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**Contact:** Alexandra Plumb

**Reference:** S12645 / 2023/264359  
23 August 2023

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Mr Brendan Metcalfe  
Director Metro North  
NSW Department of Planning and Environment  
4 Parramatta Square, 12 Darcy Street  
PARRAMATTA NSW 2150

Attention: Mr Andy Ng

Dear Mr Metcalfe

**RE: Request for Rezoning Review - Pymble Golf Club, Cowan Road St Ives (RR-2023-16)**

I refer to your correspondence date 11 August 2023 regarding the Request for a Rezoning Review of the Planning Proposal for the Pymble Golf Club, Cowan Rd, St Ives (RR-2023-9). The proponent is seeking a rezoning review as Council has notified the proponent in writing that it does not support the proposal.

I can confirm that Council considered the Planning Proposal at its Ordinary Meeting on 16 May 2023 and resolved the following:

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

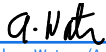
Whilst Council's resolution does not include its reasons for not supporting the Planning Proposal, Councillors did articulate their reasons in the public Council meeting on the 16 May. Attached is a copy of the transcript of this meeting taken from the Livestream Council recording as published on Council's website.

Council officers have reviewed the documentation lodged on the Planning Portal and can confirm that the proposal which has been submitted for a rezoning review is the same proposal that was considered by Council. However, it is noted that the description of the Planning Proposal is not entirely accurate. Regarding the proposed amendments to maximum building height, the description should state:

- Amend the Height of Buildings Map to a combination of 11.5m, 14.5m and 17.5m.

For any further enquiries in relation to this matter, please contact Alexandra Plumb, Urban Planning on 9424 0795 or [aplumb@krg.nsw.gov.au](mailto:aplumb@krg.nsw.gov.au).

Yours sincerely



Andrew Watson (Aug 23, 2023 13:55 GMT+10)

**Andrew Watson**  
Director Strategy and Environment

Attch.



**CORPORATE  
TRANSCRIPT FROM THE PROCEEDINGS OF ORDINARY MEETING OF  
COUNCIL – 16 MAY 2023  
GB.6 - PLANNING PROPOSAL FOR 4, 12 & 14 COWAN ROAD, ST IVES – PYMBLE GOLF CLUB**

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7:28pm [28:04]

**Mayor Pettett:** Councillors, we move to GB.6. Councillor Ngai?

**Mayor Pettett:** Councillor Wheatley?

**Councillor Wheatley:** I would like to move GB.6 as per the officer's recommendation.

**Mayor Pettett:** Seconded by Councillor Kay.

**MOTION:**

(Moved: Councillors Wheatley/Kay)

A. That the Planning Proposal be amended in accordance with the recommendations in this report and Table of Assessment (Attachment A11).

B. That delegation be given to the General Manager and Director of Strategy and Environment to verify all amendments are in accordance with the recommendations in this report and Table of Assessment (Attachment A11) prior to forwarding to the Department of Planning and Environment.

C. That the Planning Proposal (as amended) be submitted to the Department of Planning and Environment for a Gateway Determination in accordance with section 3.34 of the Environmental Planning and Assessment Act 1979

D. That Council requests to be authorised as the local plan-making authority to exercise the functions under Section 3.36(2) of the Environmental Planning and Assessment Act 1979.

E. That a site-specific DCP be prepared by Council in accordance with the details in this report, paid for by the proponent in accordance with Council's Fees and Charges.

F. That upon receipt of a Gateway Determination, the public exhibition of the planning proposal and site-specific DCP is carried out in accordance with the requirements of the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, the Gateway Determination and the Ku-ring-gai Community Participation Plan

G. That a report be brought back to Council following the conclusion of the public exhibition process.

**Councillor Kay:** I can second, I'm happy to do that and then I have an additional amendment.

**Mayor Pettett:** Okay. Perhaps you might ask the mover to incorporate that amendment? If it's not radically different?

**Councillor Kay:** It is radically different unfortunately. It's the opposite.

**Mayor Pettett:** Okay, Councillor Wheatley, do you wish to speak to this now?

**Councillor Wheatley:** I reserve my right.

**Mayor Pettett:** Councillor Kay, your amendment?

**Councillor Kay:** Okay. If they can put it up?

**AMENDMENT:**

(Moved: Councillors Kay/A. Taylor)

A. That the Planning Proposal is not supported by Council.

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

**Councillor Kay:** It's basically the same as the last motion, other than it doesn't have the green web mapping included.

**Mayor Pettett:** And a seconder? Councillor Taylor? Your light's on so I'm assuming that's why you had it.

**Councillor Taylor:** Yes, happy to.

**Mayor Pettett:** Councillor Kay?

**Councillor Kay:** So, these are basically the same arguments, at the end of the day, with the inconsistency with the Housing Strategy, as well as traffic and lack of infrastructure. I also have a couple of questions, through you General Manager to Director Miocic this time.

What other DAs are in effect, or pending, for Cowan Road in St Ives? I am aware of 60 Cowan Road. Could you please confirm and elaborate on details for this development? If there are any others, including Killeaton, so now we're talking at the other side of Killeaton, including those under construction.

**Mayor Pettett:** Director?

**Director Miocic:** Yes, through you Mr Mayor. 60 Cowan Road was eight-unit seniors living development which was approved by the Land & Environment Court in 2019 and has only just recently been completed. There are also DAs lodged and on appeal before the Land & Environment Court. There are two presently, 46 to 50 Cowan Road, which is a 25-unit townhouse and villa development, and 62 Cowan Road, which is a five unit townhouse development.

**Councillor Kay:** Okay. I've got a question for Director Bounassif, through you General Manager. I believe back in 2018 there were discussions about widening of Killeaton Street. So, we're talking about the Cowan-Killeaton Street intersection going towards Hornsby as a bottleneck. Can you provide me more information on what happened at the time, how far the process went, and what was the outcome and recommendations that were brought back to Council to address that traffic issue?

**Mayor Pettett:** Director?

**Director Bounassif:** In response to Council resolution in February 2018, we undertook an internal traffic study on along Killeaton Street - Burns Road with the prospect of widening Killeaton Street - Burns Road. My staff had undertaken an assessment of all intersections along Killeaton Street, all the way through to Eastern Road and Link Road. With regards to the entire length of Killeaton Street - Burns Road through to Link Road, it was

recommended that road widening be undertaken to manage the traffic flow through that corridor.

With regards to the Cowan Road intersection with Killeaton Street, it was proposed to retain the four lanes but to also extend it to five lanes. So, there's a right-hand turning lane off Killeaton Street to Cowan Road. No traffic signals were considered at the time. It was reported back to Council and then forwarded on to Transport for NSW for advice and funding. We haven't heard back from Transport for NSW but our request to Transport for NSW was consideration of the report, as well as consideration of funding, but we are yet to hear back.

**Councillor Kay:** Alright, so would I be right in saying that the main component as to why these suggestions can be implemented was cost?

**Councillor Kay:** That is the main factor as to why no works have been undertaken on Killeaton Street.

**Councillor Kay:** Thank you.

**Mayor Pettett:** Councillor Taylor?

**Councillor Taylor:** Thank you, Mr Mayor. I'm not going to talk about any of those issues that we've already covered in the other discussion in the planning proposal for the other site. I just want to say one thing. That is, suggesting that we should support this planning proposal, or any planning proposal, to rezone land for high density development is truly absurd. We're talking about rezoning land for high density development. Approving that rezoning so we can somehow manage to maintain control is ridiculous.

The idea of rezoning something to maintain control? That feels like a poor reason for approving the zoning of land to high density development. Should we have approved the Lourdes development to somehow maintain control? Should we have allowed that to go through? Of course not.

If we don't think this is a sensible development, if we have concerns about it, then we should not support rezoning of land to maintain control. That idea is absurd and I think is a red herring. I think we should reject what we think is right to reject. We should oppose high density development where we can and particularly where it's not consistent with the Housing Strategy. I think we should do it independently of maintaining control over a particular development, and that's all I have to say on that. Thank you.

**Mayor Pettett:** Councillor Smith?

**Councillor Smith:** Mr Mayor, I think it's great that Councillor Taylor likes to jump up and make these big statements, but at the end of the day as a Council we're operating under the NSW Planning Act. We have got the responsibilities, and we've got what the facts are. So we can get up here and make ourselves look good in front of everybody about our speech and how great it is. But at the end of the day, as what Councillor Taylor just referred to, if like the Lourdes it's something that's gone drastically wrong. It appears that we have some Councillors here tonight that seem to be taking that approach. My concern is - and again I'll ask Councillor Taylor on this one - would you take the same view with the Lindfield Village Hub?

**Councillor Taylor:** Thanks for the question, Councillor Smith. I think it's a completely different situation at the Lindfield Village Hub. I believe that the development at the hub and the additional dwellings is within the Housing Strategy. It is well understood, and has been well understood, for the last decade or more. I think it's a completely different

situation. I just find it extraordinary that anyone would suggest that we should rezone land for high density development...

**Mayor Pettett:** I think you've answered his question.

**Councillor Smith:** Mr Mayor, may I ask another question through to you to Director Watson?

**Mayor Pettett:** Yes. Councillor Smith?

**Councillor Smith:** Director Watson, could you please expand on - it was a Notice of Motion that I was involved in, where we were taking on no more planning in Ku-ring-gai - can you please advise what relevance that has on these planning matters that are put before us tonight? Are they relevant to this or not?

**Mayor Pettett:** Director?

**Director Watson:** Through you, Mr Mayor. Council's decision of late 2020 is effectively a political one. The DPIE's letter at the time included a number of requirements that it expected Council to fulfill, and Council rejected all of them. One of those requirements was specifically in relation to the Lindfield Hub and they put a time limit on submitting that planning proposal. Despite rejecting that condition, Council complied with it anyway. In relation to St Ives, there was a requirement for Council to do a masterplan which Council did not do, but the Department at the time made it clear that Council was to facilitate private planning proposals if it did not do that masterplan. A similar condition applied to other major centres.

Early the next year there was the Statement of Planning Expectations from, I think it was Minister Roberts at the time, and that made it clear that councils were obliged to be complying with all the conditions of Housing Strategy approvals. The staff are in a situation where Council has made a statement not to accept further dwellings, but the staff are legally obliged to be processing and dealing with planning proposals whether or not they are contrary to that adopted position of the Council. I hope that answers the question.

**Councillor Smith:** Yes, that does. I think you made it quite clear on your view, as far as it goes, on Killeaton Street, what the risks were. I'm giving a fair bit of leeway to Councillor Kay and Taylor's Notice of Motion here, but could you just please advise what may be the impacts if we were not to support the staff recommendation on this?

**Mayor Pettett:** Director?

**Director Watson:** Through you, Mr Mayor. That requires speculation on my part. The two planning proposals are different in that the one in Killeaton Street, when submitted, did not include the biodiversity mapping but the one for the golf course is substantially unaltered because of Council staff's assessment of it. The risk is that both get approved, but one is cleaner and tidier than the other, if I can put it in those terms. The Cowan Road one being the cleanest one.

**Councillor Smith:** Thank you.

**Mayor Pettett:** Councillor Smith?

**Councillor Smith:** That's it for the moment. Thank you.

**Mayor Pettett:** I'll just throw in a quick question. With the time frames of processing this with Killeaton Street we had that run over time, therefore allowing the proponent to take the course of action that they did. Where are we at within the time frame for this one?

**Director Watson:** Through you, Mr Mayor. This is also outside the three months. There's frankly very little you can do within three months, given that you've got to refer all planning Proposals to the KLPP first. I think the proponent and his team made it very clear at the public forum last week that they had been happy with the way the matter was being processed. To this point they have chosen not to lodge a gateway review because if you think you're going to get an endorsement from the local planning authority it's quicker and easier to avoid a gateway review. It may well be that after this they lodge a gateway review which is their entitlement.

**Mayor Pettett:** Councillor Kay?

**Councillor Kay:** A question for you, General Manager, to the relevant Director. This would probably be Director Watson. Obviously, these proponents can both go to the Department of Planning if this particular motion is successful. Are they able to modify the proposal in any way? It's my understanding that they wouldn't be able to modify it. If they wanted to change the Planning Proposal, they would have to go back and do another Planning Proposal? Is that correct?

**Mayor Pettett:** Director?

**Director Watson:** Mr Mayor, I'll look at the brain's trust and get a nod, but it's my understanding there have been cases where planning proposals have been amended through the review process. But that is certainly not the way it's intended. So to my understanding that matter is in dispute. It's my understanding that there was a gateway review in Baulkham Hills where what was ultimately given a gateway determination was substantially different to what was originally lodged. But my understanding is that's not the intention of the process.

**Councillor Kay:** I wouldn't imagine that they're suddenly going to make something 10 stories... It's got to be in the character of what they are applying for.

**Director Watson:** Through you, Mr Mayor. I wouldn't foresee that happening in this case but again that's speculation on my part.

**Councillor Kay:** Thank you.

**Mayor Pettett:** Councillor Smith? He just beat you to it.

**Councillor Ward:** It's okay.

**Councillor Smith:** Mr Mayor, through you to Director Watson. Does a developer generally prefer to deal with planning matters through a Council or do they prefer to deal with it through a planning panel?

**Mayor Pettett:** Director?

**Director Watson:** Through you, Mr Mayor. That again calls for speculation on my part, but I imagine a planning proposal proponent would prefer to deal with whichever pathway would get the outcome they require in the quickest and easiest amount of time. Quite often that is through the local council.

**Councillor Smith:** If you're dealing with a planning matter with developments, my understanding is and from what I've seen on many occasions, the planning panels seem to be a lot more generous to the developer than what a local council is. Is that fair to say?

**Mayor Pettett:** Director?

**Director Watson:** Through you, Mr Mayor. That's perhaps a question that should be directed to Director Miocic, given that the bulk of the matters that have been to planning panels would be development application matters. We've only had one gateway review, and that's Lourdes.

**Mayor Pettett:** Director?

**Director Miocic:** Sorry, Mr Mayor. Can I ask the Councillor to repeat the question please?

**Councillor Smith:** We're looking at this case, where it would go through the Council and Council officers. Is the developer reaping more benefits going through Council, in going through a development application? Or do they tend to do better when they go through the Sydney North Planning Panel and the courts, and so forth?

**Director Miocic:** Through you, Mr Mayor. That choice is not available to applicants. A matter is predetermined by various criteria to go to the Sydney North Planning Panel, to the local panel, which is the KLPP, or determined under staff delegation. The only choice that the applicant has to not progress their application to be determined by those authorities is to appeal to the Land and Environment Court. In which case, the Land and Environment Court becomes the consent authority.

**Councillor Smith:** What I'm trying to understand in relation to these matters, is if we've got an application and we know that a developer is going to take it further, are they going to reap more benefit taking it further than if they were to try and deal with us? Because, if they're dealing with the Council, as you said before, there's the opportunity of getting it through faster but we've got more control of DCPs and sitting down for a better outcome. Is that fair to say, or not?

**Director Miocic:** Sorry. Through you, Mr Mayor. I wouldn't necessarily agree with that. I think at the end of the day whether an applicant leaves their application with Council or the local or district panel to determine, or whether they go to the Land and Environment Court and seek the court to be the consent Authority, both those panels, the staff, as well as the court are bound by the same considerations. They have to consider all of the relevant matters under Section 4.15 of the Environmental Planning and Assessment Act. The only difference would be some perception by some applicants that if they go to the Land and Environment Court, notwithstanding the expense, they'll somehow get a quicker outcome and that's not necessarily the case.

**Councillor Smith:** Alright. In the case where you were dealing with Lourdes, where we had we had a matter and it went outside to another planning panel and outside of Council's ability to work with it, that was a far worse outcome for the local area wasn't it?

**Mayor Pettett:** Director?

**Director Watson:** Through you, Mr Mayor.

**Director Watson:** As it's undetermined, it's hard to draw conclusions but Council was of a mind to reject that planning proposal outright, and certainly in granting the matter a gateway determination, you couldn't say the Council's position is necessarily going to be upheld in that process. No.

**Councillor Smith:** Okay, so are you saying that the Notice of Motion that has been put forward on this one is to just literally push us aside, reject it, let it have another spin in the cycle? So, you're saying that's potentially a benefit to go down this way?

**Mayor Pettett:** Director?



**Director Watson:** Through you, Mr Mayor. The proponent could have taken this matter to a gateway review a long time ago if they thought it was beneficial. I assume they thought it was beneficial in continuing to work with the Council because they thought that would give them the outcome that's on the table and that they would achieve that quicker than going through a gateway review.

**Mayor Pettett:** Councillor Smith, anything further?

**Councillor Smith:** Thank you.

**Mayor Pettett:** Councillor Ward?

**Councillor Ward:** Thank you, Mr Mayor. Through you, General Manager. Having a read of the papers my question is to whichever Director. Is that number of stories in keeping with all the other buildings that are there?

**Mayor Pettett:** Director?

**Director Watson:** Through you, Mr Mayor. The staff have recommended, and the applicant is on board with, lower floor space and lower height than would ordinarily apply in an R4 zone. You end up with the best of both worlds. You end up with a smaller building with a smaller footprint than you would get under an R3 zone. In many respects it's a better outcome than some of the adjoining zones.

**Councillor Ward:** Just one more question, Mr Mayor. I read the traffic report here and I agree with Councillor Kay. This report speaks positively about traffic in the area, but I know the traffic is congested in that area. We heard Director Bounassif talk about it as well. Did we take into consideration what we can do to alleviate some of those traffic congestion issues?

**Mayor Pettett:** Director?

**Director Watson:** Through you, Mr Mayor. The short answer is there's not a lot that can be done through the planning proposal process to deal with wider network traffic matters. In both the matters you've considered tonight, their consideration bears in mind broader traffic issues but they do not cumulatively add very much additional traffic to the problem that already exists. We don't talk about the traffic necessarily in a positive way. It's not necessarily having a significantly adverse greater effect than is already in place.

**Councillor Ward:** Through you, Mr Mayor. This is a hypothetical, but we all know that the new NSW state government is coming in and are going to impose stricter rules on different Councils to accommodate more housing. If we don't approve it and if it was to go to them, what are the chances that they will win, and we've wasted a lot of time and effort?

**Mayor Pettett:** Director?

**Director Watson:** Through you, Mr Mayor. Deputy Mayor, that will cause me to speculate but the two issues are not necessarily related. The planning process will continue irrespective of political overtures that the new government is making about increased density across Sydney.

**Councillor Ward:** Thank you.

**Mayor Pettett:** Councillor Kay?

**Councillor Kay:** Through you, General Manager to Director Watson. I want to clarify Director Watson, have you driven down Cowan Road lately in St Ives? I live in St Ives and I've got plenty of feedback about that so can you just...

**Mayor Pettett:** Director?

**Director Watson:** Through you, Mr Mayor. Unfortunately, I have.

**Councillor Kay:** My concerns, because I do regularly use that route, is at both ends. We have Mona Vale Road and Cowan, as you know that is an exit from the shopping centre. Coming out of the shopping centre turning onto Cowan at any time of day is problematic. Trying to turn onto Killeaton, left or right, in peak hour is virtually impossible. Other residents and I would not even turn right. It's just not safe to do so. It can take you 10 minutes of waiting. Again, as we discuss the Killeaton...

**Mayor Pettett:** This is a very long question and you're debating again.

**Councillor Kay:** I'm clarifying that he was saying that there was no traffic on Killeaton...

**Mayor Pettett:** I think he did answer that saying...

**Councillor Kay:** He said it was very minimal. I'm trying to clarify that it is not minimal by any means.

**Mayor Pettett:** Can you ask a question then?

**Councillor Kay:** I'm trying to correct him.

**Mayor Pettett:** You're debating it again. Can you either ask a question or not?

**Councillor Kay:** Okay. Thank you.

**Mayor Pettett:** There being no further lights on, I'll move to sum up. Councillor Wheatley as original mover of the motion do you wish to sum up?

**Councillor Wheatley:** No, I'm all good.

**Mayor Pettett:** We will put the amendment by Councillor Kay and Councillor Taylor. All those in favour of the amendment? That is Councillors Kay, Taylor, Wheatley, Lennon, Smith, Pettett... It's unanimous. That becomes the motion. All those in favour? That is unanimous.

**Resolved:**

(Moved: Councillors Kay/A. Taylor)

A. That the Planning Proposal is not supported by Council.

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

*This transcript (extract) of the Ordinary Meeting of Council held on 16 May 2023 has been confirmed as a full and accurate record of proceedings.*



Christopher M Jones  
Manager Governance and Corporate Strategy

21/8/2023