G**.

3.1.1 Submissions from the community

A total of 29 public submissions were received during the exhibition period from the community, including 3 organisational submissions. There were 3 submissions received during exhibition that were duplications of other submissions and have not been counted.

A further 4 submissions and the 2 petitions were received post exhibition.

A total of 35 unique submissions were received by the community and community groups on the proposal. Of these submissions all but one objected to the proposal (97%) with one submission neither fully objecting to nor supporting the development. In summary, the concerns raised in community submissions include:

- Bushfire
- Biodiversity
- Strategic Merit
- Density and built form
- Traffic and parking
- Access
- Noise
- Other issues relating to the management of the retirement village, lack of serviced apartments and Inadequacy of the Social Effects study and Social Impact Assessment.

The Agile Planning team received 15 email objections on the proposal after the exhibition period closed. These 15 emails were sent by 3 unique submitters, 1 of whom also made a formal submission during the exhibition period. The issues raised in these emails were similar to those received during the formal exhibition period and therefore have been addressed in the overall response to submissions.

Redacted copies of all the public submissions are provided at **Attachment H** and email objections received post exhibition are **Attachment I**

3.1.2 Submissions from Government Agencies

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

- NSW RFS.
- Transport for New South Wales (TfNSW).
- Ausgrid.
- Sydney Water Corporation.
- Department of Planning and Environment – Environment and Heritage Group (EHG).
- NSW Department of Education.
- NSW Department of Health (NSW Health).

TfNSW, Ausgrid, Sydney Water, Schools Infrastructure NSW (on behalf of the NSW Department of Education) and NSW Health raised no objections to the proposal, noting further consultation would be needed when a future development application for the site is lodged.

EHG have provided 5 separate submissions (**Attachment J and J1**) on the proposal since the public exhibition of the documents in late 2022. The overarching theme from EHG submissions was the lack of identification and protection for threatened and endangered species, populations, ecological communities, and habitats included in the proposal. On 9 November 2023, EHG advised that they support the proposal progressing to finalisation subject to the proponent proposed post exhibition changes including incorporation of a C2 Environmental Conservation Zone.

The RFS have raised no concern with the Bushfire Engineering Design Compliance Strategy which sets the framework for a performance-based bushfire solution for the site. RFS did not raise objection to the progression of the planning proposal or the proposed uses (**Attachment K**).

A table outlining the Agile Planning team's response to Agency submissions received during exhibition is provided as **Attachment L**. A copy of the agency submissions are provided in full at **Attachment M**. No issues raised by the relevant agencies prevent the progression of the planning proposal to finalisation.

3.1.3 Submission from Council

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

- Site-specific merit: Fails to demonstrate merit in relation to connectivity, bushfire risk, ecology and heritage.
- Ecology assessment: The ecological assessment is deficient and fails to provide sufficient survey evidence. There is no impact assessment (BDAR) of plant or animals impacted by the proposal.
- Bushfire risk: Insufficient detail and reliance on a future design response inadequate to ensure protection of the population during a bushfire event. Inconsistent with Council's place-based approach to hazard protection. Consistency with Ministerial Direction 4.3.
- Urban Design: Lack of detail (RL's or measurements) in relation to bulk, scale and interface with surrounding low-density development. Includes extensive basement excavation and density. Non-seniors medium density housing typology inconsistent with surrounding context.
- Heritage: No heritage listing of Headfort House included in proposal and site design provides a lack of consideration of the setting and surrounding heritage.

- Transport and traffic: The site is not within walking distance of alternate transport and services and bus services to the site are infrequent. Emergency evacuation capacity of Stanhope Road. Consistency with Ministerial Direction 5.1.

An assessment of the issues raised by the Council is included in **Attachment O**. No issues raised by Council prevent the progression of the planning proposal to finalisation.

3.1.4 Ministerial Correspondence

The site falls within the Davidson state electorate. At the time of the proposal's exhibition, Jonathon O'Dea was the State Member. Since that time, he has retired and now Matt Cross MP is the member for Davidson.

Jonathon O'Dea made representations on behalf of the local community (**Attachment P**). In summary, the issues raised included:

- Built form, density, and local character
- Traffic
- Lack of strategic merit
- Bushfire risk.

The Agile Planning team has also received representations from the following members of State and Federal Parliament on behalf of the community:

- Hon Paul Fletcher MP – Federal Member for Bradfield
- Matt Cross MP - State member for Member for Davidson
- Sue Higgs MLC – Member of the Greens Party.

3.2 Key Issues from submissions

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

- Biodiversity
- Bulk and built form
- Bushfire
- Traffic and parking.

Issue 1 - Biodiversity

Community submissions

The amended concept plan provides a lack of adequate detail identifying biodiversity and ecological values on the site. The size and nature of the development and erosion of the tree canopy by removing 233 of 329 trees will result in a complete destruction of habitat and is excessive.

Council submission

The ecological assessment is deficient in that it does not validate or map the extent of the onsite vegetation communities. Additionally, the assessment does not contain an impact assessment that acknowledges the threatened species of plant or animal that would be impacted by the redevelopment of the site. It is noted that the redevelopment of the site will result in the removal of 59% of on-site trees, 85 categorised as of high importance, and the potential disturbance of 37% of the remaining trees.

The ecological assessment makes mention of the assessment of significance under the Threatened Species Conservation Act 1995 (TSC Act), however no assessment of significance is contained

within the ecological assessment and the TSC Act has been repealed and replaced with the Biodiversity Conservation Act 2016.

The canopy coverage within the site exceeds the maximum of 15% as set out in Planning for Bushfire Protection (PBP) 2019. Any management of vegetation in the southern portion of the site will result in the removal of native vegetation mapped upon the NSW Biodiversity Vales map.

The ecological assessment fails to consider direct and indirect impacts upon the downstream environment which supports habitats for threatened species, such as the potential hydrological changes resulting from the redevelopment of the site.

EHG submissions

EHG have provided 5 separate submissions on the proposal since the public exhibition of the documents in late 2022 (**Attachment J** – submission 5 and **Attachment J1** submission 1-4). The overarching theme from EHG submissions included the lack of identification and protection for threatened and endangered species, populations, ecological communities, and habitats included in the proposal. Detailed summaries and responses from the proponent on each of the first 4 submissions from EHG are included in **Attachment Q1-3**.

On 17 November 2023, EHG provided its fifth and final submission (**Attachment J**) on this proposal following a review of the 5th tranche of biodiversity documents in October 2023 (**Attachment Q3**) from the proponent. EHG have detailed that the updated documentation has addressed most of the previous concerns raised, however it still does not consistently identify vegetation on the site and potential impacts on it. The proposal is supported by EHG to proceed to the next stage for finalisation subject to:

- *the following biodiversity values are to be protected via C2 Environmental Conservation zoning:*
 - *Sydney Turpentine Ironbark Forest Critically Endangered Ecological Community – labelled as “PCT 3262 mgm zone”, and*
 - *habitat for the threatened Swift Parrot and adjoining vegetation – labelled “Swift parrot species polygon” and “PCT 3592 mgm zone”.*
- *the C2 land is managed for conservation and is not to be used as an APZ, open space, or grassed/garden/landscaped area*
- *a vegetation management plan (VMP) is prepared as part of any future development application for the C2 land. The VMP must:*
 - *identify management zones, PCTs, fencing and signage locations*
 - *include key performance criteria including benchmark goals for native species density and diversity both in the short (5 years) and long term (perpetuity)*
 - *be implemented in perpetuity, with a minimum of 5 years for rehabilitation and ongoing management requirements for maintenance thereafter*
 - *include a table of responsibilities, key actions and their timing for the first 5 years of rehabilitation and a separate table for ongoing works.*

Figure 7 below was provided within the EHG submission to clearly identify the biodiversity values recommend to be protected via the C2 zoning. The areas to be included are the pink shaded area containing PCT 3262, the green shaded areas containing PCT 3592 and the areas within the species polygon identified by purple hatching around the boundaries of the site only.



Figure 7 – Location of PCTs to be protected (source: BDAR, ACS Environmental (October 2023))

Proponent Responses

The proponent has revised the planning proposal package on several occasions to address the issues raised by the Council, EHG and the community in relation to the potential impact the development may have on biodiversity. The main revision made to the planning proposal is the proposed incorporation of the C2 Environmental Conservation zone (**Attachment R**) to cover the areas identified by EHG as having Sydney Turpentine Ironbark Forest communities and Swift Parrot habitat (**Figure 7**).

A BDAR (ACS Environment October 2023) (**Attachment Q3**) states that the site has been extensively modified, however, still contains some patches of remnant tree and shrub species. The Bushfire Report (Blackash Bushfire Consulting December 2022) (**Attachment K**) confirms that the proposed landscape approach will provide a fuel reduced area between the buildings and the bush fire hazard. A performance-based approach has been proposed to manage the bushfire risk on site. This approach includes designing and engineering solutions to manage the risk, rather than the removal of trees.

Areas identified containing Sydney Turpentine Ironbark Forest communities and Swift Parrot habitat around the peripheries of the site to be zoned C2 Environmental Conservation will not be removed and will be managed for conservation purposes. On this basis it is considered that any ecological impacts associated with the proposal would be minimal and could be offset through purchasing ecosystem credits. An updated BDAR would be prepared at the development approval stage to confirm impact and any required ecosystem credits or monetary contributions.

The landscape master plan has been amended from its original form to reduce the number of trees to be removed from 233 to 188, with 50 of these being identified as significant trees in the Arborist

assessment. Any ecological impacts associated with the proposal would be minimal and could be offset through purchase of ecosystem credits. The following further changes have been made to the concept plan:

- location of building footprints of the clubhouse and ILUs, realignment of the eastern access road and reduction in the yield of townhouses.
- redesign and reduction of southern townhouses to retain more mature native vegetation along the southern boundary and thereby minimising impacts to Swift Parrot feed trees (adjacent mapped important habitat area for the species) and reduced clearing of PCT 3592.
- modification of the north-eastern Independent Living Apartment Building to avoid and minimise impact on the adjacent vegetation to the north.

Agile Planning Response

The proponent has revised the planning proposal package to address the concerns raised relating to the ecology on site. This included the introduction of a C2 Environmental Conservation zone as requested by EHG. The Agile Planning team supports EHG's recommendation as it will ensure the appropriate ongoing management and protection of these habitats.

The Agile Planning team acknowledges that the proposal will result in the loss of some existing vegetation on site, however the proponent has presented several solutions to retain high biodiversity value areas and offset the loss of the other vegetation. Although EHG still have unresolved issues with the BDAR submitted by the proponent, they have supported this approach. EHG noted that the issues with the BDAR do not preclude the progression of the proposal as they can be addressed and resolved during the future development approval stages. The Agile Planning team supports this approach.

The Agile Planning team is satisfied that the issues relating to ecology assessment and biodiversity have been sufficiently addressed by the proponent and do not prevent the proposal progressing to finalisation.

Issue 2 – Bushfire

Community submissions

Concerns were identified by the Community that there will be an increase in the number of residents on the site to evacuate during a bushfire event and the ability of Stanhope Road to support safe evacuation of these residents. The site's ability to support an appropriate APZ and the use of non-seniors housing interfacing with the bushland as a heat shield to protect the seniors housing areas creates a risk to the safety of the occupants and fire fighters.

The community also stated that the proposal's is inconsistent with Ministerial Direction 4.3 – Planning for Bushfire Protection and were concerned that RFS had not been given the opportunity to review Ku-Ring-Gai Council's detailed Bushfire submission.

Council's submission

Council has conducted three studies (**Attachment N**) to assess the bushfire implications of increased standards under the planning proposal:

- Bushfire Peer Review: Planning Proposal (CR Bushfire 24 October 2022)
- Lourdes Retirement Village, Bush Fire Strategic Study (Ku-ring-gai Council 24 October 2022)
- Bushfire Evacuation Risk Assessment (Ku-ring-gai Council October 2022).

All three studies did not support the proposal, given the lack of detail surrounding the protection of any future population located on site.

Council stated that at the time of submission it has separately met with RFS, where RFS confirmed that they have neither endorsed nor expressed support for the planning proposal.

In summary the Council conducted studies found the following:

Bushfire Peer Review

- The Bushfire Peer Review identifies inadequacies within the exhibited proposal, limiting the ability to review the appropriateness of the proposed increase in density in relation to bushfire risk, evacuation potential and life safety.
- No full bushfire risk assessment is provided, with risk being underplayed.
- The proposal relies on a technical solution which does not address firefighter and occupant safety, with the detail uncertain and unimplementable within future planning stages.
- The proposal is inconsistent with Section 9.1 Ministerial Direction 4.3 – Planning for bushfire Protection.
- Inconsistency with previous case law relating to the use of refuges or ‘bunkers’.

Lourdes Retirement Village, Bush Fire Strategic Study

- The proposal is inconsistent with the strategic planning principles, “Acceptable Solution” bushfire protection measures within the PBP 2019.
- The proposal doesn’t not provide opportunity for protection above the minimum requirements of the PBP 2019, with compliance partially reliant on the intervention/response by emergency services or hazard management on adjoining land.
- This site is not suitable for increased dwellings and populations under PBP 2019.
- ‘Unassisted’ off-site evacuation has not been demonstrated.
- If the proposal is approved, it sets an undesirable precedent in the location of dwellings in a risk-prone bushland/urban environment.

Bushfire Evacuation Risk Assessment

- Council has applied planning mechanisms under the LEP to reduce risks to population and property that would result from a bushfire event, including bushfire evacuation risk. Based on these mechanisms, the proposal is not suitable for increased population numbers.
- The intensification of special fire protection purpose within an area that already exceeds the recommended number of dwellings is of concern. The increase in residents will make evacuation more difficult and place residents outside the site on Stanhope Road at risk.
- The majority of additional dwellings will be occupied by residents who are highly vulnerable to the effects of bushfire, are difficult to evacuate and are more susceptible to smoke impacts, anxiety and other health issues. This would increase demand for emergency services.
- The Bushfire Report (Blackash February 2022) does not consider evacuation risk, instead proposing onsite refuge. It fails to explain how the refuge would cater for the 668 people, two thirds of whom are vulnerable elderly, 110 being high care including dementia patients. There is no description nor testing provided to demonstrate the viability of an onsite refuge for this profile and volume of population.

RFS Submission:

RFS have made several submissions on the proposal (**Attachment K**). In summary, RFS have raised no objection to the progression of the planning proposal for seniors housing and the nominated residential uses.

RFS submission November 2022 – RFS raised no concern with maintaining the current zoning and allowing the proposed uses as additional permitted uses. RFS noted further analysis is needed to determine the maximum number of occupants that could be on-site, the adequacy/ appropriateness of roadways for emergency egress and fire brigade access are acceptable given reasonable worst case bush fire scenarios. They also recommended that as part of the development approval stage, firefighting water supplies will need to be detailed. Failure to address water supply would be expected to preclude subsequent consents and approvals.

RFS submission February 2023 - RFS stated they had no objection to the progression of the planning proposal for seniors housing and the nominated residential uses. They also noted that the additional work undertaken by the proponent addressed the issues raised in their previous submission. Notwithstanding this, RFS reiterated that firefighting water supplies would need to be addressed as part of the development approval stage.

RFS have been consulted on the proposed inclusion of a C2 Environmental Conservation Zone and advised that the intent of the proposed Bushfire Engineering Design and Compliance Strategy could still be met. In response to the changes required by EHG, RFS have also indicated that the site may require an internal 'perimeter road' to be incorporated on the site in accordance with PBP 2019.

EHG Submission

In EHG's November 2023 submission they recommended the proposal progress, pending the proposal being updated to include C2 Environmental Conservation zoning for the Sydney Turpentine Ironbark Forest communities and Swift Parrot habitat on the site. In doing this, they have stated that the C2 Environmental Conservation land is to be managed for conservation and is not to be used as an Asset Protection Zone, open space, or grassed/garden/landscaped area.

Proponent Response:

The NSW RFS approved a Bushfire Engineering Design Compliance Strategy (November 2020) (**Attachment T**) for the site. It is noted in the submission attached by Council from RFS, they raised no objection to the rezoning proceeding. This included RFS not raising concern about the proposed performance-based approach, which is a supported management option under the PBP 2019 and the National Construction Code. The performance-based approach satisfies RFS bushfire safety requirements and complies with PBP 2019. The redevelopment of the site will create a safety outcome for the site that currently does not exist. Under the proposed performance-based approach, the strategy seeks to prioritise life safety to a greater extent than what can be achieved through a deemed-to-satisfy approach under PBP 2019. As part of any future development approval stage, the development will need to comply with the Bushfire Engineering Design Compliance Strategy and requires a Bush Fire Safety Authority. The finer details of the design will be developed with the NSW RFS as part of the Performance Based Design Brief process for a development application.

Council has prepared Bushfire Evacuation Risk Maps (**Figure 8**) identifying areas where severe evacuation risks may occur during a bushfire event. The map limits certain developments in these areas, however this does not apply to any part of the site or adjacent areas. Council has also amended its LEP to zone those areas considered an evacuation risk and identified on those maps to E4 Environmental Living (now C4 Environmental Living) to limit future growth.

The addendum Bushfire Report (Blackash Bushfire Consulting December 2022) (**Attachment T**) also outlines an evacuation strategy, which considers residents to shelter in place. Residents located in the RACF would not need to evacuate as it is not located on bushfire prone land and it is greater than 100 metres from bushfire prone land (beyond the requirements of PBP 2019). The residents of the townhouses and ILUs can be accommodated in the proposed refuge building (Clubhouse) which will be available and designed with an air handling system capable of being adjusted for full recycling of internal air for a period of 4 hours to avoid the introduction of smoke into

the building and maintaining an internal air temperature of not more than 25°C during a bushfire event. Accordingly, no evacuation by road would be necessary, unless decided by residents. To support the Addendum Bushfire Report, Traffic Advice was provided relating to evacuation capacity (ARUP December 2022) (**Attachment G6**) which confirms that both the internal and external road networks can accommodate the increase in traffic in an emergency scenario.

The site is serviced by reticulated water and two 74,000 litre water tanks dedicated for firefighting with a combined hydrant and sprinkler booster. Water supplies are considered an engineering issue and can be addressed as part of the more detailed design development and future development approvals stage.

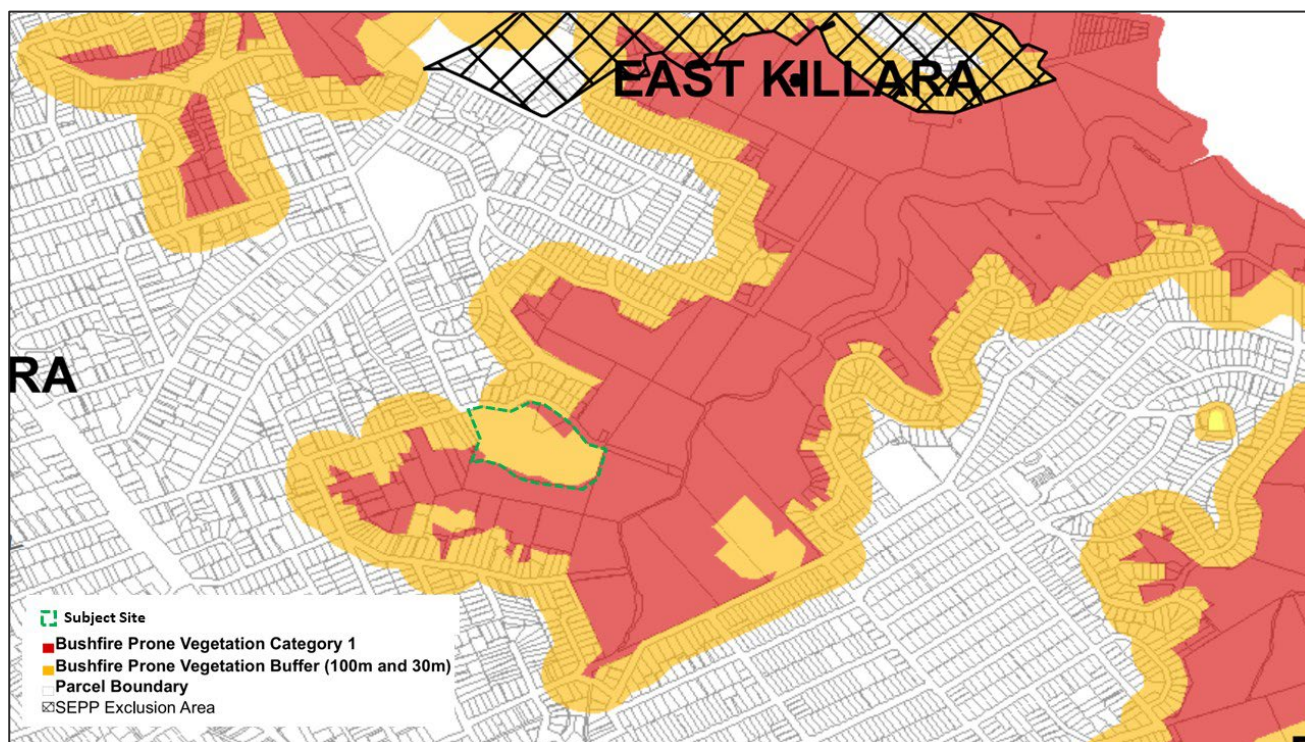


Figure 8 – Bushfire Evacuation Risk Maps (source: SEPP (Housing) 2021 (accessed November 2023))

Agile Planning Response

The Agile Planning team notes that the current housing stock on the site is old and provides limited bushfire protection. There are existing ILUs on the site which are located within the flame zone and none of the existing buildings, including the RACF, are constructed to a standard that meets contemporary bushfire protection measures under Australian Standards. The redevelopment of the site provides an opportunity for more modern buildings, meeting the current standards and bushfire protection measures, to be built to protect the community.

The proponent has prepared and submitted 3 bushfire reports (**Attachment T**) all by Blackash Bushfire Consulting in February 2022, December 2022 (Addendum) and November 2023 and an addendum letter (October 2023), all of which concluded that the rezoning presents no issues in relation to bushfire that can't be addressed through their Bushfire Engineering Design Compliance Strategy (November 2020) or through design during development approval stage.

As part of the Council's submission there were three bushfire studies submitted for consideration, the RFS has been given the opportunity to review these studies and the RFS has not indicated any change in position and continues to support the proposal to proceed to finalisation with the

development approval pathway giving the ability for further resolution of bushfire issues at that stage.

Ministerial Direction 4.3 relates to planning for bushfire protection and its objectives are to protect life, property and the environment from bush fire hazards and encourage sound management of bush fire prone areas. A planning proposal may be inconsistent with the terms of this Direction only if the Commissioner of the NSW Rural Fire does not object to the progression of the planning proposal. RFS have stated that the proposed performance-based approach for the proposal could satisfied the requirements of the Ministerial Direction.

The Agile Planning team have considered the Ministerial Direction 4.3 in relation to the post-exhibition status of the proposal and consider its inconsistencies justified, however the LPMA will undertake further consideration and assessment of this matter prior to making a determination as part of the finalisation process.

TfNSW have raised no concern about the traffic generated from the development nor the road networks capacity to handle traffic in an evacuation situation. RFS have not objected to the progression of the proposal or the proposed residential and seniors uses on site.

Regarding the inclusion of C2 Environmental Conservation on site, the Agile Planning team is satisfied that it does not impact the performance of the site in a bushfire scenario.

The Agile Planning Team considers that issues raised regarding bushfire have been adequately addressed at this stage of the planning proposal and the issues raised do not prevent the proposal proceeding to finalisation.

Issue 3 – Zoning, scale and density,

Community view

The proposed changes are an overdevelopment of the site, given the surrounding low density zoned land and the adjacent heritage conservation area. The additional seniors housing is only marginally more than what is already on site, and therefore doesn't provide justification for the change. The proposed development would be visually intrusive when compared to the current development on and surrounding the site.

Council's submission

The planning proposal documentation lacks detail and fails to provide enough information to directly understand the bulk, scale and interface impacts of the concept plan underpinning the proposed increased standards. The lack of detail does not support the planning proposals conclusions that the increase in density will have negligible impacts on the amenity and safety of residents.

The proposal seeks to provide housing for the elderly in 4 to 7 storey residential flat buildings and increase dwellings on the site by 74 units. The proposal has not provided an adequate response in consideration of how the intensification will impact the site in a bushfire event, however, relies upon a bushfire event to intensify development on site. The designs contain no detail to demonstrate how the site design will address the bushfire risk.

The proposal location of 3-storey townhouses at the bushland interface is not consistent with dwelling types usually located at similar interfaces. It is unclear how the location of these dwellings will protect seniors housing from flame attack as it does not prevent the higher risk of ember attack. Further, it is unclear how increasing people at the highest bushfire risk location is justified. A more appropriate built form on the bushland fringe would be single detached dwellings which would reduce the visual impact on the bushland and reduce the people in a high bushfire risk location.

To date, no information has been provided on how the proposal will enact a mechanism to separate the seniors and non-seniors housing on the site, to ensure development occurs in line with the concept plan. Since seniors and non-seniors housing are two separate forms assessed under different instruments, a subdivision of the site should occur prior to any future development to delineate and ensure the separation of areas.

Council considered that the planning proposal has failed to demonstrate compliance with the SEPP Housing with regards to the seniors housing component and council's development control plan (DCP) with regards to the non-seniors housing townhouses component. The site design should, utilise the guidance of the DPE Seniors Living Policy – urban design guidelines for infill development (DPE Seniors Living Policy), and respond to the SEPP Housing and the Ku-ring-gai DCP as a baseline for determining a development footprint on site.

The heights of the proposal will have impacts on the scenic and cultural landscape characteristics of the area and impact on the adjacent low density residential and heritage conservation areas surrounding the site.

Proponent Response

The proposal includes a detailed urban design analysis which has taken into full consideration the heritage and built form character of the site and surrounds. The proponent has provided several updated Urban Design reports in response to submissions from council and the community. These amendments included an amended concept plan to minimise the impact on the biodiversity, reduction in the gross floor area (GFA), a reduction of townhouses on site and the introduction of C2 Environmental Conservation zone (**Attachment R**). The Urban Design reports were also updated to demonstrate compliance with the Apartment Design Guide (ADG) for the Seniors Housing development and further detail on building reduced levels, building measurement and ADG compliance, solar access, cross ventilation, length and depth, deep soil, communal open space, and building separation.

The concept plan has been reviewed against the relevant section of the Ku-ring-gai DCP and is largely consistent with the controls for multi-dwelling housing, in relation to the town houses, and the controls for residential flat buildings, in relation to seniors housing. This will be further assessed as part of the development approval stage.

Extensive detail has been provided on how the design addresses bushfire risk, with further advice provided as part of this response to submissions to address questions raised by RFS.

A Heritage Impact Assessment (Urbis, June 2021) (**Attachment G9**) confirms that the proposal would have an acceptable heritage impact on the adjacent items.

While no mechanism is proposed to expressly separate where the seniors and non-seniors housing will be located, a subdivision of the Seniors and Townhouse development would form part of any future development approval stage.

An updated View Analysis (Deneb Design, November 2022) (**Attachment G3**) illustrates views from the surrounding bushland, including from Seven Little Australians Park and Swain Gardens. The views from Swain Gardens show the concept plan has been developed to respond to the surrounding built form character including built form transitions to surrounding low density residential areas. The analysis also considers the impact from the adjacent residential areas and concludes that the built form would largely be screened by vegetation, with potential for additional planting to provide further screening. The concept plan aims to minimise visual impacts and limit any significant additional overshadowing.

The proposal presents as 3 storeys to Stanhope Road with the fourth storey set back from the street wall, with taller development (5-6 storey) further setback from Stanhope Road and located centrally

within the site. The height adjacent to the neighbour to the west has been reduced from four storeys to three storeys which along with a 10m side setback will provide a sensitive transition to the neighbouring dwelling.

Through post exhibition responses, the proposed built form was relocated to avoid the significant retained vegetation which resulted in the reduction of the overall gross floor area (GFA) from 39,650m² to 38,600 m² and townhouse yield reduced from 63 to 59. Given the R3 Medium Density Residential zoning proposed for the site is smaller than what was exhibited, the FSR is proposed to be increased to still achieve the proposed 38,600m² development footprint. A FSR of 0.85:1 would result in the same 38,600m² development footprint in the smaller R3 Medium Density Residential zone.

Agile Planning Team Response:

Following the exhibition of the planning proposal, Council sought to list Headfort House and its curtilage as a locally listed heritage item (I184). The listing of the item was notified on 20 January 2023. As part of the future development approval stage, development will need to address any impacts on the item.

The proponent has made several changes to the proposed concept plan to address concerns raised by the community, state government agencies and Council during the exhibition period. The anticipated housing mix in the updated concept plan proposes 141 ILUs, 110 RACF beds and 59 non-seniors townhouses. This represents approximately 25% of the development on the site being for non-seniors housing uses. This mix will be finalised once a detailed design is carried out as part of the development approval stage.

The amended planning proposal seeks to achieve this mix of development by rezoning the entire site R3 Medium Density Residential, with the exclusion of some vegetated areas to be rezoned C2 Environmental Conservation.

The Agile Planning team notes that although senior's housing is not listed as a permissible use within the R2 Low Density Residential zone in the KLEP 2015, it is permitted through the SEPP Housing.

The R3 Medium Density Residential zone in the KLEP 2015 includes several more intensive residential uses (such as multi-dwelling housing and shop top housing). Given community and council concern regarding density and built form outcomes of the site, the Agile Planning team recommends that the top half of the site is maintained as R2 Low Density Residential (see **Figure 9**) to ensure that any future built form is commensurate with what is currently located on site.

The application of the R3 Medium Density Residential zone across the lower portion of the site proposing 'townhouses' is considered appropriate and therefore no further amendments to the zone, outside of the areas to be zoned C2 Environmental Conservation, are recommended for this area (see **Figure 9**).

Further to the concerns regarding development being more intense than shown in the concept plan, the planning proposal seeks to exclude the site from Clause 84 and 87 of the SEPP Housing. These clauses within the SEPP allow for development standard bonuses for height and floor space, above and beyond what is permitted in the KLEP 2015 and proposed in this proposal. Given the issues relating to bulk and scale have been raised by both the community and Council, the Agile Planning team supports the site being excluded from these clauses to ensure that the built form won't be greater than that in the LEP.

The proposed Height of Building (HOB) map details the proposed heights along Stanhope Road ranging between 11.5m and 16m. The draft DCP includes upper-level setback controls to ensure a suitable transition to the surrounding low density residential areas. The supporting concept plan also

indicates that the proposed RACF along Stanhope Road will have a setback to reduce the impact on the adjacent low-density areas.

The Agile Planning team has undertaken design testing of the proposed heights and building footprint and prepared alternative scenarios (while working within the proponent proposed FSR of 0.85:1). The testing established that the proposal could still achieve the same yield with reduced heights adjacent to Stanhope Road.

Given the low-density characters of the adjacent residential areas, the Agile Planning team recommends the maximum height of building is reduced to 9.5m in some areas (**Figure 10**) to provide a more appropriate height transition from 2 up to 3 storeys along the visible interfaces of Stanhope Road.

As discussed above, the Agile Planning team has recommended the proposal is revised to adopt a C2 Environmental Conservation zone, in line with EHG's submission and the proponent's response to submissions. Given the C2 Environmental Conservation zone covers the retained vegetation on site that was previously excluded from the building footprint, there is no material impact to the built form outcome.

However, to achieve the same development yield, the FSR needs to be increased to account for the reduced developable area of the site zoned for residential purposes. The proponent has recommended an FSR of 0.85:1 (compared to the 0.75:1 rate exhibited). The increased FSR does not increase the gross developable land on site, it simply adjusts the FSR control to account for the reduced residential zoned area. Therefore the Agile Planning team supports the proposed FSR change. Further discussion is included in Section 4 of this report.

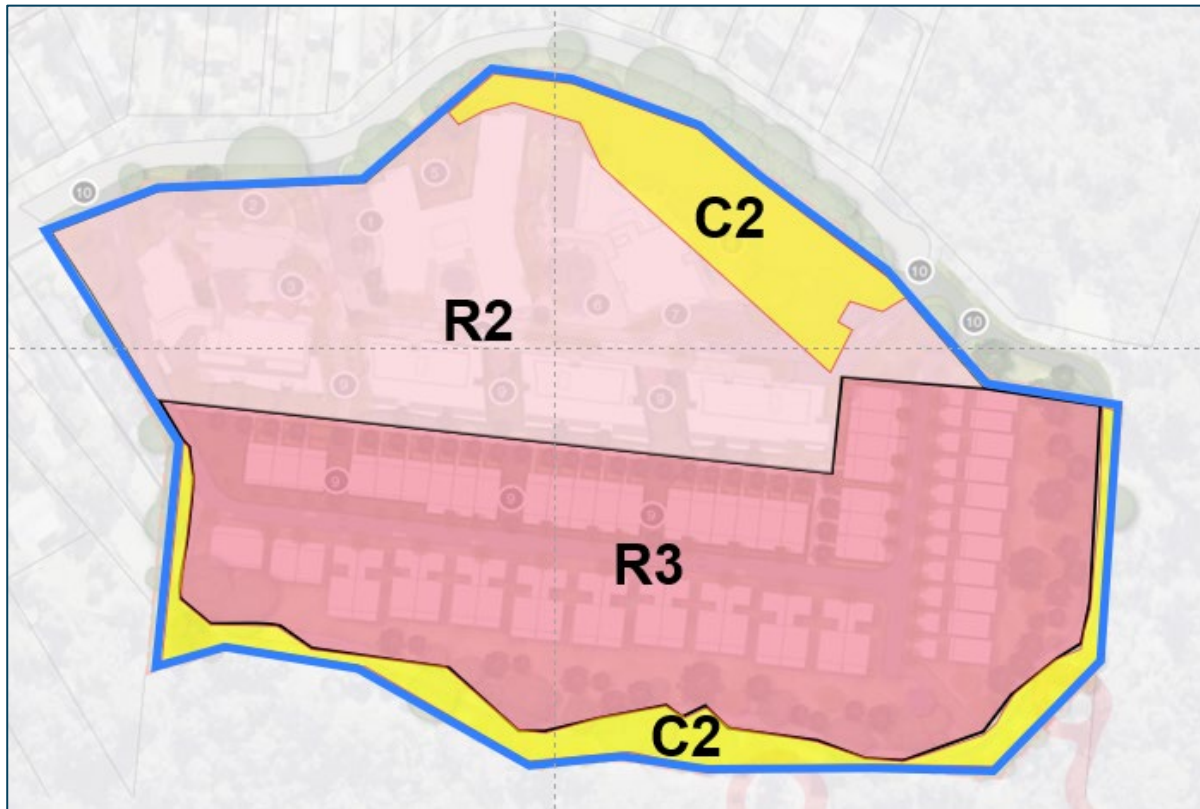


Figure 9 – Agile Planning team Recommended zones (source: Agile Planning)

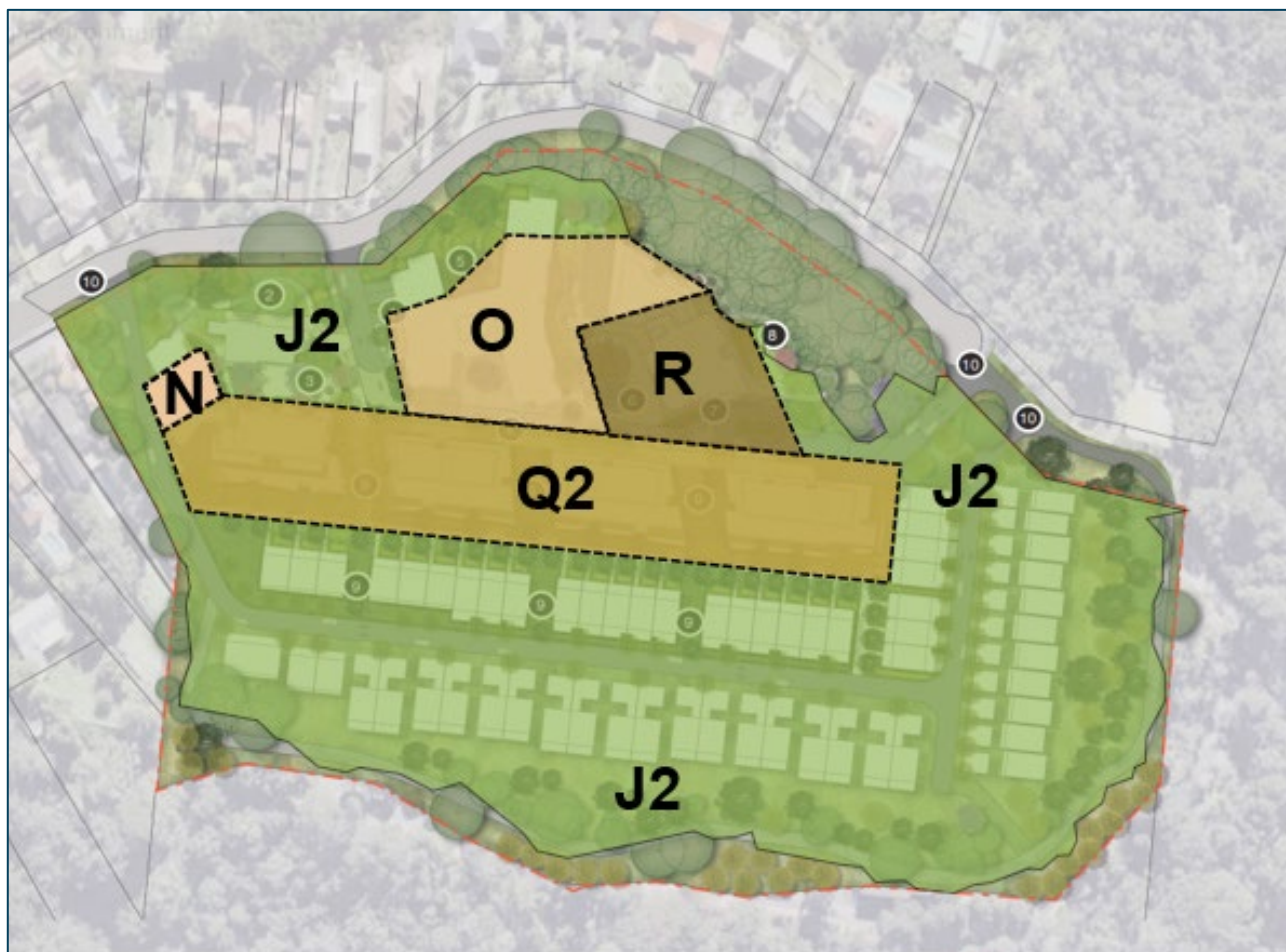


Figure 10 – Agile Planning team recommended HOB map

Issue 4 – Traffic/Roads and access

Community view

The site has limited public transport in walking distance of the site, which will result in additional traffic congestion due to increased occupancy on site and insufficient infrastructure to support the population increase. The traffic assessment supporting the proposal focuses on key intersections and not on the implications on the local roads immediate adjacent to the site, is inaccurate and uses misleading base traffic assumptions.

Council's submission

The site is located within an existing low density residential area predominantly serviced by private vehicles. There is a single bus route that services the site, which provides links to East Killara and Lindfield Station, however these locations don't contain basic services and facilities such as supermarkets and medical centres. The location of these services is outside of a 10-minute/800m walking catchment and therefore not considered to be manageable walking distance for residents of this site. In Council's experience there are no mechanisms to mandate private services and often they are not realised or dwindle over time.

The Transport Assessment (Arup June 2022) estimates the traffic generation for the townhouses, based on traffic generation rate for medium density residential flat building. While the building typology of the townhouses is that of medium density residential flat buildings, the location factor would likely result in the townhouses generating more traffic, similar to a low-density residential

dwelling. Therefore, the traffic generated on site would be more than what is included within the assessment.

As part of council's Bushfire Evacuation Risk Assessment, the existing Stanhope Road catchment area has an effective total of 256 dwellings, exceeding the recommended maximum 50 dwellings for the one exit road by 206 dwellings. The amendments sought by the proposal would increase the total to 330 dwellings, exceeding the recommended maximum by 280 dwellings. This figure could increase once a final design is submitted at the development approval stage. The amendments sought by the proposal would increase the number of dwellings within the Lourdes Retirement Village, increasing a use identified as a special fire protection purpose within an area that already exceeds the recommended number dwellings.

Council is concerned that the additional increase in dwellings, occupied by residents who are highly vulnerable to the effects of bushfire, will be difficult to evacuate and are more susceptible to smoke impacts, resulting in additional and high demand on emergency services, particularly if evacuation is required.

TfNSW Submission

The proposal will provide opportunities for improvements to active and public transport amenities. TfNSW is of the view that the traffic generated by the proposal is relatively minor in nature, noting that vehicle trips generated by seniors housing generally occur outside of the peak periods.

Proponent Response:

The existing bus services are considered suitable for seniors housing, which will be supplemented by additional private buses. There is potential to liaise with TfNSW to increase bus services to support growth over time.

The RTA (now TfNSW) Guide to Traffic Generating Developments does not state that the rates for medium density residential flat buildings are based on sites located close to a retail/transport core. Therefore, the rates used are the most appropriate ones to use. The overall traffic generation of the site is expected to be less than 100 vehicles per hour. The Transport Assessment (Arup June 2022) (**Attachment V**) notes that the site is expected to generate up to 912 trips per day. This is an additional 44 trips in the weekday AM peak, 39 trips in the weekday PM peak and 63 additional trips in the weekend peak. Furthermore, access to parking for the aged care facility and apartments has been amended to be split between two main access points. The Transport Assessment (Arup June 2022) (**Attachment G**) concludes that the site is expected to generate more traffic than the existing case, however these increases are minimal.

The indicative concept plan proposes to provide 398 parking spaces at the site, consisting of 255 basement parking spaces, 126 off street parking spaces for the townhouse and 17 on-street parking spaces. Site specific car parking rates are proposed to ensure adequate car parking is provided to minimise impacts on the surrounding street parking.

Although the original traffic surveys were undertaken in 2015, a background growth rate of 3% was applied to uplift the traffic flows to 2021, which is considered appropriate given surrounding land uses.

The bushfire strategy for the aged care facility residents is to remain in-situ, while the strategy for ILU and townhouse residents would be to evacuate to a refuge building located on the site. Notwithstanding this, should the residents want to evacuate, the road network can accommodate the traffic, both accessing and exiting, the site.

Agile Planning Team Response:

The site is currently serviced by a public bus route and future shuttle services catering for the retirement village and RACF can be confirmed and set in accordance with the requirements of SEPP Housing as part of any future development approval stage.

Supporting transport assessment concludes that, in emergency situations, there is capacity in the existing and proposed road network to support emergency egress and access to the site.

In their submission for the proposal, TfNSW have not identified any issues in terms of traffic impacts resulting from the redevelopment of the site nor the modelling used to prepare the traffic study.

The Agile Planning Team considers that traffic and parking has been adequately addressed at this stage of the planning proposal and the issues raised do not prevent the proposal proceeding to finalisation.

4 Post-exhibition changes

Proponent Lead Post-exhibition changes

In response to Agency and community submissions the proponent has proposed the following post exhibition changes to the proposal :

- amend the proposed Land Zoning map to incorporate a C2 Environmental Conservation zone to protect areas identified in BDAR.
- remove the development standards for the proposed C2 Environmental Conservation area.
- increase the FSR from 0.75:1 to 0.85:1 on the proposed residential zoned portion of the site.

Increased FSR discussion

For the subject site, the proposal originally sought an increase in maximum FSR of 0.75:1, based on the ability to develop the whole site. To address the issues raised during public exhibition relating the protection of vegetation, the supporting concept plan was amended to reduce the impacts any future development may have on the site. This included relocating built form to avoid the vegetation areas identified for retention, as well as rezoning parts of the site as C2 Environmental Conservation. This has reduced the developable land zoned for residential purposes from 52,906m² to 45,470m². This is best demonstrated in the image below showing the extent of land to be used for FSR calculations being reduced.

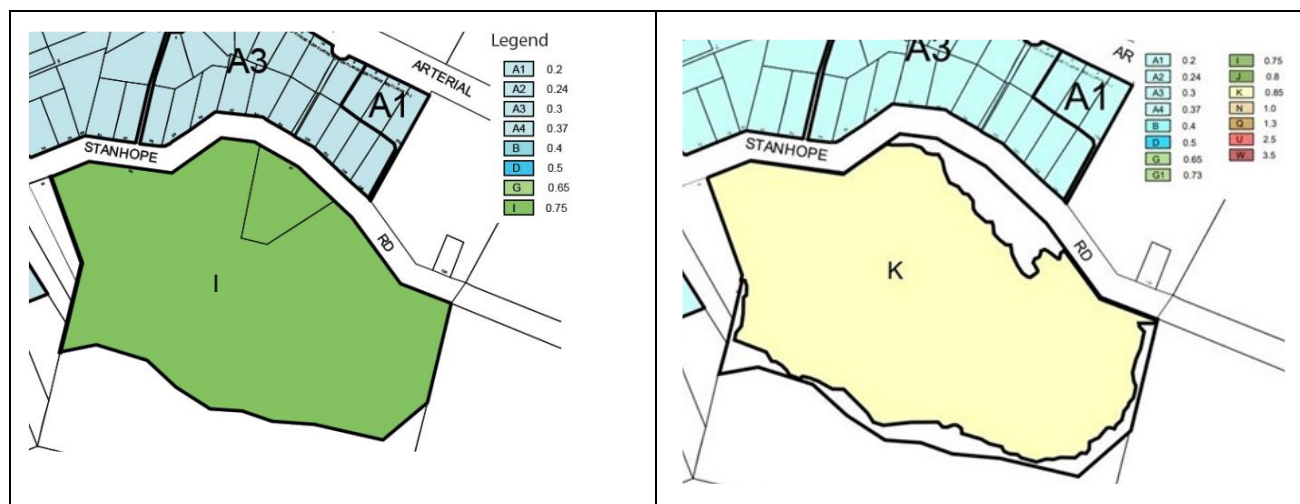


Figure 11: Exhibited and Post Exhibition Proposed FSR maps

FSR is expressed as the ratio of gross floor area compared with the site area, when an FSR of 0.75:1 is quantified on the site as exhibited (52,906m²) it would result in permitting approximately 39,650m² of GFA. To deliver 38,650m² GFA on the reduced zoned area (45,470m²) the FSR in turn is required to be adjusted to 0.85:1.

Since the concept plan was designed around avoiding the areas of significant vegetation on site, the areas identified to be zoned C2 Environmental Conservation, do not impact the built form and yield on the site. Given the built form has not changed but the developable zoned area has reduced, the proponent has proposed to amend the FSR to 0.85:1 to ensure the concept plan can still be delivered, but noted it will remain as a smaller overall GFA (see **Table 4**).

The Agile Planning team has confirmed through urban design testing that the proposed FSR (0.85:1) can be achieved on the reduced GFA (38,600m²) without the need to modify the other development standards. The adjustment to FSR is a technical adjustment to reflect the post-exhibition proposed changes in zoning.

Table 4 – Proposed FSR changes

	Exhibited	Proposed	
Total site area	52,906m ²	52,906m ²	
Zoning	R3 Medium Density Residential	R3 Medium Density Residential	C2 Environmental Conservation
FSR	0.75:1	0.85:1	N/A
Zone Developable Area	52,906m ²	45,470m ²	7,436m ² (not developable)
Gross Floor Area	39,650m ²	38,650m ²	0m ²

Agile Planning Team proposed post-exhibition changes

As noted above, the Agile Planning team supports the proposed change to the FSR, to account for the reduced GFA and area of residential zoned land, resulting from the introduction of the C2 Environmental Conservation zone.

As noted in Section 3.2 of the report, the Agile Planning team also supports the introduction of the C2 Environmental Conservation zone. This change in zoning is consistent with EHG's recommendation that the proposal be updated to rezone part of the site C2 Environmental Conservation zone to ensure the appropriate ongoing management and protection of these habitats.

During the exhibition of the proposal, Council and the community raised concern regarding the bulk and scale of the proposal. To address these issues, the Agile Planning team recommends the following changes to the proposal:

- amend the proposed Land Zoning map to retain the R2 Low Density Residential zone for the proposed seniors development.
- amend the Height of Buildings map to extend the 9.5m height across the RACF and ILU fronting Stanhope Road (reduced from what was exhibited).

As addressed in Section 3.2 of the report, the R3 Medium Density Residential zone in the KLEP 2015 includes several more intensive residential uses (such as multi-dwelling housing and shop top housing). To ensure the delivery of the seniors development, and restrict more intense landuse types, the zoning is recommended to be amended to retain the R2 Low Density Residential zoning where the seniors development is proposed (see **Attachment U**). This will give certainty to council and the community that the seniors development will be delivered and ensure that any future built form is commensurate with what is currently located on and around the site.

The proposed HOB map details the intended heights along Stanhope Road ranging between 11.5m and 16m. The draft DCP includes upper-level setback controls to ensure a suitable transition to the surrounding low density residential areas. The supporting concept plan also indicates that the proposed RACF along Stanhope Road will have a setback to reduce the impact on the adjacent low-density areas. Given that the concept plan proposes development consistent with the DCP, the Agile Planning team recommends the maximum height of building is reduced to 9.5m in some areas (see **Attachment U**) to provide a more appropriate height transition along Stanhope Road.

The Agile Planning team has confirmed through urban design testing that the proposed zoning and height change, in addition to the proponents proposed FSR, can still deliver a built form consistent with what has been proposed by the proponent.

5 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 (LPMA) 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 EP&A Act, the Department will organise drafting of the LEP and finalisation of maps and will consult the panel on any draft instrument.

6 Recommendation

Based on this post-exhibition report, it is recommended that the Sydney North Planning Panel determine that the planning proposal should 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:

- (a) The planning proposal and supporting documents are updated and consolidated to incorporate the following changes:
 - i. Amend the proposed zoning map as follows:
 - o to incorporate a C2 Environmental Conservation zone to protect areas identified in the final BDAR and EHG response.

- to reflect the retention of the R2 low density residential zone for the northern half of the site accommodating the Seniors housing and an R3 medium density residential zone for the lower half of the site proposing townhouses.
- ii. Amend the FSR map as follows:
 - to remove the development standards for the proposed C2 Environmental Conservation area
 - increase the FSR from 0.75:1 to 0.85:1 on the proposed residential zoned portion of the site only.
- iii. Amend the Height of Buildings maps as follows:
 - to remove the development standards for the proposed C2 Environmental Conservation area
 - to extend the 9.5m height across the RACF and ILU fronting Stanhope Road
- iv. Amend the Terrestrial Biodiversity Map (sheet BIO_014) to include the areas of the site to be rezoned C2 Environmental Conservation.

6.1 Attachments

Attachment A – Planning Proposal including supporting studies (exhibited)

Attachment B – Sydney North Planning Panel Decisions (combined)

Attachment C – History of Rezoning Review and Gateway Determination

Attachment D – Gateway Determination and Alteration of Gateway (combined)

Attachment E – Assessment Against Gateway Determination

Attachment F – Summary of Community submissions

Attachment G – Proponent Response to submissions (December 2022)

Attachment H – Community submissions (redacted)

Attachment I – Post-exhibition objection email (redacted)

Attachment J – EHG submission (November 2023)

Attachment J1 – EHG Submission (Sep 2022 - October 23) (combined)

Attachment K – NSW RFS submissions

Attachment L – Summary of Agency submissions and responses

Attachment M – Agency submissions

Attachment N – Council submission

Attachment O – Summary of Council submission and responses

Attachment P – MPs correspondence

Attachment Q – Proponent response to EHG submission 1-4

Attachment R – Urban Design Report (November 2023)

Attachment S – Proponent response to EHG submission 5 (17 November 2023)

Attachment T – Blackash Bushfire Reports (February 2022 - October 2023)

Attachment U – Mapping (Existing, Exhibited and Proposed)

Attachment V – ARUP Transport - Response to Submissions (October 2023)



29/11/23

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