



14 June 2023

Mr Basil Lim
Director
Einv Group
Level 8, 100 Christie Street,
ST LEONARDS NSW 2065

Via Email: basil.lim@einv.com.au

Our Ref: 5/2023/PPLP

Dear Basil,

**SCOPING PROPOSAL & PRELODGEEMENT MEETING
MELIA COURT & GLEN ROAD, CASTLE HILL (5/2023/PPLP)**

I refer to the above matter and thank you for submitting a Scoping Report and attending the Pre-lodgement meeting held on 1 June 2023. This letter provides feedback on the Scoping Report and planning proposal, in accordance with the Department of Planning and Environment's *Local Environmental Plan Making Guideline*.

Please note that the comments contained within this letter are preliminary in nature and may be superseded following the submission and assessment of the planning proposal and supporting documentation, should you choose to progress with the lodgement of an application. These comments represent the views of Officers only based on a consistent application of the strategic planning framework and Council's adopted policy settings.

1. Preliminary Advice as to Whether the Proposal has Strategic and Site-Specific Merit

Preliminary commentary is provided below with respect to the potential for the proposal to satisfy the strategic and site-specific merit tests. Please note that these comments are preliminary officer level comments only, based on the scoping material submitted. The comments below do not represent the final views of Council officers, which can only be established following thorough assessment of your full application and supporting technical studies. Furthermore, these preliminary comments do not impact the discretion of the elected Council to form a different view with respect to the proposal, if lodged and reported to Council for Determination.

Strategic Merit

- Give effect to the relevant plans and demonstrate consistency with the relevant LSPS

Strategic Framework	Comment
Greater Sydney Region Plan and Central City District Plan	The Greater Sydney Region Plan and Central District Plan contain objectives that seek to protect and enhance biodiversity and scenic landscapes.

	<p>The proposal seeks to rezone land on a site identified as containing Blue Gum High Forest, which is a Critically Endangered Ecological Community under the Biodiversity Conservation Act 2016. It is unclear how the proposal will manage the development of the land in terms of protecting the critically endangered ecological community and facilitating the proposed development. Based on the information provided to date, it is considered unlikely that the proposal would be able to demonstrate consistency with these objectives.</p> <p>The current zoning of the site, C4 Environmental Living, contains objectives to maintain the scenic and district views (in this case along the ridgeline of Castle Hill Road) consistent with the Central City District Plan. The zone seeks to allow for low-impact residential development to protect ecological, scientific or aesthetic values and contribute to protecting biodiversity. The scale, density and yield of the proposed development would be well beyond what is considered “low-impact”, given the large building footprint and the level of earthworks and stabilisation works required to facilitate development. The planning proposal would appear to enable a built form that would be visible above the tree canopy on the ridgeline and that would detract from the significant district views.</p> <p>Under the current policy framework, high-density infill development opportunities are focussed within the walkable catchment immediately surrounding the new metro stations, in accordance with the principals of transit oriented development. The site is not within the walkable catchment of high frequency public transport or the Castle Hill Strategic Centre or Cherrybrook Metro Station. The planning proposal is therefore unlikely to be consistent with the Priorities and Actions of the Region and District Plans which seek to provide increased housing in the right locations within close proximity to jobs, services and public transport.</p> <p>Given these inconsistencies with the Greater Sydney Region Plan and Central City District Plan, it is the preliminary view of Council officers that it would be highly unlikely that the proposal would be capable of demonstrating strategic merit or consistency with the Region and District Plans.</p>
The Hills Local Strategic Planning Statement (LSPS)	<p>Council’s LSPS seeks to provide housing in the right locations, close to transport and to protect biodiversity and scenic landscapes.</p> <p>The LSPS envisages the majority of future residential uplift to occur along the Sydney Metro Northwest Corridor and greenfield precincts of North Kellyville and Box Hill. There is sufficient land zoned or identified for future uplift in order to meet the Shire’s housing targets to 2036 and beyond. Council is one of the only Metropolitan Council’s that has met its 2016-2021 housing target and is on track to meeting its 2021-2026 housing target. As such, there is limited justification for providing additional housing outside of areas already identified as being suitable for uplift, where recent</p>

	<p>infrastructure investment can be readily capitalised on to enable transit oriented development outcomes.</p> <p>The site is not located within the walkable catchment of Castle Hill or Cherrybrook Metro Stations. The proposal seeks to provide high density residential development on a site that is identified as containing critically endangered ecological communities, in a location that has not been planned to accommodate this level of uplift and in an area which has been specifically identified for low-impact residential only in order to protect and maintain the environmental, aesthetic and scenic qualities of the locality. Given this, it is highly unlikely that the planning proposal would be able to demonstrate consistency with the vision and priorities articulated within Council's LSPS, which has been formally assured by the Greater Cities Commission.</p>
North West Rail Link Corridor Strategy	The site is not identified as being suitable for development uplift within this Plan. Land in closer proximity to stations (within the walkable catchment from each station) has been identified as more suitable areas for high density development to occur.
Cherrybrook Station Precinct Place Strategy	The site is not identified as being suitable for development uplift within this Plan. Land in closer proximity to the station (within the walkable catchment from the station) has been identified as a more suitable area for high density development to occur.
The Hills Corridor Strategy	The site is not identified as being suitable for development uplift within this Plan. Land in closer proximity to stations (within the walkable catchment from each station) has been identified as more suitable areas for high density development to occur.
Draft Castle Hill Precinct Plan	The site is not identified as being suitable for development uplift within this draft Plan. Land in closer proximity to the station (within the walkable catchment from the station) has been identified as a more suitable area for high density development to occur.
Section 9.1 Ministerial Directions	<p>Direction 3.1 Conservation Zones seeks to conserve environmentally sensitive areas. The direction states that planning proposals must not reduce the environmental protection standards that apply to land identified for environmental conservation purposes in an LEP (including modifying development standards that apply to the land). The Planning Proposal would appear to be inconsistent with this Ministerial Direction.</p> <p>The proposal would need to demonstrate consistency with Direction 4.1 Flooding which seeks to ensure that planning proposals consider the potential flood impacts both on and off the subject site. There is concern about the potential to achieve consistency with this direction, given the topography and landslip risk associated with the site, and the Sydney</p>

	Water easement that traverses the site. This is discussed further below.
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- *Response to a change in circumstances that has not been recognised by the existing planning framework*

There has been no change in circumstances that has not been recognised by the existing planning framework. The existing planning framework has appropriately responded to the introduction of the Sydney Metro Northwest through the corresponding Corridor Strategies, Place Strategies and draft Precinct Plans, none of which identify the site as being suitable for development uplift. Under these plans, the focus of higher density development is in proximity to these Stations.

Site-Specific Merit

- *the natural environment on the site to which the proposal relates and other affected land (including known significant environmental areas, resources or hazards)*

The site is heavily constrained by a number of environmental factors, including steep topography, landslide risk and the presence of Blue Gum High Forest, which is listed as a Critically Endangered Ecological Community under the Biodiversity Conservation Act 2016. Under Clause 7.6 – Landslide Risk of LEP 2019, the site is identified and mapped as susceptible to landslide risk. This clause seeks to restrict development on unsuitable land to ensure that development is commensurate with the underlying geotechnical conditions.

The geotechnical engineering response that would likely be required to stabilise the land for the proposed development outcome would heavily conflict with the protection of environmental values (including critically endangered vegetation) on the site.

Any future planning proposal for the site would need to demonstrate that the development concept and required engineering works would not result in serious and irreversible impacts to the endangered ecological community on site. Considering the substantial clearing required to facilitate the proposal, the development would trigger the Biodiversity Offset Scheme. The NSW Environment and Heritage Group (EHG) stated in their submission, that the planning proposal in its current form does not meet requirements in relation to biodiversity assessment and floodplain risk management. EHG noted that the proposal is likely to have significant impact on the local biodiversity values given the extent of the proposed engineering works. Significant Biodiversity Assessment would be required to demonstrate the impact of the proposed development on the endangered ecological community. Further discussion on the issues raised by EHG are provided in the next section of this letter. The submission received from EHG is provided as Attachment 2.

The southern portion of the site is identified as a flood control lot. The proposed development is likely to redirect overland flow paths across the site, potentially impacting the adjoining properties. The proposed density increase would also have implications for stormwater drainage south of the site and would substantially increase the level of impervious surfaces. A Flooding Impact Assessment would be required to identify the potential flooding impacts of the proposed development and demonstrate that the proposal does not increase flood risk. It is noted that this matter was raised as a concern in the submission received from Sydney Water, which is discussed further in the next section of this letter. A copy of Sydney Water's submission is also provided as Attachment 5.

The planning proposal would be required to demonstrate how the required protection of biodiversity is balanced with the extensive engineering work required to mitigate landslide risks on the site and the proposed boardwalk through the Blue Gum Heigh Forest, especially during construction of the proposed development. In assessing the planning proposal Council would also be required to consider the risk of setting a precedent for applications seeking a similar outcome, which could in turn compromise the integrity of the continuous C4 Environmental Living zone land and further impact local biodiversity.

- *the built environment, social and economic conditions*

The proposed high density development is inconsistent with the character of surrounding low to very low density residential development. The site and surrounds form an important 'environmental spine' along Castle Hill Road. The bulk and scale of the proposed development is likely to detract from district scenic views along the ridgeline of Castle Hill Road.

The Scoping Proposal indicates that the resulting development density would be 42 dwellings per hectare. This is inconsistent with the surrounding character of the area and the objectives of the C4 Environmental Zone. Further, the density calculation has been undertaken across the whole site, much of which is undevelopable due to dense, critically endangered vegetation. The proposed development outcome is closer to a density of 83 dwellings per hectare when calculated based on the 2.3 hectare portion of the site that is proposed for development. This scale of development is consistent with high density development that is typically considered to be appropriate in the inner walkable catchment of Metro Station Precincts, rather than in low density neighbourhoods that are constrained by environmental values and identified for low-impact development only which protects environmental, aesthetic and scenic values.

The central park is unlikely to provide a substantial public benefit, considering the isolated location of the site. The central park is likely to only service the future residents of the proposed development. The stated benefit of allowing residents to enjoy recreational walks through the adjacent bushland also has the potential to impact on the flora and fauna habitats and seasonal behaviours and would need to be further considered.

- *services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.*

The proposed density increase is likely to contribute to existing traffic impacts along Castle Hill Road. Right turn movements from Castle Hill Road onto Glen Road are currently prohibited during peak times. The proposal will need to consider the potential safety issues associated with this and the extent to which the development uplift would further exacerbate these issues.

It is unclear from the Scoping Proposal whether the proposed park is intended to be dedicated to Council. This is unlikely to be supported as it would require Council to own and maintain land for a public purpose, without any significant public benefit for the community, beyond servicing residents of development on this site.

Any proposal would need to consider and include an infrastructure mechanism to ensure the funding and delivery of any new or upgraded upgrades to local infrastructure required as a result of the proposed development.

2. Views of Public Authorities – Preliminary Consultation

As part of the Scoping and Pre-lodgement process, Council has undertaken consultation with the following State Government agencies to obtain their preliminary views on the proposal:

- Sydney Water;
- Endeavour Energy;
- Transport for NSW; and
- NSW Environment and Heritage Group (EHG).

A submission has been received from each of these authorities.

Endeavour Energy and Sydney Water confirmed that an augmentation of the existing local network would be required to service the proposed development. Additionally, Sydney Water noted a critical water main within an easement traverses the site. Sydney Water raised concerns with the soil

conditions and the slope stability of the site, as the proposed development has the potential to increase the risk to the watermain during water leak and break events.

Transport for NSW responded with no concerns or objections raised in relation to the proposed development, however provided recommendations for further consideration in the preparation of a traffic study.

The submission received from the NSW Environment and Heritage Group raised a number of issues and provided guidance for further technical studies that need to be undertaken. The critical concerns raised in their submission are summarised as follows:

- It is likely that the current proposal could have significant impacts on local biodiversity values given the extent of engineering works covers more than 55% of the site.
- Given the impacts to Serious and Irreversible Impact (SAIL) entities due to the proposed extent of the R3 zoning, the Proponent would be unlikely to be able to demonstrate how the proposal has avoided and minimised impacts to biodiversity values on the site.
- The proposal does not sufficiently identify threatened entities, nor provide adequate protection through appropriate zoning and ongoing management of avoided land with significant biodiversity values.
- Approval of the current rezoning proposal could lead to future DAs being refused given that section 7.16 of the Biodiversity Conservation Act states that a consent authority *must* refuse to grant consent if it is of the opinion that the proposed development is likely to result in a serious and irreversible impact on biodiversity values.

A copy of all submissions received from public authorities are provided as Attachments 2-5.

3. Recommendations and Changes to Scope of Proposal

It is recommended that you strongly reconsider the lodgement of a planning proposal for this site, having regard to the substantial strategic and site-specific merit issues detailed above. Based on a preliminary review of the Scoping Material submitted, it is considered extremely unlikely that a proposal of this nature would be capable of overcoming these matters and satisfying the strategic and site specific merit tests.

However, should you wish to proceed with lodging a formal application, the following amendments are recommended to ensure clarity and certainty on the outcomes depicted within the scoping proposal:

- a) The proposal would need to clearly identify where the proposed land zones would be mapped across the site. Additionally, the proposal would need to demonstrate where the increased height controls would apply across the site. It should be noted that the Scoping Proposal identifies a maximum 10m height limit but proposes a built form of 4-5 storeys, which would exceed this height limit. Consistency between planning proposal documentation and architectural plans is required to ensure clarity throughout the assessment process. If any land is proposed to be dedicated to Council, this should also be clearly stated in your planning proposal material.
- b) The proposal must clearly distinguish between tree retention, removal and proposed replanting of trees. Tree planting and retention must consider the presence and extent of any proposed basement parking or stormwater infrastructure to be provided.
- c) The proposal must clearly stipulate how the proposed native vegetation on the site will be managed into the future. Careful consideration is required with respect to how residents will or will not utilise this bushland area, having regard to the potential to create disturbance to native flora and fauna habitats and seasonal behaviours.

Please note that the suggested amendments above merely relate to the level of information required for Council to properly understand and assess the proposed planning outcome. They are not to be taken as an exhaustive list of amendments to the development outcome, nor are they matters that would resolve the strategic and site specific merit issues identified earlier in this letter. Consideration should also be given to the comments provided by State Agencies and the level of detail that would be required to enable their proper assessment of any proposal.

4. Nomination of the Planning Proposal Category & Council Assessment Fees

In accordance with the Local Environmental Plan Making Guideline the planning proposal falls within the category of 'Complex'. In accordance with the Hills Shire Council adopted fees and charges, a 'Complex' proposal will be subject to a lodgement fee of \$177,850 under the 2022/2023 Fees and Charges. Please note that any planning proposal application lodged on or after 1 July 2023 would likely be subject to a new fee following the adoption of Council's fees and charges for the 2023/2024 financial year.

5. Consultation Requirements and Assessment Timeframes

Council's Planning Proposal Policy is provided as Attachment 1 for your reference. This Policy identifies how the planning proposal process occurs, the stages at which you will have the opportunity to address the elected Council, and submission requirements for lodgement.

Should Council resolve to support a planning proposal and progress to Gateway Determination, it is anticipated that further formal consultation with government agencies will occur following the issue of a Gateway Determination, concurrent with public exhibition of the planning proposal. Public exhibition and consultation will occur in accordance with the Gateway Determination and for a minimum of 28 days should one be issued.

The Department of Planning and Environment has implemented its Planning Reform Action Plan, which seeks to fast track planning proposal assessment timeframes and provides minimal opportunity to obtain timeframe extensions. As such, Council is unable to defer consideration of critical elements such as infrastructure solutions or a draft development control plan to the post-Gateway stage. It is envisaged that these elements will be reported to the Local Planning Panel and Council concurrently with the planning proposal so please ensure that all required supporting material is submitted at the time of lodgement.

6. Recommended Investigations and Studies to Support the Proposal

If you choose to proceed with the lodgement of a planning proposal application, the following information should be submitted, at a minimum, as part of your planning proposal lodgement package:

- Application Form, Owners Consent and completed Political Donations forms;
- A Planning Proposal Report, which addresses the Department of Planning and Environment's *Local Environmental Plan Making Guideline*;
- Master Plan/Structure Plan/Urban Design Report;
- Full set of Architectural Plans;
- Environmental Constraints Reports (Biodiversity Development Assessment Report (BDAR) and detailed surveys, stormwater and flooding);
- Geotechnical Report;
- Heritage Assessment Report;
- Site Contamination Report (and a Remediation Plan if required);
- Traffic, Parking and Accessibility Report;
- Infrastructure Demand Analysis and Public Benefit Offer;
- Draft Development Control Plan; and
- Presentation material for Councillor briefing session in accordance with Council's Planning Proposal Policy (Attachment 1).

7. Infrastructure Solution

The current contributions framework applicable to the site does not plan or cater for the additional demand for infrastructure that would be generated from the planning proposal and as such a new infrastructure mechanism will be required to deliver the infrastructure necessary to support the uplift in development potential.

Any planning proposal should be accompanied by an infrastructure solution that will ensure the delivery of appropriate infrastructure contributions and outcomes to support the proposed development. Contributions (in the form of works or monetary contributions) towards active and passive open space, drainage infrastructure, traffic infrastructure will be necessary to support the proposal and a public benefit should be considered for the broader benefit of the community.

I trust this information is sufficient to assist you in considering whether to prepare and submit a planning proposal application. Should you require further information, please contact Emma Langan, Senior Town Planner on 9843 0243 or at elangan@thehills.nsw.gov.au.

Yours faithfully



Nicholas Carlton

MANAGER – FORWARD PLANNING

ATTACHMENT 1: THSC PLANNING PROPOSAL POLICY
ATTACHMENT 2: NSW ENVIRONMENT AND HERITAGE GROUP SUBMISSION
ATTACHMENT 3: ENDEAVOUR ENERGY SUBMISSION
ATTACHMENT 4: TRANSPORT FOR NSW SUBMISSION
ATTACHMENT 5: SYDNEY WATER SUBMISSION