



PRE-PLANNING PROPOSAL APPLICATION - MEETING REPORT

REFERENCE No:	2018/081460	
SITE ADDRESS:	105 Eastern Road and 45-47 Tennyson Avenue, Turramurra Lot 1 DP 515147, Lot 2 DP 515147 and Lot 1 DP 4323	
PROPOSAL:	Amendment to Ku-ring-gai Local Environmental Plan 2015 to: <ul style="list-style-type: none"> ○ Rezone from R2 Low Density Residential to B1 Neighbourhood Centre ○ Amendment to Schedule 1 Additional Permitted Uses – to allow commercial premises with gross floor area of 1,540sqm 	
DATE OF MEETING:	21 March 2018 - 3:30pm-4:30pm	
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>Jacob Sife</i>	<i>Natural Areas Program Leader</i>
	<i>Joseph Piccoli</i>	<i>Strategic Traffic Engineer</i>
	<i>Alexandra Plumb</i>	<i>Urban Planner</i>
	Proponents	
	Name	Capacity
	<i>Luke Harris</i>	<i>Harris Farm Markets</i>
	<i>Stuart McDonald</i>	<i>SJB Planning</i>
<i>David Hynes</i>	<i>Winston Langley</i>	
DOCUMENTS/ REPORTS:	Document(s)	Dated
	Application Form	2018/048277
	SBJ Planning Letter	
	Attachment A1: Architectural Plans by TANDEM Design Studio	
	Attachment A2: Traffic Impact Assessment by Colston Budd Rogers and Kafes	
	Attachment A3: Economic Impact Assessment by Deep End Services	
	Attachment A4: Community Consultation Survey	
	Attachment A5: Community Presentation – Story Board	
Affected Planning Instrument	Ku-ring-gai Local Environmental Plan 2015 (KLEP 2015)	
Existing Zoning:	R2 Low Density Residential	

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

The following general points were made by the proponents:

- It is intended that the two sites (105 Eastern Road and 45-47 Tennyson Avenue) would be consolidated.
- The Planning Proposal seeks to permit retail use on the sites. In order to do so, the following changes are proposed to the KLEP 2015:
 - Rezone the sites from R2 Low Density Residential to B1 Neighbourhood Centre – the same zone as the existing Eastern Road Neighbourhood Centre.
 - Amendment to Schedule 1 to permit commercial premises on the land to have up to 1,540sqm of gross floor area.
- There are no amendments proposed to the existing height (9.5m) or floor space ratio (0.3:1) applying to the sites – even though these are the development standards associated with the R2 Low Density Residential zone. The applicants intend to work within these existing development standards.
- The sites may be currently zoned R2 Low Density Residential – however the historical use of these sites has been for non-residential purposes. The current service station and nursery form part of the existing Eastern Road Neighbourhood Centre.
- The wording of Clause 6.9 (2) is ambiguous regarding development for the purposes of a ‘commercial premises’ not having a gross floor area of more than 1,000sqm – in that is it separate tenancy or a number of tenancies. Erring on side of caution and proposing amendment to Schedule 1 to permit commercial premises on the land to have up to 1,540sqm of gross floor area.
- Value site attributes such as the significant trees and would be seeking to retain them in any future development.
- Aware of the history of the previous planning proposal lodged for the sites by Aldi.
- Community Consultation Survey undertaken September 2017 by Jetty Research regarding future development on the sites – submitted with pre-planning proposal application.
- Community Information Session held by Straight Talk on 14 March on the nursery site had 180 community members attend. Feedback forms were provided. Straight Talk will be providing a report on the outcomes which will be submitted as part of the planning proposal.
- Harris Farm has undertaken consultation with existing business owners in the Eastern Road Neighbourhood Centre.
- Aware the proposed amendments and planning proposal cannot be tied to Harris Farm retailer – but want to be open and up front with community regarding what is planned for site.

OVERVIEW OF ISSUES

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

Architectural Plans and Harris Farm

- The architectural plans submitted with the pre-planning proposal meeting application cannot be tied to the proposed amendments sought in the planning proposal. The proposed amendments need to be acceptable as an outcome on the site regardless of any future approval or refusal of a Development Application.
- The proposed amendments sought in the planning proposal cannot be tied to a future Harris Farm retailer on the sites.
- Councils assessment of the planning proposal will consider the rezoning to B1 Neighbourhood Centre and all possible land uses permitted under this zone, and possible outcomes with the proposed amendment to Clause 6.9 maximum gross floor area maximum.

Economic/Retail Impact

- The sites are located adjacent to the Eastern Road Neighbourhood Centre.
- An Economic/Retail Impact Assessment is required to be submitted with the planning proposal. The assessment should:
 - Include an indicative trade area
 - Impact on existing local centre and impacts on other retail centres in the trade area
 - Impact on commercial centres hierarchy in Ku-ring-gai
- The assessment should demonstrate the impacts of the additional retail floor space in this location, and justification for the exemption to the maximum 1,000sqm gross floor area requirement of Clause 6.9 of the KLEP 2015.

Urban Design

- As the proposal involves a change in zoning an urban design statement should be provided to address the impact of the rezoning within the surrounding context, including impacts to streetscape, street activations and connections.
- Consideration should also be had to Clause 6.7 of the KLEP 2015 which requires active street frontages and uses that attract pedestrian traffic along ground floor street frontage within the B1 Neighbourhood Centre zone.

Traffic, Transport and Access

- Assessment of traffic generation based on floor space of the proposal, assess impacts on nearby intersections, and whether the proposal will place undue strain on the surrounding road network;
 - Ideally use similarly located Harris Farm outlets as a benchmark for the traffic generation of the proposal
- Integration of land use and transport:
 - Analysis of journey to work characteristics, with the proposal as a destination. Assessment of access to employees (Greater Sydney Commission goal of 30min city), noting that the proposal will generate employment demand.
 - Assessment of catchment and level of access to public transport, and whether the surrounding public transport network has the capacity to absorb demands created by the proposal.
 - Assessment of access to local services (retail/supermarket, medical, recreational, educational, leisure and community facilities)
 - Assessment of access to active transport connections (walking and cycling links). Assess adequacy of existing pedestrian infrastructure/facilities (e.g. pedestrian facilities and connections across Tennyson Avenue and Eastern Road)
 - Assessment of roads safety implications (access points, nearby bus stops, etc)

Biodiversity

- The ecological values of the site relate to the remnant trees which are primarily clumped along the south eastern boundary, but which also occur on the northern boundary of the site. The remnant trees are mapped as the Critically Endangered Ecologic Community – Blue Gum High Forest. Blue Gum High Forest has a very highly restricted geographical distribution, and all remnants of the community are now surrounded by urban development. Highly modified relics of the community persist as small clumps of trees without a native understory.
- Both sites are also mapped under the Ku-ring-gai Local Environmental Plan 2015 as containing areas of Biodiversity Significance.
- A plan should be submitted with an indicative construction footprint and full extent of the Bluegum High Forest to indicate how the proposal could be managed in a way to avoid impacts on the Critically Endangered Ecological Community. Impacts to the community include direct and indirect impacts.
- An arborist report should be submitted detailing all the trees on site.

- A survey plan should be submitted indicating all trees, species and Tree Protection Zones in accordance with Australian Standard AS 4970-2009.

Contamination

- Having consideration for the current and past uses on the site (including service station and nursery) a Phase 1 Preliminary Site Investigation and Phase 2 Detailed Site Investigation Environmental Assessment are required to be submitted with the Planning Proposal.
- The report should detail the extent of the contamination on the sites, and the extent of the remediation required.
- The outcomes of this report would also inform the level of ecological impacts (e.g. are trees required to be removed as part of the remediation works?)
- The Planning Proposal should also have consideration for SEPP 55 Remediation of Land. It should be noted that this SEPP is currently under review by the Department of Planning and Environment - <http://www.planning.nsw.gov.au/Policy-and-Legislation/Under-review-and-new-Policy-and-Legislation/Remediation-of-Land-SEPP>

THE PLANNING PROPOSAL

General

A full list of the documents required for your submission is included in the *Planning Proposal Application Form* available from Council's website. In brief, your submission is to include the following documents:

- a *Planning Proposal* in the format specified below, with any supporting studies being attached as Appendices;
- the *Checklist* from *A Guide to Preparing Planning Proposals - Department of Planning and Environment*;
- the *Application Form* and all other documentation stated on page 3 of that Form.
- the supporting studies noted above:
 - Phase 1 Preliminary Site Investigation and Phase 2 Detailed Site Investigation Environmental Assessment
 - Traffic and Transport study
 - Urban Design statement
 - Economic/Retail Impact Assessment
 - Arborist Report, survey plan and indicative construction footprint plan

Checklist

The *Checklist* (from *A Guide to Preparing Planning Proposals - Department of Planning and Environment*) marked with the applicable matters to be considered as part of the Planning Proposal is

attached to this meeting report. All categories identified as applicable within the Checklist must be addressed within the Planning Proposal and supporting studies.

Your Planning proposal:

Examples of Ku-ring-gai Council's Planning Proposals may be viewed on the Department of Planning and Environment website - <http://leptracking.planning.nsw.gov.au/>

To assist you, this meeting report very clearly sets out the format and requirements for your Planning Proposal. The Planning Proposal is not a report. It is a document laying out a clear direction and argument for a legislative amendment; therefore, it is advisable to present your case in a method established by the Department of Planning and Environment, with explanations and justifications in the format they seek. Your Planning Proposal is to be set out and include all information as stated in [*A Guide to Preparing Planning Proposals – Department of Planning and Environment \(August 2016\)*](#).

The *Guide* requires your Planning Proposal to be set out in 6 parts as below. It is highly recommended you follow the layout and content of the Planning Proposal as below, and use the same headings, subheadings, questions and numbering. Should a Part not be relevant to your Planning Proposal, it must still be included within your Planning Proposal with a brief statement why it is not relevant. All the 6 Parts are necessary for your Planning Proposal to be considered as a valid document.

Your Planning Proposal is required to be a full and complete document, with each Part and each question being answered fully with detailed explanation and full justification within that section. It will not be accepted if Council or Department has to search for the answers to the questions in your attachments, introductions or other sections. Further, in the interest of transparency, your document is required to be understood by the people that will read it during the exhibition should it receive a Gateway. Once you have stated your argument in detail within the body of your Proposal, you can then refer to attachments, but you should not rely on those attachments to argue your case.

Your Planning Proposal must be able to operate as a stand-alone document with the studies being secondary and supportive in their role.

Planning Proposal Format:

INTRODUCTION

Include a brief overview of the Planning Proposal. You can provide any relevant history, photos etc of the site/s in this section of the Planning Proposal.

PART 1 – OBJECTIVE OR INTENDED OUTCOMES

Provide a paragraph explaining the current status of each site and what you are trying to achieve on each site (not how it would be done). This *Part 1* should give the average ordinary person reading your Planning Proposal at exhibition a clear indication of what you are trying to do on each site. Relevant location and descriptive maps, that indicate adjoining land use and zones; heritage items and conservation areas; environmental constraints, including riparian and biodiversity, can be included in this *Part 1*.

PART 2 – EXPLANATION OF PROVISIONS

State the changes being proposed to the sites, reasons for the changes, and how the changes can be made. More specifically you will need to state how the KLEP 2015 will be amended to allow your objectives. This will include any changes to the Written Instrument as well as to the Maps.

PART 3 - JUSTIFICATION

Provide detailed site and strategic justification for the objectives and outcomes sought, and the process for their implementation. It is recommended that detailed attention be given to your *Part 3 – Justification A, B, C, D*. *Part 3* is key in presenting an argument for your case. If you consider aspects of your supporting studies as important, then you need to present/state/quote that specific content under the relevant question in *Part 3*, and show how it applies to your argument. Once your argument has been made, reference to the studies may be made. The supporting studies provide the backup and evidence for your argument, but your argument has to be presented and substantiated within the body of the Planning Proposal.

Include the following sections, numbering and questions (replicated from the *Guide*) under your *Part 3*:

A. Need for the planning proposal

Q1. Is the planning proposal a result of any strategic study or report?

Note all planning studies or reports that have been prepared for the sites, including:

- Phase 1 Preliminary Site Investigation and Phase 2 Detailed Site Investigation
Environmental Assessment
- Traffic and Transport study

- Urban Design statement
- Economic/Retail Impact Assessment
- Arborist Report, survey plan and indicative construction footprint plan

Current and relevant supporting studies can be included as Appendices to the Planning Proposal and referenced in the justification sections provided their arguments are paraphrased in the body of your Planning Proposal.

This section should provide strategic justifications based on the supporting studies.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

You are presenting an argument for your case and therefore you are required to explain the different methodologies available for allowing the outcomes you seek on the sites. Your methods have to be factual and rely on the means of achieving your outcomes through the legislative framework.

This question requires you to present the different ways of achieving your development objectives on the sites. State all the options you have and justify why your chosen method of amendments to the KLEP 2015 is the best means; and therefore, why this Planning Proposal should be considered above any other method. The Department will consider for themselves whether there are alternative ways you could achieve your outcome outside this Planning Proposal, so it is in your interest to state all possible methods and argue your preferred method through your Planning Proposal.

B. Relationship to strategic planning framework

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

Note how your proposed outcomes are consistent or inconsistent with the following documents:

- A Metropolis of Three Cities - Greater Sydney Region Plan (March 2018)
- North District Plan (March 2018)

You are required to state the relevant sections/clauses from the plans and explain how your Planning Proposal meets those requirements, justifying any that it does not meet.

If you are referring to any document you attach in Appendices you need to pull out the information and requote/reiterate the key elements of those studies within the body of your justification. Your justification has to be robust and contain all information. It is your responsibility to include all arguments within the body of the report as this is what will enable your proposal to progress to Gateway.

Q4. *Is the planning proposal consistent with a Council’s local strategy or other local strategic plan?*

State how your proposed outcomes are consistent or inconsistent with the objectives in the *Ku-ring-gai Council Community Strategic Plan*, and provide justification for any inconsistencies. State the objectives from the *Community Strategic Plan* and explain how your Planning Proposal meets those requirements, justifying any that it does not meet. The *Community Strategic Plan* may be viewed on Council’s website at:

http://www.kmc.nsw.gov.au/Your_Council/Organisation/Integrated_Planning_and_Reporting_framework/Community_Strategic_Plan_2030

Q5. *Is the planning proposal consistent with applicable State Environmental Planning Policies?*

There are several applicable SEPPs for your proposal. You are required to go through all the SEPPs, determine which are relevant, list it with a brief overview and state how your proposal is consistent or inconsistent with it. If inconsistent then give a full justification to support your argument. It is recommended this information be presented in a table as illustrated below.

SEPP	Comment on Consistency
<p>SEPP 55 Remediation of Land</p> <p>SEPP 55 requires a planning authority to give consideration to contamination issues when rezoning land which allows a change of use that may increase the risk to health or the environment from contamination and requires consideration of a report on a preliminary investigation where a rezoning allows a change of use that may increase the risk to health or the environment from contamination.</p>	<p>Insert your argument</p>

Q6. *Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?*

You are required to go through all the s117 Directions and determine which apply to your site. For each applicable s117 Direction, include a statement on how the Proposal is consistent. If the Proposal is inconsistent with a s117 Direction, then provide a

justification for that inconsistency. It is recommended this information be presented in a table as illustrated below.

Directions under S117	Objectives	Consistency
1.1 Business and Industrial Zones	The objectives of this direction are to: (a) Encourage employment growth in suitable locations, (b) Protect employment land in business and industrial zones, and support the viability of identified strategic centres.	Insert your argument

C. Environmental, social and economic impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

Note the status of each site with regards to these aspects, stating if they contain or are in close proximity to such lands. The site contains Critically Endangered Ecologic Community – Blue Gum High Forest, so you need to provide a full justification for your proposal in light of that.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Provide an explanation of the scale of the development and any related environmental effects of the Proposal. The sites contain areas mapped as Biodiversity Significance under the KLEP 2015. Fully justify the extent of impact, if any, that the proposal will have on them.

Q9. Has the planning proposal adequately addressed any social and economic effects?

Provide a response in terms of the broader community and economy, not personal circumstances of the landowner. Give clear justification on the social and economic impacts or advantages your Planning Proposal will have, particularly on the adjoining Eastern Road Neighbourhood Centre, and the impact on the retail centres hierarchy in Ku-ring-gai as a whole.

D. State and Commonwealth interests

Q10. Is there adequate public infrastructure for the planning proposal?

Note each individual site’s proximity to specific public transport and links to major arterial roads. Also, state occurrence and location of other infrastructure such as retail and educational facilities that would support the proposed uses.

Q11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

Identify any consultation already conducted with state or commonwealth agencies.

Other consultation will be undertaken post-Gateway and in accordance with the Department’s requirements.

PART 4 - MAPPING

The amendments sought in your Planning Proposal will require changes to the KLEP 2015 mapping sheets. This section should include excerpts of the sites current mapping alongside the proposed mapping. Every map that will be altered as a result of the planning proposal is to be shown in this section – including zoning and development standards.

PART 5 – COMMUNITY CONSULTATION

Council encourages early consultation with surrounding properties prior to lodging the planning proposal.

Indicate the community consultation to be undertaken on the Planning Proposal and state that it will be in accordance with the Gateway. It is expected that the consultation for this Planning Proposal will be 28 days.

PART 6 – PROJECT TIMELINE

Include a table of steps as stated in the ‘A Guide to Preparing Planning Proposals’ leaving the date column empty for Council to complete. An example is provided below:

Stage	Timing
Anticipated commencement date (date of Gateway determination)	Date
Anticipated timeframe for the completion of required technical information	Date
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	Date
Commencement and completion dates for public exhibition period	Date
Dates for public hearing (if required)	Date
Timeframe for consideration of submissions	Date
Timeframe for the consideration of a proposal post exhibition	Date
Date of submission to the department to finalise the LEP	Date

Anticipated date RPA will make the plan (if delegated)	Date
Anticipated date RPA will forward to the department for notification.	Date

Please note that all Councils have been required to establish Independent Hearing and Assessment Panels. From 1 June 2018, all Planning Proposals will be required to be sent to the Ku-ring-gai IHAP for consideration and advice. Planning Proposals are to be referred to the IHAP before it is forwarded to the NSW Department of Planning under Section 3.34 (Gateway Determination) of the *Environmental Planning and Assessment Act 1979*. This additional step should be taken into account in the project timeline.

APPENDIX

Include any relevant supporting information and studies to which reference has been made in the Planning Proposal. The recommended studies include:

- Phase 1 Preliminary Site Investigation and Phase 2 Detailed Site Investigation Environmental Assessment
- Traffic and Transport study
- Urban Design statement
- Economic/Retail Impact Assessment
- Arborist Report, survey plan and indicative construction footprint plan

Planning Proposal Application Form

The Form must be completed in detail and ensure

- Each question is fully answered.
- The *Documents Required* checklist is filled.
- The *Planning Proposal Report Requirements* checklist is filled.
- The Department's *Checklist* is included with the required documentation.

Commencement of the review of your Planning Proposal can only begin if your Application is complete. This means your Planning Proposal is in accordance with the requirements of the Department's *Guide*, and in a form that would be adopted by Council to be forwarded to the Department for a Gateway. You are therefore advised to follow the instruction in this meeting report and ensure you have completed all requirements stipulated on the Planning Proposal Application Form available on Council's website.

The Planning Proposal Application will only be accepted and commence when all forms and documents submitted are considered by Council to be complete. A letter of acknowledgement will

be sent to confirm Council's acceptance of the Application and a request that the required application fee be paid.

Note: The Application requires 2 hard copies of **all** documents including the Application Form, and one USB with a pdf copy of all the documents and an additional unlocked WORD copy of the Planning Proposal itself.

Fees and Charges

The fee for this Planning Proposal under Council's 2017/2018 Fees and Charges is **\$55,000** for Planning Proposals seeking amendments involving sites over 5000sqm, or sites with complex planning issues.

The fee is payable upon Council confirming in writing that the application is complete and requests that the application fees be paid.

Should the Proposal proceed to exhibition, there will be an additional fee of **\$3670** for advertising costs, payable upon the issuing of a Gateway determination.

Where an application results in additional assessment or review of the Planning Proposal, an hourly rate of **\$165/hr** will be charged for the extra work undertaken.

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 Council's website:

http://www.kmc.nsw.gov.au/Plans_regulations/Building_and_development/Planning_Proposals

Note: To avoid duplication or loss of information, it is advisable that you nominate a single person with whom all discussion/correspondence with Council will occur. Clearly state this in your Application Form.

Attachments:

- Checklist from A Guide to Preparing Planning Proposals
- Council Template for Planning Proposals