

Greater Sydney, Place and Infrastructure

IRF20/2769

Plan finalisation report

Local government area: The Hills Shire Council

1. NAME OF DRAFT LEP

The Hills Local Environmental Plan 2019 (Amendment No 4). The draft written instrument is at **Attachment LEP**.

2. SITE DESCRIPTION

The draft LEP relates to land at 93-107 Cecil Avenue and 9-10 Roger Avenue, Castle Hill, which is made up of 18 residential lots with a total land area of approximately 17,610m². It has a primary frontage to Cecil Avenue (approximately 162 metres), a secondary frontage to Roger Avenue (approximately 36 metres) and a cul-de-sac connecting to Francis Street (**Figure 1**).

The site is located on the southern side of the Castle Hill Town Centre. It is less than 10 minutes walking distance of the Castle Hill Metro Station and Castle Towers Shopping Centre. It is bordered to the west by St Paul's Cemetery and Christadelphian Church which are local heritage items (item no. I61 and I62, respectively) under The Hills Shire LEP 2019. It is bordered to the south and east by detached homes.

The below table includes the lots and addresses that make up the site.

Table 1 – Applicable land (source: The Hills Shire Council)

Address		Lot and DP
97 Cecil Avenue	CASTLE HILL NSW 2154	Lot 6 DP 705913
93 Cecil Avenue	CASTLE HILL NSW 2154	Lot 27 DP 15399
95A Cecil Avenue	CASTLE HILL NSW 2154	Lot 1 DP 531559
97A Cecil Avenue	CASTLE HILL NSW 2154	Lot 4 DP 531559
97B Cecil Avenue	CASTLE HILL NSW 2154	Lot 5 DP 705913
99 Cecil Avenue	CASTLE HILL NSW 2154	Lot 1 DP 581293
99A Cecil Avenue	CASTLE HILL NSW 2154	Lot 3 DP 581293
101 Cecil Avenue	CASTLE HILL NSW 2154	Lot 2 DP 581293
101A Cecil Avenue	CASTLE HILL NSW 2154	Lot 4 DP 581293
103 Cecil Avenue	CASTLE HILL NSW 2154	Lot 1 DP 547897
103A Cecil Avenue	CASTLE HILL NSW 2154	Lot 2 DP 547897
105 Cecil Avenue	CASTLE HILL NSW 2154	Lot 1 DP 591676
105A Cecil Avenue	CASTLE HILL NSW 2154	Lot 2 DP 591676
107 Cecil Avenue	CASTLE HILL NSW 2154	Lot 20 DP 15399
9 Roger Avenue	CASTLE HILL NSW 2154	Lot 6 DP 29141
10 Roger Avenue	CASTLE HILL NSW 2154	Lot 5 DP 29141
95B Cecil Avenue	CASTLE HILL NSW 2154	Lot 21 DP 778595
95 Cecil Avenue	CASTLE HILL NSW 2154	Lot 22 DP 778595

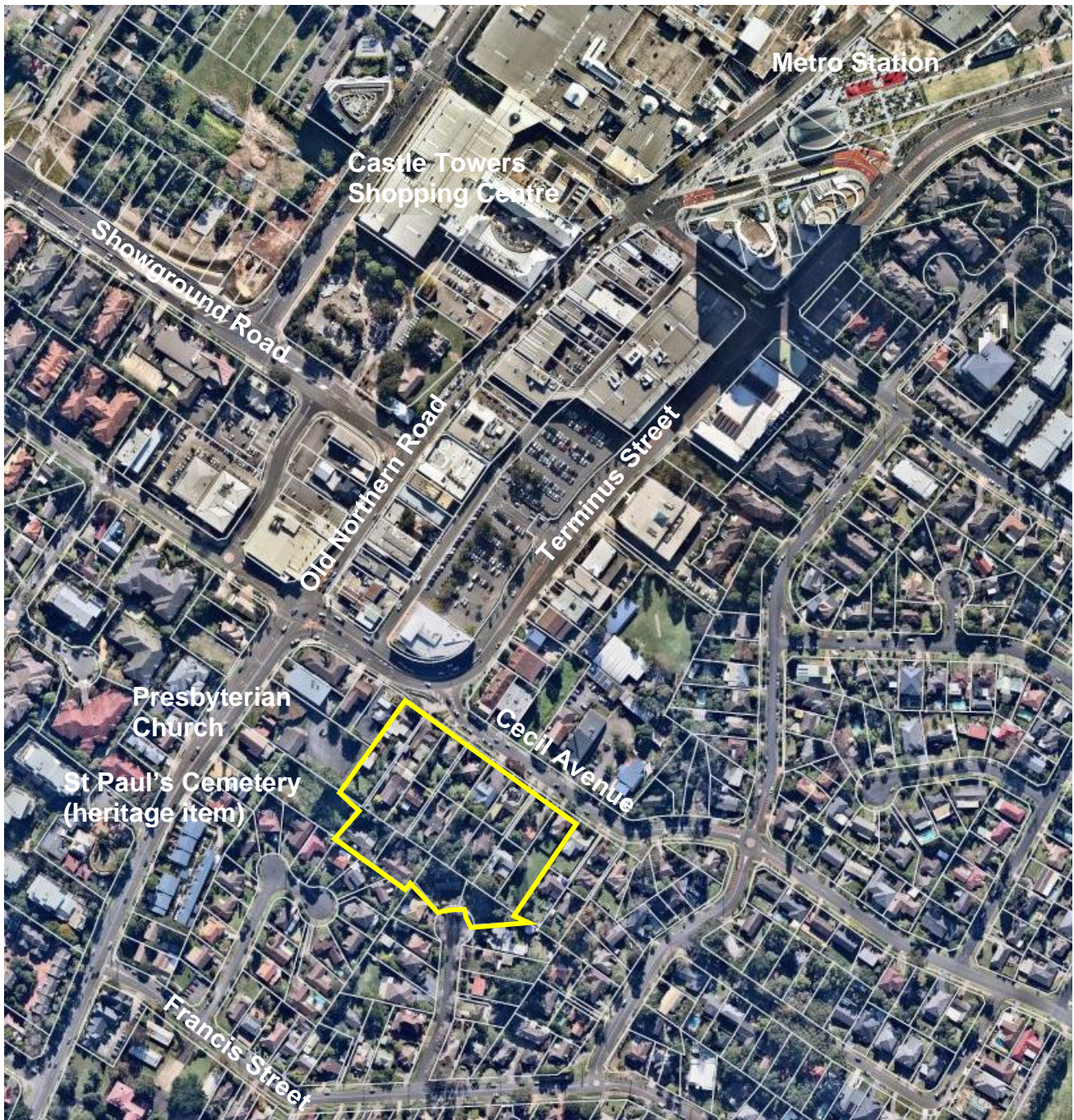


Figure 1 – Site outlined in yellow and surrounds (source: NearMap)

3. PURPOSE OF PLAN

The draft LEP seeks to enable a mixed use development on the site, providing up to 460 residential dwellings, a minimum of 8,025m² of commercial floor space, and a 2,032m² public through-site pedestrian link to Roger Avenue. A concept design (**Attachment A01** and **Figure 3**) was prepared as part of the planning proposal.

The draft LEP seeks to:

- rezone the site from part R1 General Residential and part R3 Medium Density Residential to B4 Mixed Use (**Figure 2**);
- remove the 16m and 9m maximum building heights;
- apply a maximum floor space ratio (base) of 1:1 and identify the subject site as 'Area A', subject to the provisions of Clause 7.11 of the LEP 2019;

- apply an incentivised floor space ratio of 3.5:1, which would be achievable subject to the provisions of Clause 7.11 of the LEP 2019;
- identify the site 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 for designated State public infrastructure to satisfy the needs that arise from development on the land;
- introduce a local provision in Section 7 of The Hills LEP 2019 to ensure that the consent authority must not grant development consent to development that would result in more than 460 dwellings on this land; and
- introduce a local provision in Section 7 of The Hills LEP 2019 to ensure the provision of 8,025m² of commercial floor space is provided within the site.

The draft LEP is supported by a draft The Hills Development Control Plan Part D Section 21 – 93-107 Cecil Avenue and 9-10 Roger Avenue, Castle Hill and a local voluntary planning agreement.

The public through-site pedestrian link to Roger Avenue will be provided through a public right of way easement as identified in the executed local voluntary planning agreement. This will facilitate pedestrian access from residential areas south of the site to the Castle Hill centre.

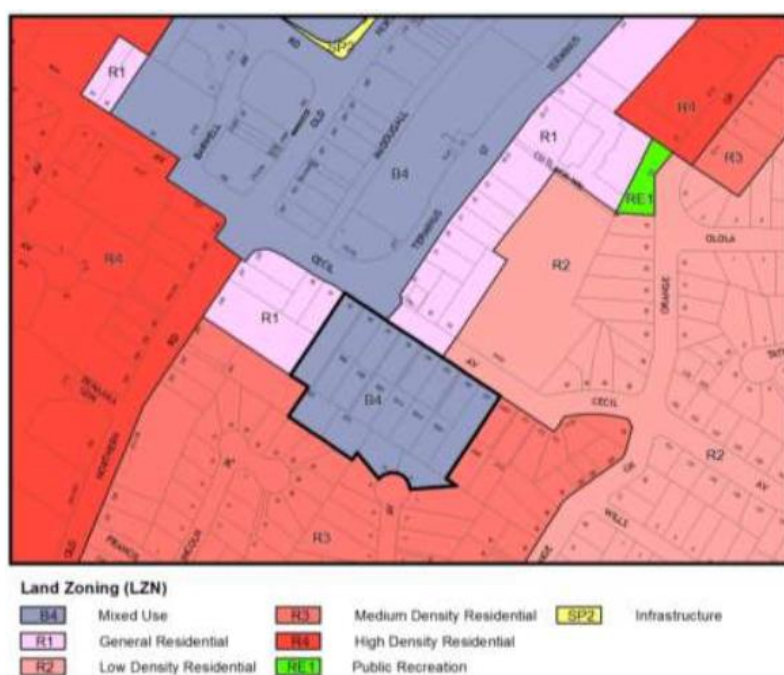


Figure 2 – draft LEP zoning plan



Figure 3 – Site plan showing concept building heights (source: PTW, The Hills Shire Council)

4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Caste Hill State Electorate. Mr Raymond 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.

NSW Government Lobbyist Code of Conduct: One meeting was held with a registered lobbyist 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-C3**) as follows:

- 2 November 2017 to extend the timeframe for completing the LEP to 9 May 2018;
- 16 April 2018 to extend the timeframe for completing the LEP to 9 November 2018; and
- 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 an unresolved objection from Transport for NSW and the former Roads and Maritime Services (RMS).

The finalisation date for this proposal expired on 9 November 2018 but the LEP can be validly made without extending the Gateway.

Council's request to the Department to finalise the planning proposal was made on 25 October 2018 prior to the due date. It was not considered for finalisation until a local voluntary planning agreement to secure contributions for infrastructure improvements had been registered on the title of the land. The Department is now satisfied the planning proposal is adequate for finalisation and that Council has met the conditions of the Gateway determination.

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 12 April 2016. 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 between 24 August 2017 and 22 September 2017 supported by proposed changes to The Hills Development Control Plan (DCP) 2012 and a draft Voluntary Planning Agreement (VPA). The documents were made available at the Castle Hill Library, Vinegar Hill Memorial Library, Council's Administration Centre and on Council's website.

Council received 24 individual submissions from the public. All issues have been adequately addressed by Council as outlined in its post exhibition planning proposal (**Attachment A01**) and Council's post-exhibition report (**Attachment A04**). These issues are discussed below.

6.1 Strategic justification and precinct planning

Submissions raised concern about the strategic justification for the planning proposal and that this proposal would precede precinct planning for Castle Hill. Concern was also raised regarding the impact of providing commercial floor space outside of the Castle Hill commercial core.

Council response

- The site was identified in both the State Government's Sydney Metro Northwest Priority Urban Renewal (formerly the North West Rail Link) Strategy and the Hills Corridor Strategy for increased development opportunities.
- Castle Hill is identified as a major centre capable of accommodating further homes and jobs where they can benefit from access to public transport, employment, services and infrastructure.

- The proposal was deemed to have strategic merit. While the outcome provided in the planning proposal would facilitate a development outcome and yield that exceeds what has been envisaged for the site in both Council and the State Government's strategic planning for the Castle Hill precinct, it supports the overarching goals in these strategic documents.
- The planning proposal supports a mixed use outcome for the site, as a balanced solution, that is appropriate for this site's location on the periphery of the centre's commercial core. It will provide additional housing in close proximity of the Castle Hill Metro Station while still supporting local job opportunities to contribute to the growth of the Strategic Centre. This mixed use outcome has consideration of, and represents a hybrid between, the visions for this land contained in local and State Government strategies as detailed in Table 2 below.

	North West Rail Link Corridor Strategy	Hills Corridor Strategy	Subject Proposal
Dwelling Yield	3-6 storey apartment buildings Approx.176-352 dwellings	No additional residential dwellings	3-18 storeys 460 dwellings
Employment Floor Space Ratio/Yield	Not proposed	Employment FSR 1.5:1 for part of the subject site. Approx 15,000m ² of employment generating floor space Approx 395 jobs	8,025m ² Approx 211 jobs

Table 2 – Comparison of yields for this land envisaged in applicable strategic plans (source: The Hills Shire Council)

- The site is suitable for increased density, being a large site capable of being master planned with common open space and access, and as such the proposal has progressed. It does not isolate any adjacent properties or prevent further planning proposals or precinct planning.
- The use of the B4 Mixed Use Zone across the entire site expands appropriate key uses accommodated in the centre's core on the other side of the ring road.

6.2 Traffic study and analysis

Submissions queried the methodology and conclusions of the traffic report exhibited with the planning proposal, including whether the cumulative impacts for intersections within the network were considered as part of the study area.

Council response

Following exhibition of the planning proposal with an associated traffic study, the Castle Hill South Traffic Study (2017) was prepared and Council and the proponent undertook further consultation with Transport for NSW (including former RMS).

Many of the issues raised in submissions were addressed in the Castle Hill South Traffic Study. This study considered the redevelopment of Castle Hill south and identified a number of traffic infrastructure upgrades to support new development.

Department comment

These issues are further addressed in Section 7.1 and 7.2 of this report.

6.3 Traffic congestion

Submissions raised concerns with the existing traffic congestion in Castle Hill generally and the potential for increased congestion as a result of the proposal and surrounding growth.

Council response

The traffic modelling identified a number of traffic measures that can be undertaken to support the capacity envisaged by the planning proposal. Two measures are identified within the site-specific development control plan including a roundabout at Roger Avenue and Francis Street and the road widening of Roger Avenue (post-exhibition change).

Another measure identified to assist with traffic congestion is the potential upgrade to the Francis Street and Old Northern Road intersection to traffic signals. The proponent will contribute to the cost of the upgrade through developer contributions.

Department comment

These issues are further addressed in Section 7.1 and 7.2 of this report.

6.4 Car parking

Submissions raised concern regarding the quantity of parking to be provided on the site and the impacts on the availability of on-street, car parking and associated traffic movements in the surrounding area.

Council response

Parking is to be provided on the site in accordance with Clause 7.11 of The Hills LEP 2019. The need for some parking restrictions in the surrounding area has been identified in the Traffic and Parking Study which will be considered at the development application stage and by the Local Traffic Committee if required.

6.5 Pedestrian movement

Submissions raised concern that the development capacity envisaged for the site would result in increased pedestrian traffic and associated noise, safety and security impacts for surrounding property owners. Safe pedestrian movement between the site and the centre's core was also raised as an issue.

Council response

The planning proposal includes a through-site link as part of future development to encourage walking through the site rather than around surrounding properties. This will also enable a better connection for future residents and workers with the centre and Metro Station.

It is expected that pedestrians will utilise this through-site link and the existing traffic signals at the intersection of the Old Northern Road and Terminus Street to access the centre core. Crime Prevention Through Environmental Design (CPTED) principles and any potential acoustic impacts will be considered at the detailed design stage for future development on the site as part of a development application.

6.6 Scale of development

Submissions raised concern with the height, bulk, density and yield of the proposal and the appropriateness of its overall scale in a location that adjoins low-density residential properties. Submissions also raised concern with general redevelopment of The Hills Shire.

Council response

While the development potential as a result of the proposed LEP will be significantly higher than surrounding development, which is characterised by low density detached dwellings

and businesses, the outcome responds to the strategic context of the site. These adjoining areas are zoned for medium density and are expected to redevelop over time.

Taller building heights have been concentrated in the middle and towards the northern boundary of the site, transitioning to high density development in the centre core of Castle Hill Strategic Centre. Heights of between 3 to 6 storeys are proposed at the rear and south western corner of the site, aligning with the scale of development envisaged for this land under the Castle Hill Structure Plan. The draft DCP sets the maximum height of buildings in storeys and requires that future development respond to the topography of the site and mitigate bulk and scale.

As redevelopment occurs within the Castle Hill Strategic Centre, tall buildings will be more common and the proposed development on the subject site will form part of the Castle Hill skyline. It is therefore consistent with the planned and desired future character of Castle Hill Strategic Centre.

Council sought to make a post-exhibition amendment to the draft LEP by inserting a local provision to cap the dwelling yield to 460 dwellings. This is discussed further under Section 8 of this report.

6.7 Impacts on surrounding land

Submissions raised concern about the loss of privacy and overshadowing resulting from the scale of the proposed development.

Council response

The planning proposal (**Attachment A01**) provides the following in response:

- Overlooking from balconies, windows and communal spaces will be assessed as part of the detailed design of future development on the site with regard to the Apartment Design Guide and the site-specific DCP as part of a development application. A number of post-exhibition changes were made to the draft DCP to require that future development respond to the contour of the site, address light spill, and adopt appropriate setbacks.
- Additional modelling was prepared in response to the Gateway determination, which confirmed that the neighbouring residential properties will continue to receive a minimum 4 hours of sunlight access between 9am and 3pm on 21 June (**Figure 4**).

The future development outcome for the site has been demonstrated to not adversely impact on the surrounding area, which will be further detailed and assessed as part of any future development application.





Figure 4 – Overshadowing modelling of concept design (source: PWC)

6.8 Residential amenity

Submissions raised concern with the concept design's compliance with the Apartment Design Guide and the suitability of the planning proposal. Particular reference was made to setbacks and building separation.

Council response

The concept design was assessed against the provisions of the Apartment Design Guide and State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65) to demonstrate a development outcome facilitated by the planning proposal would be compliant and deliver high-quality designed apartments. A full assessment of the design requirements and performance standards will be undertaken as part of any development application for the site.

Council made a number of post-exhibition amendments to the proposal to address concerns. These are discussed under Section 8.

6.9 Utilities and services

Submissions raised concern for the capacity of existing utilities and services to accommodate the additional capacity planned for the site, including the stormwater and wastewater systems. Concern was also raised regarding runoff and flooding as a result of the topography of the site.

Council response

The detailed consideration of planning, servicing and connection requirements or stormwater easements to address flooding for this site would form part of a future development application for this land, including compliance with the stormwater management provision in The Hills DCP.

Sydney Water, as well as other utility providers, will be consulted as part of the development application process and the relevant approvals (including a Section 73 Compliance Certificate from Sydney Water) would be required as part of any future development. The need for any amplification of the drinking water and wastewater network would be assessed at this stage.

Department comment

Council's DCP contains provision to ensure that properties downstream of the property are not adversely affected by the redevelopment of this site.

7. PUBLIC AUTHORITIES

In accordance with the Gateway determination, Council consulted with the following public authorities:

- Office of Environment and Heritage (now known as Environment, Energy and Science);
- Transport for NSW;
- RMS – now part of Transport for NSW;
- Integral Energy (now known as Endeavour Energy);
- Heritage Council of NSW; and
- Sydney Water.

Submissions were received from all public authorities (**Attachments A06-A17**).

The former Office of Environment and Heritage, Sydney Water and Endeavour Energy provided comments but raised no objection. The former RMS and Transport for NSW both objected to the planning proposal. Matters raised by agencies are discussed below.

7.1 Transport for NSW

Transport for NSW (TfNSW) raised an objection to the planning proposal as exhibited and recommended that Council should consider prioritising the preparation of a potential precinct rezoning and infrastructure plan prior to any further consideration of site-specific planning proposals within Castle Hill. TfNSW stated this process would also identify funding measures and include cost estimates to undertake any required works.

TfNSW provided two submissions (**Attachments A11, A12**) identifying the following matters to be considered:

- Pedestrian infrastructure improvements should be considered to support any new potential pedestrian desire lines that may result from the proposed public pedestrian through-site link. This could also include enhanced pedestrian crossings on Cecil Avenue and pedestrian footpaths along Roger Avenue.
- The parking rates should be reconsidered as maximum rates and take into consideration the former RMS' Guide to Traffic Generating Development.
- Council should consider allocating local infrastructure contributions towards improving two bus shelters in the vicinity of the site, and the potential signalisation of the Old Northern Road and Francis Street. Any proposed traffic signals would be subject to RMS (now TfNSW) approval and would need to be provided as works-in-kind.

Council response

Council agreed that broader traffic analysis for the Castle Hill Precinct should be completed as soon as possible. However, argued planning proposals should not be deferred on the basis that the local voluntary planning agreement supporting this proposal is providing a significant monetary contribution to transport improvements. This contribution would be available for allocation towards upgrades to traffic and infrastructure required to service the anticipated growth within Castle Hill.

In respect to the intersection of Old Northern Road and Francis Street, it is not appropriate for the applicant to provide this intersection as works in kind. It is not possible for the proponent to acquire land and deliver this intersection given the distance between the development site and the intersection.

Department comment

Council, in consultation with Transport for NSW and the Department, began to prepare comprehensive traffic study for the Castle Hill, Showground and Norwest Precincts in 2019. Modelling as part of this will enable Council and State Government to better analyse the traffic

implications associated with the cumulative impact of development in these areas. In consultation with TfNSW the Department is satisfied that the improvements identified to which the development will contribute address the impact of this proposal on the local transport network.

Should additional improvements be identified in the study, to conclude by late 2020, the proponent will be required to contribute to the development's share of any State road network improvements through a voluntary planning agreement. This will be secured with the application of a Satisfactory Arrangements Clause within this LEP amendment. This will enable the State government to collect monies 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.

As the site does not have frontage to any State roads, there is no risk that this site may be required for State infrastructure. The site specific development control plan includes provides for the widening of the carriageway of Roger Avenue (within the existing road reserve) on the eastern side (from the development site up to and including no.23 Francis Street) by approximately 2m. The cost of the road widening is to be funded by the developer at no cost to Council.

Given the above, it is considered that the issues raised by TfNSW have been resolved and there is an appropriate pathway identified to resolve the broader traffic issues.

7.2 Transport for NSW (former Roads and Maritime Services)

The former RMS also raised an objection to the planning proposal as exhibited – the proposal be deferred until a broader traffic study has been undertaken and funding mechanisms are in place for required infrastructure works. The broader infrastructure study initially took the form of Council's Castle Hill 'south' precinct traffic modelling. However, additional modelling for the broader Castle Hill area is now underway (refer to Section 7.1 above).

RMS comments also focused on advice relating to the upgrade of Old Northern Road and Francis Street intersection.

Council response

Significant traffic analysis had been undertaken by the proponent and Council to assist RMS with assessing the proposal.

The Castle Hill South Traffic Study made the following recommendations for traffic works:

- Widening of Crane Road between Terminus Street and Orange Grove to achieve a four-lane carriageway;
- Provision of additional capacity at the intersections of Old Northern Road with Cecil Avenue and the intersection of Terminus Street with Crane Road;
- Installation of traffic signals at the junction of Old Northern Road with Francis Street together with restriction of traffic movement in Parsonage Road to left turn in and out only at Old Northern Road;
- Provision of a roundabout at the intersection of Crane Road with Orange Grove; and
- Consideration of the realignment of Brisbane Road with McMullen Avenue.

This information was provided to RMS for review however reiterated that the cumulative traffic modelling for the Castle Hill Precinct would enable planning for the entire precinct.

In addition, the proponent did not offer to undertake the necessary works associated with signalling the Old Northern Road and Francis Street intersection. The proponent does not have the ability to acquire land or deliver works located away from its site. Council stated

the monetary contribution, collected under the local voluntary planning agreement (VPA) could be spent on the upgrade of this intersection.

Department comment

In 2020, Council, TfNSW and the Department began a comprehensive transport study for the Castle Hill precinct. As outlined in section 7.1 there are provisions to capture contributions to State road improvements. Should funds from the local VPA not be provided for the upgrade of the Francis Street intersection, the State could require additional contributions to secure this work in line with the requirement for satisfactory arrangements in the LEP. The proponent has offered to enter into a State voluntary planning agreement if required to fulfil these arrangements.

The site does not adjoin any State roads that may be identified for widening and the LEP includes a mechanism to secure contributions to the upgrade of State infrastructure so it can be progressed without risk. It is considered the issues raised by former RMS have been resolved as outlined in Section 7.1 of this report.

7.3 Environment, Energy and Science (Office of Environment and Heritage)

The former Office of Environment and Heritage confirmed in writing (**Attachment A06**) that the planning proposal, draft DCP amendments, and draft VPA had been considered and that no comments were made in relation to these documents.

7.4 Heritage Council of NSW

The Heritage Council of NSW provided further feedback in relation to the exhibited documents. A letter was issued on 9 October 2017 (**Attachment A13**), superseded by a letter dated 6 November 2017 (**Attachment A14**) with comments regarding the impacts of the development on heritage items in the vicinity of the site and on the potential intersection upgrade at Old Northern Road and Francis Street to be undertaken by others.

The Heritage Council recommends the preservation of the existing relationship and sight lines between St Paul's Anglican Church and the cemetery and identifies that there is the potential for archaeology or relics to be uncovered by future excavation or ground disturbance.

Council response

- Site specific controls have been developed and will be imposed through the DCP to protect the setting and inform the relationship between future development on the site and the adjoining local heritage items to the west. These include providing a landscaped area immediately adjoining the cemetery, reducing the scale of buildings and adopting greater setbacks for this corner of the site.
- Detailed heritage impacts and the potential for archaeological relics will be assessed as part of a future development application. While there are limited opportunities for interpretation of the linkages between the church and cemetery as part of the site, this could be considered when broader precinct planning for the remainder of Castle Hill is undertaken.
- A follow up letter issued by the Heritage Council on 18 May 2018 (**Attachment A15**) confirmed that an option for the proposed intersection upgrade was supported as it did not involve any works within the State heritage item curtilage of the Former St Paul's Anglican Church, nor on the adjoining footpath, and was therefore unlikely to have any impacts on the State heritage item.

7.5 Utilities

Endeavour Energy and Sydney Water did not raise any objections to the proposal (**Attachments A07, A16-A17**). Both submissions outlined considerations for the development application stage.

8. POST-EXHIBITION CHANGES

Council made a number of post-exhibition changes to the draft LEP in response to submissions received and to further ensure an appropriate outcome is achieved on the site. These comprise:

- A site-specific provision limiting the number of dwellings on the site to 460, corresponding to the density originally supported by Council at the meeting of 12 April 2016 (**Attachment A02**).
- Identifying the site as 'Area A' on the floor space ratio map, making the maximum 3.5:1 FSR subject to the achievement of the housing diversity provisions in Clause 7.12 of The Hills LEP 2019. These housing diversity outcomes are agreed with the Department.

Post-exhibition amendments were also made to the draft DCP by Council, as discussed in Council's post-exhibition report (**Attachment A04**) relating to the detailed design of development in response to submissions. These include:

- strengthening controls with respect the maximum number of storeys of the development;
- increasing and clarifying setbacks for the development;
- including new controls regarding privacy for adjoining properties;
- introducing controls to limit heights of retaining walls and fencing above natural ground level to minimise visual impacts and overshadowing on adjoining properties;
- clarifying that mature landscaping be provided along all property boundaries that adjoin residential dwellings;
- including a new control regarding light spill into adjoining properties;
- requiring measures that prevent vehicles associated with the commercial businesses, visitors to the apartments and loading / delivery trucks from accessing the site via Roger Avenue;
- design of the carpark shall prevent commercial and visitor vehicles from utilising Roger Avenue to access parking on site;
- clarifying that carpark ventilation points must not protrude more than 1.2m above ground and be located on Cecil Avenue to avoid impacts on adjoining dwellings; and
- introducing new requirements to widen Roger Avenue and the inclusion of road profiles for Roger Avenue.

These changes have been made in response to submissions received during the exhibition of the proposal and do not alter the intent of the proposal.

Department comment

The Department has made two post-exhibition changes to the planning proposal.

An additional local provision under Part 7 of The Hills LEP requires the provision of a minimum 8,025m² commercial floor space within the site. This is consistent with the exhibited development concept as a result of this planning proposal including the executed

local voluntary planning agreement. This local provision will ensure the commercial floor space is provided.

The site will also 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.

This post-exhibition change is required to resolve the concerns raised by Transport for NSW and former RMS and to ensure that a suitable mechanism would be in place for developer contributions to be obtained for the provision of regional transport infrastructure required to support development uplift in Castle Hill.

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 high density residential development with commercial floor space. It will ensure that the outcome delivered by the LEP can be suitably accommodated on the site.

9. ASSESSMENT

9.1 Section 9.1 Directions

The Gateway Determination referred to inconsistencies with the following:

- Direction 2.3 – Heritage Conservation
- Direction 5.9 – North West Rail Link Corridor Strategy
- Direction 6.3 – Site Specific Provisions

The inconsistencies were 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 is consistent with these Directions.

- Direction 1.1 – Business and Industrial Zones
- Direction 3.1 – Residential Zones
- Direction 3.4 – Integrating Land Use and Transport
- Direction 6.1 – Approval and Referral Requirements

There were no unresolved Section 9.1 Directions. As a result of the post-exhibition change to the LEP to insert a local provision capping the number of dwellings the development site can achieve, Direction 6.3 Site Specific Provisions is required to be addressed.

Direction 6.3 – Site Specific Provisions

The objective of this Direction is to discourage unnecessarily restrictive site-specific planning controls. Council has sought post exhibition amendments to insert two additional local provisions under Section 7 of The Hills LEP 2019 to prevent granting consent to development that would result in more than 460 dwellings and to include a minimum of 8,025m² of commercial floor space on this land.

The inclusion of the site-specific provisions ensures that future development is delivered as envisaged including the quantum of commercial floor space and an appropriate residential yield for this site. The inclusion of the site-specific provision is of minor significance and is justified in accordance with the terms of the Directions.

9.2 State environmental planning policies

The draft LEP is consistent with all relevant SEPPs and 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. The housing delivered on the site will contribute to the mix of housing within the Northwest Rail Corridor to meet expected changes in household and age structures.
- Planning Priority C6 - Creating and renewing great places and local centres and respecting the District's heritage: the planning proposal seeks to renew existing land within the Castle Hill Strategic Centre while ensuring that adjoining and surrounding heritage is recognised and protected. Future development on the site will appropriately relate to the adjoining local heritage items to the west and will not impact views or the heritage curtilage of the State listed Former St Paul's Anglican Church.
- Planning Priority C9 - Delivering integrated land use and transport planning and a 30-minute city: the planning proposal represents the integration of land use, transport and infrastructure planning. The proposal provides additional capacity within a Strategic Centre and within walking distance of jobs and transport. The draft LEP also supports satisfactory arrangements for additional and upgraded infrastructure to support the capacity provided on the site.
- Planning Priority C10 - Growing investment, business and job opportunities in strategic centres: the site has been identified in the strategic documents discussed below for both residential and commercial uses. The planning proposal supports a mixed use outcome for the site, as a balanced solution, that is appropriate for this land's location on the periphery of the centre's commercial core. The planning proposal will provide housing whilst still supporting local job opportunities to contribute to the growth of the Strategic Centre.

The LEP gives effect to the Central City District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*

10. MAPPING

The LEP amendment is supported by 5 maps including the following:

- Land Zoning – LZN_24;
- Height of Building – HOB_24;
- Floor Space Ratio – FSR_24;
- Floor Space Ratio Incentive – FSI_024; and
- Urban Release Area Map and Key Sites Map – CL2_024.

The maps (**Attachment Maps**) and map cover sheet (**Attachment MCS**) have been checked by the Department's ePlanning Team and sent to Parliamentary Counsel.

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* (**Attachment D**). Council confirmed on

25 June 2020 that it was happy with the draft and that the plan should be made **(Attachment E)**.

12. PARLIAMENTARY COUNSEL OPINION

On 2 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:

- The LEP has strategic merit as it gives effect to the Central City District Plan.
- The LEP supports the provision of additional transit-orientated, high quality housing and commercial floor space to support Castle Hill Strategic Centre.
- The site will be subject to satisfactory arrangements for additional and upgraded infrastructure to support the density provided.
- Inconsistencies with Section 9.1 Direction 6.3 Site Specific Provisions are of minor significance and justified.
- The LEP is consistent with other relevant Section 9.1 Directions and State Environmental Planning Policies.
- The proposal adequately responds to matters raised in advice from public authorities and public submissions.



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13 July 2020

Assessment officer: Angela Hynes
Senior Planning Officer (The Hills Shire and Hawkesbury)
Central (Western)