Response to Submissions

Woolworths Rose Bay South Planning Proposal

488-492 Old South Head Road and 30 Albermarle Avenue, Rose Bay

Submitted to the Department of Planning, Housing and Infrastructure on behalf of Fabcot Pty Ltd

PP-2022-731





'Gura Bulga'

Liz Belanjee Cameron

'Gura Bulga' – translates to Warm Green Country. Representing New South Wales.



'Dagura Buumarri' Liz Belanjee Cameron

'Dagura Buumarri' – translates to Cold Brown Country. Representing Victoria.



'Gadalung Djarri'

Liz Belanjee Cameron

'Gadalung Djarri' – translates to Hot Red Country. Representing Queensland.

Ethos Urban acknowledges the Traditional Custodians of Country throughout Australia and recognises their continuing connection to land, waters and culture.

We pay our respects to their Elders past, present and emerging.

In supporting the Uluru Statement from the Heart, we walk with Aboriginal and Torres Strait Islander people in a movement of the Australian people for a better future.

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A.	Detailed Response to DCCEEW and Consistency with Direction 4.1	Northrop
В.	Indicative Dwelling Yield Analysis	Ethos Urban

1.0 Introduction

This Response to Submissions Report has been prepared by Ethos Urban on behalf of Fabcot Pty Ltd (Fabcot) (the Proponent) and provides a detailed response to all State and Local agency/ authority feedback, together with all stakeholder and general public commentary received, regarding the Woolworths Rose Bay South Planning Proposal located at 488-492 Old South Head Road and 30 Albermarle Avenue, Rose Bay.

The Planning Proposal (PP-2022-731) and supporting documentation was prepared in support of the Woolworths Rose Bay South project. This was placed on public exhibition from 2 April 2024 to 7 May 2024 by the Department of Planning, Housing and Infrastructure (DPHI). All agency/ authority and general public submissions were provided to Fabcot on 15 May 2024 with a formal request for a response to submissions.

The contents of this report and its attachments provides a comprehensive response to all items raised in the agency/ authority and public submissions, which is a requirement of DPHI's (formerly DPE) *Local Environmental Plan Making Guideline*, dated August 2023.

1.1 Background

1.1.1 Gateway Determination

The Planning Proposal (PP-2022-731) was originally lodged with Woollahra Municipal Council on 4 March 2022 and was amended during the assessment process, in collaboration with the authorities, particularly Council strategic staff. The proposal was recommended for Approval by Council Strategic staff, however was refused by the elected Council at Council's meeting of 14 August 2023. A Rezoning Review request (RR-2023-20) was lodged on 6 September 2023, on the basis that Council has resolved to not support the Planning Proposal proceeding to Gateway Determination.

On the 1 November 2023, the Sydney Eastern City Planning Panel (the Planning Panel) undertook the rezoning review and recommended the Planning Proposal should proceed to Gateway Determination as it demonstrated strategic and site-specific merit.

A Gateway Determination was issued on 23 February 2024 that included Gateway conditions required to be met prior to the Planning Proposal proceeding to public exhibition.

1.1.2 Exhibited Planning Proposal

The Planning Proposal was placed on Public Exhibition by DPHI from 2 April 2024 to 7 May 2024. In summary, the exhibited Planning Proposal sought the following amendments to the Woollahra LEP 2014:

- Insert a new clause in Schedule 1 Additional permitted uses to permit retail premises at 30 Albemarle Avenue, provided it is as part of a shop top housing development at 488-492 Old South Head Road.
- Create a new local provisions clause that applies only if 488-492 Old South Head Road and 30 Albemarle Avenue are developed together that:
 - o Allows a maximum Gross Floor Area (or GFA) of 3,720m² on 488-492 Old South Head Road and 480m² on 30 Albemarle Avenue.
 - o Permits a maximum Height of Building of 14.5m at 30 Albemarle Avenue.

2.0 Overview of Submissions

This section analyses the submissions received by providing a breakdown of the type of submissions received, the issues raised and the Proponent's response.

2.1 Overview

In relation to the Public Exhibition of the Planning Proposal, a total of 27 submissions were received which included 5 submissions made by relevant government agencies, 1 submission made by Woollahra Council and 21 submissions made by members from the public and community group. Detailed responses to these submissions have been prepared and are provided in the following sections below.

2.2 Agency Submissions

The key matters raised in submissions received by Government agencies and authorities and detailed response is summarised in **Table 1** below.

Table 1 Summary of Submissions Received

Submissions Received	Position and Comments	Response
Government Agencies		
Woollahra Municipal Council	 Comments for consideration. The LEP amendment is to include site-specific provisions relating to building setbacks (9m-13.5m) adjoining the R2 zoned land. 	The Proponent notes Council's comments but does not recommend any amendments to the Planning Proposal for the following reasons: • The site-specific setbacks are being addressed in the site-specific Development Control Plan (DCP) which is currently on Public Exhibition until 23 June 2024. The Proponent worked collaboratively on the drafting of the DCP with Council and believes there is no utility in such provisions being duplicated in the LEP. Further, the DPHI's Gateway determination did not include setbacks as a Planning Proposal matter for implementation.
	Introduce an LEP provision that requires the preparation of a site-specific DCP that is resolved prior to any development on the land occurring.	 DPHI has determined that this is not necessary. Further, a specific provision requiring a site-specific DCP prior to any development is unnecessary as this is being progressed by Council separately. Further, the DPHI noted in their Gateway assessment that the inclusion of local provisions for a site-specific DCP, setback and deep soil controls were not considered appropriate for inclusion in Woollahra LEP 2014, in accordance with Ministerial Direction 1.4 Site Specific Provisions.
	A new local provision to restrict the maximum non-residential GFA of 2,400sqm across 488-402 Old South Head Road and 30 Albermarle Avenue, Rose Bay	 Council's request to limit non-residential GFA on the site to 2,400sqm on both sites is inconsistent with the underlying intent and objectives of the MU1 Mixed Use zone that applies to 488-492 Old South Head Road. Additionally, the DPHI and Sydney Eastern City Planning Panel did not raise concern of the proposed non-residential GFA, and were supportive of the provision of a supermarket on the site.
Ausgrid	No objection Comments will be reviewed and actioned as part of future Development Applications (DAs).	Noted.

Submissions Received	Position and Comments	Response
Transport for NSW	 Comments for consideration. Vehicular Access Vehicular access/egress is only permitted off Albermarle Road and not permitted off Old South Head Road Proposed location of any vehicular access on Albermarle Avenue is to be located as far as possible from the traffic signals at Old South Head Road. Consideration of pedestrian safety along the driveway crossover. On-street parking restrictions are to be close to carpark entry and loading dock to ensure sightlines are maintained A Traffic Management Plan is to be provided at the subsequent DA stage that details measures to manage queuing from the carpark and impacts on footway. 	 Vehicular access to the site will only be provided via Albermarle Avenue and will achieve optimal distance to the intersection at Old South Head Road. As part of any future Development Application (DA) on the site, the design and accompanying Traffic Management Plan will include measures that manage and minimise impacts to pedestrian safety, as well as impact of cars queueing to enter the carpark on the footway, sightlines and other traffic management matters. The on-street parking is not a matter for consideration at the Planning Proposal stage and will also be resolved in consideration of the Traffic Management Plan at the DA stage.
	Traffic signalling Changes to existing traffic signals are not supported	Noted. This is a separate matter for Council and TfNSW and no change to existing traffic signals are proposed in the Planning Proposal.
	 Other Development should reflect NSW Futures and NSW Active Transport Strategy Recommend a Green Travel Plan be prepared. Proposed number of carparking spaces be reduced from 70 to 53 the minimum required under the Woollahra DCP 2015. Inclusion of high quality and quantity of End-of Trip facilities. 	 Noted. These aspects will be considered and resolved during the subsequent DA stage, noting the car parking spaces in the Concept Scheme is complying with Council's DCP.
Sydney Water	 No objection Water and wastewater servicing should be available for the proposed development. Amplifications, adjustments, deviations and/or minor extensions may be required. Detailed servicing advice should be sought and provided as part of future DAs. 	Noted. Detailed water and wastewater servicing will be resolved at DA stage.
SES	 Comments for consideration Undertake a Flood Impact Risk Assessment with additional information including: Additional modelling to understand current flood risk, noting the adopted Council Flood Study were conducted in 2010 and 2014. Review finished floor level (FFL) of proposed supermarket, currently below 1% AEP event. Flood gates are proposed as a measure to protect the supermarket entry, additional modelling be 	 A Flood Impact and Risk Assessment (FIRA) is not required on the basis of consistency with the Ministerial Direction 4.1 – Flooding. The Planning Proposal demonstrates consistency with the Direction 4.1 as it is consistent with Woollahra Municipal Council's adopted Council Floodplain Study and Plan and modelling, which indicates the site is not located within a 'floodway'. Please refer to detailed DCCEEW response that responds in detail to the same matters raised by SES. Further, the Planning Proposal was submitted prior to the release of the Flood Risk Management Manual (2023) and associated guidelines which necessitates a FIRA (should it have been required).

Submissions Received	Position and Comments	Response
	undertaken to understand if proposed measures modify flood behaviour.	The Proponent has noted the SES comments related to the finished floor level of the proposed supermarket and flood gates in the Planning Proposal reference scheme, they will be addressed and resolved at a future DA design stage in the development process.
	 Recommend all ground floor businesses and retail floor levels be above the 1% AEP flood levels and access to the basement be above the PMF. 	The Proponent has noted SES's comments related to the finished floor level of the proposed supermarket in the Planning Proposal reference scheme, this will be addressed and resolved at a future DA design stage in the development process.
	Improving stormwater management to reduce flood risk where possible	The request to provide more detailed stormwater management to reduce flood risk has been noted and will be addressed and resolve at a future DA stage in the development process.
	 Considering implementing appropriate safety measures and features to reduce the potential risks associated with the flash flooding at the site 	Safety measures and features to reduce the potential risks associated with the flash flooding at the site has been noted and will be addressed and resolve at a future DA stage in the development process.
	Communicating the flood and tsunami to potential future site users	Communication of the risk of flood and tsunami to future site uses has been noted and further detail will be provided at a future DA stage.
Department of Climate Change, Energy, The Environment and Water (DCCEEW)	Comments for consideration Consistency with the Ministerial Direction 4.1	The Planning Proposal is consistent with Ministerial Direction 4.1 and is consistent with Woollahra Council's adopted flood study and floodplain risk management study for the site. A detailed assessment of the Planning Proposal against Ministerial Direction 4.1 has been prepared by Northrop, provided at Appendix A.
	Significant increase of resident population in a high hazard area	 Analysis has been undertaken that compares the current and future zoning and resultant dwelling density/ population (refer to Appendix B) and confirms on reasonable assumption that the residential dwelling density is not increased in the proposal. The key assumptions are: The existing MUI zoning has 25% or more retail component and remaining residential gross floor area utilisation; The DA approved scheme for two dwellings on 30 Albermarle Avenue; and Compared against the Planning Proposal reference scheme. While the Planning Proposal will introduce a new form of residential accommodation on the R2 Low Density Residential land (30 Albermarle) it does not propose to increase the established density significantly by virtue of limiting the maximum gross floor area permitted to 480m² and additionally all proposed dwellings are above ground level in contrast to the existing and DA approved dwellings on the site. It is noted there is no increase of residential land use at 488-492 Old South Head, given it is zoned MUI Mixed Use and the proposal is permitted on the site.

Submissions Received	Position and Comments	Response
	• Flood Planning	The indicative reference scheme provided as part of the Planning Proposal is to demonstrate and validate the proposed planning control amendments. Detailed flood mitigation measures and operational aspects of the proposal will be investigated and resolved as part of a future DA.
	Adequacy of Flood Impact Risk Assessment	As noted above the Planning Proposal is consistent with Ministerial Direction 4.1 and is consistent with Council's adopted flood study and floodplain risk management plan (refer to Appendix A)
	Potential for very large losses to occur	The Planning Proposal does not substantially increase the developable floor space at risk of flooding by virtue of limiting the maximum permissible gross floor area to 480m² at 30 Albermarle Avenue and 3,720m² at 488-492 Old South Head Road and with most this floor space not at risk to flooding. Therefore, the risk of loss due to flooding has not be increased as a result of the Planning Proposal.

2.3 Public Submissions

The key issues raised within the submissions received from the public and community groups and response to each issue is provided in **Table 2** below.

Table 2 Public Submissions

Key Issues	Comment	Response
Traffic, parking and traffic congestion	 Additional traffic impacts and congestion on local road network, specifically Albermarle Avenue and Old South Head Road. Introduction of trucks and heavy vehicles on Albermarle Avenue. Suggest limiting access of heavy vehicles and delivery trucks to Albermarle Avenue and Newcastle Street to 7pm-7am every day. Accuracy of the traffic report and modelling Upgrade of intersection at Newcastle Street and New South Head Road, required Availability of on-street parking Sufficiency of basement carparking 	 Council undertook a peer review of the final traffic report, with Council staff noting in their assessment report dated June 2023 that they are "generally satisfied" that these "matters have been adequately addressed in the [amended] indicative development concept or the JMT Consulting report [as peer reviewed]". The Proponent has undertaken detailed traffic analysis and modelling in response to concerns related to traffic as part of preparation of the Planning Proposal. The Transport Assessment prepared by JMT Consulting was revised following feedback from Woollahra Council, Waverley Council and TfNSW staff. Further it was amended to respond to matters raised by SCT Consulting, who was engaged by Woollahra Council as a technical peer reviewer. The amended Transport Assessment (as publicly exhibited) has included physical counts of intersection movements and a SIDRA performance analysis and has been undertaken to the satisfaction of TfNSW. Therefore, the traffic impacts associated with the Planning Proposal are considered acceptable and have been informed by detailed assessment.
Pedestrian safety	 Increased traffic on Albermarle Avenue compromise pedestrian safety. Heavy vehicles and trucks introduced on the site poses hazard to pedestrians specifically school children. 	 Safety and vehicle movements of the indicative reference scheme and development controls have been assessed as acceptable by technical peer reviewers, TfNSW and Council. The inclusion of 30 Albermarle Avenue in the proposal allows the location of the driveway and vehicular access point in a superior position in terms of intersection safety and activation of the site's prominent corner frontage.

Further, more detailed operational and design aspects will be investigation and resolved as part of a future DA.

Rezoning of 30 Albemarle Avenue and Streetscape Character Impact

- Concerns with regard to the proposed interface between the building and neighbours and the potential precedent of rezoning a residential property, leading to encroachment into a low density area.
- Spot rezoning is poor planning practice and will result in adverse visual impact upon the streetscape character
- The scale of the proposal and proposed 14.5m height is inconsistent with the character of an R2 Low-Density Residential street.
- Increased bulk and scale will significantly encroach into residential zoned land.
- The inclusion of 30 Albermarle Avenue within the consolidated site enables the achievement of a vastly superior interface between the local centre and the low density residential zone beyond what would otherwise be achievable if the service station site was redeveloped alone and if the existing detached dwelling on 30 Albermarle Avenue was to remain. This was further reinforced in Council Staff's Assessment report dated June 2023 which acknowledges if the sites were developed independently "the opportunity to provide a reasonable setback and buffer between the two sites may be less compared to what can be achieved under Option 1 [the proposal]".
- This site composition allows for a generous landscaped setback, provides the ability to terrace the height of the built form to the R2 surroundings and with greened facades. The indicative reference scheme provides a 9m landscaped setback and incorporates deep soil which provides the opportunity for screen planting and canopy tree planting. Further, it enables a vehicle access point that is located further away from the pedestrian oriented high street and ensures a mature street tree is capable of being retained along Albemarle Avenue.
- The streetscape presentation offered as part of the proposal is highly resolved in the supporting reference scheme which is intended to be consistent with the future DA proposal. However, careful attention has been placed in crafting a reference scheme that has informed the detailed planning controls of Council's site-specific DCP currently on exhibition.

Retail Supply Sufficient/ Economic analysis

- Supermarket not required, as there are already sufficient supply local options in Rose Bay and there are options for online delivery.
- Size of the supermarket, specifically concerns increasing the size by including 30 Albermarle Avenue
- Impact on local shops and existing supermarkets
- As detailed in the Planning Proposal there is significant demand for additional supermarket provision within Rose Bay South. The Planning Proposal was underpinned by an Economic Impact Assessment which analysed in detail the economic drivers behind the proposal in responding to a retail shortfall within the main trade study area and an underprovision of supermarket floorspace. This would be satisfied through the provision of a new medium-sized supermarket on the site which will provide approximately twice as many product lines than any existing supermarket within the local area, providing key amenity and convenience to the surrounding residents.
- The proposed supermarket provision would not be expected to impact on the viability of existing supermarkets within the surrounding area given the undersupply. Rather, it would provide improved choice, range and price competition for local residents through the provision of additional goods and services which are not provided elsewhere within the catchment.
- Further Council Staff's Assessment report notes "the shortfall of supermarket floorspace would be meaningfully addressed by the proposed mixed development."

Amenity impacts on surrounding neighbours

- Privacy impacts to adjacent residential properties
- Solar access impacts, specifically to neighbouring low-density residential development
- Noise from supermarket
- These more detailed operational and design aspects will be investigated and resolved as part of a future DA, however the Planning Proposal is supported by an indicative reference scheme which provides the following to maximise privacy and mitigate potential solar access and noise impacts on adjacent residential properties.

Key Issues	Comment	Response
	 Construction noise and other impacts Lightspill from vehicles and signage 	 A ground level building separation and buffer zone along the western boundary of 30 Albemarle Avenue which includes the provision of a minimum of 9m wide building separation area increasing the upper levels to ensure an appropriate visual and acoustic buffer to the adjoining residential properties. A minimum 8m wide area comprising deep soil canopy tree and screening planting. Generous building setbacks, incorporating planter boxes, screening and visual privacy measures. These matters being further resolved in the site-specific DCP currently on exhibition. Careful consideration of apartment orientation and outlook to mitigate overlooking and consider adjoining residents' privacy. Further Council Staff's Assessment report notes the proposal is "broadly compatible with the existing and desired future character of Rose Bay South Centre whilst having regards to the amenity of the surrounding residential area". More detailed operational and design aspects will be investigated and resolved as part of a future DA.
Voluntary Planning Agreement	 VPA to be resolved concurrently with Planning Proposal VPA to provide independent valuation to Council for land value capture. 	 The Gateway determination makes no specific refence to the VPA as being required to be resolved in conjunction with the Planning Proposal and has not been requested in the Council submission. The VPA letter of offer is currently being considered by Council directly and is a matter that will be resolved separately to the Planning Proposal.
Site-specific DCP	DCP to be resolved with Planning Proposal	 Woollahra Council have prepared a site-specific DCP covering development envisioned by the Planning Proposal, which is currently on Public Exhibition until 23 June 2024. The Proponent will continue to work closely with Council in the finalisation of the DCP to ensure appropriate outcomes are achieved. Further, the DPHI noted in their Gateway assessment that the inclusion of local provisions for a site-specific DCP, setback and deep soil controls were not considered appropriate for inclusion in Woollahra LEP 2014, in accordance with Ministerial Direction 1.4 Site Specific Provisions.
Additional public facilities and maintenance	 Request for the Proponent to maintain vegetation at the street Provide and maintain public toilet with baby change facilities 	These requests are detailed design matters which will be considered at the future DA stage.
Opposed to public access to open space	 Open space is to not be made publicly accessible as it will encourage antisocial behaviour, vandalism and noise. Open space not to be publicly accessible but act as a landscape buffer to adjoining R2 land 	 The area identified as "publicly accessible land" by the Sydney Eastern City Planning Panel is intended to act a separation zone and landscape buffer to the adjoining R2 Low Density Residential Land at 28A Albermarle Avenue. The DA will seek to provide open space that benefits the users of the site and to be consistent with community expectations and the objectives of the DCP, to allow sufficient canopy planting and provide a communal open space that enhances local amenity, including provisions for CPTED and fencing to address any safety concerns sufficiently.
Lack of community consultation	Lack of information and opportunities for the community to	Extensive community consultation was undertaken by the Proponent in September 2021 during the preparation of the original Planning Proposal lodged with Council in

Key Issues	Comment	Response
	provide feedback and understand the project	March 2022. Engagement activities included a letterbox drop, online survey, online community workshops, establishment of a project website, email and phone number.
		 Further, a number of face to face meetings and direct engagement with neighbours has been undertaken during 2022 and 2023.
		 The Proponent engaged Taverner Research in May 2023 to undertake independent community sentiment research, which involved undertaking computer aided telephone calls to 400 residents within 1000 metres of the site, to obtain a statistically valid representation of resident feedback.
		 A further door knock of the local area was undertaken by Fabcot in April 2024 to provide an update on the proposal and provide an opportunity for feedback to be provided.
		 The feedback obtained from the engagement activities also informed the revised Planning Proposal, that has been publicly exhibited and will be considered as part of any future DA.
Strategic Merit	Conflicts with established strategic planning policies	 Strategic merit was established for the site in the Planning Proposal and both Council staff and the Sydney Eastern Planning Panel noted the Planning Proposal demonstrates strategic-merit and consistency with the relevant strategic planning policies.
Environmental Planning Committee	Inconsistent with EPC recommendations	The Proponent lodged a Rezoning Review request on 6 September 2023. This Rezoning Review was an outcome of the EPC recommending refusal and Council refusing the Planning Proposal, despite Council Strategic staff recommending approval. The Planning Proposal was reviewed by the Sydney Eastern City Planning Panel, which recommended the Planning Proposal proceed to Gateway Determination and Public Exhibition, subject to conditions imposed by the DPHI.

3.0 Conclusion

All submissions received from the Government agencies authorities and the general public resulting from the public exhibition period of the Woolworths Rose Bay South Planning Proposal have been appropriately considered and have been adequately addressed. No changes to the Planning Proposal as exhibited are considered as required.

We therefore respectfully request the Planning Proposal proceed to gazettal, as the Planning Proposal as required under Section 3.33 of the EP&A Act demonstrates both strategic and site-specific merit as follows:

- The Planning Proposal is consistent with the strategic planning framework, including the Greater Sydney Region Plan, Eastern District Plan and LSPS.
- The Planning Proposal will reinforce the role of Rose Bay South as a 'key' local centre and enable the attainment of a 30-minute city by providing co-locating employment generating uses and residential apartments within an accessible local centre.
- The Planning Proposal demonstrates that the site can suitably accommodate Woolworth's vision to deliver a high-quality mixed-use scheme anchored by a best in class supermarket and housing, whilst minimising environmental impacts and delivering a built form that responds to the context and aspirations for the Rose Bay South local centre.