

## Greater Sydney, Place and Infrastructure

IRF20/1625

### Plan finalisation report

**Local Government Area:** The Hills Shire

#### 1. NAME OF DRAFT LEP

The Hills Local Environmental Plan 2019 (Amendment No 3). The draft written instrument is at **Attachment LEP**.

#### 2. SITE DESCRIPTION

The draft LEP relates to land in the Castle Hill North Precinct, which is generally bounded by Pennant Street and Castle Street to the south and Gilham Street to the north, Old Northern Road to the east and Carramarr Road to the west (Figure 1). The Precinct encompasses an area of approximately 30.5 hectares of predominantly detached dwellings, medium density developments and a higher density development site 'Pennant Street Target Site'.



**Figure 1:** Precinct outlined in yellow (Source: NearMap)

The precinct extent was established by Council based on walking distance to the Castle Hill Metro station, topography constraints and the existing road network. Consideration was also given to the existing physical environment factors such as age and condition of existing housing stock, access to the metro station, existing pedestrian network and titling arrangements which were considered likely to constrain the uptake of development

opportunities. The precinct was identified for higher density residential development in the Department's 2013 Sydney Metro Northwest (formerly North West Rail) Urban Renewal Corridor strategy.

Key points of interest within the Precinct include a local heritage item "Garthowen" house near the eastern edge, Castle Hill Public School in the central western area of the precinct. Castle Towers Shopping Centre borders its southern edge.

## **2.1 Existing LEP Development Standards**

The precinct is zoned RE1 Public Recreation, R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential and R4 High Density Residential.

The precinct has a varied minimum lot size of 600m<sup>2</sup> and 700m<sup>2</sup> and is subject to a maximum building height of predominately 9 metres, with 16 metres on land that allows for residential flat buildings. The Pennant Street Target site was subject to a separate LEP amendment and has a maximum building height of 54 metres and LEP amendment no. 6 has a maximum building height of 57 metres. Apart from the Pennant Street Target Site the precinct has three sites subject to a maximum floor space ratio of 1:1. No maximum floor space ratio applies to the remainder of the precinct.

## **3. PURPOSE OF PLAN**

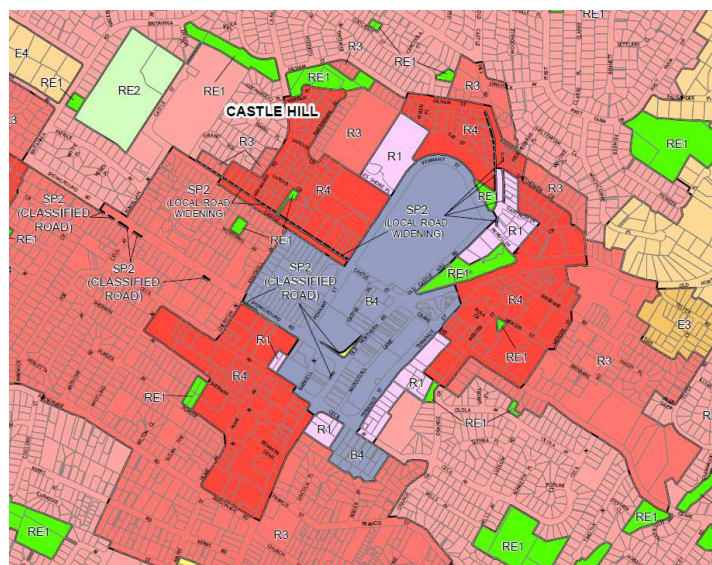
The draft LEP aims to facilitate a high and medium density residential precinct within a walkable catchment of the Castle Hill Metro station, supported by a pedestrian friendly public domain and built form transition to the Castle Hill strategic centre. This precinct will provide for approximately 3,300 additional dwellings.

The draft LEP seeks to amend LEP 2019 as follows:

- 1) Rezone land in the Precinct to R1 General Residential, R3 Medium Density Residential, R4 High Density Residential and SP2 Infrastructure (Local Road Widening (Figure 2). Specific changes in zoning include:
  - R3 to R1;
  - R2 to R3;
  - R2 to R4;
  - R3 to R4;
  - SP2 (Public Administration Building) to R4; and
  - R3 to SP2 (Local Road Widening);
- 2) Apply a minimum lot size of 1,800m<sup>2</sup> across the precinct;
- 3) Remove maximum height of buildings for land proposed to be zoned R1 General Residential and R4 High Density Residential and introduce a maximum height of buildings of 10 metres for land proposed to be zoned R3 Medium Density Residential;
- 4) Apply a 'base' floor space ratio ranging from 1:1 to 1.1:1 to land zoned from R1 General Residential and R4 High Density Residential and identify land to be zoned R1 General Residential and R4 High Density Residential as 'Area B' on the Floor Space Ratio Map ensuring Clause 7.11 of The Hills LEP 2019 is applicable to these sites;
- 5) Apply a maximum incentivised floor space ratio ranging from 1.2:1 to 4.8:1 to include land proposed to be zoned R1 General Residential and R4 High Density Residential subject to compliance with Clause 7.11 of the LEP 2019;



- 6) Insert an exemption for Lot 501 DP 739611 from the provisions of Clause 7.11 (3)(a)-(d) if 20% of development for the purposes of residential accommodation is provided for 'social housing premises' in accordance with the definition under the *Residential Tenancies Act 2010*. Development on Lot 501 would still be required to meet car parking rates under (e) to achieve the floor space incentive;
- 7) Amend Clause 7.11A to include an additional 5 key sites 'Area G', 'Area H', 'Area I', 'Area J', 'Area K' to permit up to 20% additional floor space subject to the delivery of certain public benefits;
- 8) Identify 'Area G', 'Area H', 'Area I', 'Area J', 'Area K' on the Key Sites Map;
- 9) Insert a new local provision requiring the consent authority to consider whether arrangements have been made within a development application for Lot 501 DP 739611 for the purposes of residential accommodation for a pedestrian link between Larool Crescent and Les Shore Place;
- 10) Identify the precinct as an 'Urban Release Area' on the Urban Release Area map to enable a consent authority under the provisions of Clause 6.2 of The Hills LEP 2019 to require satisfactory arrangements be made for the provision of designated state public infrastructure to satisfy the needs that arise from development on the land;
- 11) Insert a new local provision for land identified as 'Area 1' on a clause application map that will require a consent authority to obtain concurrence from Transport for NSW for a development application prior to development consent being granted;
- 12) Amend Clause 7.11 to refer to 'Area B' and require land mapped as 'Area B' on the floor space ratio map to comply with the following maximum car parking rates commencing 25 December 2020:
  - 1 bed or studio: 0.5 spaces
  - 2 bed: 0.8 spaces
  - 3+ bed: 1.3 spaces
  - Visitor parking: 1 space per 5 dwellings (0.2 car parking spaces)
- 13) Insert a savings provision within Clause 1.8A Savings provisions relating to development applications which provides that an amendment made to The Hills LEP 2019 made by Amendment No 3 does not apply to a development application made but not finally determined before the commencement of the amendment.



**Figure 2: Proposed Land Use Zoning**

A number of post exhibition changes have been made which are discussed in Section 8 of this report.

The precinct is supported by a draft Contributions Plan No. 17 – Castle Hill North, draft The Hills Development Control Plan Part D Section 19 – Castle Hill North, amendments to Part C Section 1 – Parking and a Draft Public Domain Plan – Castle Hill North.

#### 4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Castle Hill state electorate. Mr Ray Williams MP is the State Member.

The site falls within the Mitchell federal electorate. Hon Alex Hawke MP is the Federal Member.

To the planning team's knowledge, neither MP has made any written representations regarding the proposal. However, Mr Ray Williams MP has made written representations on behalf of a constituent in relation to high rise building and housing generally.

Mr David Elliott MP for Baulkham Hills has made written representations on behalf of his constituents for a number of general matters within The Hills Shire such as lack of parking at Castle Hill library, high rise development, open space requirements for planning in The Hills and concerns regarding the delivery of infrastructure to support growth.

**NSW Government Lobbyist Code of Conduct:** There have been no meetings or communications with registered lobbyists with respect to this proposal.

**NSW Government reportable political donation:** There are no donations or gifts to disclose and a political donation disclosure is not required.

#### 5. GATEWAY DETERMINATION AND ALTERATIONS

The Gateway determination issued on 2 November 2016 (**Attachment B**) determined that the proposal should proceed subject to conditions. The Gateway Determination was altered on a number of occasions (**Attachments C1-C4**) as follows:

- 8 November 2017 – to extend the timeframe for completing the LEP to 9 August 2018;
- 1 February 2019 – to extend the timeframe for completing the LEP to 9 August 2019;
- 29 October 2019 – to extend the timeframe for completing the LEP to 2 August 2020;
- 19 May 2020 – to remove Council as the local plan making authority and revoke the Written Authorisation to Exercise Delegation issued on 2 November 2016. This amendment was required due to unresolved State agencies objections.

The proposal is due for finalisation on 2 August 2020, the Plan will be made within this timeframe. The Department received the request from Council to finalise the planning proposal on 12 December 2018 due to outstanding public authority objections.

Council requested that the rezoning not occur before endorsement of the Contributions Plan by IPART. The review by IPART was completed and a report sent to the Minister in November 2019.

The Department is satisfied that Council has met the conditions of the Gateway determination and the planning proposal is adequate for finalisation.

The planning proposal was not referred to the local planning panel under Section 2.19(1)(b) of the Act. The requirement for councils to seek advice from the Local Planning Panel on planning proposals prior to reporting to Council for a Gateway Determination came into effect in mid-2018. Council considered whether to forward this planning proposal to the Department for a Gateway Determination on 24 November 2015. Therefore, the requirement to refer the matter to the Panel does not apply in this instance.

## **6. PUBLIC EXHIBITION**

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 17 August 2017 to 15 September 2017, together with the supporting plans:

- draft Contributions Plan No.17 – Castle Hill North;
- draft DCP 2012 (Part D Section 18 – Castle Hill North);
- draft DCP 2012 (Part C Section 1 – Parking); and
- draft Public Domain Plan – Castle Hill North.

Council received 80 submissions, including 8 submissions from public authorities. Of the public submissions, 46 commented specifically on the Castle Hill North Precinct.

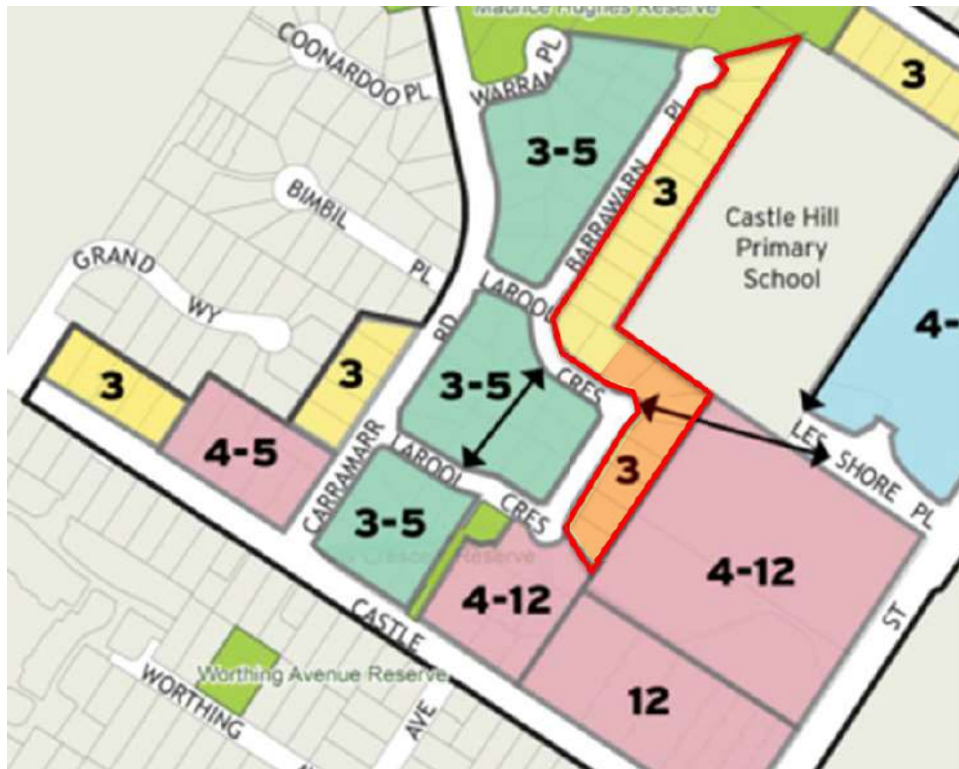
Public submissions raised concerns about density and height of buildings; inconsistency between Hills Corridor Strategy densities and Castle Hill North controls; impacts on traffic, parking and amenity (privacy and overshadowing); road widening along Garthowen Crescent and impact on heritage (Garthowen House); capacity of existing schools and lack of open space (parks and playing fields); requests to be included in the precinct, requests for increased height and density for specific sites and requests for amended planning controls.

All issues have been adequately addressed by Council as outlined in its post exhibition planning proposal (Attachment A1) and Council's post exhibition report (Attachment A2). Minor post exhibition changes made by Council are outlined in Section 8 of this Report. No further comment is required on the issues raised except for submissions received relating to land with Larool Crescent/Barrawarn Place which are discussed below.

### **6.1 Land within Barrawarn Place**

Landowner submissions were received from properties within Barrawarn Place referring to the land outlined in red in Figure 3 below. This land was exhibited with a R3 Medium Density Residential land use zone with a maximum building height of 10m (3 storeys).

The submissions requested the planning controls be amended to facilitate 3-5 storey development consistent with the western side of Barrawarn Place.



**Figure 3:** Submissions from landowners (outlined in red). Properties outlined in orange overlay refers to the Department amendments (Source: Council's Post Exhibition Report – Attachment A2)

The requests were made on the basis that the proposal is inconsistent with the principle of containing the highest densities closest to the centre and that surrounding future development will overshadow the subject land creating adverse amenity impacts and reduced property values.

#### Council response

Medium density outcomes were identified for sites in the periphery of the Precinct, and where there are constraints such as shallow lot depth and interfaces with low density housing and sensitive land uses such as Castle Hill Primary School. Given the narrow depth of the subject properties, there would be insufficient room to accommodate satisfactory setbacks to provide an appropriate degree of separation of future development to the primary school. The site constraints inhibit the ability of residential flat building development on the site to meet key design requirements specified within Council's DCP.

A landowner-initiated planning proposal was previously submitted for a number of properties within the subject area requesting higher density development. The proposal did not proceed due to the lack of suitability of the sites for residential flat building development on the site.

No change was considered necessary for the subject sites.

#### Department comment

It is agreed that the medium density outcome is appropriate for properties within Barrawarn Place that adjoin the existing Castle Hill Primary School, especially considering the close proximity of the school buildings to those property boundaries. However, eight properties within Larool Crescent (orange overlay in Figure 3) are surrounded by proposed R4 high density residential land and higher building heights on both sides. In this regard, a transition down in density and built form, as proposed for these properties, is not seen as warranted.



It is acknowledged that Council also identified these sites as medium density as the lots are constrained, have shallow lot depth and inhibit the ability of residential flat building development on the site to meet key design requirements specified within Council's DCP.

The Department has done an analysis of these properties to confirm that in addition to townhouses, slender residential flat buildings are possible on these sites. These properties are between 36-40m deep and can fit setbacks, 10m(f), 8m(r), 6m (s) leaving 18m available for a floorplate. According to Apartment Design Guide recommendations, a residential flat building floor plate typically needs 12-18m in depth and parking levels typically need 18m depth. As such, a residential flat building is possible on these lots and any development will be subject to the site specific DCP and Apartment Design Guide recommendations.

An amendment to the controls is considered suitable considering the surrounding higher density land use zoning and only two properties adjoin the existing school where the buildings are setback from these property boundaries. Post exhibition amendments are discussed in Section 8 of this Report.

## **7. ADVICE FROM PUBLIC AUTHORITIES**

Council was required to consult the Ambulance Service of NSW, Endeavour Energy, Fire and Rescue NSW, Transport for NSW (TfNSW) and Transport for NSW – Roads and Maritime Services (RMS), State Emergency Service, Sydney Water and Telstra in accordance with the Gateway determination.

Council has consulted these authorities. Submissions were received from the Office of Environment and Heritage, Western Sydney Local Health District, Endeavour Energy, NSW Environment Protection Authority, Land and Housing Corporation, Sydney Water Corporation, NSW Department of Education – School Infrastructure NSW, and a combined response from Transport for NSW and the former RMS.

Land and Housing Corporation and Transport for NSW in conjunction with Roads Maritime Services objected to the Proposal. Details regarding the public authority objections are outlined below. The remaining public authorities raised no objections.

### **7.1 NSW Land and Housing Corporation**

NSW Land and Housing Corporation (LAHC) is the owner of 24-26 Pennant Street (Lot 501 739611). It provided two letters (**Attachments D1 & D2**) to Council in response to the draft LEP, requesting amendments that would improve LAHC's ability to deliver a high-quality mixed community in Castle Hill and to replace the existing ageing social housing (56 dwellings). This is particularly important given LAHC's status as a self-funding agency.

The final position included:

- Objection to the social housing residential accommodation within Lot 501 being subject to the Clause 7.11 LEP provision requiring a certain dwelling mix, unit sizes and car parking to enable to achieve an FSR of 2.2:1.

The dwelling mix of LAHC's portfolio is increasingly out of alignment with LAHC's demographic. Approximately 45% of LAHC's growing tenant cohort are single. LAHC owns no studios and one-bedroom dwellings in Castle Hill to meet the current demand for 120 dwellings of this size.

The dwelling sizes determined by Clause 7.11 Development on certain land within the Sydney Metro Northwest Urban Renewal Corridor are inconsistent with the aim of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP), and with the non-discretionary dwelling size development standards outlined in Clause 14(2)(b) of the ARHSEPP.

While LAHC supports housing diversity, the application of the apartment mix and size requirement through the incentive provision would not enable the incentive FSR to be achieved while also meeting the required social housing provision.

It is requested that 'social housing' (as listed under the ARHSEPP) be exempt from the provisions of Clause 7.11.

- Objection to Lot 501 being included within a Key Site that requires amalgamation of 6 Larool Crescent properties to achieve a higher floor space ratio.

Acquisition of the 6 sites in Larool Crescent is financially prohibitive for LAHC as proposed under the exhibited Key Sites map. LAHC is of the opinion that renewal of Larool Crescent does not depend on amalgamation with Lot 501 and could be achieved under proposed controls. Even if amalgamated, the lots would be still effectively separated from Lot 501, given the different zonings and likely future scale of development. The principal benefit of amalgamation would be the through site pedestrian link, which requires just one of the lots adjoining 24-26 Pennant Street.

- Maintain the 20% bonus for providing a publicly accessible through site pedestrian link from Les Shore Place to Larool Crescent.
- Additional floor space ratio requested to purchase one of four lots adjoining 24-26 Pennant Street to provide for the pedestrian through-site link.

It is requested to increase the FSR by 0.1:1 (from 2.2:1 to 2.3:1) to offset the cost of acquiring an additional lot and would partially avoid a loss in social housing as a result of the acquisition.

#### Council response

The incorporation of lots along Larool Crescent within the larger Key Site was to improve viability of the terrace product being delivered at this location. If LAHC does not intend to amalgamate with the lots along Larool Crescent then it can develop at the incentive FSR, and will not be eligible for the 20% floor space bonus.

No additional FSR incentives should be provided as incentives exist within the ARHSEPP for the provision of affordable housing.

When accounting for the housing diversity incentive, 20% bonus (via the pedestrian link and active street frontages), and the affordable housing bonus through ARHSEPP, the resulting yield and mix would provide a significant proportion of the existing demand for 1 bedroom dwellings by LAHC. In this regard, the request that the Housing Diversity provision be amended to not apply to social housing is not considered to be necessary. Council was concerned that this approach would result in a vast majority of the 1 bedroom apartments within the development would be fully taken up by social housing, and that future development on the site could result in a yield in excess of what has been planned for through the contributions plans.

Council concluded that to meet the requirement for single person dwellings LAHC may simply need to reduce the number of private dwellings on site.

No changes are warranted as a result of the submission.

#### Department comment

The Department held further discussions with LAHC in respect of its submission. The Department will introduce post-exhibition changes to encourage the provision of social housing on Lot 501 due to the site's significant size, ideal location close to a metro station and bus services, retail, services and employment opportunities. Its Government ownership provides a rare opportunity to meet a growing need by creating beneficial social and private housing outcomes in a Strategic Centre designated for future housing growth.



It is important to note why reducing the number of private dwellings on the site is not a solution. The NSW Government's policy of mixed tenure redevelopment is supported by a significant body of international research that has grown over the last decade in response to the failure of larger scale mid-twentieth century public housing estates to deliver beneficial social outcomes.

Large redevelopments in the NSW Government's Communities Plus program target a ratio of approximately 30% social housing to 70% private housing. By including no more than 30% social housing in integrated or 'mixed tenure' communities, these developments are able to deliver:

- Improved social outcomes, including reduced stigma;
- Consistency with overseas redevelopment of social housing estates;
- Better financial outcomes - the right ratio for asset recycling; and
- An appropriate threshold for private sector involvement, with the right mix for purchasers to buy into the estate.

Post exhibition changes are discussed in Section 8 of the report. However, in summary the draft LEP will:

- remove the requirement for a development to meet the dwelling sizes and mix required under Clause 7.11 (3)(a)-(d) if 20% of development for the purposes of residential accommodation is provided for social housing;
- remove Lot 501 from a Key Site, the associated amalgamation requirements and incentive floor space ratio; and
- introduce a new local provision in respect of the pedestrian through site link.

Given the above, it is considered that LAHC's outstanding objections have been resolved.

## **7.2 Transport for NSW and former Roads and Maritime Services**

Transport for NSW (TfNSW) and former Roads and Maritime Services (RMS) provided letters in response to the planning proposal (**Attachment D3**) and the draft Castle Hill North Contributions Plan (**Attachment D4**). In respect of the planning proposal, Transport for NSW raised the following issues:

- Traffic modelling for the entire Castle Hill Precinct should be undertaken and a draft schedule of regional transport infrastructure improvements should be developed and submitted for TfNSW for consideration;
- The proposal to re-align Old Northern Road is not supported unless it can be demonstrated to improve peak and weekend congestion;
- Ensure a suitable infrastructure funding mechanism is implemented to support identified infrastructure items linked to development uplift; and
- Council should consider identify local roads for local bus services in consultation with TfNSW.

### Council response

- Traffic analysis requested by TfNSW/RMS is a State Government responsibility that should have been completed as part of the North West Rail Link Corridor Strategy and it is unreasonable to pass that responsibility onto Council or developers.
- Realignment of McMullen Avenue will improve its operational efficiency and the overall performance of the road network within Castle Hill Centre. No evidence has

been provided by State Government to demonstrate that the proposed intersection treatment would result in an unacceptable impact on the regional road network.

- Planned widening of Castle Street and Old Castle Hill Road can be made consistent with the desirable lane widths within the NSW Transit Bus Infrastructure guide subject to redistributing the road reserve. It is not proposed to widen the road reservation of Carramar Road as part of this proposal, should TfNSW wish to provide the additional lane width it can do so through a separate process. The request to increase the parking lane width on Castle Street is also not considered necessary as a bus stop would be designed within the 2.1m parking lane that slightly extends into the 2.55m dual cycleway.

#### Department comment

Council, TfNSW and the Department are undertaking a comprehensive transport study for the Castle Hill Precinct. This study including modelling will enable Council and State Government to better analyse the traffic implications associated with development in the entire Castle Hill Precinct.

Should any additional improvements be identified in the study, proponents for developments within Castle Hill North will be required to contribute to the share of any State road network improvements through a voluntary planning agreement. This will be secured with the application of a Satisfactory Arrangements Clause for this precinct. This will enable the State government to collect monetary contributions proportional to development towards any regional traffic infrastructure that may result from the broader study. This post exhibition change is discussed further in Section 8 of this report.

An additional local provision will also be introduced for development applications on land that interface with State roads or intersections. The draft LEP will require the consent authority to seek concurrence from TfNSW prior to development consent being issued for developments on certain lands. This is an interim measure to protect land that may be required for road widening or facilitate an intersection upgrade from the recommendations of the broader traffic study. This is further discussed in Section 8 of this report.

In respect of the contributions plan, IPART has finalised its assessment of the draft Contributions Plan No 17 – Castle Hill North Precinct and did not include a recommendation regarding the realignment of McMullen Avenue. However, IPART recommended the cost of road upgrades and intersections be reduced. The contributions plan is with the Department for review which is required prior to Council adopting the contributions plan.

Given the above, it is considered that the Transport agencies' outstanding objections have been resolved.

## **8. POST-EXHIBITION CHANGES**

### **8.1 Council amendments**

Council proposed minor post-exhibition changes to the planning proposal to address submissions and ensure consistency between the plans supporting this precinct. Amendments primarily related to the key site provision, road widening along Castle Street, rezoning of land along Castle Street, Carramar Road and Old Castle Hill Road and removal of the design excellence provisions.

Post-exhibition amendments were also incorporated into the draft DCP to address issues raised in the submissions, to improve structure and usability of the controls and reflect the recently adopted controls for the Showground Precinct where appropriate.

## 8.2 Department amendments

The Department has made a number of post-exhibition amendments to address State agency objections, objections relating to land along Larool Crescent and unintended implications as a result of The Hills LEP amendment no.6 (6–12A and 16–20 Garthowen Crescent, Castle Hill).

### Amendments to Lot 501 DP 739611 – land owned by Land and Housing Corporation

To incentivise the delivery of social housing on Lot 501, and address LAHC's submission, the Department has made the following changes:

- Exclude Lot 501 from Clause 7.11 (3)(a)-(d) Development on Certain land with the Sydney Metro Northwest Urban Renewal Corridor; but only if a minimum of 20% of the development is for the purposes of social housing premises (within the meaning of the *Residential Tenancies Act 2010*). Lot 501 will be mapped as 'Area B' on the floor space ratio map which will ensure the dwelling mix and unit size provisions of Clause 7.11 apply unless the minimum social housing component is provided. Car parking rates under cl 7.11 (3)(e) will need to be complied with even if social housing premises are provided;
- Remove Lot 501 from 'Area J' on the Key Sites map. This will remove the additional floor space achievable under this provision including the requirement for Lot 501 to amalgamate with adjoining properties and provide the through site pedestrian link between Larool Crescent and Les Shore Place; and
- Insert a new local provision requiring the consent authority to consider whether arrangements have been made within a development application for the purposes of residential accommodation for a pedestrian through-site link.

The above amendments will result in a lower residential density on the site than exhibited with the maximum achievable floor space ratio of 2.2:1 compared to a potential FSR of 2.64:1. This is a reduction of 0.44:1 floor space ratio which equates to the loss of approximately 50 x 3 bedroom units (as per clause 7.11 requirements, based on an approximate site area of 15,340m<sup>2</sup> and resultant 6,750m<sup>2</sup> of floor space).

Providing an exemption to the application of The Hills housing dwelling mix provision (clause 7.11(3)(a)-(d)) on the basis that a minimum of 20% social housing is provided will enable LAHC to provide dwellings more suitable for its needs.

LAHC has accepted a reduction in the achievable floor space as a compromise for Lot 501 being excluded from The Hills housing dwelling mix and the amalgamation requirements under the key site provisions. The Department considers this is appropriate.

The Department has also ensured the public benefit as envisaged under the exhibited plan is maintained by inserting a local provision relating to the provision of a pedestrian through-site link from Larool Crescent to Les Shore Place.

It is recommended that these amendments be endorsed without requiring further exhibition as the intent of the planning proposal is still achieved as exhibited being a higher density residential site. Although the residential potential is reduced overall, it has been amended in consultation with LAHC and the public benefit of a through-site pedestrian link is maintained.

### Amendments Lots 7-14 DP 237030, Larool Crescent, Castle Hill

In order to incentivise the delivery of social housing on Lot 501 DP 739611, the Department made changes to the exhibited key site 'Area J' which included six Larool Crescent properties and Lot 501. These amendments also address submissions relating to these properties (as outlined in Section 6 of this Report).



The proposed changes relate to Lots 7 – 14 DP 237030, 17-31 Larool Crescent, Castle Hill:

- Rezoning properties from R3 Medium Density Residential to R4 High Density Residential;
- Remove the maximum building height of 10m;
- Introducing a 'base' floor space ratio of 1:1 and identifying the properties as 'Area B' subject to the provisions of Clause 7.11;
- Introducing an incentive floor space ratio of 1.2:1 subject to compliance with the provisions of Clause 7.11;
- Retaining Lots 9 – 14 DP 237030 within 'Area J' on the key site map, remove Lots 7 and 8 DP 237030 from 'Area I' and include with 'Area J'. This will result in a total of the eight Larool Crescent properties forming one key site, rather than being split into two key sites (see Figure 4 below);
- Retaining the key site provision for 'Area J' that permits an additional 20% of floor space (maximum 1.44:1) is achievable if the properties are amalgamated and provide the pedestrian through-site pedestrian link from Larool Crescent to Les Shore Place.



**Figure 4:** Post-exhibition change – Key Sites map

The proposed controls will deliver a similar outcome to development envisaged within Larool Crescent (to the west of the site) being a higher density development of 96 dwellings per hectare, 3-5 storeys and will act as a transition in height towards the centre.

The proposed amendments will not deliver a significant increase in number of dwellings within the precinct overall. The exhibited density plan (**Attachment A1**) identified these properties to achieve 39 dwellings per hectare. All eight properties would yield approximately 22 dwellings based on a combined area. The proposed amendments will indicatively yield approximately 96 dwellings per hectare which equates to 54 dwellings. The decrease in residential development potential associated with amendments to Lot 501 referred to above will offset the additional residential yield as a result of increasing the density for the Larool Crescent properties.

In respect of the suitability of these lots to accommodate residential flat buildings, comments have been provided in Section 6 of this Report.

While this amendment reduces the number of areas Castle Hill North precinct envisaged for terrace style housing to provide housing choice, there are a number of other areas in the exhibited structure plan that are more suitable for this product. The Department agrees with Council that residential flat buildings would not be appropriate adjoining the school in this instance. The proposed amendments to 'Area J' only include two properties that interface with the existing school site. The school buildings are setback within the site, separated by car parking, and it is considered appropriate separation. In addition, development on those properties will be subject to further assessment at the development application stage.

Council's development control plan will need to be amended to reflect the proposed changes including the structure plan.

It is recommended that these amendments be endorsed without requiring further exhibition as the amendments do not change the intent of the planning proposal as exhibited being a higher residential density development. These amendments will not result in an overall increase in residential density for the precinct and the public benefit of a through-site link is maintained.

#### Resolving Transport agencies objections

To address Transport agencies objections, two post-exhibition changes are proposed. The precinct will be mapped as an 'urban release area' in the relevant LEP map. This would require the consent authority to consider the provision of Part 6 Urban Release Areas of The Hills LEP. Clause 6.2 of The Hills LEP 2019 will require the consent authority to ensure satisfactory arrangements are made for the provision for designated State public infrastructure to satisfy the needs that arise from development on the land prior to issuing development consent.

In addition, a new local provision will be inserted within the LEP, supported by a clause application map, that will require a consent authority to obtain concurrence from Transport for NSW on the potential effects of a proposed development on proposed future road infrastructure in the locality prior to development consent being granted. Seven properties will be mapped including: lot 501 DP 739611, lot 51 DP 1022542, Lots 10 & 11 DP 881332, Lot 1 DP204335, Lots 1 & 2 DP 700815. This is to provide an interim measure until the findings of the cumulative Castle Hill study are known including any land take required to accommodate future upgrades of intersections on State roads.

During consultation with TfNSW about its submission, in advance of the completed study for the broader precinct the agency identified the need consideration of the need to manage traffic generation within the precinct. TfNSW identified that Council's minimum car parking rates were unsuitable given the precinct's proximity to a Metro Station, bus services and the role of Castle Hill as a Strategic Centre.

The Department and Council agreed to the existing car park rate within Clause 7.11 of The Hills LEP which was prior to the Metro commencing. As the North West Metro is now functioning, TfNSW has requested that car parking rates be reduced to those rates as outlined below.

The Guide to Traffic Generating Developments has two sets of rates including Metropolitan Regional (CBD) Centres and Metropolitan Sub-Regional Centres. The rates proposed for Castle Hill North are consistent with a new 'Strategic Centre' maximum parking rates which includes:

- 0.5 spaces per dwelling (1 Bedroom);
- 0.8 spaces per dwelling (2 Bedroom);
- 1.3 spaces per dwelling (3 Bedroom); and

- 1 space per 5 units (0.2 spaces) (visitor parking).

The draft LEP will include the above car parking rates as maximums for Castle Hill North to realise the transit orientated benefits of this area that align with the overall Transport 2056 travel demand and mode shift strategy. Under the above rates, the precinct would generate 3,511 car parking spaces, compared with 4,110 car parking spaces under the current provisions, which is a reduction of 599 spaces. The reduction in rates will assist in reducing congestion.

Considering the broader cumulative traffic study currently underway and it's a new precinct with access to a Metro Station and bus services, this amendment will assist in shifting people's mode of travel. Council will have the opportunity to monitor the implementation of this provision and travel behaviour as the precinct develops. Car share provision in the precinct may be required and can be provided in local streets or accessible business premises.

The new car parking rates will come into effect on 25 December 2020. A savings provision is included within the draft LEP so that the existing car parking rates apply to any DA lodged prior to 25 December 2020.

These post-exhibition changes are required to resolve the concerns raised by TfNSW and the former RMS. It is recommended that these amendments be endorsed without requiring further exhibition as the amendments do not change the intent of the planning proposal as exhibited. These changes are to ensure that suitable mechanisms would be in place to protect any land required to support potential future State road or intersection upgrades, for developer contributions to be obtained for the provision of regional transport infrastructure required to support development uplift in Castle Hill, and apply appropriate car parking rates for this precinct.

In addition, the owners of land mapped in the Clause Application map where future development applications will require concurrence from TfNSW have been informed of the respective post-exhibition amendment.

#### Amendment to 22 Garthowen Crescent, Castle Hill

Under the exhibited plan, 22 Garthowen Crescent had a 'base' floor space ratio of 1:1, an incentive floor space ratio of 1.54:1 and could achieve a maximum floor space ratio of 1.85:1 under the key sites provision (Area L).

As a result of The Hills LEP amendment no. 6 (6–12A and 16–20 Garthowen Crescent), the key site 'Area L' was reduced in size and excluded 22 Garthowen Crescent. This has inadvertently reduced the maximum achievable floor space on 22 Garthowen Crescent to 1.54:1 as it can no longer form part of a key site and achieve the 20% uplift associated with that provision. From discussions with Council, this has been an unintended consequence of The Hills LEP Amendment no.6.

In consultation with Council, the Department will make a post-exhibition change to increase the incentive floor space ratio on the relevant LEP map from 1.54:1 to 1.85:1 being the maximum allowable floor space permitted as exhibited.

This post-exhibition change is considered reasonable as it will not increase the planned gross floor area or development yield of the site and it is consistent with the exhibited maximum achievable floor space ratio.



## **9. ASSESSMENT**

### **9.1 Section 9.1 Directions**

The Gateway Determination referred to inconsistencies with Section 9.1 Directions 5.9 North West Rail Link Corridor Strategy and Section 6.3 Site Specific Provisions. However, it was justified in accordance with the terms of the Direction.

The post exhibition planning proposal stated the following Section 9.1 Directions were relevant, and the proposal was consistent with these Directions.

- Direction 2.3 Heritage Conservation;
- Direction 3.1 Residential Zones;
- Direction 3.4 Integrating Land Use & Transport;
- Direction 4.3 Flood Prone Land;
- Direction 6.1 Approval and Referral Requirements; and
- Direction 7.1 Implementation of A Plan for Growing Sydney.

There were no unresolved Section 9.1 Directions and no additional inconsistencies with Section 9.1 Directions identified.

### **9.2 State environmental planning policies**

The draft LEP is consistent with the relevant SEPPs or deemed SEPPs.

### **9.3 State, regional and district plans**

The Central City District Plan is applicable to this planning proposal. The following key priorities are relevant:

- Planning Priority C5 – Providing housing supply, choice and affordability with access to jobs, services and public transport: the planning proposal aligns with this priority in providing new housing within a Strategic Centre that benefits from nearby employment, services and transport; and
- Planning Priority C6 - set by the plan commits to creating and renewing great places and local centres and respecting the District's heritage.

The delivery of high-density residential development within walking distance of the Castle Hill Metro Station will facilitate an increase in the supply of housing to meet the housing demand of the future population and support employment growth in Castle Hill as a strategic centre. The proposal will ensure that the future mix of apartment types and sizes aligns with the predicted demographic of The Hills.

## **10. MAPPING**

The planning proposal seeks to amend a number of LEP maps and introduce a new clause application map.

The 7 maps supporting the LEP amendment include the following:

- Land Use Zoning Map - Sheet LZN\_024;
- Height of Buildings Map - Sheet HOB\_024;
- Lot Size Map – Sheet LSZ\_024;
- Floor Space Ratio Map - Sheet FSR\_024;
- Floor Space Ratio Incentive Map – Sheet FSI\_024;

- Key Sites Map/Urban Release Area Map – Sheet CL2\_024; and
- Clause Application Map – Sheet CAP\_024.

These have been checked by the Department's ePlanning Team.

## 11. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979*. Council provided comment on 3 July 2020 stating that it did not support elements of the draft LEP (**Attachment E**). Council does not support the following amendments within the draft instrument:

- Parking Rates

The proposed parking rates are considered highly inappropriate and unnecessary. Council's rates (a minimum of 1 space per dwelling and 1 visitor space per 5 dwellings) are the result of substantial analysis of car ownership and parking demand within similar transit centres. The use of these rates within Sydney Metro North West Precincts forms part of an agreement between Council, the Department and the former Chief Town Planner. Transport agencies were consulted and agreed to these rates as part of the negotiations.

- Amendments to Lot 501 DP 739611

The removal of the requirement to meet Clause 7.11 Dwelling size and mix clause, and amendment to the key site 'Area J' provision would enable a significant number of additional dwellings on the site and hinder the delivery of public benefits.

- Larool Crescent properties

Insufficient rationale or justification has been provided supporting the proposed amendments (R4 land use zone, higher floor space ratio and amendment to the key site 'Area J') to the Larool Crescent properties. These amendments will change the intended character and mix of housing in the Precinct.

There were a number of reasons as to why high density development was not considered appropriate for these sites including their constrained nature (dimensions and configuration), potential amenity impacts and overlooking of the adjoining primary school. The additional yield is considered excessive and not catered for as part of the contributions plan.

The justification for the post-exhibition changes as outlined Section 8 of this report which addresses Council's concerns mentioned above.

## 12. PARLIAMENTARY COUNSEL OPINION

On 15 July, 2020 Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

## 13. RECOMMENDATION

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- Amending the land use zoning, floor space ratio and height of building controls will allow the redevelopment of this site for high density residential use close to the Castle Hill Metro station within the strategic centre;
- The LEP provides a housing mix appropriate to meet the needs of the current and future demographic of The Hills Shire. It addresses requirements around density,

open space and design quality of built form and provides for high quality urban renewal that includes appropriate social housing;

- The precinct will be subject to satisfactory arrangements for additional and upgraded infrastructure to support the density provided;
- Inconsistencies with Section 9.1 Directions 5.9 North West Rail Link Corridor Strategy and Section 6.3 Site Specific Provisions are of minor significant and justified;
- The LEP is consistent with other relevant Section 9.1 Directions and State Environmental Planning Policies; and
- The proposal adequately responds to matters raised in advice from public authorities and public submissions.



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