



21 October 2024

Mr Alexander Galea
Manager, Planning Proposal Authority
Department of Planning, Housing and Infrastructure
4 Parramatta Square
12 Darcy Street
PARRAMATTA NSW 2150

Via email: alexander.galea@dpie.nsw.gov.au

Our Ref: 5/2024/PLP
Your Ref: RR-2024-26

Dear Mr Galea,

REQUEST FOR REZONING REVIEW - MELIA COURT AND GLEN ROAD, CASTLE HILL

Reference is made to your letter dated 24 September 2024 advising that a Rezoning Review request has been submitted for consideration by the Sydney Central City Planning Panel. The request made by EINV Group Pty Ltd relates to a planning proposal that was lodged with Council for land at Melia Court and Glen Road, Castle Hill.

Thank you for the opportunity to provide a response and outline the reasons for Council's decision to *not* proceed to Gateway Determination on the basis that the planning proposal has not demonstrated either strategic or site-specific merit.

Inconsistency in Material Submitted

On 24 September 2024, DPHI provided Council officers with a copy of the Rezoning Review material submitted by the Proponent. It is confirmed that the information provided to Council is generally the same as the material that was considered by Council in the assessment of the planning proposal, apart from one additional document provided by the Proponent and one document that is outdated. Specifically:

- A Draft Site-Specific DCP dated February 2024 has been provided as part of the material submitted by the Proponent for the Rezoning Review. This document however did not form part of the planning proposal material submitted to Council for consideration by the Local Planning Panel or Council in the assessment and determination of the planning proposal. Any reference to it throughout the Proponent's rezoning review justification report should therefore be disregarded by both DPHI and the Sydney Central Planning Panel.
- The Public Benefit Offer provided as part of the material submitted by the Proponent for the Rezoning Review is dated 9 February 2024. A later version of this document dated 16 February 2024 was provided to Council as part of the planning proposal material and is provided as Attachment 6 for your reference. It is requested that the most up-to-date version of the Public Benefit Offer is reflected in the Rezoning Review application.

Local Planning Panel Advice

On 15 May 2024, The Hills Local Planning Panel considered the proposal and provided the following advice to Council:

1. *The planning proposal is inconsistent with the objectives and priorities of the Greater Sydney Region Plan, Central City District Plan, Section 9.1 Ministerial Directions, North West Rail Link Corridor Strategy, The Hills Corridor Strategy, Cherrybrook Station Precinct Place Strategy, Council's Local Strategic Planning Statement and draft Castle Hill Precinct Plan, as these documents relate to providing for housing supply in the right locations, creating great places, protecting areas of environmental significance and balancing growth with suitable levels of infrastructure.*
2. *The site is not identified as being suitable for development uplift within any of the relevant aforementioned strategies or plans which identify locations for medium to higher density development to occur in closer proximity to Cherrybrook or Castle Hill Metro Stations (within the walkable catchment from the station).*
3. *The proposed outcome is inappropriate having regard to the environmental constraints of the site including steep topography, landslide risk, hydrological constraints and endangered ecological communities. The location, design, scale and form of the proposed development does not adequately consider or respond to the scenic or biodiversity values of the site. A lower scale and density of development with a smaller footprint, reduced vegetation clearing and reduced cut and fill would more appropriately respond to the site constraints, similar to the outcomes within the surrounding area.*
4. *The traffic and parking impacts generated by the proposed uplift have not been suitably considered or addressed.*
5. *The proposed planning mechanisms sought to be implemented by the planning proposal would enable a broad range of potential outcomes and do not provide certainty that the outcomes illustrated in the concept plans will be delivered.*
6. *The proposal does not adequately address the demand for infrastructure likely to be generated by the proposal or provide any tangible public benefits.*

A full copy of the Local Planning Panel's advice and the Council Officer Assessment Report are provided as Attachment 3.

Following receipt of this Local Planning Panel advice, Council officers wrote to the Proponent providing a copy of the advice. Having received the LPP's advice, the Proponent declined to make any changes to the proposal on 29 May 2024. The planning proposal was subsequently reported to Council at its Ordinary Meeting on 25 June 2024.

Council Determination

At its Meeting on 25 June 2024, the elected Council considered the planning proposal and material submitted by the Proponent and resolved as follows:

The planning proposal for land at Melia Court and Glen Road, Castle Hill not proceed to Gateway Determination.

A copy of the Council Report and Minute is provided as Attachment 4.

Detailed Response to the Rezoning Review Assessment Criteria

While the Council Report and Council Officer Assessment Report to the LPP contain the relevant assessment and discussion of strategic and site-specific merit, this information has also been replicated within the “Detailed Response to the Rezoning Review Assessment Criteria” format, as contained in DPHI’s *Local Environmental Plan Making Guideline*, which is provided as Attachment 5 to this letter.

In summary, the elected Council and Council officers did *not* support the planning proposal. The environmental constraints of the site are significant, and the proposal has not demonstrated that these constraints can be overcome to deliver an appropriate development outcome, in the context of environmentally sensitive land where no uplift is anticipated within the strategic planning framework. The proposed outcomes are beyond the capacity of the site and are not supported.

This was communicated to the Proponent through various pre-lodgement feedback letters and meetings in the years leading up to the lodgement of the planning proposal. Concerns were raised regarding site specific matters, inconsistencies with the strategic planning framework, and feedback received from public authorities. Council officers recommended that the Proponent strongly reconsider the lodgement of a planning proposal for this site, having regard to the substantial strategic and site-specific merit issues detailed. It was advised that, based on the information provided, it would be difficult for Council officers to conclude that such a planning proposal demonstrates strategic and site-specific merit. Copies of the Council Officer Pre-lodgement Feedback Letters are provided as Attachments 1 and 2 for reference.

It is noted that the Proponent’s rezoning review justification indicates that the planning proposal is a response to a change in circumstances that has not been recognised by the existing planning framework, citing proximity to Castle Hill Station (1.1km) and Cherrybrook Station (900m) and suggesting that the current zone and minimum lot size is an under capitalisation for a highly accessible portion of land. Critically, the Panel should be made aware that these statements are incorrect:

- The subject site is well outside the 800m walking catchment of either station, being around **1.5km** walking distance from Cherrybrook Metro Station and **1.7km** walking distance from Castle Hill Metro Station; and
- The proposal does not respond to any new infrastructure or changing circumstances. The Proponent’s assertions that the outcomes identified for the land have not been considered in light of the provision and opening of the Sydney Metro Northwest are incorrect and should not be accepted as a basis for strategic merit for the proposal. Rather, the outcomes on this land have been very carefully considered as part of at least 6* different strategic planning processes (by Government and Council) between 2013 and 2024. Each time, it has been determined that the current planning framework was the appropriate settings for this land. The strategic planning policies and the existing planning framework in place for this land has clearly, consistently and repeatedly been tested, verified and re-enforced cognisant of the Sydney Metro Northwest.

** Note: Strategic Planning Processes and Strategies that have considered potential outcomes on this land and concluded that the current planning framework is the appropriate settings included: North West Rail Link Corridor Strategy (Government), The Hills Corridor Strategy (Council), Housing Strategy (Council with Government Approval), Local Strategic Planning Statement (Council with Government Approval), Cherrybrook Place Strategy (Government), Castle Hill Precinct Plan (Council).*

It is acknowledged that the historic (partially commenced) subdivision consent applicable to the site allows for 22 residential lots (DA1089/2006/ZA). However, this original consent was granted nearly 20 years ago and was assessed and determined against the legislative framework that was in force at that time. Since this time, the legislative framework has become more robust, particularly with the introduction of the Biodiversity Conservation Act 2016. The current legislation requires detailed consideration of entities at risk of serious and irreversible impact and where a proposal is likely to

have such impacts on biodiversity values, consent is not able to be granted at the development application stage. The existence of an existing consent does not negate the need for, or prejudice the outcomes of, a full and proper assessment of the currently proposed outcome against the current and in force framework that applies at this time.

Notwithstanding the NSW Government commitment to boosting housing supply to respond to the Housing Accord, the supply of housing in this location, at the density and built form proposed, is entirely inconsistent with the current policy framework. It is also inconsistent with recent Government reforms that are focused on high density infill opportunities in well-located areas, within the walkable catchment of transport hubs or well serviced centres with a range of amenities and services and where infrastructure capacity is underutilised. This site does not meet this criteria.

More detailed discussion on the strategic and site-specific issues is contained within Attachment 3 (Council Officer Assessment Report to the LPP) and Attachment 4 (Council Report and Minute, 25 June 2024). Council maintains its view that the proposal which was considered on 25 June 2024 should *not* proceed to Gateway Determination on the basis that the planning proposal has not demonstrated either strategic or site-specific merit. Thank you for the opportunity to comment on the planning proposal. If you require further information, please contact Janelle Atkins, Principal Planner on 9843 0266.

Yours faithfully,



Nicholas Carlton
MANAGER - FORWARD PLANNING

Attachments:

1. Council Officer Pre-lodgement Feedback Letter, 3 November 2021
2. Council Officer Scoping Proposal and Pre-lodgement Feedback Letter, 14 June 2023
3. Local Planning Panel Minute and Report, 15 May 2024
4. Council Report and Minute, 25 June 2024
5. Detailed Response to Rezoning Review Assessment Criteria
6. Public Benefit Offer, 16 February 2024

1. [Council Officer Pre-lodgement Feedback Letter, 3 November 2021](#)
2. [Council Officer Scoping Proposal and Pre-lodgement Feedback Letter, 14 June 2023](#)
3. [Local Planning Panel Minute and Report, 15 May 2024](#)
4. [Council Report and Minute, 25 June 2024](#)
5. [Detailed Response to Rezoning Review Assessment Criteria](#)
6. [Public Benefit Offer, 16 February 2024](#)