Department of Planning and Environment

Our ref: DOC22/736716
Your ref: PP-2022-658, Ref-1539

Shruthi Sriram
Planning Officer
Agile Planning and Programs, Planning Group
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4 Parramatta Square, 12 Darcy Street
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27 September 2022

Subject: Request for Agency Advice - Planning Proposal for 95-97 Stanhope Road, Killara (PP-2022-658)

Thank you for your email dated 15 August 2022 seeking to consult with the Environment and Heritage Group (EHG) in relation to the above planning proposal.

EHG has reviewed the Planning Proposal Report (Dated 22 February 2022) and associated technical reports and provides comments at Attachment 1.

If you have any queries please contact Angela Taylor, Senior Conservation Planning Officer via angela.taylor@environment.nsw.gov.au or 02 9585 6146.

Yours sincerely

S. Harrison

Susan Harrison

Senior Team Leader Planning
Greater Sydney Branch
Biodiversity and Conservation

Attachment 1: EHG comments on the Planning Proposal for 95-97 Stanhope Road, Killara (PP-2022-658)

Biodiversity

Ecological Assessment

The following comments are provided in relation to the submitted Ecological Assessment Report (Ecological Assessment) prepared by ACS Environmental Pty Ltd dated June 2021.

The Ecological Assessment provides an incomplete and inadequate assessment of the sites ecological values and impacts to such values. As such, it fails too adequately:

- identify the biodiversity values of the site subject to the planning proposal
- rule out the presence of threatened species, populations, ecological communities, or their habitats on the Subject Land
- consider all ecological impacts arising from the proposal
- demonstrate that appropriate measures have been put into place, to avoid and minimise biodiversity impacts as part of the planning proposal or as part of the Indicative Layout Plan for proposed future development and
- address the requirements for ecological assessments within the LEP Making Guideline prepared by the DPIE dated December 2021 including associated Attachments A and B.

The Ecological Assessment also fails to adequately consider the ecological and ecological heritage values of adjoining bushland zoned C2 Environmental Conservation.

Insufficient information has therefore been provided with the Planning Proposal to enable a comprehensive assessment of all potential biodiversity impacts to be undertaken by EHG. As such, a revised Ecological Assessment that adequately assesses the ecological values of the entire Subject Land, considers all potential impacts, and addresses information deficiencies (as outlined above and further detailed in this letter) is required to be submitted with the planning proposal.

It is important to note that for planning proposals, that have the potential to result in development that will significantly impact upon biodiversity values, EHG recommends that they are supported by a biodiversity development assessment report prepared by an accredited assessor in accordance with Stages 1 and 2 of Biodiversity Assessment Method 2020 (BAM). In this regard, some of the trees proposed for removal appear to be located on the Biodiversity Values Map and there is also potential for the Biodiversity Offset Scheme (BOS) area threshold to be exceeded. Further, the outcomes of any assessment of the site's biodiversity values (Stage 1 of BAM) should be used to inform proposed land use zones and/or the potential development layout including the identification of areas of biodiversity values that were avoided and conserved.

As a minimum Stage 1 of the BAM should be undertaken to support all planning proposals, as it is beneficial for the applicant to consider the potential impacts to biodiversity values and what legislative requirements will be required for future applications should the proposal be successful. The proposal should avoid those areas that contain mapped threatened ecological communities (TECs) including remnant TEC trees.

Further comments relating to the submitted Ecological Assessment are provided below.

The submitted Ecological Assessment has only assessed the ecological values of and impacts to 22 trees. In this regard, and as articulated in Section 1.2 Study Methodology (page 4) of the Ecological Assessment 'A comprehensive survey was undertaken on foot to identify the location of a total of 22 indigenous trees that may be required to be removed and that may or may not be considered remnant and to undertake an ecological assessment of the landscaped and vegetated areas of the site'. In contrast, the submitted Aboricultural Impact Appraisal and Method Statement prepared by

Naturally Trees dated 2 June 2021 and the Gateway Determination Report dated May 2022 indicate that 233 trees are proposed to be removed and that the tree protection zones (TPZs) of a further 146 trees may be adversely affected through disturbance/encroachments to their TPZ's. Further, noting that the extent of disturbance to TPZ's is not identified in the report it is unclear if all trees with proposed impacts to their TPZ's are likely to survive.

It is evident that the submitted Ecological Assessment has not considered the most recent Master Plan for the proposed site or the requirement to manage the entire site as an Inner Protection Area (IPA). As such the submitted Ecological Assessment has failed to adequately consider all impacts associated with the proposal. Further, it has failed to assess biodiversity values across the entire Subject Land to the planning proposal. All vegetation across the Subject Land should be assessed to enable assessment of the site's capacity to meet the proposed development demands and to appropriately consider direct and indirect impacts. This is particularly important noting it is proposed to rezone the entire site R3 Medium Density Housing and that the requirement to manage the entire site as an IPA will result in impacts to biodiversity values across the entire site.

The Ecological Assessment concludes that "established trees have been planted mainly along the surrounding boundaries of internal roadways and grassy garden areas and include locally-occurring and non-locally occurring indigenous species as well as exotic ornamental species, the tree assemblages and locations (of which are) comprehensively documented in the amended arboricultural report by Scale (2021)". The Ecological Assessment Report suggests that the trees on the site are not remnant trees but rather are planted as part of landscaping of the Subject Land.

However, on review of historical aerial photography (https://maps.six.nsw.gov.au), a portion of the trees on the site appear to have endured the changing landscape over time since the initial installation of the Retirement Village. Historical aerial imagery should be reviewed to determine which trees on the Subject Land are remnant native vegetation or natural regeneration of locally indigenous ecological communities. Following this, an assessment of whether the proposal is likely to trigger entry into the BOS should be undertaken based on which trees would be affected by the planning proposal in accordance with an impact assessment undertaken in alignment with The Australian Standard: Protection of Trees on Development Sites AS 4970-2009. Any assessment of entry into the BOS should take into consideration the location and design of buildings and associated civil works and the impacts on any native remnant native trees found on the Subject Land.

Portions of the Subject Land have been mapped:

- on the Biodiversity Values Map
- as Sydney Turpentine Ironbark Forest (STIF), a critically endangered ecological community (CEEC) as listed under the *Biodiversity Conservation Act 2016* (BC Act)
- as Blue Gum High Forest (BGHF), a CEEC as listed under the BC Act and
- as Coastal Shale Sandstone Forest.

Considering all relevant information such as the underlying geology, identified canopy species, other site characteristics and regional vegetation mapping, STIF and BGHF in the Sydney Basin Bioregion have the potential to occur on parts of the Subject Land. Further assessment is therefore required to determine whether STIF and/or BGHF occur on the Subject Land.

In relation to the possible presence of STIF, the Ecological Assessment concludes that "a small group of trees are not a component of a structured and floristically diverse assemblage of STIF and it is concluded that their proposed removal can be compensated for by landscaped plantings of several saplings of Turpentine, derived from local provenance, in suitable areas of the redevelopment". The Final Determination for the listing of STIF as a CEEC states that "remnants of Sydney Turpentine-Ironbark Forest are typically small and fragmented and are susceptible to

continuing attrition through clearing for routine land management practices due to the majority of remnants being located in close proximity to rural land or urban interfaces". This suggests that the definition of STIF is not limited to those locations that are fully structured and floristically diverse. Given the listing of this TEC as critically endangered, it would follow that the remaining stands are more likely to only have one structural layer and be less floristically diverse because of the continuing progression of Key Threatening Processes including those proposed as part of this application. Therefore, stands of STIF would be likely to include those areas that contain remnant trees at the interface between bushland and the urban context.

In relation to the possible presence of BGHF, the final determination for listing BGHF as a CEEC under the BC Act includes small clumps of trees without a native understorey. As such this community also has the potential to occur as stands of remnant trees on the Subject Land. Further assessment of the biodiversity values across the entire site is therefore required.

Given the assumptions in the Ecological Assessment Report that all trees within the impact zone are planted, it is likely that the BAM requirements have not been adequately considered. STIF and BGHF are listed as a Serious and Irreversible Impact (SAII) entities, and any impacts to these communities are required to avoid SAII. Section 7.16 of the BC Act states that "the consent authority must refuse to grant consent…if it is of the opinion that the proposed development is likely to have a serious and irreversible impact on biodiversity values". The Ecological Assessment Report does not address this requirement and so it is not known whether the removal of any remnant STIF and BGHF on this site will constitute Serious and Irreversible Impacts for future development applications. Approval of the current proposal could leave future Development Applications in a position of needing to be refused given Section 7.16 of the BC Act.

Given the lack of adequate information regarding the extent and presence of threatened ecological communities and their habitats it remains unclear what the impacts of the proposal would be on local biodiversity values. It also remains unclear if the BC Act could be complied with if the proposal was approved, given the requirements to avoid Serious and Irreversible Impacts on SAII entities and if the requirements to avoid and mitigate impacts to biodiversity values could be met.

The Ecological Assessment does not demonstrate that it can adequately avoid, mitigate or offset in accordance with the BC Act.

The threatened species assessment for flora and fauna is inadequate as:

- It appears to be based on a habitat assessment and impact assessment that only addressed 22 trees.
- Is not accompanied by a Likelihood of Occurrence Table that assesses the likelihood of threatened flora and fauna species to occur on the Subject Land or an appropriate assessment of the vegetation that occurs/is likely to occur on the Subject Land.
- It only identified threatened species that have previously been recorded within 5km of the Subject Land and hence has not addressed other species associated with the plant community types that are likely to occur on or adjacent to the Subject Land.
- It fails to assess whether buildings that are proposed for demolition are likely to provide habitat for threatened species.
- It has failed to rule out adverse impacts to threatened species on the Subject Land.
- The assessment of impact and habitat for local and migratory fauna (including threatened species), omits consideration of the resources that non-indigenous trees on site.
- Has not considered all impacts associated with the planning proposal.
- One of the mitigation measures identified in the submitted Ecological Assessment is replacement plantings with suggested replacement planting species including turpentine and other species that naturally occur on the Subject Lite. Noting that the entire site needs

to be managed as an IPA further clarification is required in relation to the extent of replacement planting that can in fact be undertaken and the type of species that are in fact suitable for use having regard to the requirements of Planning for Bushfire Protection 2019.

Arboricultural Assessment

The following comments are provided in relation to the Aboricultural Impact Appraisal and Method Statement prepared by Andrew Scales of Naturally Trees dated 2 June 2021.

- The Planning Proposal will result in the removal of, or put at risk, a significant number of high category trees. The broad replacement planting recommendations in the Arborist report and the vague landscape plan provided within the Planning Proposal Report Urban Design Report, coupled with the requirement to manage the entire site as an IPA do not provide sufficient detail to determine future canopy outcomes.
- The report does not assess all significant trees that occur on the Subject Land with trees to the south of the site being largely unmapped despite possible impacts to these trees associated with the requirement to manage the entire site as an IPA.
- It is unclear if the report has assessed impacts to trees that will result from the underground network of pedestrian accessways identified in the Bushfire Assessment prepared by BLACKASH Bushfire Consulting dated 22 February 2022.

Planning Proposal Report

The following comments are provided in relation to the Planning Proposal Report prepared by prepared by FPD Pty Ltd dated 22 February 2022:

- Various sections of the report indicate that a generous landscaped buffer to Stanhope Road will be provided (i.e., Page ix and Section 5.1) and that a key feature of the development is extensive landscaped areas which provides for generous building separation distance and high-quality outlook as well as a series of communal open spaces within the seniors housing (section 5). Section 5.2 also advises that landscaped mounding and dense screening is also shown adjacent the western property boundary (shown as Item 11) which along with a generous 10m setback to the proposed built form, will mitigate any impacts on the adjacent residential use. However, the ability to provide dense plantings and landscape screenings may be restricted by the requirement to manage the entire site as an IPA.
- Section 5.2 advises that the Landscape Master Plan is provided in Appendix A. However, Appendix A is the Urban Design Study.
- The Ecological Assessment that informed the statements and conclusions about the sites biodiversity values and identified biodiversity impacts in the planning report is inadequate as such statements addressing biodiversity impacts in the Planning Proposal Report are unsubstantiated.
- Consideration should be given to rezoning any identified and retained areas of native ecological communities particularly around the periphery of the Subject Land C2 Environmental Conservation.

Draft Site-Specific Development Controls

The following comment is provided in relation to the Draft Site-Specific Development Controls prepared by FPD Pty Ltd dated January 2022:

- Reference is made to Section 2.7 proposed Control 3. Clarification is required as to whether 50% of all landscape plantings can in fact be locally occurring trees bearing in mind the requirement to manage the entire site as an IPA and associated landscaping requirements for IPA's.

Flooding

EHG notes that the site is not flood affected. As such no further comments pertaining to flooding are provided.

End of Submission

Department of Planning and Environment

Our ref: DOC23/67683
Your ref: PP-2022-658

Adam Iskander
Senior Planning Officer
Department of Planning and Environment
4 Parramatta Square, 12 Darcy Street
Parramatta NSW 2150

28/02/2023

Subject: Request for Agency Advice – Response to Submissions Planning Proposal for 95-97 Stanhope Road, Killara (PP-2022-658)

Thank you for your email dated 15 August 2022 seeking to consult with the Environment and Heritage Group (EHG) in relation to the above amended planning proposal.

EHG has reviewed the Response to Submissions Report (dated 23 December 2023) and associated technical reports including a Biodiversity Development Assessment Report that was not previously submitted with the planning proposal and provides comments pertaining to Biodiversity at Attachment 1.

In summary, EHG considers that insufficient information has been submitted with the planning proposal to determine the full extent of threatened species, populations, ecological communities, or their habitats that will be adversely affected because of the proposal. Insufficient information has therefore been provided with the Planning Proposal to enable a comprehensive assessment of all potential biodiversity impacts by EHG. EHG also notes that the submitted BDAR is not based on the amended planning proposal/master plan and does not meet the requirements of BAM 2020.

If you have any queries please contact Angela Taylor, Senior Conservation Planning Officer via angela.taylor@environment.nsw.gov.au or 02 9585 6146.

Yours sincerely

Louisa Clark

Director
Greater Sydney Branch
Biodiversity and Conservation

Attachment 1: EHG comments on the Response to Submissions Report for Planning Proposal (PP-2022-658), 95-97 Stanhope Road, Killara

Biodiversity

The 'Local Environmental Plan Making Guideline' prepared by the Department of Planning, Industry and Environment in December 2021 sets out specific requirements for the preparation of a planning proposal as issued by the Planning Secretary under Section 3.33(3) of the Environmental Planning and Assessment Act 1979. Part 3, Section C, Question 8 of these guidelines requires consideration of whether there is any likelihood that critical habitat or threatened species, populations or ecological communities or their habitats will be adversely affected because of the proposal.

Specific heads of consideration listed under Question 8 include (but are not limited to):

- Identifying if the land subject to the proposal has the potential to contain critical habitat or threatened species, populations or ecological communities, or their habitats.
- If yes, undertake studies that are necessary to confirm the presence of these species or habitats and their significance. An assessment of its significance and/or consultation should (take) place to inform the Gateway determination, and
- any adverse impacts will trigger the requirement for the PPA to consult on the planning proposal with relevant authorities and government agencies.

The submitted Biodiversity Development Assessment Report (BDAR) has failed to provide a clear indication of the threatened species, populations and ecological communities or their habitats that will be adversely affected by the proposal and has not included adequate survey to confirm the presence or absence of threatened entities. Further to the above, the submitted BDAR:

- has not addressed issues previously raised by EHG in its submission dated 27 September 2022 on the Ecological Assessment previously submitted with the planning proposal,
- is not based on the revised Master Plan
- does not comply with the requirements of BAM 2020, and
- does not outline what strategies and actions were taken to avoid and minimise impacts to biodiversity values during the planning proposal.

As such the submitted BDAR (like the previously submitted Ecological Assessment) contains insufficient information to enable a comprehensive assessment of all potential impacts to be undertaken by EHG and fails to meet the requirements of the LEP Guideline.

Biodiversity Development Assessment Report

The following additional comments are provided in relation to the BDAR prepared by ACS Environmental Pty Ltd dated 30 November 2022. Please note that the following comments are not a complete list of shortcomings with the submitted BDAR.

- The site contains an existing retirement village; however, the existing development contains a mature native vegetation that may be remnant trees from endemic vegetation communities. The BDAR indicates that a total of 233 individual trees are proposed to be removed from a total of 394 trees occurring at the subject site (59%) because of the proposal, however, a total of 69 of these individuals are exempt from Ku-ring-gai Council's Tree Preservation Order (Scales 2021). A total of 58 individuals of locally occurring native trees are proposed to be removed from a total of 105 such native trees occurring within the subject site (or 55%) (Scales 2021).

This is a significant number of trees proposed for removal, many of which may be remnant trees as can be seen on historical aerial photography as previously reported in EHG's previous submission dated 27 September 2022.

As previously stated in the EHG letter, the Final Determination for the listing of Sydney Turpentine Ironbark Forest as a Critically Endangered Ecological Community states that "remnants of Sydney Turpentine-Ironbark Forest (STIF) are typically small and fragmented and are susceptible to continuing attrition through clearing for routine land management practices due to the majority of remnants being located in close proximity to rural land or urban interfaces". This suggests that the definition of STIF is not limited to those locations that are fully structured and floristically diverse. Given the listing of this threatened ecological community as critically endangered, it would follow that the remaining stands are more likely to only have one structural layer and be less floristically diverse because of the continuing progression of Key Threatening Processes including those proposed as part of this application. Therefore, stands of STIF would be likely to include those areas that contain remnant trees at the interface between bushland and the urban context.

- There are several mapping inadequacies throughout the BDAR including but not limited to the construction and operational footprints and hence the understanding of the Subject Land, landscape features including creek lines, outlines of native vegetation included within the "native vegetation cover" estimate, IBRA regions and extent of native vegetation within the Subject Land.
- The mapping of native vegetation within the Subject Land appears to include all areas of housing and ancillary structures.
- The justification of the allocation of the likely plant community type (PCT) has not been provided.
- There is an ecological community on site that meets the principles and criteria for serious and irreversible impacts (SAII), and it is not known whether any impacts to SAII will constitute SAII for future development applications.
- The list of Ecosystem species credits and Species credit species in Table 7 are reported to have been generated from the TBDC. It is assumed that this means the list was generated from the BAM-C, but this should be confirmed.
- The identification of Ecosystem species credits that have been included in the assessments remain unclear. The wording in Table 7 is confusing as to if ecosystem species credits were included in the BAM-C given they can be predicted given the PCT allocation.
- There is no specific discussion of habitat requirements for each ecosystem credit species and species credit species. Table 7 appears to discount all credit species with a standard response regardless of the habitat requirement and despite nearly 400 trees reported to be present on the site.
- Reference is made to Section 4.3.7 Prescribed and Uncertain Impacts. This section does not address the loss of human made structures such as the demolition of existing buildings or vehicle strikes. Nor does it adequately consider changes to hydrological processes.
- EHG notes that part of the site was fenced off due to safety reasons and hence was not accessible for vegetation surveys. This area is not clearly identified within the submitted BDAR but may have included more intact vegetation on the subject site.

- A table of measures to avoid and mitigate impacts is required. There is no discussion within the BDAR regarding efforts to avoid impacts to any of the native vegetation within the Subject Land.
- No consideration of indirect impact has been included in the BDAR. Indirect impacts could result from the construction of the proposal including from light, noise, dust, removal of steppingstone habitat and also in the operation of the proposal from an increase in the intensity of the use of the land.
- An estimate of the credit requirement for the proposal has been estimated, however, this is likely to be an underestimate given the inadequacies in the assessment.

Urban Design Report

The following comments are provided in relation to the Urban Design Report dated 20 December 2022.

- Section 3.2 of the Urban Design Report advises that the updated master plan would result in the removal of 209 trees compared to 233 under the exhibited Master Plan. EHG notes that such a statement is not supported by an amended Aboricultural Impact Assessment for the subject site. EHG also notes that additional trees across the site are likely to require removal including but not limited to additional trees in the north of the site associated with the demolition of existing buildings and the construction of new buildings. Additional impacts may also result from proposed swale construction. Further EHG notes that the BDAR has been prepared on the basis that 233 trees will be removed.
- Figure 8 of the Urban Design Report identifies communal open space. EHG notes significant overlap between identified communal open space areas, trees and vegetation identified for retention on page 54 and Green Corridors identified on page 5 of the Report. Further clarification is required as to how an area of retained vegetation and a green corridor can also serve as communal open space without additional impacts on native vegetation and arising.

Flooding

As per EHG's previous submission dated 27 September 2022 EHG notes that the site is not flood affected. As such no further comments pertaining to flooding are provided.

End of Submission

Department of Planning and Environment

Our ref: DOC23/364807 Your ref: PP-2022-658

Brendon Roberts
Agile Planning, Planning Group
Department of Planning and Environment
4 Parramatta Square, 12 Darcy Street
Parramatta NSW 2150

Subject: Request for Agency Advice - Planning Proposal for 95-97 Stanhope Road, Killara (PP-2022-658)

Thank you for your email dated 4 May 2023 seeking to consult with the Environment and Heritage Group (EHG) in relation to the above planning proposal.

EHG has reviewed the amended Biodiversity Development Assessment Report (BDAR) prepared by ACS dated 4 May 2023. This review identified information deficiencies and assessment inadequacies that are further discussed in Attachment 1. The updated BDAR does contain a limited amount of updated information, however, the methods and the justifications are lacking to the extent at which the conclusions cannot be relied upon. As a result, the information supplied within the BDAR does not provide EHG with even a basic understanding of the ecological site constraints. Considering the identified information deficiencies in the BDAR it is suggested that the applicants' ecologists consider the use of the BDAR template as published by DPE to assist in understanding the requirements of the Biodiversity Assessment Method and the associated reporting requirements

In summary, the identified information deficiencies and assessment inadequacies relate to the following key issues:

- absent justification for selected Plant Community Types (PCTs)
- insufficient evidence and justification for why any threatened ecological communities have not been identified on a site where it has been mapped and previously identified
- insufficient/non-compliant assessment for Species Credit Species
- absent information regarding the two entities on site that may constitute Serious and Irreversible Impacts (SAII)
- lack of avoidance of impacts to significant biodiversity values.

Specific technical advice relating to the amended BDAR is also provided as Attachment 2.

Given the lack of adequate information regarding the extent and presence of threatened ecological communities, threatened species and their habitats the impacts of the planning proposal on local biodiversity values remains unclear. In this regard, it is unknown whether subsequent State Significant or Part 4 Development Applications would be required to be refused.

If you have any queries please contact Angela Taylor, Senior Conservation Planning Officer via angela.taylor@environment.nsw.gov.au or 02 9585 6146.

Yours sincerely

S. Harrison

29/05/23

Susan Harrison
Senior Team Leader Planning
Greater Sydney Branch
Biodiversity and Conservation

Attachment 1: EHG comments on the Planning Proposal for 95-97 Stanhope Road, Killara (PP-2022-658)

Overview - Insufficient Information and assessment of the site's biodiversity values

The assessment within the BDAR of biodiversity values within the Subject Land in insufficient to effectively assess the impacts to such values. As such, it fails too adequately:

- identify the biodiversity values of the land subject to the planning proposal
- rule out the presence of threatened species, populations, ecological communities, or their habitats on the Subject Land
- consider all ecological impacts arising from the proposal, and
- demonstrate that appropriate measures have been put into place, to avoid and minimise biodiversity impacts as part of the planning proposal or as part of the Indicative Layout Plan for proposed future development.

As such, there is not enough accurate information within the Biodiversity Development Assessment Report (BDAR) to be able to understand basic ecological site constraints for planning purposes. Insufficient information has therefore been provided with the Planning Proposal to enable a comprehensive assessment of all potential biodiversity impacts to be undertaken by EHG.

The submission of an adequate Ecological Assessment is required to meet the 'Local Environmental Plan Making Guideline' prepared by the Department of Planning, Industry and Environment in December 2021 and other legislative requirements.

The 'Local Environmental Plan Making Guideline' sets out specific requirements for the preparation of a planning proposal as issued by the Planning Secretary under Section 3.33(3) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). Part 3, Section C, Question 8 of these guidelines requires consideration of whether there is any likelihood that critical habitat or threatened species, populations or ecological communities or their habitats will be adversely impacted because of the proposal. Specific heads of consideration listed under Question 8 include (but are not limited to):

- Identifying if the land subject to the proposal has the potential to contain critical habitat or threatened species, populations or ecological communities, or their habitats.
- If yes, undertake studies that are necessary to confirm the presence of these species or habitats and their significance. An assessment of its significance and/or consultation should (take) place in accordance with the BAM to inform the Gateway determination, and
- any adverse impacts will trigger the requirement for the PPA to consult on the planning proposal with relevant authorities and government agencies.

As previously advised, the submitted BDAR has failed to provide a clear indication of the threatened species, populations and ecological communities or their habitats that will be adversely affected by the proposal.

Approval of a Planning Proposal, particularly one that seeks to increase development density without consideration of an adequate ecological assessment, is contrary to the Objects of the EP&A Act specifically objects:

a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,

b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
c) to promote the orderly and economic use and development of land,
e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats.

In addition, the lack of discussion and justification of the conclusions within the BDAR is also contrary to the requirements of Section 3.25 (2) and (3) of the EP&A Act replicated below:

3.25 Special consultation procedures concerning threatened species

(2) Before an environmental planning instrument is made, the relevant authority must consult with the Chief Executive of the Office of Environment and Heritage if, in the opinion of the relevant authority, critical habitat or threatened species, populations or ecological communities, or their habitats, will or may be adversely affected by the proposed instrument.

(3) For the purposes of the consultation, the relevant authority is to provide such information about the proposed instrument as would assist in understanding its effect (including information of the kind prescribed by the regulations).

Key Deficiencies

A summary of the key information and assessment deficiencies within the BDAR is provided below. Specific technical advice relating to the amended BDAR is also provided as Attachment 2.

Key Deficiency 1: Insufficient Justification for selected Plant Community Types (PCTs)

The submitted BDAR has allocated all native vegetation on the Subject Land to the one PCT being PCT 3592 Sydney Coastal Enriched Forest without adequate justification. The selection of this PCT contradicts a previous BDAR submitted with the Planning Proposal which identified PCT 1281 (now PCT 3262) Sydney Turpentine Ironbark Forest (STIF) which is a Critically Endangered Ecological Community along with PCT 1776 Coastal Enriched Sandstone Dry Forest (now PCT 3592) and PCT 1250 Coastal Sandstone Gully Forest (now PCT 3595) as occurring on the Subject Site.

The BDAR advises that the PCT that occurs on the Subject Land was identified by using the PCT Analysis Program (referenced as DPE 2023) to analyse the data that was collected from the four BAM floristic plots. It further advises that this analysis indicated that the closest or best fit PCT was Sydney Coastal Enriched Sandstone Forest (PCT 3592). However, the data put into this program/tool and the outcomes of the analysis have not been provided to justify this conclusion. Nor is it clear as to whether the reference to the PCT Analysis Program is a reference to the Eastern NSW Plot to PCT Assignment Tool or another PCT Tool.

Key Deficiency 2: Insufficient assessment and justification for the unlikely occurrence of threatened ecological communities

In terms of ruling out the presence of Threatened Ecological Communities (TEC) Section 3.4 of the BDAR makes conclusions about the absence of any TECs on the Subject Land without providing any evidence supporting this claim. When identifying TECs on the Subject Land using an online tool, it is not adequate justification to automatically accept the PCT with the highest number of diagnostic species present. This appears to be what has occurred in the discussion in section 3.3 of the BDAR. The identification of TECs should occur through careful examination of Part 1 and 2 of the Final Determination and comparison to the site characteristics. The BDAR contains no discussion of the potential presence of STIF and Blue Gum High Forest or any other potential TEC considering Part 1

and 2 of the final Determinations. The only reason given was "PCT3592 was found to contain more diagnostically positive species than other mapped PCTs ...".

Key Deficiency 3: Insufficient Assessment of Species Credit Species Assessment
No information regarding the timing of surveys for fauna species credit species has been provided as such it is unclear as to whether surveys for fauna species were completed within required survey periods. In addition, the extent of survey effort for microbats and bird species is not adequate to exclude microbats and bird species from the list of Species Credit Species.

In addition, the Swift Parrot Important Area map partially covers the Subject Land. This is not acknowledged in the submitted BDAR which advises that the Important Area map occurs on adjacent land, however, the important habitat map clearly crosses into the Subject Land in several locations. It is noted that the Swift Parrot is listed as a Serious and Irreversible Impact (SAII) species. Adequate assessment is required to be included within the BDAR. This would include either adequate survey or an assumption of presence and a species polygon delineating habitat within the Subject Land having regard to the Important Habitat Map.

Key Deficiency 4: Insufficient assessment of and justification for discounting the presence of SAII entities
As previously advised under Key Deficiency 2 insufficient information and justification has been provided for discounting the presence of and impacts to STIF and Blue Gum High Forest from the Subject Land, both of which are SAII entities. In addition, the presence of mapped Important Habitat for the Swift parrot on the Subject Land which is also a SAII entity has not been acknowledged in the submitted BDAR. As such impacts to SAII entities in association with the planning proposal have not been adequately assessed by the submitted BDAR.

Regardless of whether any subsequent development applications are State Significant Development, the applicant is required under the Biodiversity Assessment Method (BAM) 2020 to demonstrate how they have avoided and mitigated impacts to Biodiversity Values on the Subject Land. This requirement is especially highlighted when the Biodiversity Values are those that are at risk of Serious and Irreversible Impacts. This would be the case regardless of whether the applications was submitted under part 4 of the EP&A Act or as an SSD having regard to the existing R2 Zone that applies to the site.

Key Deficiency 5: Avoidance of Biodiversity Impacts
Given identified concerns with the identification of PCTs, the likely occurrence of threatened ecological communities and a lack of consideration of the Important Habitat Map for the Swift parrot, the assessment of the avoidance of impacts within Section 6 and associated subsections of the BDAR is incomplete and will require revision once adequate information of the biodiversity values on the site has been provided. In addition, it is unclear if the native vegetation and trees identified for retention on the Subject Land can in fact be retained.

Attachment 2: EHG Technical Comments on the BDAR submitted with the Planning Proposal for 95-97 Stanhope Road, Killara (PP-2022-658)

EHG have reviewed the updated Biodiversity Development Assessment Report (BDAR) by ACS Environmental dated 4 May 2023 (Rev 1) for a redevelopment of Lourdes Retirement Village at 95-97 Stanhope Road, Killara and the following comments are provided.

- There is not enough accurate information within the Biodiversity Development Assessment Report (BDAR) to be able to understand basic ecological site constraints for planning purposes.
- The applicant's ecologist should consider the use of the BDAR template published by DPE to assist in understanding the requirements of the Biodiversity Assessment Method (BAM) and the associated reporting requirements.
- It remains unclear where native trees occur on the site given inconsistencies between Figure 3-1, 6-1 and 7-1.
- The Plant Community Type (PCT) has not been adequately justified. The previously submitted BDAR dated 30 November 2022 stated in section 4.3.1 that "A total of 27 individual locally-occurring native trees and shrubs are proposed to be removed from the 63 individuals occurring within the nominal mapped PCT 1281 (STIF) area of the subject site (43%) (Figure 6 - Zone 1) (Scales 2021)."

  Section 4.3.3.2 states "This ecological community may be considered to be represented by patches of remnant individuals of such species as Turpentine, Blackbutt, Sydney Red Gum, Coast Banksia and possibly (though unlikely) Spotted Gum, within the construction envelope at Zone 2 (Figure 6) of the subject site (Figures 6, 9B & 14)."

  Figure 6 within this BDAR shows that zone 1 which was mapped as Sydney Turpentine Ironbark Forest (STIF) occurs along the northern third of the Subject Land. It is clear within the BDAR dated 30 November 2022 that STIF was considered as a likely PCT within the Subject Land. Further comments within the updated BDAR dated 4 May 2023 provide alternative viewpoints as to the likely PCTs, however, the justification does not provide sufficient evidence to support the PCT allocation. The updated BDAR states that "A small area of Sydney Turpentine Ironbark Forest (PCT 3262) had previously been mapped for a patch of vegetation at the north-western corner of the subject land but this patch is not present on more recent, updated versions of the mapping (Figure 3-1)". However, both Figure 3-1 and the most up-to-date State Vegetation Mapping (SVTM) contain small patches of STIF. The mapping shown supports the presence of STIF rather than supporting the claim it is not present, so it is unclear why this statement was made in Section 3.4 of the updated BDAR.
- Section 3.3.1 of the BAM states that "Table 3-5 provides a summary of the selection process for the allocation of PCT 3592". No Table 3-5 can be found in the BDAR. The following Table 3-4 provides no summary for the selection process for any PCT. Table 3-4 appears to be a summary of the characteristics of PCT 3592. Again, the justification for how the PCT allocation was conducted is absent from the BDAR.
- Section 3.4 of the BDAR makes conclusions about the absence of any Threatened Ecological Communities (TECs) on the Subject Land without providing any evidence supporting this claim. When identifying TECs on the Subject Land using the online tool, it is not adequate justification to automatically accept the PCT with the highest number of diagnostic species present. This appears to be what has occurred in the discussion in section 3.3 of the BDAR. The identification of TECs should occur through careful examination of Part 1 and 2 of the Final Determination and comparison to the site characteristics. The BDAR contains no

discussion of the potential presence of STIF and Blue Gum High Forest or any other potential TEC considering Part 1 and 2 of the final Determinations. The only justification given was "PCT3592 was found to contain more diagnostically positive species than other mapped PCTs …".

- When using the Plot data found in Appendix A (BDAR 4 May 2023) and the Vegetation Information System (VIS) PCT Filter Tool, the STIF (PCT3262) contains either one of the highest, second or third highest number of positive diagnostic species in all 4 plots. This has not been presented as a result on the analysis of the plot data within the BDAR nor used as discussion to justify the final allocation of PCTs. Due to the lack of discussion in the BDAR it is unclear how the PCT was derived. Please note given the lack of Plot data submitted with the BDAR (including the raw filed data) EHG was unable to analysis the plot data using the East Coast Plot to PCT Assignment Tool.

  While the number of diagnostically positive species can be helpful in providing an idea of the likelihood of one PCT over another, it is not the only aspect that determines the likelihood of the occurrence of a PCT or a TEC. Even the Final Determinations give a list of the Assemblage of species in Part 1 but also with several caveats such as characteristic species may be abundant or rare and comprise only a subset of the complete list of species recorded in known examples of the community. However, this must be looked at considering Part 2 also which includes information regarding the area occupied by the ecological community.

  For assistance in the identification of TECs, the NSW Scientific Committee has provided Guidelines for interpreting listing criteria for species, populations and ecological communities refer to the links below.
  NSW Threatened Species Scientific Committee publications | NSW Environment and Heritage
  Guidelines for interpreting Guidelines for interpreting listing criteria for species, populations and ecological communities under the NSW Threatened Species Conservation Act
  The definition of an ecological community has been provided in section 4 of the guidance on page 40. It states:

  > *The BC Act (section 1.6) defines an ecological community as 'an assemblage of species occupying a particular area'. This definition closely follows modern scientific texts (e.g., Begon et al. 2006) and embodies three requirements (Preston & Adam 2004a):*
  >
  > *i) the constituents of a community must be species;*
  > *ii) the species need to be brought together into an assemblage; and*
  > *iii) the assemblage of species must occupy a particular area.*

  Please note that the definition refers to the species, their assemblage and it's occupying a particular area. These are the characteristics that define our ecological communities, and it is how we are to identify them. Importantly, the species, their assemblage and the area they occupy are outlined within Parts 1 and 2 of the Final Determinations and these are used to determine and justify the allocation of PCTs that are TECs on any site.

  The final Determinations also contain additional information to assist in their identification. None of these characteristics have been discussed in the BDAR. To say that there is no TEC on the Subject Land has not been adequately justified.
- It remains unclear why Plot 3 was located within an area that is primarily mapped as Landscaping instead of within locations mapped as native vegetation.

- No maps of vegetation zones have been provided to distinguish between the higher integrity zones along the northern portion of the site and the areas where native canopy species are the dominant characteristic of the site. Nor is it clear how the vegetation zones on the site were identified.
- Table 4-1 and 4-2 do not contain adequate information to determine how the assessment of ecosystem credit species was undertaken. The BDAR template provides guidance as to how you can provide adequate information to demonstrate how decisions were made to include or exclude ecosystem credits. It is assumed that all species within table 4-1 were retained within the BAM-C calculations and that all species listed in table 4-2 were excluded from the BAM-C. However, table 4-2 only provides a description of general habitat requirements and not a justification as to why it was removed due to habitats observed on the Subject Land. It is noted that the lists of ECS generated by the BAM-C will be in error if the correct PCTs have not been identified on the Subject Land.
- Section 4.1.2 of the BDAR describes the Species Credit Species assessment. It is assumed that the reference to table 4-2 is in error and it is referring to Table 4-3. It states that the table contains the PCTs in which each species is predicted to occur however this information is not listed anywhere within table4-3.

  No details have been provided to justify the timing of any surveys other than for flora species within table 4-5. This table does not report whether surveys were conducted in the correct season. It is unknown whether any fauna surveys were completed within the required survey period. The conclusions within this section of the BDAR cannot be verified.
- The number of trap nights for microchiropteran bats is not compliant with the requirements stated within the 'Species credit' threatened bats and their habitats: NSW survey guide for the Biodiversity Assessment Method (OEH 2018). The minimum number of acoustic detection trap nights is 16.
- Similarly, the amount of survey effort for birds would not be adequate to be able to exclude any species from the list of SCS. The Swift Parrot Important Area map partially covers the Subject Land. The BDAR has claimed that the Important Area map occurs on land adjacent, however, the map clearly crosses into the Subject Land in several places along the boundary. It is noted that the Swift Parrot is listed as a SAII species. Adequate assessment is required to be included within the BDAR. This would include either adequate survey or an assumption of presence and a species polygon delineating habitat within the Subject Land. Habitat for the Swift Parrot on the Subject Land should be avoided. It is noted that the lists of SCS generated by the BAM-C will be in error if the correct PCTs have not been identified on the Subject Land.
- Given identified concerns with the identification of PCTs and the identified unlikely occurrence of threatened ecological communities as well as a lack of consideration of the Important Habitat Map for the Swift parrot the assessment of the avoidance of impacts within Section 6 and associated subsections is incomplete and will need to be revised.
- Similarly, the identification of direct and indirect impacts is unclear and needs to be revised once adequate information of the biodiversity values on the site has been provided. There appears to be inconsistency between Figures 3-1, 6-1 and 7-1. Some areas appear to be native vegetation but have not been included as such within Figure 3-1 and have not been included as exotic trees within Figure 6-1. Some areas have been mapped as landscaping within Figure 3-1 then not mapped as an exotic tree in Figure 6-1 but also included as an area requiring offset in Figure 7-1. The inconsistency in the mapping is required to be corrected to provide an accurate understanding of the presence of native vegetation on the site to be able to then understand the extent of the impacts.

- Given the Swift Parrot Important Area Map occurs on the Subject Land and the presence of intact bushland to both the north and south, it would be reasonable to suggest that the Subject Land could form movement corridors. Consideration of this should be included within the discussion of Prescribed Impacts in accordance with the BAM.
- The BDAR has assumed that there will be no impacts to water quality, water bodies and hydrological processes. While these impacts can be minimised through mitigation measures, the impact is not completely avoided. Consideration should be given to both the construction and operation of the proposal in terms of the prescribed impacts to the hydrological processes that sustain threatened entities.
- Given the lack of information regarding the presence of biodiversity values on the site, it is difficult to be able to provide an adequate identification of measures to mitigate of manage these impacts and will need to be revised.
- Any assessment of SAII entities cannot take place until the identification of PCTs, ECS and SCS on the Subject Land has been undertaken in accordance with the BAM.

Given the lack of adequate information regarding the extent and presence of threatened ecological communities, threatened species and their habitats, it remains unclear what the impacts of the planning proposal will be on local biodiversity values and if subsequent Development Applications would be able to be supported by the proposed changes. Further, the lack of adequate justification of the Plant Community Type and the incorrect plot data analysis shed doubt on the conclusions of the PCT allocation.

End of Submission

Department of Planning and Environment

Our ref: DOC23/628482 Your ref: PP-2022-658

Brendon Roberts
Agile Planning, Planning Group
Department of Planning and Environment
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Subject: Request for Agency Advice – Amended Information for Planning Proposal 95-97 Stanhope Road, Killara (PP-2022-658)

Thank you for your email dated 13 July 2023 seeking to consult with the Environment and Heritage Group (EHG) in relation to amended information for the above planning proposal (PP).

EHG has reviewed the amended information including the revised Biodiversity Development Assessment Report (BDAR). Whilst the revised BDAR has addressed some issues previously raised, the extent of clearing and vegetation management required to create Asset Protection Zones (APZs) has not been assessed, so direct and indirect biodiversity impacts cannot be confirmed. As a result, the biodiversity impacts stated in the PP are likely to be an underestimate. Other issues with the revised BDAR include justification for the Plant Community Types (PCTs), removal of ecosystem and species credit species from consideration, survey effort, prescribed impacts and consideration of Serious and Irreversible Impacts (SAII). Detailed technical comments on the revised BDAR are provided at Attachment 1.

EHG notes that design changes have been made to retain additional vegetation, but EHG questions whether this vegetation can be retained given the entire site is to be managed as an Inner Protection Area (IPA). *Planning for Bushfire Protection 2019* (PBP) states that "vegetation within the IPA should be kept to a minimum level…[and] in practical terms the IPA is typically the curtilage around the building, consisting of a mown lawn and well maintained gardens" (p.107). PBP specifically prescribes the following for an IPA:

- vegetation within the IPA should be kept to a minimum level
- at maturity, tree canopy cover must be less than 15%, trees can't overhang buildings, tree canopies must be separated by 2 to 5m
- lower tree limbs should be removed up to a height of 2m above the ground
- shrubs should not form more than 10% ground cover
- leaves and vegetation debris should be removed and litter fuels kept below 1cm in height and be discontinuous
- grass should be kept to no more than 100mm in height.

This level of management required for trees, shrubs, grasses and leaf litter to achieve an IPA standard APZ is inconsistent with the retention of vegetation, including the Critically Endangered Ecological Communities (CEECs) present on the site.

EHG does not support the PP as evidence has not been provided that demonstrates it will be possible to simultaneously retain vegetation on the site and meet bushfire protection requirements. EHG reiterates that the PP should not progress if it cannot be demonstrated that the additional densities proposed can be achieved within the ecological and bushfire hazard constraints of the site.

EHG recommends that its advice is considered by the Planning Secretary in forming their opinion whether critical habitat or threatened species, populations or ecological communities, or their habitats, will or may be adversely affected by the PP pursuant to s.3.25 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

If you have any queries, please contact the undersigned via dana.alderson@environment.nsw.gov.au or 02 8837 6304.

Yours sincerely

Dana Alderson
A/Senior Team Leader Planning
Greater Sydney Branch
Biodiversity and Conservation

Attachment 1: EHG biodiversity technical comments on the Proposal for 95-97 Stanhope Road, Killara (PP-2022-658)

EHG has reviewed the Eco Logical Australia letter 'RE: PCT validation to assist Planning Proposal at 95 Stanhope Road – Killara' dated 12 July 2023 (ELA report) and the BDAR Final Report July 2023 prepared by Peter Stricker and Kathryn Duchatel (Rev 2) (revised BDAR) and the following comments are provided.

ELA report

- The ELA report provided a comparison of PCTs on the site. The discussion doesn't consider the site disturbance influences on the diagnosis of PCT to the extent that is warranted given the current land use.
- One of the CEECs discussed in the ELA report is Blue Gum High Forest (BGHF). The Final Determination for Blue Gum High Forest (BGHF) states that "Highly modified relics of the community also persist as small clumps of trees without a native understorey." If trees from this community are present on the site and the geographical location and the physical characteristics align with the Final Determination descriptions, then there is no reason to assume that the vegetation on site does not form part of this community or is a transitional intergrade of this community with another. Table 2 of the ELA report states "this PCT was not selected as the best-fit community due to the understorey species more closely aligning with a drier, understorey or sub-canopy and shrub species which is more representative of [PCT] 3262 than a more mesic moist rainforest midstorey and ferny or herbaceous understorey." This statement makes conclusions based on the absence of one stratum of species from this community without consideration of the historical disturbance on the Site. The conclusion for the exclusion of this PCT as occurring on the site is not based on adequate justification.
- The BGHF Final Determination states "BGHF is dominated by a tall canopy of eucalypts that may exceed 30 m in height. Its understorey is typically multi-layered with a midstorey of mesophyllous shrubs and small trees and a diverse ground layer of herbs, ferns and some grasses. Most stands of the community are in a state of regrowth after past clearing or logging activities, and consequently trees may be shorter, less dense or more dense than less disturbed stands." The ELA report states, "The vegetation within the north east of the site is tall, and approximately to 20 to 30 m (Naturally Trees 2023), however, would not be considered an extremely tall forest." However, the Final Determination for does not require that the trees be extremely tall. The wording of the Final Determination indicates that trees within BGHF may or may not exceed 30m in height, therefore the remnant trees of this community found on the site could have formed part of this community and aren't required to be excluded based on tree height.
- The Final Determination states "it can also intergrade with Sydney Turpentine Ironbark Forest (STIF)...stands that contain intermediate characteristics are collectively covered by the Final Determinations of BGHF and STIF and may be diagnosed by detailed consideration of the assemblage of species present at the site." Given STIF has been confirmed as likely to be present on the site, it is also possible that stands of remnant trees could form BGHF given the intergrading often observed between the two communities.
- If the upper stratum of BGHF was sparse or absent, then the final determination states that the relatively diverse stratum of small trees including *Pittosporum undulatum*, *Elaeocarpus reticulatus* and *Allocasuarina torulosa* is usually present, all of which are found on the site.
- The ELA report states "Quantitative analysis was completed, using the Hager/Steenebeeke 2010 analysis excel spreadsheet for each vegetation integrity plot to determine the best fit PCT using

standardised ratio comparison positive native to total native score. This analysis uses the diagnostic species as described by Tozer (2003) and Tozer (2010)." The ELA report has included many discussion points in regard to the analysis of plot data in both the Hager/Steenebeeke excel spreadsheet and the PCT filter tool. The use of the Hager/Steenebeeke tool and the PCT filter tool can be limited on sites which have high levels of disturbance. The reliance on meeting the number of positive diagnostic species to identify the best-fit PCT (e.g. Appendix B of the ELA report for Plot 1), may not be justified given the level of disturbance. While the analysis of species presence and their dominance can assist in assigning the likely best-fit PCT, total numbers of positive diagnostic species aren't always the best indicator, especially when the numbers of positive diagnostic species are so close between PCTs. EHGs advice dated 29 July 2023 has highlighted that the number of positive diagnostic species present on the site is only one component of the analysis for assigning the best-fit PCT. Section 4.2.3.2 of the revised BDAR notes this limitation in the use of positive diagnostic species saying "As can be seen in Table 21 and Table 25, the constituent species in both PCTs are very similar and in the absence of diverse and an abundance of shrub and ground layer species, the use of analytical tools such as the Vegetation classification database PCT filter tool (refer Section 2.2.5) and Hager and Steenbeeke tool used by ELA, are limited."

- The ELA report compares the results of using both the Hager/Steenebeeke tool and the PCT filter tool. The differences in number of positive diagnostic species between the use of the two tools may indicate that the use of older tools such as the Hager/Steenebeeke tool is based on PCT analysis that is outdated.
- Even if PCT 3592 Sydney Coastal Enriched Sandstone Forest was present within Plot 2 in the ELA Report, the plot is outside of the subject site. The plot is located downslope of the site and could reasonably be argued to show a transition area between any TEC's on the site and adjoining area. EHG considers that the plot doesn't necessarily provide data that should be used to draw conclusions in regard to vegetation found on the site.

Revised BDAR

- The revised BDAR has not provided adequate mapping of the construction and operational footprints to understand the extent of impacts on the site because key impacts have been left out of the assessment like those related to APZ requirements.
- Figure 3 shows that there are many locally native trees that have not been assigned to a PCT but aren't mapped as landscaping either. It is unclear why these locally native trees have not been included in PCT mapping. They mainly occur in areas where there was not complete removal of vegetation as can be seen in historical aerial imagery and so may be remnant trees of the original vegetation community retained within the current land use. Section 4.3.2.3 of the revised BDAR has provided some discussion on the Justification of PCT selection in regard to the reduced extent of STIF in comparison to that identified in the ELA report. It does not include justification as to why the mosaic of locally native species found across the remainder of the site has not been assigned a best-fit PCT and instead treated as landscaping only despite the prevalence of locally native species per Figure 3.
- The BDAR has used the Streamlined assessment module – planted native vegetation for portions of the site. There are two PCTs (STIF 3262 and BGHF 3136) that could potentially occur on the site in the form of trees or clumps of trees based on their status of being highly cleared and given the descriptions included within the Final Determinations. In this regard, the locally native trees across the site do not comply with the use of the streamlined assessment module on the site. The first question in the decision-making key asks, "Does the planted native vegetation occur within an area that contains a mosaic of planted and remnant native vegetation and which

can be reasonably assigned to a PCT known to occur in the same IBRA subregion as the proposal?" If yes, the Biodiversity Assessment Method (BAM) must be applied and not the streamlined assessment module. Figure 3 of the revised BDAR clearly shows the mosaic of trees on the site that are locally native. Hence, the BDAR must consider whether the trees form part of any likely PCT. It is noted that the ELA report was not commissioned to assess the mosaic of locally native trees and so falls silent on what PCT could be assigned to any mosaic of locally native trees. Given the intergrading between STIF and BGHF, either PCT could reasonably be assigned to a number of locally native trees within the site.

- The STIF Final Determination states "These disturbances have affected the structure and potentially the composition of remnants. For example, the density and average basal diameter of trees in remnants sampled by Benson and Howell (1994) suggested that the removal of large older trees has led to higher densities of smaller trees such that remnants typically have the structure of regrowth forest." And "Remnants of Sydney Turpentine-Ironbark Forest are typically small and fragmented and are susceptible to continuing attrition through clearing for routine land management practices due to the majority of remnants being located in close proximity to rural land or urban interfaces (Benson and Howell 1994; Tozer 2003). Applications to the NSW Land and Environment Court demonstrate that there is ongoing pressure to clear STIF in the course of developing private properties or for the establishment of Asset Protection Zones (https://www.caselaw.nsw.gov.au accessed 19/11/2018). 'Clearing of native vegetation' is listed as a Key Threatening Process under the Act." These sections of the STIF Final Determination and the above discussion in relation to the BGHF Final Determination demonstrate that small clumps and even individual trees can be considered as Critically Endangered Ecological Communities. This indicates further that it would be appropriate to consider individual locally native trees (Figure 3) in the context of a BDAR as opposed to using the streamlined module for these areas of the site.
- Given the above comments in relation to the justification of the best-fit PCT, it is considered that the PCTs have not been adequately justified within the BDAR.
- The Serious and Irreversible Impact (SAII) assessment for Swift Parrot has not included any discussion regarding trees across the site that are habitat trees for this species. Avoidance of these trees should be a priority for design of the proposal to ensure retention of habitat trees for this species, even outside of the important area habitat map. The information provided for the SAII assessment is incomplete in this regard and instead only focuses on the area mapped as important habitat which is used for generating species credit polygons. EHG's advice dated 29 May 2023 includes commentary that any habitat for the Swift Parrot within the site should be prioritised for avoidance of impacts.
- It is unclear the extent and nature of vegetation removal that will be required for creation of APZs on the site as the revised BDAR has not taken these impacts into consideration in the impact assessment. The areas that have been specified for retention may require the removal of groundcovers, shrubs and some canopy trees to be able to meet the IPA requirements. Management of the site as an IPA will mean the whole site will have a reduced Vegetation Integrity score which has not been taken into consideration in the revised BDAR. Changes such as this would impact on credit calculations and also potentially affect the assessment of SAII.
- In addition, retention of native vegetation on the site to avoid and mitigate impacts to threatened entities will conflict with future APZ requirements. Plans outlined in the revised BDAR for mitigating impacts to any Threatened Ecological Communities (TECs) by retaining and enhancing native vegetation on site are inconsistent with tree and fuel load management.

- EHG considers that much of the site and possibly some adjoining areas will be affected by indirect impacts due to the increased intensity of use and thus asserts that biodiversity impacts of the PP have been underestimated. Trees within proximity of the built form are likely to be removed for construction, or their health will be compromised post-construction. It is unreasonable to expect that trees that form TECs on the site will be retained in the APZ. Given the proposed seniors living use, indirect impacts will be amplified by active management of trees for safety and bushfire protection reasons. The understorey will also be limited, inhibiting recruitment of native plants across the site. The requirement to retain bushland may be unlikely given APZ requirements and in the context of the proposed intensification of use and ongoing management of the site, including the use of fertilisers and weed sources resulting from the landscaping of the site.
- A number of mitigation measures in Table 38 of the revised BDAR are in the planning phase. It is questioned whether the full extent of the impacts are understood if the mitigation measures have not been identified. Prescribed impacts have not been adequately assessed given the proposal for extensive excavation on the site. Changes such as these are likely to have impacts on runoff, water quality and quantity, all of which have not been taken into consideration in the mitigation of such impacts.
- The removal of some Ecosystem Credit Species (ECS) has not been adequately justified. It should be noted that the lists of ECS generated by the BAM-C will be in error if the correct PCTs have not been identified on the site.
- The removal of some Species Credit Species (SCS) has not been adequately justified. The number of trap nights for microchiropteran bats is not compliant with the requirements of 'Species credit' threatened bats and their habitats: NSW survey guide for the Biodiversity Assessment Method (OEH 2018). The minimum number of acoustic detection trap nights is 16. Similarly, the amount of survey effort for birds would not be adequate to be able to exclude any species from the list of SCS. Details on the time of day have not been included. It is also noted that the lists of SCS generated by the BAM-C will be in error if the correct PCTs have not been identified on the site.
- Given the above concerns with the identification of the full extent of PCTs on the site, the identification of direct, indirect and prescribed impacts may not be complete and hence the avoidance of impacts will need to be revised.
- Any assessment of SAII entities cannot take place until the identification of PCTs, ECS and SCS on the site has been undertaken in accordance with the BAM.
- The revised BDAR has identified entities on the site which meet the principles and criteria for SAII. However, as the revised BDAR has not identified the full extent of PCTs on the site, the complete picture of indirect, direct and prescribed impacts cannot yet be accounted for. In this regard the credit calculations are likely to be an underestimate and the assessment of SAII cannot be made nor any conclusions on the extent of SAII impacts. Given the lack of adequate information, it remains unclear what the impacts of the PP will be on local biodiversity values and if subsequent development applications (DAs) would be able to be supported pursuant to s.7.16 of the *Biodiversity Conservation Act 2016* (BC Act).

End of Submission