

REFERENCE No:	2021/381101		
SITE ADDRESS:	<ul style="list-style-type: none"> 77 Kulgoa Road, Pymble 		
PROPOSAL:	Amend Zoning from C4 to R2 and amend the associated development standards		
DATE OF MEETING:	1 August 2022		
PRESENT AT MEETING:	Council		
	Name	Title	
	<i>Antony Fabbro</i>	<i>Manager, Urban Planning and Heritage</i>	
	<i>Craige Wyse</i>	<i>Team Leader Urban Planning</i>	
	<i>Sybylla Brown</i>	<i>Natural Areas Program Leader</i>	
	<i>Angela Smidmore</i>	<i>Urban Planner</i>	
	<i>Matthew Le Guay</i>	<i>Student Urban Planner</i>	
	Applicant / Representative		
	Name	Capacity	
	<i>Natalie Richter</i>	<i>Natalie Richter Planning</i>	
<i>John Leece</i>	<i>Property owner</i>		
DOCUMENTS/ REPORTS:	Document(s)	Dated	Reference
	Ecological Options and Constraints Assessment	N/A	2022/177619
	Arboriculture Impact Assessment	20 January 2022	2022/177619
	Tree Protection Plan	20 January 2022	2022/177619
	Subdivision Plan	17 March 2022	2022/177619
AFFECTED PLANNING INSTRUMENT:	Ku-ring-gai Local Environmental Plan 2015		
KEY ISSUES:	<ul style="list-style-type: none"> Strategic and site-specific merit Aboricultural and biodiversity assessment Subdivision plan 		

DISCLAIMER

The information contained in this pre-planning proposal meeting report does not bind Council officers; the elected Council members or other bodies in any way whatsoever and does not guarantee that a planning proposal will be endorsed by Council.

DESCRIPTION

Planning proposal

- The proponent gave an overview of the planning proposal as outlined in the initial feasibility study.
- The proponent outlined the intention to enable the land subdivision of both number 73 and 77 Kulgoa Road, Pymble each into two lots, to create a total of four lots.
- The planning proposal seeks to rezone 77 Kulgoa Road, Pymble from C4 Environmental Living to R2 Low Density Residential, and amend the minimum lot size and floor space ratio development standards that apply to the site
- As part of the rezoning feasibility review, a number of supporting documents have been prepared to review the ecological and environmental factors affecting the site, including an Ecological Feasibility Study, an Arborist Assessment and Proposed Tree Protection Plan and a Proposed Subdivision Sketch Plan.

OVERVIEW OF ISSUES

The following is an overview of matters to be considered for the preparation of the planning proposal identified by Council staff:

Strategic Planning Framework – Greater Sydney Region Plan, The North District Plan, Local Strategic Planning Statement and the Housing Strategy

For a planning proposal to have strategic merit, the proposal needs to align with the NSW strategic planning framework. The planning proposal should include reasonable justification explaining how and why strategic merit is achieved and needs to address all relevant principles, objectives and actions in the relevant strategic plans.

It is acknowledged that the Ku-ring-gai LSPS and Housing Strategy are not aligned in terms of the direction for future housing.

1. Housing Strategy

At OMC 22 September 2020 a report was considered on the public exhibition of the draft Housing Strategy. In considering the report, Council resolved to adopt an amended Housing Strategy that would provide for all new housing to 2036 from existing capacity within the current planning controls only (i.e no rezoning or increases in height or FSR).

The Department of Planning, Industry and Environment issued a Letter of Approval on 16 July 2021, which outlines that approval of the Ku-ring-gai Local Housing Strategy is conditional, as it is

subject to a number of requirements and advisory notes, many of which are inconsistent with Councils adopted position of 22 September 2020.

At OMC 16 November 2021 Council considered a report on the Housing Strategy Letter of Approval, and resolved that Council reject the conditions in the Letter of Approval.

2. LSPS

Key considerations in the LSPS that need to be addressed include the Local Planning Priorities related to housing and sustainability.

Biodiversity

Council has identified some inconsistencies within the Arboriculture Impact Assessment (AIA) and Tree Protection Plan (TPP) with ground truthing conducted during a site visit on 25th July 2022. There are also a number of additional surveys and assessments to be completed and reported on to support the planning proposal.

- It is required for all trees within the subject lots and any trees with tree protection zones (TPZs) intersecting subject lots to be included in the Arboricultural Impact Assessment and all trees requiring protection to be detailed in the Tree Protection Plan.
- The AIA and TPP need to be reviewed and updated against the proposed development, including demolition, construction, access, storage areas, landscaping etc.
- Include recommendations for the avoidance, mitigation, and/or offsetting of tree impacts likely to result from the proposed development.
- Vegetation communities need to be determined/verified by survey.
- If the vegetation is determined to be characteristic of a community listed as an EEC, need to determine whether it meets the legal definition including condition class criteria of that EEC(s) in the relevant listings.
- Flora species to be determined by survey with findings reported on.
- Threatened flora species recorded on site or with the potential to occur on the site, and potential impacts likely to result from the proposed development, are to be reported on.
- A fauna habitat assessment is to be completed and reported on.
- Fauna surveys are to be completed and reported on. Survey methodology and targeted species should be informed by the results of the fauna habitat assessment and occurrence records.
- Threatened fauna species recorded on site or with the potential to occur on the site, and potential impacts likely to result from the proposed development, are to be reported on.

- An appraisal of the likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal.
- Determination of the type(s) of impact assessment(s) required under the Biodiversity Conservation Act 2016, the Environment Protection and Biodiversity Conservation Act 1999, the Ku-ring-gai Local Environmental Plan 2015, and the Ku-ring-gai Development Control Plan 2016, and any other legislation relevant to the results of the biodiversity assessment.
- Recommendations for the avoidance, mitigation, and/or offsetting of biodiversity impacts likely to result from the proposed development.

Review of alternative approaches

It is recommended that a review of alternative approaches to achieve or give effect to the intended outcomes of the planning proposal is considered in Part 3 of the planning proposal. This may include seeking to vary applicable development standards regarding minimum lot size and floor space ratio via clause 4.6 of the LEP. It should be evident from this assessment that the proposed approach is the most efficient approach to delivering the desired outcome.

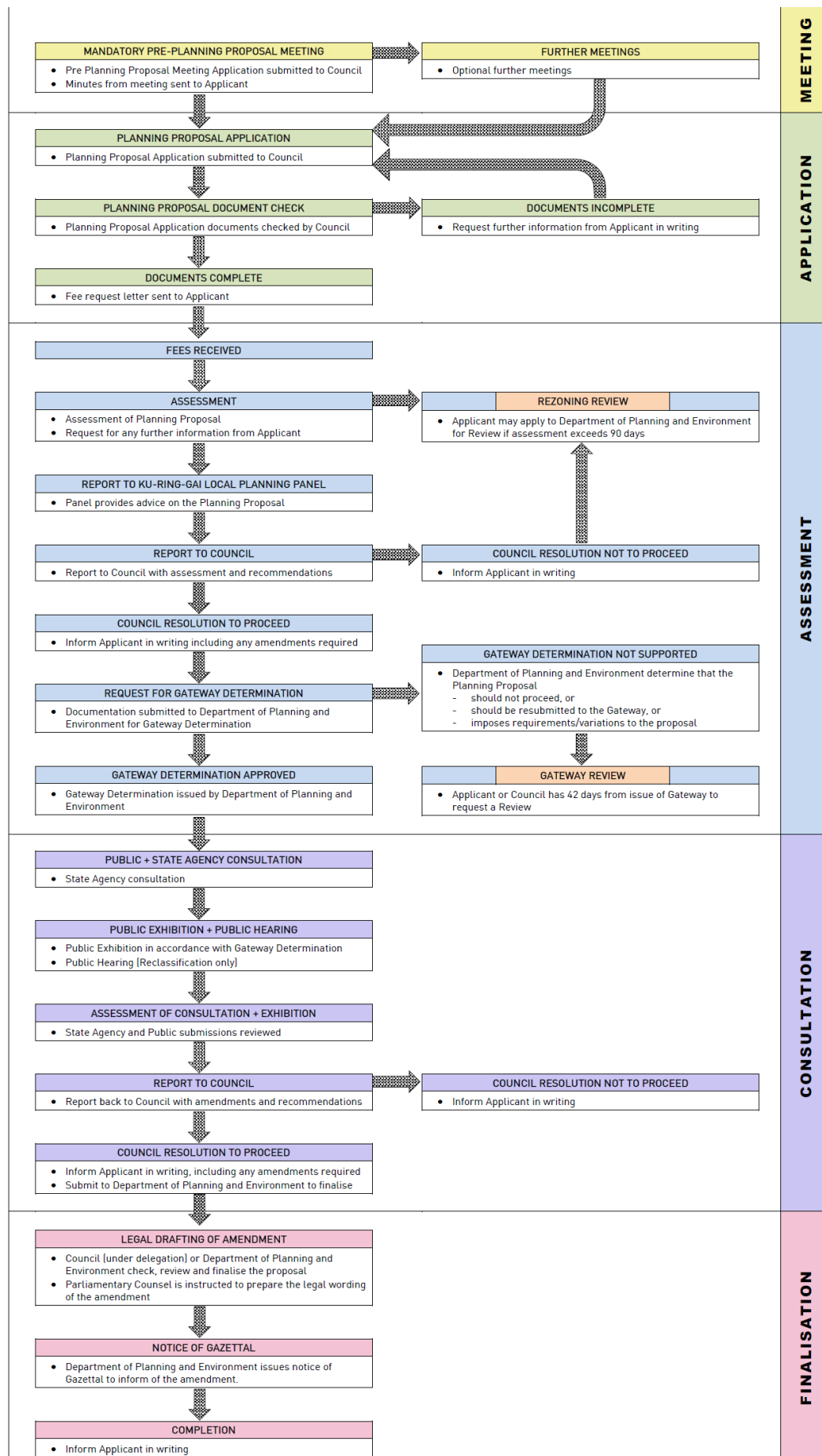
Site analysis

An urban design study should be prepared that includes a site analysis and indicative subdivision plan that incorporates potential building footprints that are consistent with the relevant controls of Part 3 and Part 4 of the Ku-ring-gai DCP. This indicative subdivision plan should also be prepared the potential subdivision of 77 Kulgoa Road, Pymble independent of 73 Kulgoa Road, Pymble.

Planning Proposal format

Included as an attachment to these minutes is a word template to assist in the preparation of the planning proposal. Whilst it is the current intention to lodge a development application to facilitate the subdivision of the sites, the planning proposal needs to focus on the amendments sought to the local environmental plan (LEP) to change the land zoning and development standards of the site.

PLANNING PROPOSAL PROCESS



PLANNING PROPOSAL REQUIREMENTS

To assist in the preparation of the Planning Proposal, a WORD template is attached to this meeting report.

General

A full list of the documents required for the submission is included in the *Planning Proposal Application Form* available from Council's website, and includes the following documents:

- a *planning proposal* in the format specified below, with any supporting studies being attached as Appendices;
- the *application form* and all other documentation, letters and declarations identified on the Form.

Supporting Studies

As identified in the 'Overview of Issues', the following supporting studies are required to provide the evidence to justify the proposed amendments and are to be submitted with the planning proposal.

1. Urban Design Study including indicative subdivision plans
2. Aborigiculture Impact Assessment
3. Tree Protection Plan
4. Flora and Fauna Assessment

Planning proposal

Ku-ring-gai Council expects a high standard of documentation for planning proposals. Examples of Ku-ring-gai Council's planning proposals may be viewed on on the NSW Planning Portal '*Planning proposals online*': <https://www.planningportal.nsw.gov.au/ppr>

The planning proposal is to be set out and include all information as stated in [Local Environmental Plan Making Guideline \(December 2021\)](#).

The *Guideline* requires the planning proposal to be set out in 6 parts as below. The planning proposal is required to follow the layout with the use of the same headings, subheadings, questions and numbering. Should a part not be relevant to the planning proposal, it must still be included with a brief statement why it is not relevant. All the 6 parts are necessary for the planning proposal to be considered as a complete document.

Each part and each question is required to be answered fully with a detailed explanation and full justification within that section. If evidence is being drawn from the supporting studies, then the

relevant parts should be included or quoted, it is not sufficient to say 'refer to appendix xx'. The evidence needs to be presented in the body of the planning proposal.

In the interest of transparency, the planning proposal should use plain English as it needs to be easily understood by the community. To assist the preparation of the planning proposal a template is attached, which provides detailed guidance on the matters to be considered when responding to each section.

APPLICATION REQUIREMENTS AND FEES

Planning proposal application form

The Application Form is available on Council's website: <https://www.krg.nsw.gov.au/Planning-and-development/Planning-policies-and-guidelines/Planning-proposals> and must be completed in detail and ensure landowners consent is provided for all sites that form part of the planning proposal.

Lodgement of planning proposal and commencement of assessment

The planning proposal will need to be uploaded to the Planning Portal. Council will review the submitted planning proposal for completeness, this means that all required forms and documents have been provided and the planning proposal is in a form that could be adopted by Council to be forwarded to the Department of Planning for a Gateway Determination. Following the review Council will either send:

- a letter confirming documentation is complete and requesting fees be paid; or
- a letter requesting further information to be submitted.

Commencement of the assessment of the planning proposal will only begin when the application is complete and the fees have been paid.

Fees and Charges

Amendment	Category	Fees*
Pre-Planning Proposal meeting Application seeking amendment/s to an LEP involving sites less than 5000sqm in area, with any one or more of the following proposed LEP amendment types: <ul style="list-style-type: none"> • To change the land use zone where the proposal is consistent with the objectives identified in the LEP for that proposed zone. • That relates to altering the principal development standards of the LEP. 	Standard Amendments - Minor	\$35,000 plus advertising costs

<ul style="list-style-type: none"> • That relates to the addition of a permissible land use or uses and/or any conditional arrangements under Schedule 1 Additional Permitted Uses of the LEP. • That is consistent with an endorsed District/Regional Strategic Plan and/or LSPS. • Relating to the classification or reclassification of public land through the LEP. 		
<p>All planning proposal applications are subject to advertising costs payable upon Gateway Determination approval.</p>	<p>Advertising</p>	<p>\$4,000</p>

*as per Councils 2022-2023 fees and charges.

Note: the planning proposal will be subject to the current fees and charges at the time the proposal is formally accepted by Council.

The planning proposal fee is payable upon Council reviewing the submitted documentation for completeness, and a fee request letter being sent requesting payment of fees. Formal lodgement of the planning proposal occurs once the fees have been paid.

Should the planning proposal proceed to public exhibition, an additional fee for advertising costs are payable upon the issuing of a Gateway determination by Department of Planning and Environment.

When an application results in additional assessment or review of the planning proposal, an hourly rate of **\$220/hr** (as per Councils 2022-2023 fees and charges) will be charged for the extra work undertaken.

Further Guidance

For further guidance on key steps and information on the planning proposal process and the roles of Council and the Department of Planning and Environment, including the review of decisions, please refer to:

- Councils website : <https://www.krg.nsw.gov.au/Planning-and-development/Planning-policies-and-guidelines/Planning-proposals>
- Department of Planning and Environment website: <https://www.planning.nsw.gov.au/Plans-for-your-area/Local-Planning-and-Zoning>
- Department of Planning and Environment guideline: <https://www.planning.nsw.gov.au/-/media/Files/DPE/Guidelines/LEP-Making-Guideline.pdf?la=en>

ATTACHMENTS



PRE-PLANNING PROPOSAL APPLICATION - MEETING REPORT

The following documents are attached to this meeting report to assist in the preparation of the planning proposal and supporting studies:

- **Council WORD template for planning proposals**