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Kellicar Road, Campbelltown Precinct

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1 Introduction

Overview of the planning proposal

The planning proposal (**Attachment A**) seeks to facilitate more intensive development across five lots along Kellicar Road, Campbelltown (the precinct). It is proposed to amend the Campbelltown Local Environmental Plan 2015 (CLEP 2015) to increase the maximum height of buildings from 32m to 80m (up to 25 storeys) and introduce floor space ratio (FSR) controls of 3.5:1 across the entire precinct.

The precinct, once complete, anticipates 62,300sqm of non-residential floorspace, for a range of uses including retail, commercial and innovation employment and co-work space, generating approximately 1,600 jobs for the precinct. It is proposed to provide a partial allocation to community uses, including the re-housing of the Women's Health Centre known as WILMA (Women In the Local Macarthur Area).

The proposal states it will also seek to provide up to 161,700sqm of residential floorspace, and approximately 1,800 dwellings, commensurate with the current residential capacity of the site.

The precinct is expected to be developed over a 15-20 year period, occurring in stages as current site leases expire.

1.1.1 Site description

Table 1 Site description

Site Description	The planning proposal (Attachment A) applies to land at 1, 3 and 6 Bugden Place and 1 and 4 Tindall Street Campbelltown
Type	Site
Council / LGA	Campbelltown
LGA	Campbelltown

The precinct has an approximate area of 6.4ha hectares between Kellicar Road to the south, Gilchrist Drive to the west, Menangle Road to the north and Narellan Road to the east (**Figure 1**). The precinct is made up of five sites each in different ownership consisting of the following allotments:

Site No.	Street Address	Lot Description
Site 1	No. 1 Bugden Place	Lot 1 DP882496
Site 2	1 Tindall Street	Lot 1 DP747811
Site 3	3 Tindall Street (aka No. 3 Bugden Place)	Lot 2614 DP262484
Site 4	6 Bugden Place	Lot 22 DP862080
Site 5	4 Tindall Street	Lot 2341 DP830786



Figure 1: Subject site (source: Draft DCP prepared by CHROFI Architectus)

The site is within the Macarthur Precinct of the Greater Macarthur Growth Area and is occupied by a mix of single storey retail uses including a Bunnings Warehouse, Woolworths and Hungry Jacks. A large proportion of the site is occupied by at-grade car parking associated with the retail uses.

Low and medium density residential development comprising detached dwellings and townhouses up to two storeys is located to the south of Kellicar Road.

The Main Southern Railway line is located to the north of the site across Menangle Road, with Macarthur railway station located 400m from the site.

All lots within the site are currently zoned B4 Mixed Use with the exception of a small strip of land adjacent to Menangle Road which is zoned SP2 Infrastructure and is reserved for future road widening.

Birunji Creek extends underground across Kellicar Road to the north and through the carpark on Site 5 traversing the north-eastern side of the site adjacent to Narellan Road.

1.1.2 Purpose of plan

The planning proposal (**Attachment A**) seeks to amend the CLEP 2015 to increase the maximum building height across all sites from 32m to 80m and introduce a FSR of 3.5:1.

A further site specific clause under Part 7 Additional local provisions within the CLEP 2015 is proposed to ensure adequate provision of open space capable of accommodating extreme or intense flood events.

The Error! Reference source not found. below outlines the current and proposed controls for the LEP.

Table 2: Current and proposed controls

Control	Current	Proposed
Maximum height of the building	32m	80m

Floor space ratio	NA	3.5:1
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The proposed building height seeks to provide a master-planned arrangement of buildings at various heights across the site (including tower elements), intermixed with a pedestrian ‘walk’ and various pockets of open space, including a civic plaza, a central park and a park at the eastern end of the site which serves to accommodate stormwater from Birunji Creek (via a 26m overland flow path) in extreme or intense flood events (Figure 2).



Figure 2: Indicative building heights in storeys (source: Draft DCP prepared by CHROFI Architectus)

While the planning proposal states that the current development yield is not increased by the proposed height increase and FSR; the precinct seeks to facilitate the provision of an estimated 1,800 residential dwellings across 161,700sqm of floorspace and 62,300sqm of non-residential floorspace. An analysis of this was undertaken by the Department, which found that the proposal would potentially facilitate an increase to enable the number of dwellings. Further detail of the analysis is in Section 4 of this report.

1.1.3 State electorate and local member

The site falls within the Campbelltown state electorate. Greg Warren MP is the State Member.

The site falls within the Macarthur federal electorate. Dr. Mike Freelander MP is the Federal Member.

To the team’s knowledge, no MPs have made any written representations regarding the proposal.

There are no donations or gifts to disclose, and a political donation disclosure is not required. There have been no meetings or communications with registered lobbyists with respect to this proposal.

2 Gateway determination and alterations

The Gateway determination issued on 11 August 2020 (**Attachment G**) determined that the proposal should proceed subject to conditions. The Gateway determination required the following amendments to the planning proposal prior to public exhibition:

- include the findings of a detailed flood impact assessment for the site and update the consistency of section 9.1 Direction 4.3 Flood Prone Land;
- reflect the transport and traffic assessment;
- update proposed Clause 7.23 by removing any provisions that are more appropriate for inclusion in the Development Control Plan and update the consistency with section 9.1 Direction 6.3 Site Specific Conditions; and
- exhibit the revised Development Control Plan for the site concurrently with the planning proposal.

Consultation was required with the following agencies:

- Transport for NSW (TfNSW);
- NSW Health; and
- Environment, Energy and Science Group (EES).

In accordance with the Gateway determination the proposal is due to be finalised on 11 August 2021. Council is not considered to have met the conditions 1a, 3 and 5. Commentary on all Gateway determination conditions is provided in the following Error! Reference source not found..Error! Reference source not found..

Table 3: Consistency with Gateway Conditions

Gateway condition	Requirement	Consistency
1a	Include the findings of a detailed flood impact assessment for the site and update the consistency of section 9.1 Direction 4.3 Flood Prone Land	<p><u>Council's Response:</u></p> <p><i>The planning proposal was amended to accommodate the findings of the revised flood study in addition to providing further commentary on the section 9.1 direction for flood prone land.</i></p> <p><i>The proposed development was amended to provide a substantial flow path over the Marketfair site, as open space located adjacent and parallel to Narellan Road will be utilised to contain large flood events impacting Birunji Creek.</i></p> <p><i>The revised proposal is now consistent with the revised site layout with the same controls also being incorporated into the draft site specific DCP.</i></p> <p><u>Department Response:</u></p> <p>The planning proposal has been updated to include amendments to the site-specific DCP (Attachment C) incorporating additional flood planning development controls satisfying that requirement of condition 1a.</p> <p>The proposal is not considered to provide sufficient justification for the inconsistency with 9.1 Direction 4.3 Flood Prone Land. This is addressed in greater detail in section 4 of this report.</p>
1b	Update the planning proposal to reflect the transport and traffic assessment	Section 3 of the revised proposal indicates that the recommendations contained within the Traffic and Transport Assessment (Attachment I) have been incorporated into the proposal and the accompanying site-specific DCP satisfying this condition.
1c	Update proposed Clause 7.23 by removing any provisions that are more appropriate for inclusion in the Development Control Plan and update the consistency with section 9.1 Direction 6.3 Site Specific Conditions.	<p>The amended planning proposal has removed the detailed provisions from the proposed Part 7 Additional Local Provisions and maintained overriding heads of consideration and objectives for the site to address this requirement. The detailed provision has been included in the site-specific DCP.</p> <p>In relation to the proposals consistency with the 9.1 Direction 6.3 Site Specific Conditions, the planning proposal has amended the scope of changes to the CLEP 2015 to include amendment of the 'Height of Buildings' Map, FSR Map and a modified new local provision under Part 7 of CLEP 2015.</p>
1d	Exhibit the revised Development Control Plan for the site concurrently with the planning proposal.	The site-specific DCP was exhibited with the planning proposal between 10 May 2021 and 7 June 2021. As such, the updated proposal is consistent with the Gateway condition.

2	Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act	The proposal was exhibited in accordance with section 3.34(2)(c) and schedule 1 clause 4 of the Act.
3	Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions: <ul style="list-style-type: none"> • Transport for NSW; • Environment, Energy and Science Group; • NSW Health 	<p>Council sent letters to each agency identified providing 30 days for their comments.</p> <p>Responses were received from EES and NSW Health prior to Council sending the proposal to the Department for finalisation.</p> <p>The response received from EES recommended Council send a referral to SES which did not occur. Accordingly, the EES did not support the proposal and the inconsistency with the 9.1 Direction 4.3 Flood Prone Land has not been adequately justified.</p> <p>TfNSW submission was received after the end of the exhibition period, and after Council had provided the proposal to the Department for finalisation.</p>
4	A public hearing is not required under section 3.34(2)(e) of the Act.	No action required.
5	Timeline to complete the LEP is 12 months from the Gateway determination.	The proposal was sent to the Department for finalisation on 16 July 2021.

3 Public exhibition and post-exhibition changes

As mentioned above, in accordance with the Gateway determination, the proposal was publicly exhibited by Council from 10 May 2021 until 7 June 2021.

A total of four agency submissions and 11 community submissions were received. Of the community submissions, nine were objections and two were in support of the proposal (**Attachment H**). All agencies raised objections or concerns about the proposal (see **Table 4** for details).

Submissions during exhibition

3.1.1 Submissions supporting the proposal

The two submissions in support provide the following reasons:

- the proposal will transform the Kellicar Road Precinct into a highly desirable area to live and work; and
- support for mixed use development with increased heights.

3.1.2 Submissions objecting to and/or raising issues about the proposal

There were 13 submissions objecting to or raising issues with the proposal, from both individuals and state agencies including TfNSW, EES, NSW Health and School Infrastructure NSW (SINSW).

Table 4: Summary of Key Issues

Issue raised	Council response and Department assessment of adequacy of response
<p>Traffic Congestion including increased traffic generation (increased AM peak of 674 vehicles and PM peak of 326 vehicles).</p>	<p><u>Council Response:</u></p> <p>Council have recommended that traffic congestion be addressed through the provision of a satisfactory arrangement clause within the CLEP 2015 applying to any new building in the precinct with a height of more than two storeys.</p> <p>Reliance on the road and intersection upgrades identified as necessary within the planning proposal to be reviewed at Development Application (DA) stage for delivery over a long period of time.</p> <p><u>Department Response:</u></p> <p>Issues relating to traffic congestion and management are addressed in Section 4 of this report. The proponents Transport and Traffic Assessment includes five recommended intersection upgrades necessary to support the additional traffic generation. These upgrades are not supported by TfNSW and remain unresolved.</p>
<p>Naming the park within the precinct 'Central Park' is confusing as the area is known as 'Park Central'.</p>	<p><u>Council Response:</u></p> <p>Confusion with the naming of this space is acknowledged by Council. The park was referenced this way reflecting its location within the precinct and should be more appropriately named at a future date when the park is constructed.</p> <p><u>Department Response:</u></p> <p>This issue is a matter for Council.</p>
<p>Significant impact on the scenic environment with the height increase from 30m to 80m.</p>	<p><u>Council Response:</u></p> <p>Council state that <i>"the format of development proposed is an improvement on what could be constructed if buildings were constructed to the existing planning controls with a 32 m height limit. It allows views between the buildings to the hills and is consistent with the theme of city in a valley in the Reimagining Campbelltown City Centre Master Plan"</i>.</p> <p>While Council acknowledge that this proposal will impact on existing uninterrupted views across the precinct, the concept is supported and is not considered to result in significant or irretrievably adverse influence on wider view corridors to and from the Scenic Hills.</p> <p><u>Department Response:</u></p> <p>The Department has concerns regarding a blanket height limit of 80m across the whole site. This is addressed further in Section 4.</p>

<p>Impact of that many new families into a small section of space with limited jobs and opportunities.</p>	<p><u>Council Response:</u></p> <p>The proposal is for mixed use development incorporating employment opportunities in addition to housing. Council indicate that the site is advantaged by the adjacent Health and Education Precinct.</p> <p><u>Department Response:</u></p> <p>The proposal seeks to contribute to the Greater Macarthur 2040 housing and job targets within key retail, commercial, hospitality, health and education sectors. The proposal states that the 62,300sqm of commercial and retail floor space will generate approximately 1,600 jobs. The proposed dwelling yield is stated to be 1,800. The Department have modelled the masterplan and estimate the site will house at least 2,197 dwellings. This is addressed further in Section 4.</p>
<p>Impact on air quality and noise levels from increased traffic.</p>	<p><u>Council Response:</u></p> <p>The precinct is focused on reducing car dependency and enhancement of pedestrian and cycling networks consistent with the requirements of 'Reimagining Campbelltown City Centre Master Plan'.</p> <p><u>Department Response:</u></p> <p>Council's intent for reduction of car dependency across the Campbelltown LGA is supported by the Department. Concerns relating to the management of traffic around the precinct remain unresolved and unsupported by TfNSW. This issue requires a more strategic solution.</p>
<p><u>Height and FSR</u></p> <p>Site specific DCP does not support the blanket 80m height limit or 3.5:1 FSR across the whole site and appears inconsistent with the built forms within the 'Illustrative Masterplan'</p>	<p><u>Council Response:</u></p> <p>As the lots within the precinct are in separate ownership, the illustrative masterplan in the DCP indicates how varied heights can be achieved across the precinct, the proposed combination of a 'blanket' 80 m height limit with the DCP controls provides sufficient certainty of the maximum outcome without compromising the need for flexibility for a project that will be delivered over 15-20 years.</p> <p>The provision of a bespoke set of building heights on a precinct of this scale would only be possible where the final form of development is known. As it is not known, then to do so would create unnecessary bureaucratic hurdles to the future development of the site.</p> <p><u>Department Response:</u></p> <p>The underlying justification for the proposed 80m height limit relies on the assumption offered that the proposed masterplan and controls do not increase the current housing yield across the precinct, instead provides greater opportunity for public domain and open space at ground level with smaller building footprints.</p> <p>The Departments Urban Design analysis detailed in Section 4 of this report does not support this position. The potential density achievable from the building footprints and heights proposed is approximately 2,197 dwellings at an FSR of 3.26:1. This dwelling yield could increase if FSR is increased to 3.5:1. Accordingly, the proposed height and density yield is not supported by the proposed FSR.</p>

<p><u>Retail Floor Space</u></p> <p>Macarthur Square is the primary centre and no further supermarkets should be permitted in this precinct. The 'established retail hierarchy' to be maintained. Oversupply of commercial and/or retail space could impact on current and future investment at Macarthur Square. Commercial/retail floor space should be capped at 5,000sqm.</p>	<p><u>Council Response:</u></p> <p>Supermarkets are permissible within the existing B4 Mixed Use zone and are not being sought as a prohibited use by this planning proposal. Proposed retail gross floor area (GFA) is to replace existing.</p> <p>The 62,300sqm of commercial and retail floor space proposed for the precinct represents a small fraction of the total amount required by the Campbelltown-Macarthur main trade area in order to service regional demand by 2036.</p> <p>Limiting the amount of retail and commercial space within the precinct at ground level will compromise one of the projects key design principles. It is noted that there is more than 5,000sqm of retail floor area currently.</p> <p>No justification for protecting commercial interests of one landowner over another or limiting the proposed commercial retail floor space.</p> <p><u>Department Response:</u></p> <p>The Greater Macarthur 2040 Interim Plan seeks to protect the primacy of established retail centres like the adjacent Macarthur Square. Concerns raised about the extent of non-residential floorspace (potential of 62,300sqm of GFA) and centres hierarchy is noted.</p> <p>While this precinct will provide an active role in the future growth and demand of the district, the proposal lacks economic analysis to support the amount of retail and commercial space likely to be available in this location in close proximity to the established retail centre at Macarthur Square.</p>
<p><u>Built Form</u></p> <p>Proposed built form fronting Kellicar Road is uncharacteristic and inconsistent with the 'Reimagining Campbelltown' City Centre Master Plan.</p> <p>A maximum of three storeys should be provided along Kellicar Road frontage and a reduction of the proposed 3.5:1 FSR to avoid building mass in other areas of the site.</p>	<p><u>Council Response:</u></p> <p>Currently development along Kellicar Road could be 10 storeys without any setbacks to public roads. The philosophy of the proposal is to provide the same development potential with the additional height providing open space at ground level, greater separation between buildings and commercial development setback from Kellicar Road.</p> <p>'Reimagining Campbelltown' does not articulate three storeys across all city centre precincts.</p> <p>An EIE for a Design and Place SEPP has been exhibited which will provide overriding design controls which would apply to this precinct as well as Macarthur Square.</p> <p><u>Department Response:</u></p> <p>The Department acknowledges the site currently has a 10 storey height limit and that the planning proposal seeks additional height in order to facilitate greater building separation and enhanced areas of open space at ground level. The site specific DCP envisages 8 storeys along Kellicar Road to provide a 'city scale edge' to the precinct.</p> <p>The combination of a blanket height limit of 80m across the 6.4ha site and a 3.5:1 FSR is considered likely to result in greater building mass than what is detailed in the proposal. The Departments Urban Design analysis in Section 4 of this report has modelled the precinct in line with the masterplan footprints and building heights which has established a clearer understanding of the density yield with the controls proposed.</p>

Public Infrastructure

No formal commitment to the delivery of essential infrastructure. A legally binding Planning Agreement to deliver the necessary contribution or works in kind to support the redevelopment of the sites.

Council Response:

Reliance on the DCP provisions relating to the delivery of public domain and roadworks required to be detailed at DA stage.

Gateway determination issued advises a Special Infrastructure Contribution (SIC) is proposed for the area. If imposed, this will provide the mechanism for financial contribution of state infrastructure required. Should a SIC not be implemented, Council recommend a satisfactory arrangements clause (SAC) be issued with the planning proposal applying to any building of more than two storeys being required to provide suitable provision for state infrastructure to the satisfaction of the Secretary of DPIE.

Department Response:

The Gateway determination issued on 11 August 2020 does not make any reference or commitment to a SIC for this area. The Gateway assessment notes that it is 'anticipated' that a SIC may apply however this requires TfNSW to identify future infrastructure upgrades that are applicable.

TfNSW note there are no planned regional road upgrades that the proposal can rely on or provide a financial contribution to in the form of a SIC. There has been no SIDRA modelling to support the five proposed intersection upgrades, and no achievable delivery mechanism identified (to ensure no cost to government). Council's preference for a SAC would be complex to navigate given fragmented site ownership and unknown timing of DAs.

Advice from agencies

In accordance with the Gateway determination, Council was required to consult with agencies listed below in **Table 5** who have provided the following feedback.

Table 5: Advice from public authorities

Agency	Advice raised	Council response
Transport for NSW (TfNSW)	<p>Structures within future road widening reservation on Menangle Road</p> <ul style="list-style-type: none"> Land zoned SP2 Infrastructure reserved for future road widening proposed as part of 'green link' connecting Macarthur to Campbelltown. Unclear if 30% requirement for open space on the site relies on the 'green link' (2,800sqm). This area cannot be used for this calculation. 	<p>Council have not provided a specific response to the comments from TfNSW as these comments were received after the proposal had been sent to the Department for Finalisation.</p> <p>Council have adopted the recommendations contained within the proponents Traffic and Transport Assessment (Attachment I)</p>

<p>AIMSUN modelling</p> <ul style="list-style-type: none"> • Only intersection performance measure identified is 'Level of Service'. • Issues with model coding and signal setting likely to impact on traffic. modelling – signal timing and speed limit. • Travel time does not meet the 15 percentile criteria. • Additional information about intersection performance (by movement) such as bay lengths, delay and degree of saturation are required to understand the potential traffic impacts. Unreleased traffic was observed in the future scenarios and it isn't clear whether this is related to modelling issues. • The proposed 150 seconds cycle time (current set at 140 sec) was used at the Blaxland Rd/ Narellan Rd intersection for the future scenarios. Large congested intersections usually have a maximum cycle length of 140 seconds. 	<p>Council at their meeting of 13 July 2021 recommended that traffic be addressed through a Satisfactory Arrangements Clause (SAC) within CLEP 2015.</p>
<p>Developer contributions to Regional Infrastructure</p> <ul style="list-style-type: none"> • There are no planned regional road upgrades in this area. Upgrades to Menangle Road only which is a State Road. 	
<p>Feasibility of five proposed intersection upgrades</p> <ul style="list-style-type: none"> • A road design feasibility assessment for the identified intersection upgrades is required to ensure they can be delivered at no cost to State Government, without constraints (i.e. Additional land components and compliance with Austroads). • Road design sketches need to include dimensions (lane and median widths) and swept paths of the design vehicles overlaid on an aerial to scale. • Mitigation measures costed against NSW Industry Global Rates. 	

	<p>1. Removal of right turn movements to and from Kellicar Rd into Bugden Place.</p> <ul style="list-style-type: none"> • No objection to removal of existing RHT into Bugden Place from Kellicar Road. This could occur with a median island. • No support for opening Bugden Place through to Menangle Road – requires additional set of lights and dual carriageway upgrade. • Potential for Tindall Street to be signalised. Too close together to be efficient.
	<p>2. Provision of a double right turn from Kellicar Road (east) into Tindall Street and dedicated left turn from Tindall Street into Kellicar Road.</p> <ul style="list-style-type: none"> • Not possible due to minimum turning path clearances and median widths. • Proposed layout not supported. No median a safety hazard and left hand turn lane will require merging.
	<p>3. Provision of a double right turn from Kellicar Road (east) into Gilchrist Drive.</p> <ul style="list-style-type: none"> • Not possible due to minimum turning path clearances and median widths.
	<p>4. Provision of an additional through traffic lane along Kellicar Road in the eastbound direction between Bugden Place and Narellan Road.</p> <ul style="list-style-type: none"> • Requires significant land from the site. • The short length of the additional through lane is not supported as it would be underutilised on the approach to the traffic signals.
	<p>5. The provision of a left turn slip lane from Kellicar Road into Narellan Road.</p> <ul style="list-style-type: none"> • Cannot be supported. Recent investigations by TfNSW has shown the level difference between where the slip lane begins on Kellicar Road and where it merges onto Narellan Road would result in an unacceptable gradient.

EES

The proposal for additional intensification of residential development within the flood planning area (FPA) is not supported.

The proposal is inconsistent with the 9.1 Direction 4.3 Flood Prone Land.

Request that SES be consulted in relation to emergency management planning for flood evacuation.

Further detail required in relation to management of flood risk, quantification of maximum duration of isolation during extreme floods, medical evacuation and clarification of flood gates and passive protection of basements to the probable maximum flood (PMF) level.

The FPA is the more critical zone of the floodplain. If any intensification were to be suitable for the FPA, then it would need detailed consideration and justification, along with consultation with the SES and likely special risk mitigation measures e.g. for medical evacuation.

The substantial additional residual risk associated with adding so many extra people onto this part of the floodplain, cannot be ignored. Residual risk is the risk that remains after the standard measures are in place (such as floor levels to a suitable height) and here we consider evacuation and emergency management. In simple terms, the local planning direction helps to avoid additional loss of life.

Council have included additional provisions in relation to Stormwater Management within the site-specific DCP following exhibition of the document and submission from EES (**Attachment C**).

In response to the requirement to address Direction 4.3 Flood Prone Land, Council provide the following comments in terms of the applicability of the Direction:

The subject Planning Proposal does not technically “create, remove or alter a zone or a provision that affects flood prone land”. The Proposal seeks to amend the height of building limit that applies to the land in order to allow for the development of a mixed-use precinct with buildings of a varying height and up to 80m (25-levels).

Reference is made to the inclusion within the site-specific DCP local provisions relating to future development of the site consistent with the objectives of the Floodplain Development Manual 2005.

No consultation was undertaken by Council with SES.

EES have raised concerns with ‘intensification of residential development’ within the flood planning area (FPA). Council and the proponent have stated that there is no additional residential density beyond the site’s current controls maximum capacity.

The Departments Urban Design team have interrogated the site’s development potential within both the current controls and the proposed controls. This test has established that there will in fact be an increase in the potential development yield across the precinct of approximately 28,544sqm of total GFA. Specifically, on Site 5 (Error! Reference source not found.) which is affected by the FPA, an additional 11,143sqm of residential GFA is identified.

NSW Health	<p>South West Sydney Local Health District (SWSLHD) Health Site at 6 Bugden Place (WILMA Women's Health Centre).</p> <p>Current location of the centre is proposed to be part of the green link 'Central Park'.</p> <p>SWSLHD exploring options for this site and would like the current land use functionality for future Health related services.</p> <p>Do not support traffic upgrade mitigation options 2-5.</p> <p>Support for urban development within the precinct and enhanced public transport usage. Suggests the site-specific DCP should include greater reference to bicycle usage in the DCP objectives.</p> <p>Identifies potential for demand for an additional school and recommends consultation with SINSW.</p> <p>Proximity to the Southern Sydney Freight Line should require design criteria within the DCP to require adequate acoustic attenuation.</p>	<p>Council have incorporated some changes to the draft site-specific DCP to address the issues raised by NSW Health in relation to augmenting public transport and providing greater emphasis on bicycle usage and facilities.</p> <p>While crossing major roads presents less than ideal connections for pedestrians to access the closest school, Council state that 'suitable pedestrian paths are available'.</p> <p>In terms of the proximity of the site to the railway line, there are a number of state policies which would trigger at DA stage to ensure that adequate acoustic protection is incorporated into residential development.</p>
SINSW	<p>1,800 dwellings will impact the intake areas and student capacity of Campbelltown Public School and Thomas Reddall High School</p> <p>Asset intervention required which could include:</p> <ul style="list-style-type: none"> • Intake area boundary changes. • Additional temporary and permanent teaching spaces on existing school sites. • Upgrades to existing schools • Additional school sites. <p>Recommends a number of infrastructure upgrades.</p>	<p>These comments were received after the proposal had been sent to the Department for Finalisation</p>
State Emergency Services (SES)	<p>The SES were consulted by the Department after receipt of Finalisation. No response to request for comment had been received at the time of writing this report.</p>	<p>N/A</p>

The Department considers the proposal does not adequately address matters raised in submissions from public authorities, specifically the responses from TfNSW and EES.

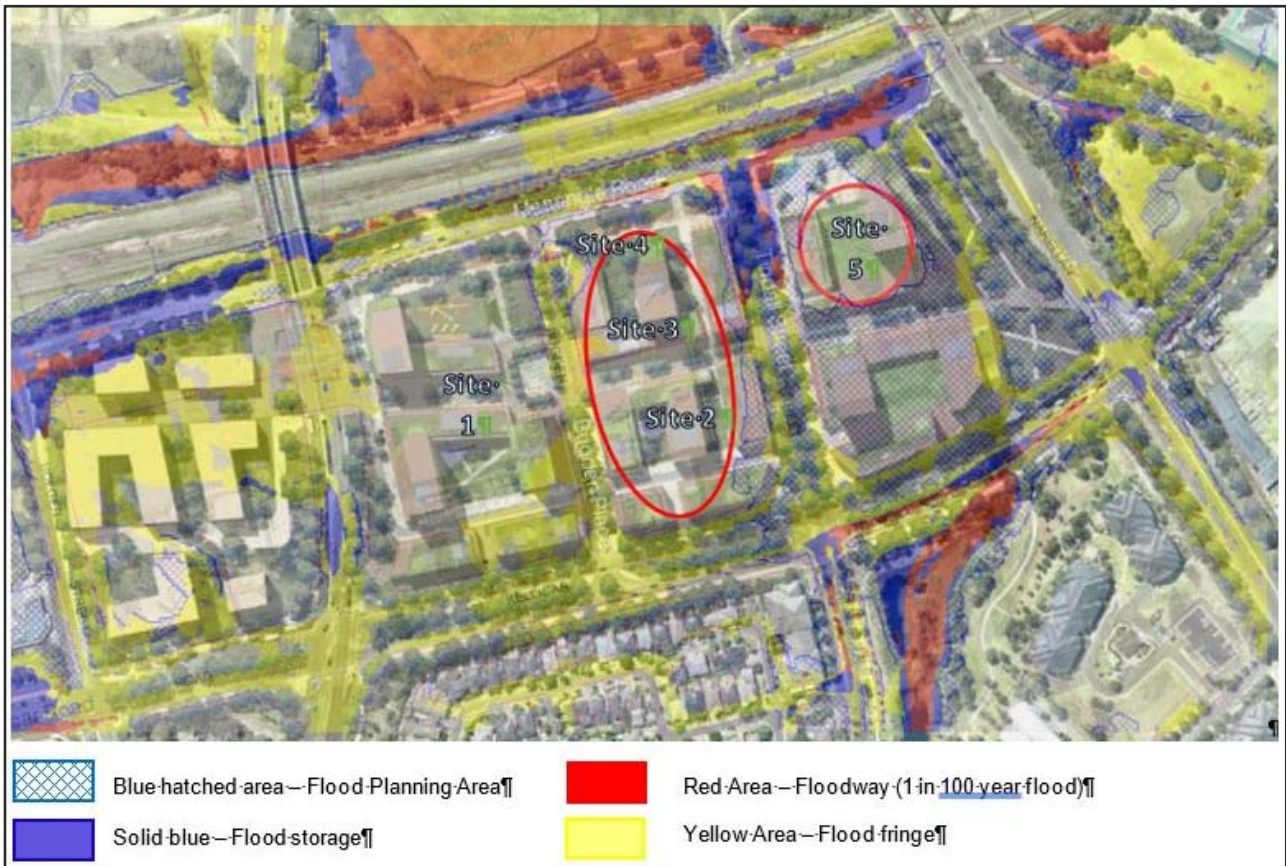


Figure 3: Kellicar Precinct with Flood Planning Area and PMF overlaid.

Post-exhibition changes

3.1.3 Council resolved changes

At Council's Ordinary Meeting on 13 July 2021, Council resolved to send the planning proposal with modifications to the draft site-specific DCP to address flooding and active transport to the Department for finalisation

3.1.4 The Department's recommended changes

The Department is not recommending any post exhibition changes to this proposal. The Department's recommendation is not to proceed with the LEP amendment.

4 Department's assessment

The proposal has been subject to detailed review and assessment through the Department's Gateway determination (**Attachment G**) and subsequent planning proposal processes. It has also been subject to a high level of public consultation and engagement.

The following reassesses the proposal against relevant Section 9.1 Directions, SEPPs, Regional and District Plans and Council's Local Strategic Planning Statement. It also reassesses any potential key impacts associated with the proposal (as modified).

As outlined in the Gateway determination report (**Attachment E**), the planning proposal submitted to the Department for finalisation:

- Remains consistent with the regional and district plans relating to the site.
- Remains inconsistent with some of the relevant Section 9.1 Directions.
- Remains consistent with all relevant SEPPs.

The following tables (Table 6 and

Table 7) identify whether the proposal is consistent with the assessment undertaken at the Gateway determination stage. Where the proposal is inconsistent with this assessment, requires further analysis or requires reconsideration of any unresolved matters these are addressed in Section 4.1.

Table 6: Summary of strategic assessment

	Consistent with Gateway determination report Assessment	
Regional Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
District Plan (Western City)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Local Strategic Planning Statement	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1
Local Planning Panel (LPP) recommendation	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Section 9.1 Ministerial Directions	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1
State Environmental Planning Policies (SEPPs)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

Table 7: Summary of site-specific assessment

Site-specific assessment	Consistent with Gateway determination report Assessment	
Social and economic impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Environmental impacts	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1
Infrastructure	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1

Detailed assessment

The following section provides details of the Department's assessment of key matters and any recommended revisions to the planning proposal to make it suitable.

4.1.1 Strategic Alignment

Greater Sydney Region Plan and Western City District Plan

The Greater Sydney Region Plan is the overarching strategy for growing and shaping the Greater Sydney Area. It sets a 40-year vision (to 2056) and establishes a 20-year plan to manage growth and change for Greater Sydney in the context of social, economic and environmental matters. It is underpinned by the Western City District Plan that sets the 20-year vision for the District through planning priorities that are linked to the Region Plan.

The planning proposal was determined to be consistent with the aims of the prevailing regional and district plans at Gateway determination as it will facilitate the delivery of housing targets within close proximity to existing transport systems, local infrastructure and supports the growth of surrounding centres.

Glenfield to Macarthur Urban Renewal Precincts

The site is located within the *Macarthur Precinct Plan (November 2017)* and identified as a mixed-use retail and residential precinct. While the proposal remains consistent with the plan in terms of the delivery of more diverse housing options and public spaces, following consultation with TfNSW there is no viable solution for adequate infrastructure provision to support the proposal, with regards to site specific and regional traffic management issues.

Campbelltown Local Strategic Planning Statement

The Campbelltown Local Strategic Planning Statement (LSPS) provides context and direction for land use decision making within the Campbelltown Local Government Area (LGA). It was finalised on 30 March 2020.

The LSPS includes the strategic policy position that *'growth be supported by the right infrastructure in the right place at the right time'* and that *'infrastructure provision is aligned with growth'*. As the planning proposal is unable to satisfactorily address the traffic congestion and management concerns identified by TfNSW, the proposal does not achieve this objective and is inconsistent with Planning Priority 13 of the LSPS.

Campbelltown City Council Local Housing Strategy (LHS)

It is noted that the Kellicar Precinct is identified within the Department's letter endorsing the LHS (dated 8 July 2021 **Attachment K**) as one of the draft amendments flagged to contribute to Council's 6-10 year (2021-2026) Greater Sydney Commission's (GSC) Housing Target. At the time that the LHS was approved, this proposal was due to be reported to Council to resolve to forward the proposal to the Department for finalisation. The Department will work with Council regarding the LHS conditions, to ensure that housing supply envisaged in this proposal can be delivered across the LGA in line with the GSC's Housing Target.

4.1.2 Section 9.1 Ministerial Directions

The planning proposal is considered to have either demonstrated consistency or justified any inconsistencies with the following relevant Section 9.1 Directions at the Gateway determination stage:

- 1.1 – Business and Industrial Zones
- 3.1 – Residential Zones
- 3.4 – Integrated Land Use and Transport
- 4.1 – Acid Sulfate Soils
- 6.1 – Approval and Referral Requirements
- 6.3 – Site Specific Provisions
- 7.2 – Implementation of Greater Macarthur Land Release Investigation
- 7.7 – Implementation of Glenfield to Macarthur Urban Renewal Corridor
- 7.12 – Implementation of Greater Macarthur 2040

The proposal remains inconsistent with section 9.1 Direction 4.3 Flood Prone Land.

The objective of this direction is to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005.

The Department maintains concerns with the proposal's consistency with Direction 4.3 Flood Prone Land as summarised in Table 8 below:

Table 8: Consistency with Direction 4.3 Flood Prone Land

Section 9.1 Direction 4.3 Requirement	Response
(4) A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> , the <i>Considering flooding in land use planning guideline 2021</i> and any adopted flood study and or risk management plan prepared in accordance with the <i>Floodplain Development Manual 2005</i> .	Inconsistent. Clause 9 criteria is to apply.
(5) A planning proposal must not rezone land within the flood planning area from Recreation, Rural, Special Purpose or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.	Not applicable.
(6) A planning proposal must not contain provisions that apply to the flood planning areas which: (a) permit development in floodway areas,	Inconsistent. The site has been identified by Council as being affected by the flood planning area (see Figure 5). Council have also identified that the site is in a floodway in accordance with the Floodplain Development Manual 2005. Does Not Comply – therefore Clause 9 criteria is to apply.

(b) permit development that will result in significant flood impacts to other properties,	<p>Consistent.</p> <p>While the Council report concludes that the flow will be generally improved by the proposal, the design relies on the planning control referenced in a GRC Hydro Flood Study (Attachment L) proposing the <i>'incorporation of flood gates to mitigate the ingress of flow once the finished floor level of the building is overtopped'</i>. EES does not support flood gates to achieve protection to the flood planning level.</p> <p>Current modelling indicates that the proposed inclusion of a 26 m wide overland flow path has the potential to accommodate extreme floods on site, resulting in minor impacts on adjacent roads, which are presently affected by such events under pre-development conditions. Additional controls are recommended as part of the site-specific DCP which has been prepared to guide development across the precinct.</p>
(c) permit development for the purposes of residential accommodation in high hazard areas,	<p>Inconsistent.</p> <p>Council's response has not addressed the new Direction 4.3 issued on 14 July 2021.</p> <p>The planning proposal states: <i>"development of the precinct is able to be accommodated in a manner that is cognisant of and responsive to the site's residual flood risk and without adverse impact on adjoining lands. Part of the site is proposed to be allocated specifically to the passage of flood waters during extreme events and related uses that are consistent with this aim."</i></p> <p>The masterplan document when overlayed with the FPA and PMF includes indicative building footprints within these areas which is not supported.</p>

(d) permit a significant increase in the development and/or dwelling density of that land,	<p>Inconsistent.</p> <p>The planning proposal will increase the height across the 5-site precinct from 32m to 80m and introduce an FSR of 3.5:1 providing 224,000sqm of GFA. While the planning proposal states that the proposed scheme does not increase the development capacity across the precinct due to the distribution of the floorspace, the additional height sought will increase the development density in specific areas of the site where tower elements up to 25 storeys are proposed to be located.</p> <p>The Department does not support additional height or density for residential purposes within the FPA and does not consider that that the inconsistency is of minor significance.</p> <p>Does Not Comply – therefore Clause 9 criteria is to apply.</p>
(e) permit development for the purpose of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate	<p>Consistent.</p> <p>Specific uses beyond residential dwelling houses and some commercial uses have not been detailed.</p>
(f) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodway or high hazard areas), roads or exempt development.	<p>Not applicable.</p>
(g) are likely to result in a significantly increased requirement for government spending on emergency management services, flood mitigation and emergency response	<p>Inconsistent.</p> <p>The NSW SES were consulted by the Department after the proposal was submitted for finalisation to address the emergency management issues with the site.</p> <p>The SES have not yet provided a response at this point on whether the proposal is likely to impact on their operations by increasing demand on NSW SES volunteers and other emergency services in responding to extreme flood events affecting this site.</p>

<p>(h) permit hazardous industries or hazardous storage establishments where hazardous materials cannot be effectively contained during the occurrence of a flood event.</p>	<p>Not applicable.</p> <p>The precinct is zoned B4 Mixed Use and is not likely to incorporate any hazardous.</p>
<p>(7) A planning proposal must not contain provisions that apply to areas between the flood planning area and probable maximum flood to which Special Flood Considerations apply which:</p> <ul style="list-style-type: none"> (a) permit development in floodway areas, (b) permit development that will result in significant flood impacts to other properties, (c) permit a significant increase in the dwelling density of that land, (d) permit the development of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate, (e) are likely to affect the safe occupation of and efficient evacuation of the lot, or (f) are likely to result in a significantly increased requirement for government spending on emergency management services, and flood mitigation and emergency response measures, which can include but not limited to road infrastructure, flood mitigation infrastructure and utilities. 	<p>As Council have not opted to incorporate the Special Flood Considerations clause within CLEP 2015, Part 7 of the Direction is not applicable.</p>
<p>(8) For the purposes of a planning proposal, the flood planning area must be consistent with the principles of the Floodplain Development Manual 2005 or as otherwise determined by a Floodplain Risk Management Study or Plan adopted by the relevant council.</p>	<p>Consistent.</p> <p>No identified concerns with the adopted flood planning level.</p>
<p>(9) A planning proposal may be inconsistent with this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning, Industry and Environment (or their nominee) that</p>	<p>Applies, as the Proposal does not comply with 6(a) and (c) and (d).</p>

(a) the planning proposal is in accordance with a floodplain risk management plan prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005, or	Not consistent. The relevant floodplain risk management plan (Bow Bowing Bunbury Curran Creek Strategic Floodplain Risk Management Study and Plan) does not include any provisions for this planning proposal.
(b) where there is no council adopted floodplain risk management study or plan, the planning proposal is consistent with the flood study adopted by the council prepared in accordance with the principles of the Floodplain Development Manual 2005, or	Not applicable. There is a floodplain risk management study and plan.
(c) the planning proposal is supported by a flood and risk impact assessment accepted by the relevant planning authority and is prepared in accordance with the principles of the Floodplain Development Manual 2005 and consistent with the relevant planning authorities' requirements, or	Not applicable. No suitable flood impact and risk assessment has been prepared.
(d) the provisions of the planning proposal that are inconsistent are of minor significance as determined by the relevant planning authority.	Inconsistent. The inconsistencies are not minor – see below for further justification.

The Department does not consider the inconsistency with this Direction to be of minor significance, this is because:

- the planning proposal will result in a shift from a transient population (with the current land use of commercial and retail) to a permanent population being the occupants of upwards of 1,800 residential dwellings and therefore permanently increasing the risk associated with flooding on the site. This is not considered of 'minor significance'; and
- it is unknown whether the planning proposal is likely to result in increased demand for and risk to NSW SES volunteers and other emergency services due to the rapid rate of rise and limited ability to evacuate the site in a flood event.

4.1.3 Environmental Impacts

Traffic and Intersection upgrades

TfNSW provided a detailed submission response (**Attachment J**) and do not support the five intersection upgrades identified for the delivery of the precinct (see Section 3.1). There has been no feasibility assessment undertaken by the proponent in relation to the necessary intersection upgrades proposed which are considered physically unachievable by TfNSW.

Infrastructure

The planning proposal identifies that additional public infrastructure is required to adequately support the precinct. Provision of public open space areas, relocation of the Macarthur Women's Health Centre (WILMA) and road network upgrades will be required, along with other infrastructure identified during consultation including an additional school or significant upgrades to existing school sites likely to be required to support new residents.

The proponent has not sought to enter into any voluntary planning agreements (VPAs) to contribute towards local and state infrastructure or provided any commitment on the timing, scope or cost of delivering the requisite infrastructure.

TfNSW have advised that there are no planned regional road upgrades that the proposal can rely on to utilise a SIC and, there has been no SIDRA modelling to support the five proposed intersection upgrades. Council's preference for a SAC would be complex to navigate given fragmented site ownership, current lease arrangements and unknown timing of DAs. This presents a significant level of uncertainty around concurrence being possible at DA stage providing no delivery mechanism for addressing traffic management at no cost to State Government.

TfNSW have identified that the capacity of the road network is constrained, and development under the current controls would result in negative traffic impacts, therefore development beyond the current controls would result in further traffic impacts. Additionally, TfNSW has also identified that currently the broader Campbelltown road network has limited capacity to accommodate future growth. This is an issue that is beyond the delivery of this planning proposal to resolve. To assist with resolving this regional issue the Department will facilitate discussions with TfNSW and Council on a regional network review.

The planning proposal references land adjoining Menangle Road which is zoned SP2. This section of land has been identified within the Urban Design Study (**Attachment D**) as part of a 'green link' contributing to the precincts deep soil area calculations. This land reserved for road widening represents approximately 3,280sqm of the deep soil area identified. The Urban Design Study includes this area in the 19% deep soil calculation stating that the precinct exceeds the Apartment Design Guidelines (ADG) minimum of 15%.

TfNSW have identified that this SP2 land cannot be referenced for any other purpose in relation to the proposal as it is reserved for road widening of Menangle Road. This corridor has been identified by TfNSW investigations as essential for future increased movement function with additional capacity required to accommodate growth in the Greater Macarthur Growth Area and will be subject to future upgrades which utilise this reserved area.

The Departments Urban Design team have reviewed the proposed deep soil locations (see Figure 4) and question whether the smaller areas are achievable once the buildings comply with ADG separation and the quantum and quality of the areas identified due to the fragmented location of these spaces and their ability to address canopy targets. Therefore further work is required to demonstrate that the 15% deep soil area can be achieved without the SP2 land adjacent to Menangle Road.



Figure 4: Deep soil areas (source: Urban Design Study prepared by CHROFI Architectus).

Flooding

Four of the five lots within the precinct are affected by flooding with varying levels of risk. The precinct is adjacent to Birunji Creek to the south which extends across the site between Tindall Street and Narellan Road within a 10m wide drainage easement and closed culvert system. Parts of Site 4 and 5 (see Error! Reference source not found.) are impacted by the Flood Planning Area (FPA).

The Department's EES Group have been clear that they do not support any additional density within the FPA and that consultation with SES is required to consider likely special risk mitigation measures to address additional residual risk associated with a large number of future residences within this FPA. Deferral of this until DA stage is not considered appropriate in this instance.

While the proponent has provided flood studies to support its intended outcome, the report did not adequately address the required scope in relation to emergency management. It is recommended that the issues relating to flooding should be considered across the precinct allowing for a holistic approach to evacuation and landform. While there are likely modifications which might resolve these flooding concerns, they would require a significant change to the masterplan and draft DCP, and re-exhibition of the revised scheme.

Height and FSR across the precinct

The Macarthur Precinct Plan identifies that this area could accommodate a mix of retail and residential uses and buildings ranging from a minimum of seven storeys in height, but that detailed investigation is required to determine appropriate heights. The planning proposal identifies buildings between five to 25 storeys based on a detailed *Urban Design Study (Attachment D)* that was prepared in support of the proposal. The main principle behind the 25 storey or 80m height limit is to enable tower elements across the site to this height which require smaller footprints allowing for more ground level open space.

4.1.4 Departments Urban Design Review

The Department's Urban Design team have undertaken some analysis of the site comparing the existing site with the proposed master plan within the Urban Design Report to provide some clarity around the potential yield with the proposed height and FSR. The Department have modelled the plans contained within the Urban Design Report which established that based on the floor plates

and heights provided, the precinct would achieve an FSR of 3.26:1 (**Figure 5**). This equates to approximately 2,197 dwellings. A site configuration which achieved the maximum FSR of 3.5:1 sought would have the ability to provide a greater number of dwellings.



Figure 5: The Departments model of the proposed massing

It is noted that while the total GFA remains consistent at 224,000sqm, the GFA provided for the residential, retail and commercial floor areas varied between the Urban Design Study and planning proposal and the proponents letter (**Attachment F**) in response to submissions. This is represented in **Figure 5**.

Further modelling of the precinct testing the current maximum height of 32m using the same layout and maximising building footprints to comply with the ADG building separation with all buildings at 32m, the maximum GFA failed to achieve a comparable yield (to the proposal) with approximately 180,078sqm GFA and an FSR of 2.8:1. This equates to approximately 1,874 dwellings. In reality, this yield would be significantly lower with a design which considers other factors such as overshadowing and bulk and scale. A comparison of the proposal and the testing of the current maximum height is shown in **Figure 6**.

There is no analysis within the planning proposal to support how the proposed masterplan arrived at 1,800 dwellings with a height limit of 80m and maximum FSR of 3.5:1.

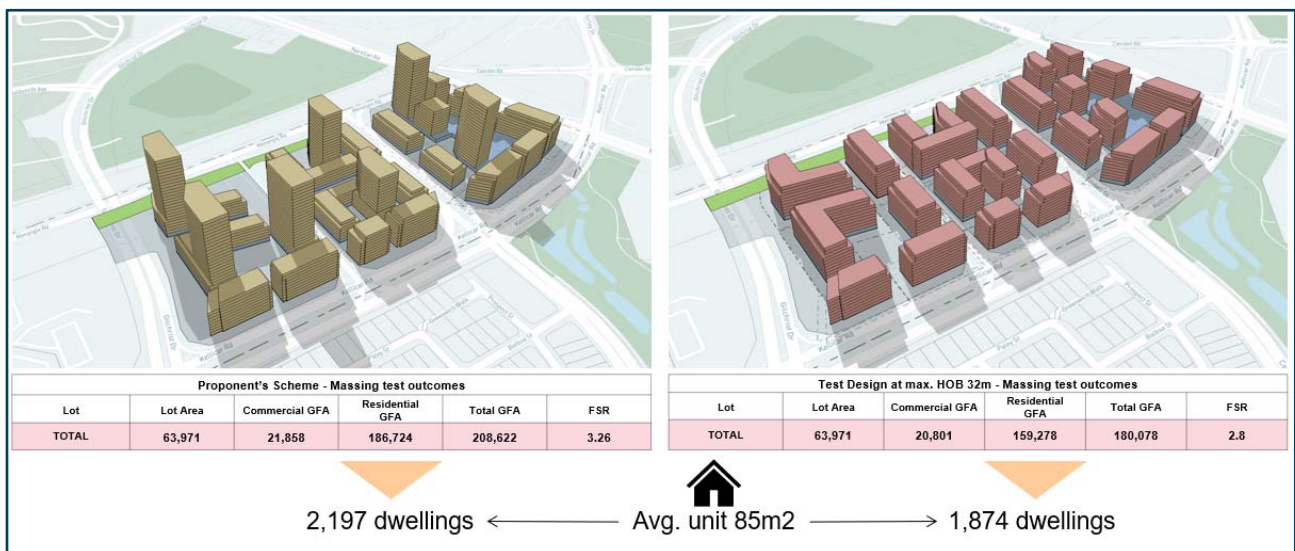


Figure 6: The Department's model of the proposed massing at 80m and 32m.

In response to concerns raised by EES relating to an increase in development yield on Site 5 (which is affected by the FPA) the Department's modelling indicates that the proposal's building layout on Site 5 would result in an additional 11,143sqm of residential GFA and an increase in density.

While this issue could be resolved through redesigning the masterplan to reduce and cap the residential GFA on the land affected by the FPA, this level of redesign would require renotification and significant time to reassess. Notwithstanding, these amendments to address the density yield within the FPA do not resolve concerns raised by TfNSW.

5 Post-assessment consultation

No maps have been prepared by the Department's ePlanning team, and Parliamentary Counsel has not been notified, as this proposal is not supported to proceed.

6 Recommendation

It is recommended that the Minister's delegate as the local plan-making authority determine not to make the draft LEP under clause 3.36(2)(b) of the *Environmental Planning and Assessment Act 1979* because:

- any additional development capacity for the site should be considered as part of a broader strategic solution for traffic management across all the city centres within the Campbelltown LGA and coordinated with planning for the necessary supporting infrastructure and services.
- while the proposal gives effect to planning priorities and demonstrates broad strategic merit in achieving housing targets, it does not demonstrate site specific merit relating to traffic impacts.
- the proposal is inconsistent with Section 9.1 Direction 4.3 Flood Prone Land and the inconsistency is not considered to be minor in nature.
- the proposal has unresolved concerns from the community and stakeholders in relation to increases in residential yield (particularly within the flood planning area) and traffic management. A significant redesign of the masterplan and accompanying site specific DCP will be required to address all concerns raised.



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Attachments

Attachment	Document
A	Planning Proposal
B	Gateway Determination Report
C	Site Specific DCP
D	Urban Design Study
E	EES Submission
F	Proponents Submission
G	Gateway Determination Letter
H	Council Report – 13 July 2021
I	Traffic and Transport Assessment
J	Transport for NSW (TfNSW) submission
K	Campbelltown Council LHS approval letter
L	GRC Hydro Flood Study