

PRE-GATEWAY REVIEW – Information Assessment and Recommendation Report

LGA:	Ku-ring-gai	
Amended LEP:	Ku-ring-gai Local Environmental Plan 2015	
Address:	45-47 Tennyson Avenue and 105 Eastern Road, Turramurra	
Reason for review:	<input checked="" type="checkbox"/> Council notified proponent it will not support proposed amendment	<input type="checkbox"/> Council failed to indicate support for proposal within 90 days
Is a disclosure statement relating to reportable political donations under s147 of the Act required and provided?	<input type="checkbox"/> Provided <input checked="" type="checkbox"/> N/A Comment: No donations or gifts to disclose.	

SUMMARY OF THE PROPOSAL

The planning proposal seeks to amend the *Ku-ring-gai Local Environmental Plan 2015* to rezone land at 45-47 Tennyson Avenue and 105 Eastern Road Turramurra from R2 Low Density Residential to B1 Neighbourhood Centre. The proposal also seeks to amend the Floor Space Ratio from 0.3:1 to 0.75:1; and amend Schedule 1 - Additional Permitted Uses to allow for the development of an ALDI Store and speciality shops with a combined maximum gross floor space of 1,955 square metres.



Figure 1. Aerial view of subject site (highlighted) and surrounding context.

REQUIREMENTS UNDER SECTION 55 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

1. Objective and intended outcomes:

To enable and facilitate the development of an ALDI Store and two speciality shops on the subject site.

2. Explanation of provisions:

The proposal seeks to:

- Amend the Land Zoning Map from R2 Low Density Residential to B1 Neighbourhood Centre,
- Amend the Floor Space Ratio Map from 0.3:1 to 0.75:1, and
- Amend Schedule 1 – Additional Permitted Uses, by inserting the following:

52 Use of certain land at 45-47 Tennyson Avenue and 105 Eastern Road, Turramurra

(1) This clause applies to land at 45-47 Tennyson Avenue and 105 Eastern Road, Turramurra, being Lot 1 DP 515147, Lot 2 DP 515147 and Lot 1 DP 4323.

(2) Development for the purposes of an ALDI Store and speciality shops with a combined maximum gross floor area of 1,955 square metres with development consent.

3. Justification and process for implementation (including compliance with S117 Directions):

The proposal asserts that the development of an ALDI Store and speciality shops will meet an undersupply of supermarket floor space in the Ku-ring-gai area, whilst complementing the established neighbourhood centre directly south of the subject site.

4. Mapping:

Part 4 of the proposal shows the proposed change to the Land Use Map and Floor Space Ratio Map.

If the proposal were to proceed through the Gateway process, additional maps should be included to clearly illustrate the current zoning and floor space ratio of the subject site.

5. Community consultation (including agencies to be consulted):

The proposal recommends a 28 day consultation period.

Consultation background

A copy of the proposal was placed on informal exhibition on Council's website in mid-November 2015. There have been community objections received by Council (over 100) and the Minister (over 200). Objections have been based on a number of planning grounds, including traffic, safety and car parking issues.

VIEWS OF COUNCIL AND AGENCIES

To the Department's knowledge, no agencies have been contacted by Council for their views on the proposal.

Ku-ring-gai Council, at its meeting on 8 December 2015 (Tab E), resolved not to support the proposal.

The Department sought Council's views on the request for review on 21 January 2016. Council provided a response on 4 February 2016. The response reiterates Council's report and resolution on 8 December 2015, and provides additional comments regarding traffic issues.

Council has not supported the proposal for the following reasons:

1. Inconsistent with A Plan for Growing Sydney

The proposal is inconsistent with directions and actions in the Metropolitan Strategy "A Plan for Growing Sydney" which seek to undertake urban renewal and growth within transport corridors and strategic centres in order to create jobs that are closer to home. Specifically Directions 1.7, 2.2, 3.1 and Actions 1.7.1, 2.2.2, and 3.1.1.

Department comment

Direction 1.7 and Action 1.7.1 seek to grow strategic centres by providing more jobs closer to home, and invest in strategic centres across Sydney to grow jobs and housing and create vibrant hubs of activity. *A Plan for Growing Sydney* does not identify any strategic centres within the Ku-ring-gai local government area. Therefore this Direction and Action are not strictly applicable to the proposal.

Direction 2.2 and Action 2.2.2 seek to accelerate urban renewal across Sydney by providing homes closer to jobs, and undertake urban renewal in transport corridors. The proposal is not located near a major transport corridor, and therefore this Direction and Action are not strictly application to the proposal. However it is noted that the relatively large scale nature of the proposed ALDI Store is not supported by a major transport corridor.

Direction 3.1 and Action 3.1.1 seeks to revitalise existing suburbs and support urban renewal by directing local infrastructure to centres where there is growth. The proposal is inconsistent with this direction as the relatively large scale development is proposed on a site that is located outside larger commercial centres where this type of development should be focused and can be more appropriately accommodated.

2. S117 Directions

Inconsistent with Direction 3.4 Integrating Land Use and Transport

Department comment

The proposal is inconsistent with this direction as the proposal will likely increase car usage due to the scale and nature of the commercial development and the location of the subject site. As part of the justification of the project the applicant has indicated that the proposed supermarket is intended to service the whole of the "*Ku-ring-gai Area*" (Tab D). The Retail Impact Assessment undertaken by Deep End Services on behalf of the applicant indicates an extensive trade area as shown in the Figure 1 below. The low density nature of residential development contributes to the need for a greater catchment area. Public transport to the site is limited to a bus service which runs along Eastern Road. The site is 1.4kms from the transport corridor and rail line.

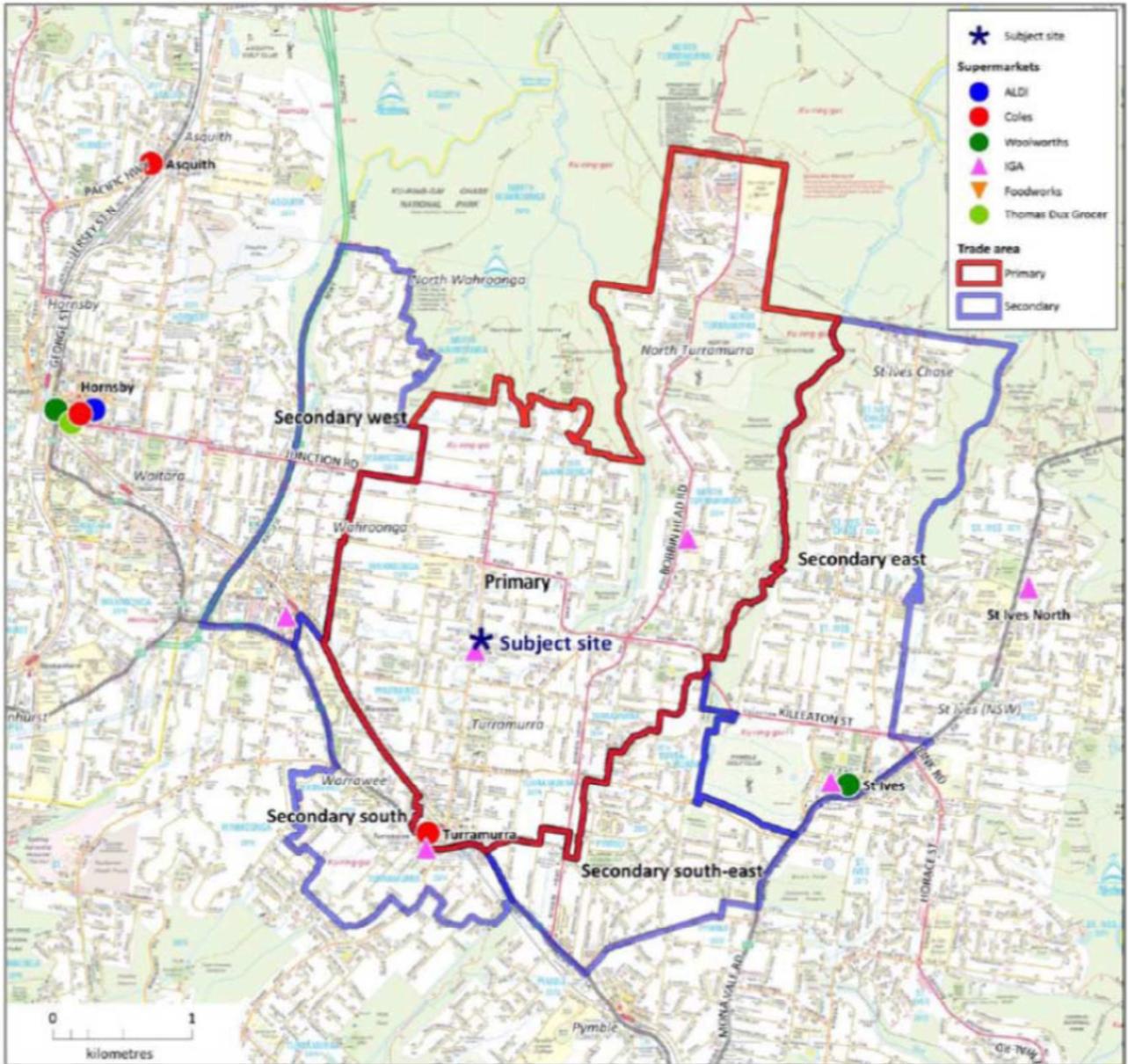


Figure 1: Trade Area Aldi Turrumurra (Source – Deep End Services Retail Impact Assessment 2015)

Inconsistent with Direction 6.3 Site Specific Provisions

Department comment

The proposal is inconsistent with this direction. The proposal will allow a land use that will impose development standards in addition to those currently in the principal local environmental plan. Clause 6.9 (2) of *Ku-ring-gai Local Environmental Plan 2015* specifies a maximum gross floor space area of 1,000 square metres for development in areas zoned B1 Neighbourhood Centres, while the application proposes a 1,955 square metre floor space area for the ALDI Store. This inconsistency is not reasonably justified as a matter of minor significance owing to the relatively large scale nature of the proposal and likely impacts upon the locality.

Inconsistent Direction 7.1 Implementation of A Plan for Growing Sydney

Department comment

Inconsistency with this direction is addressed above.

3. Inconsistent with the Local Centres Hierarchy

The proposal is inconsistent with the objectives of Ku-ring-gai Council's Community Strategic Plan 2030 relating to the revitalisation of local centres and managing the impacts of new development within centres.

Department comment

The proposal is inconsistent with the local strategy. It is considered to be a relatively large scale development that is incompatible with the small scale commercial character of the existing Eastern Road shops. The size of the ALDI Store development is more suitable for a larger centre, ensuring the impacts of a development of this size are appropriately managed. The proposed ALDI Store is not considered a small or medium business within the context of the local area.

The proposal is inconsistent with the local service role and functions of neighbourhood centres and will conflict with the hierarchy of commercial centres in Ku-ring-gai.

The proposal is inconsistent with the strategic directions and development principles within the Ku-ring-gai Retail Centres Study 2005 (Hill PDA) and Ku-ring-gai and Hornsby Subregional Employment Study 2008 (SGS Economics and Planning) which seek to retain of (sic) the local service role and function of the existing neighbourhood centres by limiting development capacity and encouraging larger retail within the higher order centres.

Department comment

The proposal is inconsistent with the commercial hierarchy established and anticipated within the local area. The *Ku-ring-gai Retail Centres Study 2005* identifies the Eastern Road shops, adjacent to the subject site and zoned B1 Neighbourhood Centre, as a 'local centre'. A local centre, as identified in the study, is the lowest tier of retail hierarchy in the Ku-ring-gai local government area. The proposed ALDI Store is of a scale that is not consistent with the retail hierarchy identified in the study for the local area.

The proposal is inconsistent with the *Ku-ring-gai & Hornsby Subregional Employment Study 2008*. The study has informed the commercial zonings of the *Ku-ring-gai Local Environmental Plan 2015*. The study recommended centres zoned for B1 Neighbourhood Centre should be limited to the range of services available "as not to detract draw activity away from higher order centres". This resulted in the drafting of the LEP local provision clause '6.9 Development in Zone B1' which limits the gross floor area of commercial development to 1,000 square metres in land zoned B1 Neighbourhood Centre. The scale of the proposed development is found to exceed the range of services projected for the existing Eastern Road shops (zoned B1 Neighbourhood Centre), and detracts activity away from higher order commercial centres, where the proposal is more appropriate.

4. Inconsistent with the aims and objectives of the Ku-ring-gai Local Environmental Plan 2015

Clause 1.2 Aims of Plan,

(g) 'to ensure that development does not conflict with the hierarchy of commercial centres in Ku-ring-gai.'

Department comment

The proposal conflicts with the established commercial hierarchy of the Ku-ring-gai local government area. As previously indicated, the commercial centres and hierarchy of these centres have been established in Ku-ring-gai retail and employment studies. The relatively large scale nature of the ALDI proposal is considered to conflict with the established small scale Eastern Road shops commercial centre located adjacent to the subject site.

Clause 6.9 Development in Zone B1

(1) The objective of this clause is to maintain the commercial hierarchy of Ku-ring-gai by encouraging retail development of an appropriate scale within neighbourhood centres.

(2) Development consent must not be granted to development for the purposes of commercial premises on land in Zone B1 Neighbourhood Centre if the development would result in the premises having a gross floor area of more than 1,000 square metres.

Department comment

The proposal is inconsistent with the above local provision. The ALDI Store is not considered an appropriate scale for a B1 Neighbourhood Centre zoning. The development of an ALDI Store and speciality shops, with a gross floor area of 1,955 square metres, would be almost double the 1,000 square metre gross floor area of development expected in areas zoned B1 Neighbourhood Centre in accordance with the *Ku-ring-gai Local Environmental Plan 2015*.

B1 Neighbourhood Centre – Objectives of zone

To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.

Department comment

The proposal is inconsistent with the zone objective. The consistency with the zone objective is dependent on the interpretation of 'small-scale'. Clause 6.9 (2) of *Ku-ring-gai Local Environmental Plan 2015* specifies a maximum gross floor space area of 1,000 square metres for development in areas zoned B1 Neighbourhood Centres. Clause 6.9 therefore quantifies expected 'small-scale' development in the B1 Neighbourhood Zone. The proposed ALDI Store is not considered to be 'small scale' and therefore considered inconsistent with the zone objective.

PROPOSAL ASSESSMENT

1. Strategic merit assessment

A Plan for Growing Sydney

The Plan acknowledges the need to supply urban renewal, grow strategic centres and provide growth within transport corridors. The Plan is addressed in **1. Inconsistent with A Plan for Growing Sydney.**

North District Strategy

As outlined in *A Plan for Growing Sydney*, a key priority for Sydney's North District is to be an attractive place to live, work and visit, with a thriving economy. The proposal will provide more employment opportunities, and therefore an increase in economic activity. However, the scale of the proposed development is unsuitable for the location, as it would have a negative impact on the local residential amenity and character of the immediate area. Therefore, the proposal in this location is regarded as being inconsistent with the intent of the North District Strategy.

Local Strategy

The Ku-ring-gai Council *Community Strategic Plan 2030* applies. The Community Strategic Plan is addressed in **3. Inconsistent with the Local Centres Hierarchy**

Ku-ring-gai Local Environmental Plan 2015

The proposal is inconsistent with the *Ku-ring-gai Local Environmental Plan 2015*. The inconsistencies are addressed in **4. Inconsistent with the aims and objectives of the Ku-ring-gai Local Environmental Plan 2015**

Section 117 Directions

Section 117 Directions relevant to this proposal are addressed in **2. S117 Directions**

2. Site-Specific merit assessment

Surrounding context

The subject site adjoins existing, low density residential development to the east. Land north and west of the site is also low density residential development, but is separated from the subject site by Alice Street and Eastern Road. The existing neighbourhood centre is located directly south of the subject site, on Eastern Road, and is currently zoned B1 Neighbourhood Centre with a floor space ratio of 0.75:1. The proposed zoning and floor space ratio controls are consistent with the Eastern Road shops, however the proposal seeks an increase in the gross floor area specifically for the subject site.

The following images illustrate the context of the subject site within the local area.



Figure 2. Eastern Road shops adjacent to the subject site.



Figure 3. Subject site at the corner of Eastern Road and Tennyson Avenue (showing existing service station).



Figure 4. Subject site at the corner of Eastern Road and Alice Street (showing existing garden centre).

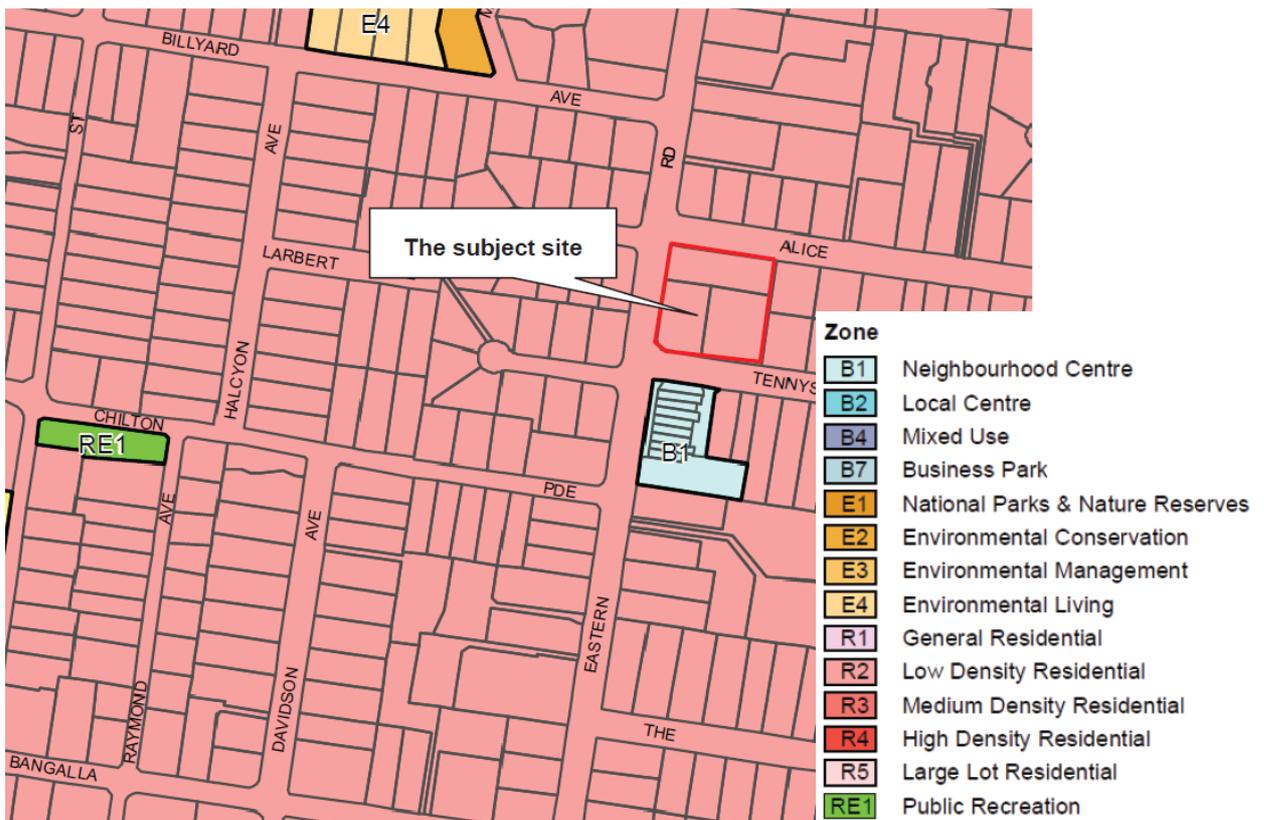


Figure 5. Current Land Use Zonings.

The proposal's site specific controls for a 1,955 square metre larger scale development in the immediate area is considered to be inconsistent with the character of the existing commercial centre at Eastern Road as the commercial nature of the existing Eastern Road shops are small-scale commercial developments (typically less than 500 square metres).

Natural environment

Vegetation

The Department notes the subject site contains 4 native canopy trees, which are endangered ecological communities being Sydney Turpentine – Ironbank Forest, and Blue Gum High Forest.

A Flora Constraints and Assessment of Significance Report was submitted with the proposal and identifies the need to remove 1 native canopy tree from the site. After considering the Report, the potential impact to existing vegetation is considered to be minor if the proposal were to proceed.

Contamination

A Phase 1 Environmental Site Assessment (ESA) was submitted with the proposal. The report identified that the following potentially contaminating activities that have occurred on the subject land over a long period of time:

- service station with mechanics workshop;
- orcharding, market gardening and use of a retail nursery;
- bus depot with mechanical maintenance activities; and
- demolition of former structures.

State Environmental Planning Policy 55 – Remediation of Land, applies to the site and further consideration would be required to be given to this matter by the relevant planning authority should the planning proposal proceed. It is noted, however, that the Council report acknowledges that this potential for contamination does not make the land incompatible with future development of the site, as remedial works may be undertaken.

Existing, approved, likely future use of land

The existing uses on the subject site include a garden centre with car parking, and a service station.

These land uses are non-compliant with the current R2 Low Density Residential zone that applies to the land. Council have identified that the garden centre and service station may be able to continue operating under existing use rights with restricted opportunity for further commercial development.

The proposed future use of land as a 1,955 square metre ALDI Store and speciality shops is found not to be consistent with the commercial character of the existing B1 Neighbourhood Centre, or consistent with the scale and massing of development expected for commercial development in the local area.

The Eastern Road centre contains an existing IGA Store with an approximate floor space area of 470 square metres. The proposed ALDI Store is over 4 times this floor space area. Although it is acknowledged the Deep End Services Retail Impact Statement identifies an undersupply of retail floor space, this supply relates to the whole Ku-ring-gai local government area. Notwithstanding this identified short fall, it is considered that the subject site is inappropriately located to supply this form of retail floor space.

Services and infrastructure (e.g. transport)

Transport

Local bus stops are directly adjacent to the subject site on both sides of Eastern Road. Turrumurra Railway Station is located approximately 1.4km south of the site.

Services

The surrounding residential area is well serviced by the Eastern Road shops, including an existing IGA Store. Existing water and sewage infrastructure services are anticipated to be adequate for the proposed development.

Other relevant matters (e.g. urban design, demographic, retail studies, SEPPs specific to rezonings, etc)

Traffic

A traffic report (Tab F) was submitted to Council as part of the proposal. Council commissioned a review of the proposal's traffic report that highlighted access and safety concerns, and also concluded the proposal's traffic report was inadequate to fully assess the impact of the proposed development.

In response to the findings of Council's commissioned review, the pre-Gateway application includes an additional letter by Colston Budd Rogers & Kafes that seeks to address Council's traffic review. Council's Strategic Traffic Engineer has assessed the letter in Council's response (dated 4 February 2016) to the pre-Gateway review application. Council have identified that some issues raised have been satisfactorily addressed (e.g. traffic generation, trip distribution, etc.)

Council considers a number of safety and access issues are still outstanding. However, they have highlighted that many of the traffic issues raised are relevant to the development application stage.

Should the proposal proceed, outstanding traffic issues relevant to the planning proposal should be resolved prior to any formal exhibition, however on balance, it is considered that traffic issues can be adequately resolved.

BACKGROUND SUPPORTING INFORMATION

1. Adequacy of existing information

Is the supporting information provided more than 2 years old? **Yes** **No**
If 'yes', explain/detail currency of information

Is there documented agreement between the proponent and the council regarding the scope/nature of supporting information to be provided? **Yes** **No**

Is there evidence of agency involvement in the preparation of any supporting information or background studies? **Yes** **No**

2. Requirement for further information

Should the planning proposal proceed to Gateway, it is amended as follows:

- (a) additional B1 Neighbourhood Centre zone objectives and related justifications are to be removed from page 23 of the proposal;
- (b) the site specific clause is to be re-written to omit the terms 'ALDI Store' and 'speciality shops' and replaced with the standard instrument land use term 'shop';
- (c) Part 4 of the proposal should include maps that illustrate the existing land zoning and floor space ratios;
- (d) Part 6 should be completed with appropriate dates; and
- (e) reference to *A Plan for Growing Sydney* is to be further addressed.

CONCLUSION

In consideration of the proposal and supporting documentation it is considered that the proposal has insufficient strategic merit and the request for review by the Sydney West Joint Regional Planning Panel is not warranted for the following reasons:

Inconsistent with the following strategies and studies:

- *A Plan for Growing Sydney* (Direction 3.1 seeking to revitalise existing suburbs);
- Council's *Community Strategic Plan 2030*, to manage the commercial hierarchy of centres;
- *Ku-ring-gai Retail Centres Study 2005*, where the scale of the proposed ALDI Store development is not consistent with the commercial hierarchy anticipated at the Eastern Road local centre; and
- *Ku-ring-gai & Hornsby Subregional Employment Study 2008*, where the proposal exceeds the range of services projected for the existing Eastern Road local centre, and detracts activity away from higher order commercial centres where the proposal is more suited.

Inconsistent with the following planning instruments and s117 Directions:

- Aims of the *Ku-ring-gai Local Environmental Plan 2015*, as the proposal conflicts with Ku-ring-gai's commercial hierarchy, and does not maintain or encourage the appropriate hierarchy;
- Zone objectives for Zone B1 Neighbourhood Centre, as the proposal will result in a scale of development that is inappropriate for a neighbourhood centre;
- Section 117 Direction 3.4 Integrating Land Use and Transport, as the proposal will likely increase car usage due to the scale of the commercial development and will service retail needs outside the local catchment area; and
- Section 117 Direction 6.3 Site Specific Provisions, as the proposal will allow a particular land use that will impose development standards in addition to those currently in the principal local environmental plan and cannot be justified as a minor significance.

RECOMMENDATION

It is recommended that the Deputy Secretary, Planning Services:

1. **form the opinion** that insufficient justification has been provided for the proposal to merit consideration by the Sydney West Joint Regional Planning Panel, and
2. **agree not to forward** the request to the Sydney West Joint Regional Planning Panel for advice.

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