

MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 27 September 2022

441 RESOLUTION

The planning proposal applicable to land at 6-18 Jenner Street, Baulkham Hills (Lot 4 DP 1108855, Lots 39-45 Sec 2 DP 2489 and Lot Z DP 400638) not proceed to Gateway Determination, the draft Development Control Plan not progress and the draft Voluntary Planning Agreement Offer not be accepted.

Being a planning matter, the Mayor called for a division to record the votes on this matter

VOTING FOR THE MOTION

Mayor Dr P Gangemi
 Cllr M Hodges
 Cllr J Brazier
 Cllr R Boneham
 Cllr J Cox
 Cllr Dr M Kasby
 Cllr Dr B Burton

VOTING AGAINST THE MOTION

Cllr R Tracey
 Cllr V Ellis

MEETING ABSENT

Cllr A Hay OAM

ABSENT

Cllr F De Masi
 Cllr M Blue
 Cllr R Jethi

ITEM 3 FURTHER REPORT – DRAFT VOLUNTARY PLANNING AGREEMENT AND DRAFT DEVELOPMENT CONTROL PLAN – CASTLE RIDGE RESORT – 346-350 OLD NORTHERN ROAD, CASTLE HILL (1/2021/PLP)

Proceedings in Brief

Megan McBride of Levande (In favour) addressed Council regarding this matter.

A MOTION WAS MOVED BY COUNCILLOR HODGES AND SECONDED BY COUNCILLOR BLUE THAT the Recommendation contained in the report be adopted.

THE MOTION WAS PUT AND CARRIED UNANIMOUSLY.

442 RESOLUTION

1. Draft The Hills Development Control Plan 2012 Part D Section X – Castle Ridge Resort (Attachment 3) and Residential Map Sheet 8 of Part B Section 2 – Residential (Attachment 4) be publicly exhibited concurrent with the planning proposal.

MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 27 September 2022

2. Council accept, in principle, the draft Voluntary Planning Agreement (Attachment 2), with the VPA to be subject to legal review (at the cost of the Proponent), updated in accordance with the recommendations of the legal review and subsequently placed on public exhibition concurrent with the planning proposal and draft Development Control Plan.
3. Council consider a further report on the outcomes of public exhibition of the planning proposal, draft Development Control Plan and draft Voluntary Planning Agreement.

Being a planning matter, the Mayor called for a division to record the votes on this matter

VOTING FOR THE MOTION

Mayor Dr P Gangemi
Clr M Hodges
Clr F De Masi
Clr V Ellis
Clr M Blue
Clr J Brazier
Clr R Boneham
Clr J Cox
Clr R Jethi
Clr Dr M Kasby
Clr Dr B Burton
Clr R Tracey

VOTING AGAINST THE MOTION

None

MEETING ABSENT

Clr A Hay OAM

ITEM 4 POST EXHIBITION – DRAFT VOLUNTARY PLANNING AGREEMENT – 55 COONARA AVENUE, WEST PENNANT HILLS (FP187)

Proceedings in Brief

Adrian Checchin of Mirvac (In favour) addressed Council regarding this matter

A MOTION WAS MOVED BY COUNCILLOR BLUE AND SECONDED BY COUNCILLOR DE MASI THAT the Recommendation contained in the report be adopted.

THE MOTION WAS PUT AND CARRIED.

443 RESOLUTION

Council enter into the Voluntary Planning Agreement in association with the development at 55 Coonara Avenue, West Pennant Hills (Attachment 1) and authorise Council's Common Seal to be affixed to the Voluntary Planning Agreement.

ITEM 3 **FURTHER REPORT – DRAFT VOLUNTARY PLANNING AGREEMENT AND DRAFT DEVELOPMENT CONTROL PLAN – CASTLE RIDGE RESORT – 346-350 OLD NORTHERN ROAD, CASTLE HILL (1/2021/PLP)**

THEME: Shaping Growth

MEETING DATE: **27 SEPTEMBER 2022**

GROUP: **SHIRE STRATEGY, TRANSFORMATION AND SOLUTIONS**

SENIOR TOWN PLANNER

AUTHOR: LAURA MORAN

RESPONSIBLE **MANAGER – FORWARD PLANNING**
OFFICER: NICHOLAS CARLTON

PURPOSE

This report provides an update on the status of the planning proposal for Castle Ridge Resort at 346-350 Castle Hill Road, Castle Hill and seeks a decision on whether to accept, in principle, and proceed to exhibition of the draft Voluntary Planning Agreement (VPA) offer submitted in association with the planning. The report also seeks a decision on whether to progress a draft Development Control Plan (DCP) to public exhibition concurrent the planning proposal.

RECOMMENDATION

1. Draft The Hills Development Control Plan 2012 Part D Section X – Castle Ridge Resort (Attachment 3) and Residential Map Sheet 8 of Part B Section 2 – Residential (Attachment 4) be publicly exhibited concurrent with the planning proposal.
 2. Council accept, in principle, the draft Voluntary Planning Agreement (Attachment 2), with the VPA to be subject to legal review (at the cost of the Proponent), updated in accordance with the recommendations of the legal review and subsequently placed on public exhibition concurrent with the planning proposal and draft Development Control Plan.
 3. Council consider a further report on the outcomes of public exhibition of the planning proposal, draft Development Control Plan and draft Voluntary Planning Agreement.
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IMPACTS

Financial

If accepted by Council, the contribution secured through the VPA offer equates to approximately \$2,353,200, comprising a combination of Works in Kind and monetary contributions for Council to expend on local infrastructure items, including open space upgrades to Pioneer Place Reserve.

Strategic Plan - Hills Future

The draft VPA would contribute to the delivery of facilities and infrastructure, which will enhance and maintain amenity in well-planned and liveable neighbourhoods. The draft DCP will establish built form controls to ensure that amenity is protected and maintained in the future redevelopment of the site.

LINK TO HILLS SHIRE PLAN**Strategy:**

8.1 Provide new and refurbished infrastructure in a timely manner that meets the needs of our growing Shire.

Outcomes:

8 Infrastructure meets the needs of our growing Shire.

LEGISLATIVE CONTEXT

The legislative framework for Planning Proposals which amend a Council's Local Environmental Plan is established within Part 3, Division 3.4 of the Environmental Planning and Assessment Act 1979 (Clauses 3.31 to 3.37). A Gateway Determination has been issued by DPE for the planning proposal in accordance with Section 3.34 of the Act. The next step is for the planning proposal to be publicly exhibited, once a draft DCP and draft VPA (which are the subjects of this report) are prepared and endorsed for exhibition concurrently.

The legislative framework for preparing and amending a Development Control Plan is established within Part 3, Division 3.6 of the Environmental Planning and Assessment Act 1979 (Clauses 3.41 to 3.46). This report seeks a decision of Council as to whether or not to progress with amendments to The Hills Development Control in accordance with Section 3.43 of the Act.

The legislative framework for Planning Agreements is established within Part 7, Division 7.1, Subdivision 2 of the Environmental Planning and Assessment Act 1979 (Clauses 7.4 to 7.10). The Environmental Planning and Assessment Regulation 2021 provides further requirements relating to the making, amending and revocation of planning agreements and public notice and procedural requirements within Part 9, Division 1 (Clauses 202 to 206).

APPLICANT

Levande (Australian Retirement Services Pty Ltd) (formerly Stockland Castleridge Pty Limited)

OWNERS

Stockland Castleridge Pty Limited

POLITICAL DONATIONS

Nil Disclosed by Proponent

1. BACKGROUND

Two previous planning proposals have been lodged for the site in 2016 and 2019 respectively. In both instances, Council resolved not to progress to Gateway Determination. The Hills Local Planning Panel also considered the 2019 planning proposal and advised that the planning proposal should not proceed. The two previous proposals were subject to rezoning reviews and

on both occasions, the Sydney Central City Planning Panel (SCCPP) determined that the proposals should not proceed to Gateway Determination.

The current planning proposal was lodged on 25 September 2020 and sought to facilitate 247 independent living units (seniors housing) through amendments to the height, floor space ratio and additional permitted uses provisions applicable to the site. The development concept that was considered by Council, the SCCPP and DPE is provided in the figure below.



Figure 1
Proposed Development Concept

On 18 August 2021, The Hills Local Planning Panel considered the proposal and advised that it should not proceed to Gateway Determination. Following the Panel's advice, Council considered the proposal at its meeting of 14 September 2021 and resolved that the planning proposal not proceed to Gateway Determination.

The Proponent subsequently lodged a Rezoning Review Application on 17 September 2021, seeking a review of Council's decision by the SCCPP. On 24 February 2022, the SCCPP determined that the Planning Proposal should proceed to Gateway Determination. This determination by the SCCPP overrides Council's previous decision and cannot be appealed or challenged by Council.

On 2 March 2022, the Planning Panels Secretariat invited Council to be the Planning Proposal Authority ('PPA') for the proposal and be responsible for carrying out the process for amending the Local Environmental Plan. On 22 March 2022 Council considered this invite and resolved as follows:

1. *Council write to the Planning Panels Secretariat to advise that it will accept and undertake the role of Planning Proposal Authority for the Planning Proposal at 346-350 Old Northern Road, Castle Hill ('Castle Ridge Resort').*
2. *Council prepare and submit the planning proposal for Gateway Determination under Section 3.33 of the Environmental Planning and Assessment Act 1979 and in accordance with the determination of the Sydney Central City Planning Panel, within 42 days.*
3. *Prior to any public exhibition of the planning proposal, Council consider a further report with respect to a site specific Development Control Plan and infrastructure contributions mechanism, to be exhibited concurrent with the planning proposal.*

A copy of the Council report and minute from 22 March 2022 is provided as Attachment 5 to this report.

On 20 May 2022, the planning proposal was submitted to the Department for Gateway Determination, in accordance with Council's resolution.

2. GATEWAY DETERMINATION

On 21 July 2022, a Gateway Determination (provided as Attachment 1) was issued by the Department of Planning and Environment (DPE), authorising the planning proposal to proceed to public exhibition, subject to conditions as set out below:

1. *Prior to public exhibition, the planning proposal is to be updated to include:*
 - a. *A detailed assessment of the consistency of the planning proposal with:*
 - I. *Central City District Plan*
 - II. *Local Strategic Planning Statement*
 - III. *Local Housing Strategy*
 - IV. *Section 9.1 Local Planning Directions*
 - b. *Provide additional assessment and testing of the following:*
 1. *The interface of buildings A, B, D, H and I and the relationship with Old Northern Road, with particular attention to demonstrating an appropriate setback to upper floors (above 2 storeys) to ensure the 2 storey 'street wall' is the predominant built form feature along Old Northern Road to maintain the character of the area.*
 2. *The interface of building E and the relationship with 51 Pioneer Place, with particular attention paid to the overall building height, the setback of upper floors (above 2 storeys), privacy, overshadowing and any mitigation measures to minimise impacts.*
 3. *Demonstrate that the proposed building setbacks to floors above the second floor (buildings A, B, D, E, H and I) are fit for purpose to provide an improved scale and visual appearance, reducing human scale, privacy and other impacts.*

- i. Provide a clear description in metres of the upper level storey setbacks for the built form elements above 2 storeys for all buildings in both text and map annotations.*
- c. Ensure consistency across documentation, particularly the planning proposal, revised masterplan and draft DCP, and with particular reference to the proposed PP-2021-5934 (IRF22/566) height and setback of buildings, upper level setbacks, the proposed development concept, significant trees to be retained, and all other matters.*
- d. Update the shadow diagrams in the revised masterplan to more accurately depict the siting and scale of adjoining development to the south and generally.*
- e. Individually identify and attach all technical reports and documents relevant to the planning proposal and exhibit these as individual accompanying documents.*
- f. Updated project timeline to reflect the timeframe conditions of this determination.*

The updated planning proposal is to be forwarded to the Department for review and endorsement.

As detailed above and shown in Attachment 1, there are a range of unresolved issues which must be addressed before the proposal can proceed to public exhibition (which were, in part, the issues for both the Local Planning Panel and Council concluding that the proposal should not proceed).

The resolution of these issues requires the submission of additional information by the Proponent, which at the time of preparation of this report, is yet to be received by Council officers in accordance with the conditions of the Gateway Determination.

The Gateway Determination also contains strict timeframes for the completion of the planning proposal. The following milestones must be met:

- The planning proposal must be exhibited within 3 months of the date of the Gateway Determination (by October 2022).
- The planning proposal must be reported to Council for a final recommendation within 6 months of the date of the Gateway Determination (by January 2023).
- The amending local environmental plan (LEP) must be finalised within 12 months of the date of the Gateway Determination (by July 2023)

The timeframes imposed by DPE will be extremely difficult to meet, particularly given they require the Proponent to make amendments to the planning proposal prior to public exhibition, require Council to consider a post-exhibition report during the December / January holiday period and require Council to complete the majority of the process within 6 months of the issue of the Gateway Determination (negotiate VPA, prepared DCP, publicly exhibit, consider submission and determine post-exhibition), whilst reserving the remaining 6 months (being half of the allowable timeframe) for DPE to complete the single and final step (gazettal of the legal instrument – which usually takes 4-6 weeks). Council officers will nonetheless endeavour to comply with the timeframes, contingent on the submission of necessary information by the Proponent.

3. DRAFT VOLUNTARY PLANNING AGREEMENT OFFER

Council typically negotiates VPAs with developers as part of the assessment of a planning proposal, to ensure that an appropriate contributions mechanism is in place before any rezoning of land occurs. Although Council resolved that the planning proposal should not proceed, the Proponent sought a Rezoning Review, which was successful and a Gateway Determination has now been issued allowing the planning proposal to proceed.

In light of this, Council officers have continued negotiations regarding infrastructure provision and an offer has been made by the Developer (provided as Attachment 2 to this report). The offer includes the provision of works and monetary contributions by the Developer, to cater for the infrastructure demand generated by the development and deliver public benefits for the broader community.

The following table provides a summary of the items proposed under the draft VPA.

Contribution Item	Estimated Cost
Offsite Roadworks – 60m left turn deceleration lane on Old Northern Road and relocation of the existing traffic island (estimated cost of \$100,000)	Works in Kind
Provision of a 1.2m wide concrete footpath along the southern side of Palisander Place from the rear of the entry gate to the existing concrete footpath in First Farm Drive (estimated cost \$90,000).	Works in Kind
Open Space monetary contribution towards the upgrade of the adjacent Pioneer Place Reserve, with Council to advise of design.	\$180,000
Monetary contribution towards infrastructure to deliver public benefits as determined by Council	\$510,000
Total Value	\$690,000

Table 1
Draft VPA Offer

The offer is made in addition to the contributions payable under The Hills Section 7.12 Contribution Plan (estimated to be approximately \$1,663,200, calculated as 1% of the cost of construction). The total value of contributions offered by the Proponent (being the combination of the draft VPA and s7.12 contributions) equates to \$2,353,200.

4. CONSIDERATION OF VOLUNTARY PLANNING AGREEMENT OFFER

Consideration of the specific items proposed within the VPA offer is provided below.

- General Monetary Contributions

Monetary contributions to the value of \$510,000 are offered for Council to expend on local infrastructure items as determined by Council in the future. This allows flexibility for Council to determine how to service the future population and identify potential areas of expenditure closer to the time development occurs.

- Monetary Contributions Toward Embellishment of Pioneer Place Reserve

Monetary contributions to the value of \$180,000 towards further embellishment of Pioneer Place Reserve is considered to be a public benefit, given it would fund works and upgrades that would contribute to the enjoyment of the park by the broader

community, whilst also facilitating increased capacity for use by future residents within the subject development.

The monetary contribution value offered reflects the estimated cost for the identified embellishment needs at this location under Council's Section 7.12 Contributions Plan (*Item OE0054 Pioneer Place Reserve – Outdoor Gym, Park, Furniture and Landscaping*). Accordingly, the VPA contribution would allow for Council to complete this works item without using Section 7.12 Contributions income and thereby allow for Section 7.12 funds to be applied to other items within Council's adopted Section 7.12 Works Schedule.



Figure 2

Aerial photograph of Pioneer Place Reserve – location of open space contribution

- Deceleration Lane

The deceleration lane will provide safe access to the proposed development and is considered necessary to facilitate the future redevelopment of the site. For this reason, the draft VPA does not attribute any value to this item as a public benefit. However, it is nonetheless recommended that this item remain within the offer as a works item to provide absolute certainty that the work will be delivered at the time of development.



Figure 3
Proponents proposed deceleration lane

- Pedestrian walkway

Similarly, the provision of a 1.2 metre wide concrete footpath along Palisander Place would primarily service the development, as it provides pedestrian access from the site to First Farm Drive. For this reason, the draft VPA does not attribute any value to this item as a public benefit. However, it is nonetheless recommended that this item remain within the offer as a works item to provide absolute certainty that the work will be delivered at the time of development.



Figure 4
Location of proposed pedestrian walkway along Palisander Place

- Section 7.12 Contributions

The draft VPA offer does *not* exclude the application of The Hills Section 7.12 Plan to future development of the site and as such, contributions would still be payable at a rate of 1% of the cost of development, which is likely to result in Section 7.12 income to

Council of approximately \$1.66 million, in addition to the VPA contributions. These funds would be available for expenditure on works items within Council's adopted Section 7.12 Works Schedule.

The total monetary value of the offer, when combined with contributions levied under The Hills Section 7.12 Plan, equates to approximately \$2,353,200. This equates to approximately \$9,527 per dwelling (equivalent to 1.4% of the cost of construction). The total value of contributions is stepped out in the table below:

CP	No. Dwellings	S7.12 Contributions	Additional VPA Contribution	Total Value	\$ / dwelling
<i>Castle Ridge Resort</i>	<i>247</i>	<i>\$1.66M</i>	<i>\$690,000</i>	<i>\$2.35M</i>	<i>\$9,527/dw</i>

Table 2

Total value of contributions

It should be noted that unlike many other VPA's negotiated and entered into by Council with respect to high density residential or commercial developments, this site is not located within an area strategically identified for residential uplift such as a greenfield release area or station precinct (hence, in part, why Council concluded that the proposal did not have adequate strategic merit to warrant progression). The subject site is located within an established area, where infrastructure has already been delivered as part of the original development phase. The costs associated with delivering infrastructure to support seniors housing in an established area are therefore marginally less than they would be within a greenfield area or significant urban renewal precinct, where there is a lower baseline level of provision.

Further, the draft VPA relates to a seniors housing development only, which has a substantially different demographic and infrastructure demand profile in comparison to standard residential development. For example, seniors housing developments typically include a number of additional facilities on site that would be utilised by residents (thereby reducing the likely demand for such facilities to be provided by Council off-site) and there would be no expected increase in demand for active open space (playing fields) as a result of this form of development.

For these reasons, it is difficult to compare this VPA offer directly with others. The more appropriate comparison for this circumstance would be to existing Contributions Plans, which include a specific contribution rate for seniors living units (CP 12 – Balmoral Road, CP 13 – North Kellyville, CP 15 – Box Hill and CP 18 – Bella Vista and Kellyville Station). These rates are provided in the table below for comparison purposes.

Contribution Plan	Seniors Contribution Rate (excluding open space and water management land costs)
CP 12 – Balmoral Road	\$7,211
CP13 – North Kellyville	\$7,822
CP 15 – Box Hill	\$13,390
CP 18 – Bella Vista & Kellyville Station	\$7,860
<i>Castle Ridge Resort VPA Offer</i>	<i>\$9,527</i>

Table 3

Comparison of VPA Offer with Seniors Living Unit Contributions Rates

The comparable contribution rates shown above have been adjusted to remove costs associated with open space or water management land acquisition, to allow for more accurate comparison. While those costs are relevant in a greenfield release area context, they are not relevant to the specific site and the actual costs associated with servicing the Castle Ridge site in an established area. Removal of these costs therefore allows for a more accurate comparison of infrastructure demand associated with seniors living developments in an urban infill context, as is the case for the subject proposal.

Having regard to the table above, the value of contributions offered in association with the development is broadly consistent with the rates applicable to other seniors housing developments within the Shire.

On this basis, it is considered that the VPA offer, in combination with Section 7.12 Contributions payable under The Hills Section 7.12 Contributions Plan, represents a fair and reasonable contribution toward local infrastructure associated with this particular development. The VPA offer is considered appropriate and generally reflective of the likely cost to Council of providing infrastructure to cater for the demand generated by the development.

It is noted that seniors housing developments are required to provide access to services and facilities for future residents, either on site or by way of appropriate transportation options within 400m of the site. The Housing SEPP, which prescribes development standards and site-related requirements for seniors housing developments and independent living units specifically, requires 'adequate access' to be provided to the following defined 'facilities and services':

- a) *Shops and other retail and commercial services that residents may reasonably require, and*
- b) *Community services and recreation facilities, and*
- c) *The practice of a general medical practitioner.*

While the Housing SEPP would not apply to a future development application for the land due to the site's zoning as E4 Environmental Living, these requirements are critical to providing high quality amenity and appropriate development outcomes for future residents.

The planning proposal does not demonstrate that the full range of these services will be provided within the development site, however it is anticipated that this would form part of the detailed design and development application process, if the planning proposal proceeds to finalisation. It is proposed to incorporate the requirements that would normally be applicable under the Housing SEPP into the site-specific DCP, to ensure this is appropriately resolved at the Development Application stage.

5. DRAFT DEVELOPMENT CONTROL PLAN

At its meeting of 23 March 2022, Council resolved that prior to public exhibition of the planning proposal, Council consider a further report with respect to a site-specific draft DCP to be publicly exhibited with the planning proposal.

Currently, Council does not have any specific development controls that relate to seniors housing developments, nor does the Hills DCP 2012 provide controls that guide development of this scale or built form on land zoned C4 Environmental Living (as development is generally intended to be low impact and low scale, not of a form or scale as proposed by this application). In the absence of appropriate parts of the current Hills DCP 2012 being able to adequately regulate this development, consideration of a draft site-specific DCP will give Council the opportunity to regulate the built form outcomes on the site. This was, in part, a key reason for

Council opting to accept the role as the Planning Proposal Authority, so that this layer of control could run concurrent with the amendments to the LEP.

In considering the planning proposal application, Council had determined that the planning proposal did *not* demonstrate adequate site-specific merit. The Council officer assessment report and LPP advice highlighted a number of issues with respect to built form, including bulk and scale, cut and fill, amenity and privacy impacts on adjoining residents, consistency with the environmental zoning of the land and the sensitive ridgeline views across the locality.

Despite recommending that the proposal proceed, the SCCPP decision with respect to the Rezoning Review also noted that there were elements of the built form outcome that required resolution, including height of buildings with respect to interface with adjoining development, visual impacts and massing on Old Northern Road and Palisander Place, and the extent of cut and fill proposed. In issuing the Gateway Determination, DPE has required updated planning proposal material be prepared to address these issues, as reflected in the Gateway Determination conditions.

The Proponent has submitted a draft site specific DCP in association with their planning proposal application. However, this was submitted prior to the issue of the Gateway Determination and as such, it has not adequately considered the conditions of the Gateway Determination and the necessary changes to the planning proposal and development outcomes. At the time of preparing this Report, the Proponent has not yet submitted a revised development concept or other supporting planning proposal material per the conditions of the Gateway Determination. However, the Gateway Determination stipulates strict milestone timeframes which dictate that prompt consideration of a draft DCP is necessary nonetheless.

A draft DCP has been prepared, having regard to key issues identified to date in the assessment process, the Gateway Determination conditions and the preliminary draft DCP provided by the Proponent. It is noted that as Council officers do not have the benefit of the Proponent's revised planning proposal material, some proposed DCP controls may need to be refined or reconsidered at a later stage, once the revised material has been received from the Proponent and the views of the public can be considered following the public exhibition period. The draft DCP is nonetheless considered appropriate for the purpose of public exhibition and seeking comments from the community and stakeholders.

A draft DCP to regulate the development on the site is provided as Attachment 3 to this report. It comprises controls relating to the following key development outcomes:

- Local character and context;
- Site layout, site coverage, landscaped area and design;
- Interface of buildings at boundaries, including setbacks and building heights to boundaries;
- Solar access and communal open space;
- Traffic , access, basement car parking and safety;
- Cut and fill and retaining wall requirements; and
- Location and access to facilities and services.

It is also recommended that Council publicly exhibit amendments to Residential Map Sheet 8 of Part B Section 2 – Residential (Attachment 4), which currently identifies parts of the site as being subject to a maximum site coverage control of 30%. The draft site specific DCP comprises proposed site coverage controls, having regard to the particular development outcome and illustrative master plan submitted by the Proponent for this planning proposal.

Council is the responsible authority for the preparation, exhibition and adoption of Development Control Plans. As such, Council can choose to prepare a draft DCP which is different to that submitted by the Proponent (and in this case, more comprehensively addresses the outstanding site-specific issues and Gateway conditions). If the draft DCP proceeds to public exhibition, the Proponent would have further opportunity to comment on the draft controls within the DCP and Council can consider this as part of its post-exhibition determination of the planning proposal, DCP and VPA. At this time, Council can choose whether or not to adopt the draft site-specific DCP (either in the form exhibited or with amendments).

NEXT STEPS

Once the Proponent submits their revised planning proposal material in accordance with the requirements of the Gateway Determination, the planning proposal package will be updated in accordance with the Gateway Determination conditions, before being placed on public exhibition concurrent with the draft DCP.

Should Council resolve to accept the VPA offer in principle, the draft agreement will be subject to a legal review, at the cost of the Proponent. The VPA will then be updated, as required, to address the recommendations of the legal review, before being placed on public exhibition concurrent with the planning proposal and draft DCP.

During the public exhibition period, consultation with public authorities will also occur.

Following the completion of public exhibition, a further report will be provided to Council to consider, which will detail any submissions received and make recommendations to Council as to whether or not the planning proposal should proceed to finalisation, whether or not the DCP should be adopted (potentially with post-exhibition amendments if required) and whether or not Council should enter into the VPA.

ATTACHMENTS

1. Gateway Determination (4 pages)
2. Draft Voluntary Planning Agreement (33 pages)
3. Draft Development Control Plan (22 pages)
4. Draft The Hills Development Control Plan 2012 Part B Section 2 – Residential Map Sheet 8 (1 page)
5. Council Report and Minute, 22 March 2022 (64 pages)



Department of Planning and Environment

Mr Michael Edgar
General Manager
The Hills Shire Council
PO Box 7064
NORWEST NSW 2153

Our ref: IRF22/566

Via email: Imoran@thehills.nsw.gov.au, ncarlton@thehills.nsw.gov.au

Dear Mr Edgar

Planning proposal (PP-2021-5934) to amend The Hills Local Environmental Plan 2019

I am writing in response to the planning proposal you have forwarded to the Minister under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal for land at 346-350 Old Northern Road, Castle Hill to amend *The Hills Local Environmental Plan 2019* to include 'seniors housing' as an additional permitted use in Schedule 1, increase the maximum building height development standard to range from 0m to 22m, and introduce a maximum floor space ratio development standard of 0.83:1.

As delegate of the Minister for Planning, I have determined that the planning proposal should proceed subject to the conditions in the enclosed gateway determination. The Minister for Planning or appointed delegate will be the local plan-making authority.

The NSW Government has committed to reduce the time taken to complete LEPs. To meet these commitments, the Minister may appoint an alternate planning proposal authority if Council does not meet the timeframes outlined in the gateway determination, as follows:

- The planning proposal must be exhibited within **3 months** of the date of the gateway determination.
- The planning proposal must be reported to council for a final recommendation within **6 months** of the date of the gateway determination.
- The amending local environmental plan (LEP) must be finalised within **12 months** of the date of the gateway determination.

The Department's categorisation of planning proposals in the *Local Environmental Plan Making Guideline* (Department of Planning and Environment, 2021) is supported by category specific timeframes for satisfaction of conditions and authority and Government agency referrals, consultation, and responses. Compliance with milestones will be monitored by the Department to ensure planning proposals are progressing as required.

Should you have any enquiries about this matter, I have arranged for Jorge Alvarez to assist you. Mr Alvarez can be contacted on 9995 5748.

Yours sincerely

A handwritten signature in blue ink that reads 'Alison McLaren'.

Alison McLaren
Executive Director, Metro Central and North
Planning and Land Use Strategy

Encl: Gateway determination



Department of Planning and Environment

Gateway Determination

Planning proposal (Department Ref: PP-2021-5934): applying to land at 346-350 Old Northern Road, Castle Hill, seeking to amend The Hills Local Environmental Plan 2019 to include 'seniors housing' as an additional permitted use, and amend the maximum building height development and floor space ratio development standards.

I, the Executive Director, Metro Central and North at the Department of Planning and Environment, as delegate of the Minister for Planning and Homes, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to *The Hills Local Environmental Plan 2019* to include 'seniors housing' as an additional permitted use in Schedule 1, increase the maximum building height development standard to range from 0m to 22m, and introduce a maximum floor space ratio development standard of 0.83:1 should proceed subject to the conditions below.

The LEP should be completed on or before 21 July 2023.

Gateway Conditions

1. Prior to public exhibition, the planning proposal is to be updated to include:
 - a. A detailed assessment of the consistency of the planning proposal with \:
 - i. Central City District Plan
 - ii. Local Strategic Planning Statement
 - iii. Local Housing Strategy
 - iv. Section 9.1 Local Planning Directions
 - b. Provide additional assessment and testing of the following:
 - i. The interface of buildings A, B, D, H and I and the relationship with Old Northern Road, with particular attention to demonstrating an appropriate setback to upper floors (above 2 storeys) to ensure the 2 storey 'street wall' is the predominant built form feature along Old Northern Road to maintain the character of the area.
 - ii. The interface of building E and the relationship with 51 Pioneer Place, with particular attention paid to the overall building height, the setback of upper floors (above 2 storeys), privacy, overshadowing and any mitigation measures to minimise impacts.
 - iii. Demonstrate that the proposed building setbacks to floors above the second floor (buildings A, B, D, E, H and I) are fit for purpose to provide an improved scale and visual appearance, reducing human scale, privacy and other impacts.
 - c. Provide a clear description in metres of the upper level storey setbacks for the built form elements above 2 storeys for all buildings in both text and map annotations.
 - d. Ensure consistency across documentation, particularly the planning proposal, revised masterplan and draft DCP, and with particular reference to the proposed

height and setback of buildings, upper level setbacks, the proposed development concept, significant trees to be retained, and all other matters.

- e. Update the shadow diagrams in the revised masterplan to more accurately depict the siting and scale of adjoining development to the south and generally.
- f. Individually identify and attach all technical reports and documents relevant to the planning proposal and exhibit these as individual accompanying documents.
- g. Updated project timeline to reflect the timeframe conditions of this determination.

The updated planning proposal is to be forwarded to the Department for review and endorsement.

- 2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - (a) the planning proposal is categorised as standard as described in the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 20 days; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021).

Exhibition must commence within **3 months** following the date of the gateway determination.

- 3. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the EP&A Act:
 - Transport for NSW
 - NSW Environment and Heritage
 - NSW Health
 - Sydney Water Corporation
 - Ausgrid
 - Hornsby Council

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 days to comment on the proposal.

- 4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

5. The planning proposal must be reported to council for a final recommendation within **6 months** of the date of the Gateway determination.

Dated 21st day of July 2022.



Alison McLaren
Executive Director, Metro
Central & North
Planning and Land Use
Strategy
Department of Planning and
Environment

Delegate of the Minister for
Planning and Homes

PP-2021-5934 (IRF22/566)

PLANNING AGREEMENT
350 OLD NORTHERN ROAD, CASTLE HILLS
THE HILLS SHIRE COUNCIL
CASTLERIDGE RETIREMENT VILLAGE PTY LTD

www.thehills.nsw.gov.au

ATTACHMENT 2

HILLS
Sydney's Garden Shire



The Hills Shire Council

[INSERT DATE]

3 Columbia Court, Norwest NSW 2153
PO Box 7064, Norwest BC 2153 Phone (02) 9843 0555

**Planning Agreement
Summary Sheet**

Council	Name	The Hills Shire Council
	Address	3 Columbia Court Norwest, NSW 2153
	Telephone	(02) 9843 0555
	Facsimile	(02) 9843 0258
	Email	council@thehills.nsw.gov.au
	Representative	Mr Michael Edgar – General Manager
	Developer	Name
Address		Level 18, 9 Castlereagh Street, Sydney NSW 2000
Telephone		(02) 9035 3588 Mobile: 0437 577 209
Email		nathan.donn@stockland.com.au
Representative		Nathan Donn
Land	350 Old Northern Road, Castle Hill (Lot 503 DP 1048808)	
Development Application	Not applicable	
Planning Proposal	PP-2021-5934	
Works	See Schedule 3	
Monetary Contributions	See Schedule 4	

Security Amount

\$218,500

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Planning Agreement

Dated

Parties

The Hills Shire Council ABN 25 034 494 656 of 3 Columbia Court, Baulkham Hills, NSW 2153
(Council)

Castleridge Retirement Village Pty Ltd as trustee for the Rogan's Hill Retirement Village Trust ABN 50 597 053 354 of Level 18, 9 Castlereagh Street, Sydney New South Wales 2000
(Developer)

Background

- A. Council is the consent authority pursuant to the *Environmental Planning and Assessment Act 1979* (NSW) (**Act**) for the Proposed Development.
- B. The Developer is the owner of the Land and a Planning Proposal has been lodged in respect of the Land.
- C. Upon approval of the Planning Proposal, the Developer proposes to lodge Development Applications in respect of the Land.
- D. If the Instrument Change occurs, the Developer is required to make Development Contributions in the nature of monetary contribution, and material public benefit (works-in-kind).

Operative provisions

1. **Defined meanings**

Words used in this document and the rules of interpretation that apply are set out and explained in the definitions and interpretation clause at the back of this Agreement.

2. **Planning agreement under the Act**

The Parties agree that this document is a planning agreement within the meaning of **subdivision 2, Division 7.1, Part 7** of the Act.

3. **Application of this document**

This document is made in respect of the Proposed Development and applies to the Land.

4. **No restriction on Council's Powers**

This Agreement or anything done under this Agreement:

- (a) is not to be taken as approval or consent by Council as a regulatory authority; and
- (b) does not in any way inhibit, deter or prejudice Council in the proper exercise of its functions, duties or powers,

pursuant to any legislation including the Act, the *Roads Act 1993* (NSW) and the *Local Government Act 1993* (NSW).

5. Operation of this Agreement

5.1 Until the planning agreement operates, this document constitutes the Developer's offer to enter into this agreement if the Instrument Change is made.

- (a) The planning agreement operates only if: the Instrument Change is made; and
- (b) the parties execute this document..

5.2 This document provides for Development Contributions to be made with respect to the Proposed Development. .

6. Monetary Contributions

6.1 Payment

The Developer must pay the Monetary Contribution in accordance with the times listed in Schedule 4. Payment of the Monetary Contribution may be made by cheque or electronic bank transfer to Council's nominated bank account.

6.2 Annual Increases

On each anniversary of the date of this document the Monetary Contribution applicable immediately prior to that anniversary will be increased by the same percentage as the annual percentage increase, if any, in the ABS Producer Price Index (Non-Residential Building Construction for NSW) #3020 most recently published prior to the relevant anniversary. The increased Monetary Contribution will be the Monetary Contribution in the subsequent 12 months.

6.3 [Note to Council: Moved to schedule 4]Public Purpose

The Monetary Contribution is required for the funding of the construction of, or improvements to Palisander Place Reserve and such other local infrastructure and the public domain in the vicinity of the Land (including those specified in section 7.4(2) of the Act) as determined by the General Manager of Council from time to time and Council will apply the Monetary Contribution for those purposes.

7. Works

7.1 Obligation to Carry Out Works

7.1.1 The Developer is to carry out and complete the Works on the Land at the locations shown on the Location Plan.

7.1.2 The Developer's obligation under clause 7 exists irrespective of whether the Developer:

- (a) carries out the Works itself, or
- (b) enters into an agreement with another person under which the other person carries out the Works on the Developer's behalf.

- 7.1.3 Before the Developer commences the Works:
- (a) The Developer is to notify Council of its intention to prepare the plans and specifications;
 - (b) Within 10 Business Days of receiving notice, the Council must advise the Developer (acting reasonably) of any publicly released policy, standards or requirements of Council which the Council will require any detailed design and specification for the Works to comply with (**Council's Requirements**).
 - (c) the Developer, at its own cost, is to prepare and submit to the Council or a person specified by the Council, detailed plans and specifications in relation to the item of Works that takes into account Council's Requirements and the Contribution Value.
- 7.1.4 The Developer is not to commence the Works unless the Council or the person specified by the Council has given the Developer written approval (acting reasonably) of the plans and specifications relating to the item. In considering the grant of approval, Council must:
- (a) take into account any Development Consent which applies to the Works and assess the detailed design in a manner consistent with that Development Consent (noting however that that Development Consent does not constitute approval under the terms of this Agreement); and
 - (b) have regard to the Contribution Value for the Works such that Council cannot require changes to the designed design and specification that would cause the estimated cost to complete that item of Works to exceed the relevant Contribution Value. [Note to Council: wording adopted from Brookhollow VPA]
- 7.1.5 If, within 20 Business Days of the date of submission referred to in para 7.1.3:
- (a) Council notifies the Developer in writing of its approval of the design and specification, the Developer must carry out and complete the item of Works in accordance with the approved design and specification; or
 - (b) Council notifies the Developer in writing that it does not approve of the design and specification, Council must specify the reasons why approval is withheld and the Developer may elect to:
 - (i) Amend the design and specification and submit to Council the amended design and specification for approval by Council; or
 - (ii) Refer the relevant matter for dispute resolution in accordance with this Agreement.
- 7.1.6 Council cannot notify the Developer pursuant to paragraph 7.1.5 that it does not approve of the design and specification for an item of Works, unless the design and specification:
- (a) Does not comply with the Development Consent for the item of Works; or
 - (b) Does not comply with Council Requirements,

and Council cannot require an amendment to the design or specification of the item of Works which would require any modification of a Development Consent, or which would cause the estimated cost to complete that item of Works to exceed the Contribution Value for that item of Works, unless a higher value is necessary to address the requirements of points (a) and (b) above.

- 7.1.7 If Council fails to notify the Developer in writing that it approves or does not approve of the design and specification within the time required under paragraph 7.1.5, then Council is deemed to have approved the relevant design and specification.
- 7.1.8 The Developer is to carry out and complete the Works in a good and workmanlike manner having regard to the intended purpose of the Works and otherwise to the satisfaction of Council (acting reasonably), in accordance with:
- (a) the Development Consent, and
 - (b) all applicable laws, including those relating to occupational health and safety, and
 - (c) this Agreement to the extent that it is not inconsistent with the Development Consent or an applicable law, and
 - (d) the written approval given under clause 7.1.4
- 7.1.9 In the event of an inconsistency between this Agreement and the Development Consent or any applicable law, the Development Consent or the law prevails to the extent of the inconsistency.
- 7.1.10 It is the Developer's responsibility to ensure that everything necessary for the proper performance of its obligations under this Agreement is supplied or made available.
- 7.1.11 The Works are to be Handed-Over to the Council by:
- (a) by not later than the Hand-Over Date for the Works, and
 - (b) otherwise in accordance with this Agreement.

8. Ownership of Works

- 8.1 Ownership of the works is transferred to Council on Hand Over and nothing in, or done under, this Agreement gives the Developer, after Hand-Over any right, title or interest in the Works.
- 8.2 On Hand Over the Developer must cause the legal title in the Works and all materials and component of the Works to pass to Council free of any charge or other interest. The Developer warrants that after Hand Over the Works are not subject to any security interest (as defined in the *Personal Property Securities Act 2009 (Cth)* (**PPSA**)) and any security interest noted in the Personal Property Securities Register has been discharged. The Developer indemnifies Council for all claims, costs, losses and expense Council may suffer arising from any breach of this warranty or any claim or action taken by any person in respect of any security interest (as defined in the PPSA) in the Works.

9. Determination of Value

- 9.1 For the purposes of this Agreement, the Parties acknowledge that the Contribution Value in relation to each Item of the Works is the amount specified in Schedule 3.
- 9.2 If the Developer's actual cost of carrying out the Works, including any costs incurred pursuant to this Agreement, determined at the date on which the Works is Handed-Over to the Council, differs from the Contribution Value, then no party to this Agreement shall be entitled to claim credit or reimbursement, as the case may be, for the difference.

10. Access to the land and location of Works

- 10.1 The Developer is to permit the Council, its officers, employees, agents and contractors to enter the Land at any time, upon giving reasonable prior notice, in order to inspect, examine or test any the Works.
- 10.2 The Developer must enable Council, its officers, employees, agents and contractors access to the location of the Works where this is not the Land, Council land or a public road, subject to satisfaction of induction and site safety protocols.
- 10.3 Council permits the Developer and its agents to free access Council land including public roads, as reasonably necessary, to lodge applications in relation to and carry out the Works.

11. Protection of People, Property and the Environment

- 11.1 The Developer is to ensure in relation to the carrying out of the Works that:
- a) All necessary measures are taken to protect people, property and the Environment,
 - b) unnecessary interference with the passage of people and vehicles is avoided;
 - c) nuisances and unreasonable noise and disturbances are prevented; and
 - d) all relevant laws and regulations with respect to water, air, noise and land pollution (including 'pollution incidents') as defined under the *Protection of the Environment Operations Act 1997* (NSW) are complied with.

12. Damage and Repairs to the Works

- 12.1 The Developer, at its own cost, is to repair and make good to the satisfaction of the Council any loss or damage to the Works from any cause whatsoever (except where and to the extent of damage that is caused by the negligent acts of Council) which

occurs from commencement of the Works and prior to the date on which the Works is Handed-Over to the Council.

13. Variation of Works

13.1 The Works are not to be varied by the Developer, unless:

7.1.12 the Parties agree in writing to the variation, and

7.1.13 any consent or approval required under the Act or any other law to the variation is first obtained, and

7.1.14 the Developer bears all of the Council's costs of and incidental to agreeing to and approving the variation.

13.2 For the purposes of clause 7.1.12 a variation may relate to any matter in relation to the Works that is dealt with by this Agreement.

13.3 If Council requests a variation to the Works after Council has given its written approval under clause 7, then the Council shall be liable to pay to the Developer an amount equal to the increase in the costs of completing the Works, which results from the variation requested by the Council.

13.4 Council shall repay the amount referred to in clause 13.3 to the Developer after the Works are complete, and within 28 days of receipt of:

7.1.15 a tax invoice for the amount claimed by the Developer; and

7.1.16 documentation which demonstrates to Council's satisfaction the increase in costs as a result of the variation requested by the Council.

13.5 Hand-Over of WorksThe Developer is to give the Council not less than 30 days written notice of:

7.1.17 the date on which it proposes to Hand-Over any Works to the Council, being a date not later than the Hand-Over Date, and

7.1.18 the Items of Work the subject of the notice (**Completion Notice**).

13.6 The Council must inspect the Works set out in a Completion Notice within 10 Business Days of the receipt of that notice.

13.7 If Council fails to carry out an inspection required under paragraph 14.2 the Works referred to in the Completion Notice will be deemed to be Complete.

13.8 Within 20 Business Days of inspection the Works set out in a Completion Notice the Council must provide notice in writing (**Rectification Notice**) to the Developer that the Works set out in the Completion Notice:

(a) Have been Completed; or

(b) Have not been Completed, in which case the notice must also detail:

(i) Those aspects of the works which have not been Completed; and

(ii) The work Council requires the Developer to carry out in order to rectify the deficiencies in those Works.

13.9 If Council does not provide the Developer with a Rectification Notice in accordance with paragraph #, the Works set out in the Completion Notice will be deemed to have been Completed.

13.10 Where Council serves a Rectification Notice on the Developer where Council identifies that the Works are not Complete, the Developer must:

- (a) Rectify the Works in accordance with that notice; and
- (b) Once rectified, it must serve upon the Council a new Completion Notice for the Works it has rectified. [Note to Council: wording of Brookhollow VPA adopted here]

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13.11 Before the Works are handed-over to the Council, the Developer is to remove from the Land:

7.1.19 any rubbish or surplus material, and

7.1.20 any temporary works, and

7.1.21 any construction plant and equipment, relating to the carrying out of the Works as the case requires.

13.12 The Works are taken to be Handed-Over to the Council when the Council, acting reasonably, gives the Developer a Rectification Notice that the Works are Complete.

14. Failure to Carry out and Hand-Over Works

14.1 The parties agree that the Hand-Over Date may be extended due to:

7.1.22 any Force Majeure Event,

7.1.23 any delays on the part of any government authority (including the Council) in granting any approval, consent, licence or permit necessary for the Works to be completed, or

7.1.24 any direction the Council gives extending the Hand-Over Date.

14.2 If the Council considers that the Developer is in breach of any obligation under this Agreement relating to the carrying out of the Works, the Council must give the Developer a notice requiring (acting reasonably):

7.2.1 the breach to be rectified to the Council's satisfaction, or

7.2.2 the carrying out of the Works to immediately cease, except in relation to the rectification of the breach, and the breach to be rectified to the Council's satisfaction.

14.3 A notice given under clause 14.2 is to allow the Developer a reasonable period (and in any case not less than 28 days) to rectify the breach.

14.4 If the Developer fails to rectify the breach the subject of a notice given under clause 14.2, and no Dispute Notice has been issued in respect of that breach, the Council may:

7.4.1 call upon the Security, and

7.4.2 carry out and complete or make safe the Works.

14.5 For the purposes of clause 7.4.2:

7.5.1 the Developer must allow the Council, its servants, agents and contractors to enter the Land for the purpose of completing the Works, and

7.5.2 any difference between the amount of the Security called upon pursuant to clause 7.3, and the costs incurred by the Council in carrying out, completing, or making safe the Works, may be recovered by the Council from the Developer as a debt due in a court of competent jurisdiction.

15. Works-As-Executed-Plan

15.1 No later than 60 days after a notice is given under clause 13.12, the Developer is to submit to the Council a full Works-As-Executed-Plan in respect of the Works the subject of the notice.

15.2 The Developer shall provide with the Work-as-Executed Plan(s) all appropriate certificates to verify that the Works have been carried out in accordance with relevant standards.

16. Rectification of Defects

16.1 During the Defects Liability Period the Council may give to the Developer a Defects Notice in relation to the Works specifying:

9.1.1 the Works requiring rectification,

9.1.2 the action required to be undertaken by the Developer to rectify those Works, and

9.1.3 the date on which those Works are to be rectified.

16.2 A Defects Notice must contain the following information:

(a) The nature and extent of the Defect;

(b) the work Council requires the Developer to carry out in order to rectify the Defect; and

(c) the time within which the Defect must be rectified (which must be a reasonable time and not less than 10 Business Days).

16.3 The Developer must comply with a Defects Notice at its own cost according to the terms of the Notice.

16.4 When the Developer considers that rectification is complete, the Developer may give to the Council a Defects Certificate relating to the Works the subject of the relevant Defects Notice.

16.5 A Defects Certificate discharges the Developer from any further obligation to comply with the relevant Defects Notice.

16.6 If the Developer does not comply with a Defects Notice and a Dispute Notice has not been issued, the Council may do such things as are necessary to rectify the defect and may:

9.6.1 call upon the Security to meet its costs in rectifying the defect, and

9.6.2 recover, as a debt due in a court of competent jurisdiction, any difference between the amount of the Security and the costs incurred by the Council in rectifying the defect.

17. Cost of Works carried out by the Council

17.1 The Parties acknowledge and agree that where, in accordance with this Agreement, the Council incurs a cost in carrying out, completing or rectifying a Defect in the Works,

the Council may recover from the Developer in a court of competent jurisdiction its full costs, including costs determined in accordance with clause 17.2.

17.2 The Council's costs of carrying out, completing or rectifying the Works in accordance with this Agreement include, but are not limited to:

10.2.1 the reasonable costs of the Council's servants, agents and contractors reasonably incurred for that purpose,

10.2.2 all fees and charges necessarily or reasonably incurred by the Council in order to have the Works carried out, completed, made safe or rectified, and

10.2.3 without limiting the generality of the preceding sub-clause, all legal costs and expenses reasonably incurred by the Council, by reason of the Developer's failure to comply with this Agreement.

18. Indemnity and Insurance

18.1 [Note to Council: not used because not required in Solent Circuit VPA]The Developer is to take out and keep current to the satisfaction of the Council the following insurances in relation to the Works from the date the Works commence up until the relevant date of Hand-Over to Council:

11.1.1 contract works insurance, noting the Council as an interested party, for the full replacement value of the Works (including the cost of demolition and removal of debris, consultants' fees and authorities' fees), to cover the Developer's liability in respect of damage to or destruction of the Works,

11.1.2 public liability insurance for at least \$10,000,000 for a single occurrence, which covers the Council, the Developer and any subcontractor of the Developer, for liability to any third party,

11.1.3 workers compensation insurance as required by law, and

11.1.4 any other insurance required by law.

18.2 If the Developer fails to comply with clause 18.2, the Council may effect and keep in force such insurances and pay such premiums as may be necessary for that purpose and the amount so paid shall be a debt due from the Developer to the Council and may be recovered by the Council as it deems appropriate including:

11.2.1 by calling upon the Security provided by the Developer to the Council under this Agreement, or

11.2.2 recovery as a debt due in a court of competent jurisdiction.

18.3 The Developer is not to commence to carry out the Works unless it has first provided to the Council satisfactory written evidence of all the insurances specified in clause 18.1.

19. Provision of Security

19.1 This clause does not apply if:

- 12.1.1 the Summary Sheet at the front of this Agreement contains the words "Not Applicable" in relation to the Security Amount, or
- 12.1.2 the Council, by notice in writing to the Developer, has otherwise waived compliance by the Developer with this clause.
- 19.2 The Developer is not to commence the Works unless it has given the Security to the Council.
- 19.3 The amount of the Security is to be equivalent to the cost to complete the Works plus a contingency of 15% which on the date of this Agreement is the amount specified in the Summary Sheet.
- 19.4 In the event of any failure by the Developer to perform the Works in the timeframe and in the manner provided in this Agreement, Council:
- (a) Must provide 14 days' notice to the Developer of its intention to call upon the Security with reasons as to why; and
 - (b) May call on the Security for any amount payable to Council upon considering any submissions by the Developer in response to the notice of intent .
- 19.5 If the Council calls on the Security in accordance with this Agreement, the Council may, by notice in writing to the Developer, require the Developer to provide a further Security in an amount that, when added to any unused portion of any existing Security, does not exceed the amount of the Security the Council is entitled to hold under this clause.
- 19.6 On each anniversary of the date of this Agreement the amount of the Security will be increased by the same percentage as the annual percentage increase (if any) in the Consumer Price Index most recently published prior to the relevant anniversary.
- 19.7 The Developer must at the request of Council increase the amount of the Security held by Council to the amount of the Security to be provided under this Agreement.
20. **Easements Covenants and Restrictions on Title [not used]**

21. Application of s7.11 and s7.12 of the Act

21.1 For the purpose of section 7.4(5) of the Act, this document does not exclude the operation of section 7.11 and section 7.12 of the Act in relation to the Development Application(s) for the Proposed Development.

22. Modifications [Not Used]**23. [Note to Council: as per Solent Circuit VPA]Termination****23.1 Planning Proposal**

This Agreement will terminate in the event that the Land the subject of the Planning Agreement is not rezoned in accordance with the Planning Proposal. [Note to Council: as per Solent Circuit VPA]

23.2 Development Consents

If Development Consent is granted by the Council with respect to the Development Application(s) in respect of the Proposed Development, this document terminates with respect to that particular Development Consent:

- (a) on the lapse of the Development Consent; or
- (b) on the formal surrender of the Development Consent; or
- (c) on the final determination by a Court of competent jurisdiction issuing a declaration that the Development Consent is invalid.

23.3 Bankruptcy & Insolvency

This Agreement will immediately terminate if:

- (a) Any company officer of the Developer becomes subject of bankruptcy proceedings or becomes a bankrupt.
- (b) The Developer becomes subject of external administration or insolvency proceedings.

24. Consequences

- 24.1 On the date of termination or rescission of this document, subject to the following subparagraphs each party releases each other from any obligation to perform any term, or any liability arising out of, this document after the date termination.
- 24.2 Any unapplied Monetary Contribution, bond or Bank Guarantee that has been provided to Council will be refunded to the Developer as soon as practicable after the date of termination.
- 24.3 Termination or rescission of this document does not release either party from any obligation or liability arising under this document before termination or rescission.

25. Private Certifiers

Where Council is not the certifying authority for any aspect of the Proposed Development the Developer must on the appointment of a private certifier provide a copy of this Agreement to the private certifier.

26. Notices

- 26.1 Any notice to or by a party under this document must be in writing and signed by the sender or, if a corporate party, an authorised officer of the sender.
- 26.2 Any notice may be served by delivery in person or by post or email to the address or number of the recipient specified in the Summary Sheet or most recently notified by the recipient to the sender.
- 26.3 Any notice is effective for the purposes of this document upon delivery to the recipient or if sent by email it is taken to have been received on the date when the sending party's email has been successfully transmitted.

27. Breach Notice and Rectification

- 27.1 If the Developer is, in the opinion of Council, in breach of a material obligation under this document, Council may provide written notice of the breach to the Developer and require rectification of that breach within a reasonable period of time (**Breach Notice**).
- 27.2 Unless there are compelling reasons to extend or abridge the period of time permitted for rectification, a reasonable period of time is taken to be fourteen days from receipt of written notification of the breach.
- 27.3 If the breach is not rectified within the time specified in the Breach Notice, or otherwise agreed between the Parties or if a Dispute Notice is not issued within this period, Council may rectify the breach as the agent of the Developer and at the risk of the Developer. The Developer must pay all reasonable costs incurred by the Council in remedying the breach.

28. Dispute resolution**28.1 Disputes**

If there is any dispute, difference of opinion or failure to agree relating to or arising from this document that dispute must be referred for determination under this clause.

28.2 No legal proceedings

The Parties must not bring or maintain any action on any Dispute (except for urgent injunctive relief to keep a particular position) until it has been referred and determined as provided in this clause.

28.3 Notice of disputes (Dispute Notice)

A Party referring a Dispute for determination must do so by written notice to the other parties which must specify the nature of the Dispute and a nominated officer of the referring party with sufficient authority to determine the Dispute.

28.4 Negotiated resolution and selection of expert

- (a) On service of the Dispute Notice the receiving Parties must refer the Dispute to an officer with sufficient authority to determine the Dispute. The nominated officers of each Party must meet at least once and use reasonable endeavours to resolve the Dispute by negotiation within seven days of service of the Dispute Notice. Any resolution must be recorded in writing and signed by each nominated officer. By agreement, the nominated officers may employ the services of a mediator to assist them in resolving the Dispute.
- (b) If the nominated officers are unable to resolve the Dispute within seven days of service of the Dispute Notice they must endeavour within the following seven-day period to appoint an expert by agreement. That appointment must be recorded in writing and signed by each nominated officer.
- (c) If the nominated officers do not record the appointment of an expert within that second seven day period, the expert must be appointed, at the request of any party, by the President for the time being (or if none, the senior elected member) of the Law Society of New South Wales.

28.5 Assistance to the Expert (the Expert)

- (a) Once the Expert has been appointed (the Expert), the Parties must:
 - (i) each use their best endeavours to make available to the Expert all information the Expert requires to settle or determine the Dispute; and
 - (ii) ensure that their employees, agents or consultants are available to appear at any hearing or enquiry called by the Expert.
- (b) The Parties may give written submissions to the Expert but must provide copies to the other Parties at the same time.

28.6 Expert's decision

- (a) The decision of the Expert must:
 - (i) be in writing and give reasons; and
 - (ii) be made and delivered to the parties within one month from the date of submission of the dispute to the Expert or the date of completion of the last hearing or enquiry called by the Expert, if later.
- (b) The Expert may conduct the determination of the Dispute in any way it considers appropriate but the Expert may, at its discretion, have regard to the Australian

Commercial Disputes Centre's guidelines for expert determination of disputes or such other guidelines as it considers appropriate.

- (c) The Expert's decision is final and binding on the parties.
- (d) The Expert must act as an expert and not as an arbitrator.

28.7 Expert's costs

- (a) The Expert must also determine how the expenses relating to the reference of the Dispute (including the Expert's remuneration) should be apportioned between the parties and in default of a decision by the Expert those expenses must be borne by the parties equally.
- (b) In determining the apportionment of costs the Expert may have regard to what the Expert, in its reasonable opinion, considers to be a lack of good faith or a failure to use reasonable endeavours by any party in assisting the Expert or resolving the dispute between the parties' nominated officers as required by this clause.

28.8 Continual performance

Each Party must continue to perform its obligations under this document while any dispute is being determined under this clause.

29. Caveat

- (a) The Council may, at any time after the date of this document, register a caveat over the Land preventing any dealing with the Land that is inconsistent with this document. Provided that the Council complies with this clause #, the Developer must not object to the registration of this caveat
- (b) As caveator, the Council must do all things reasonably required to promptly consent to the registration of:
 - (A) any plan of consolidation or plan or subdivision;
 - (B) any dealing required by this document or the Development Consent;
 - (C) any other dealing where there has been compliance (if required) with this document; and
 - (D) the transfer of any part of the Land to an Assignee of the Developer where there has been compliance with this document.

29.2 Removal of Caveat

Provided the Developer is not in breach of any of its obligations under this document, Council must promptly do all things reasonably required at the request of the Developer to procure the removal of any caveat from the certificate of title of the Land where the Development Contributions have been made including completion of the Works and no other money is owing to Council under this document.

29.3 Registration Expenses of Caveat

The Developer must pay Council's reasonable expenses including registration fees, any stamp duty, legal costs and disbursements, for the registration of any caveat and the subsequent removal of the caveat, up to \$3,000. .

[Addisons Note to Council: there is a significant number of leases registered on title and it will be impossible to procure the consent of all lessees for the registration of the VPA on title. A caveat will provide notice to any incoming purchaser of Council's interest under the VPA and the Developers obligations. We have also amended the assignment clause below so that if there is an assignment there will be a deed entered into so that the assignee agrees to be bound by the terms of the VPA and that evidence is provided that the assignee is reasonably capable of performing the obligations.

Costs on an indemnity basis is too onerous, and there should be some level of certainty as to the costs to register the caveat. We have allowed for a generous amount considering it will be a simple caveat over the one title and removal].

30. Costs

- 30.1 The Developer is to pay to the Council, the Council's reasonable costs, associated with the negotiation, preparation, exhibition, legal review and execution of this Agreement within 21 days of a written demand by the Council for such payment and issue of a tax invoice.

[Addisons Note to Council: you have agreed to include the words reasonable costs and also allowed for 21 days for payment under VPA for 25-31 Brookhollow Ave, Norwest. 7 days is not enough time to arrange for payment.]

31. GST

If any payment made by one party to any other party under or relating to this document constitutes consideration for a taxable supply for the purposes of GST or any similar tax, the amount to be paid for the supply will be increased so that the net amount retained by the supplier after payment of that GST is the same as if the supplier was not liable to pay GST in respect of that supply. This provision is subject to any other agreement regarding the payment of GST on specific supplies, and includes payments for supplies relating to the breach or termination of, and indemnities arising from, this document.

32. General

32.1 Assignment

- (a) A party must not transfer any right or liability under this document without the prior consent of each other party, except where this document provides otherwise.
- (b) In the event that the Developer enters into a contract for the sale of the Land the subject of the Development Consent, the Developer (as vendor) shall disclose to the purchaser the existence of this Agreement.

32.2 Procedure for Assignment

If the Developer:

- (a) wishes to Assign any part of the Land; and/or
- (b) wishes to Assign its rights or obligations under this agreement,

then the Developer must obtain Council's consent which must be given where the Developer has procured the execution by the Assignee of an appropriate deed where the Assignee agrees to be bound by the terms of this agreement.

[**Addisons Note to Council:** we have included the procedure for assignment because of the fact that we won't be able to register the VPA on title and the addition of this clause should provide comfort to Council as to any assignment.].

32.3 Governing law and jurisdiction

- (a) This document is governed by and construed under the law in the State of New South Wales.
- (b) Any legal action in relation to this document against any party or its property may be brought in any court of competent jurisdiction in the State of New South Wales.
- (c) Each party by execution of this document irrevocably, generally and unconditionally submits to the non-exclusive jurisdiction of any court specified in this provision in relation to both itself and its property.

32.4 Amendments

Any amendment to this document has no force or effect, unless effected by a document executed by the parties.

32.5 Third parties

This document confers rights only upon a person expressed to be a party, and not upon any other person.

32.6 Pre-contractual negotiation

This document:

- (a) expresses and incorporates the entire agreement between the parties in relation to its subject matter, and all the terms of that agreement; and
- (b) supersedes and excludes any prior or collateral negotiation, understanding, communication or agreement by or between the parties in relation to that subject matter or any term of that agreement.

32.7 Further assurance

Each party must execute any document and perform any action necessary to give full effect to this document, whether before or after performance of this document.

32.8 Continuing performance

- (a) The provisions of this document do not merge with any action performed or document executed by any party for the purposes of performance of this document.

- (b) Any representation in this document survives the execution of any document for the purposes of, and continues after, performance of this document.
- (c) Any indemnity agreed by any party under this document:
 - (i) constitutes a liability of that party separate and independent from any other liability of that party under this document or any other agreement; and
 - (ii) survives and continues after performance of this document.

32.9 Waivers

Any failure by any party to exercise any right under this document does not operate as a waiver and the single or partial exercise of any right by that party does not preclude any other or further exercise of that or any other right by that party.

32.10 Remedies

The rights of a party under this document are cumulative and not exclusive of any rights provided by law.

32.11 Counterparts

This document may be executed in any number of counterparts, all of which taken together are deemed to constitute one and the same document.

32.12 Party acting as trustee

32.12.1 The Developer enters into this agreement only in its capacity as the responsible entity of the Rogan's Hill Retirement Village Trust ABN 50 597 053 534 (**Rogan's Hill Trust**) and in no other capacity. .

32.12.2 A liability arising under or in connection with this agreement is limited and can be enforced against the Hills Shire Council only to the extent to which the liability can be satisfied out of the property of Rogan's Hills Trust and for which the Hills Shire Council is actually indemnified.

32.12.1 This limitation of liability applies despite any other provisions of this agreement and extends to all liability and obligations of the Hills Shire Council in any way connected with any representation, warranty, conduct, omission related to this agreement. This limitation of liability shall not apply to the extent and in the event of the Hills Shire Council's fraud, negligence or breach of trust resulting in it not being indemnified out of the assets of Rogan's Hills Trust.

32.12.3 Nothing releases the party from any liability in its personal capacity. The party warrants that at the date of this document:

- (a) all the powers and discretions conferred by the deed establishing the trust are capable of being validly exercised by the party as trustee and have not been varied or revoked and the trust is a valid and subsisting trust;
- (b) the party is the sole trustee of the trust and has full and unfettered power under the terms of the deed establishing the trust to enter into and be bound by this document on behalf of the trust and that this document is being executed and entered into as part of the due and proper administration of the trust and for the benefit of the beneficiaries of the trust;

- (c) no restriction on the party's right of indemnity out of or lien over the trust's assets exists or will be created or permitted to exist and that right will have priority over the right of the beneficiaries to the trust's assets.

32.13 Representations and warranties

The Parties represent and warrant that they have power to enter into this document and comply with their obligations under the document and that entry into this document will not result in the breach of any law.

32.14 Severability

If a clause or part of a clause of this document can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this document, but the rest of this agreement is not affected.

33. Definitions and interpretation

In this document unless the context otherwise requires:

Act means the *Environmental Planning and Assessment Act 1979* (NSW)

Assign means any assignment, sale, transfer, disposition, declaration of trust over or other assignment of legal and/or beneficial interest. [Addisons Note to Council: this is defined because of the addition of the assignment clause].

Assignee means an entity that the Developer proposes the Assign the rights or liabilities of this document to.

Bank Guarantee means a written guarantee without a time limit acceptable to Council issued by an Australian Bank.

Business Day means a day that is not a Saturday, Sunday, public holiday or bank holiday in New South Wales;

Completed means completed in accordance with this Agreement.

Construction Certificate has the same meaning as in the Act;

Contribution Value means the amount specified in Column 4 of Schedule 3.

Defect means any material defect which either:

- (a) Adversely affects the ordinary use and/or enjoyment of the relevant Works; or
- (b) Will require maintenance or rectification works to be performed on them at some time in the future as a result of the existence of the defect. [Note to Council: as per Brookhollow VPA]

Defects Certificate means a compliance certificate within the meaning of section 6.4)(e) of the Act to the effect that work the subject of a Defects Notice has been completed in accordance with the notice.

Defects Notice means a notice in writing that identifies a Defect in a work and requires rectification of the Defect within a specified period of time.

Defects Liability Period means the period specified in Column 3 of Schedule 3 in relation to the Works specified in Column 1 of that Schedule commencing on the date a notice is given in relation to those Works.

Developer means a persons who has sought a change to an environmental planning instrument or who has made, or proposes to make, an application for development consent.

Development Application is a development application, within the meaning of the Act, that relates to the Proposed Development.

Development Consent is a development consent, within the meaning of the Act, that relates to the Proposed Development and does not include a complying development certificate.

Development Contributions means a monetary contribution and the provision of a material public benefit including the Works, or a combination of any of them.

Dispute Notice means written notice provided by a Party referring a dispute for determination, specifying the nature of the dispute and a nominated officer of the referring party with sufficient authority to determine the dispute.

Dwelling means a room, or suite of rooms, occupied or used, or so constructed or adapted, as to be capable of being occupied or used, as a separate domicile to be erected on the Land as part of the Proposed Development.

Encumbrance includes any mortgage or charge, lease, (or other right of occupancy) or profit a prendre.

Environment has the same meaning as set out in the Dictionary to the *Protection of the Environment Operations Act 1997* (NSW).

Force Majeure Event means any event or circumstance, or a combination of events or circumstances:

- (a) which arises from a cause beyond the reasonable control of a party, including:
 - (i) an act of God,
 - (ii) strike, lockout, other industrial disturbance or labour difficulty,
 - (iii) war (declared or undeclared), act of public enemy, blockade, revolution, riot, insurrection, civil commotion,
 - (iv) lightning, storm, flood, fire, earthquake, explosion, epidemic, quarantine
 - (v) embargo, unavailability of any essential equipment or materials, unavoidable accident, lack of transportation, or
 - (vi) anything done or not done by or to a person, except the party relying on force majeure;
- (b) which the Developer takes all reasonable precautions to protect itself against, and uses all reasonable endeavours to mitigate the consequences of (which

does not require the Developer to settle a labour dispute if, in the Developer's opinion, that is not in its best interests); and

- (c) which the Developer notifies the Council of, as soon as practicable after becoming aware of the event or circumstance.

GST means any tax, levy, charge or impost implemented under the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (**GST Act**) or an Act of the Parliament of the Commonwealth of Australia substantially in the form of, or which has a similar effect to, the GST Act;

Hand-Over means the hand-over to the Council of the Works in accordance with this Agreement.

Hand-Over Date means the date specified in Column 2 of Schedule 3 in relation to the Works specified in Column 1 of that Schedule corresponding to that date, subject to any extension of that date.

Hand-Over Notice means a notice issued by the Council under clause 13.5.

Instrument Change means the publication in the NSW Government Gazette of an amendment to *The Hills Local Environmental Plan 2019* as it relates to the Land and as proposed in the Planning Proposal.

Item of Works means an item of the Works.

Location Plan means the plan contained in Schedule 1.

Material Public Benefit Approval means an approval under subclause 7.1.4.

Monetary Contributions means the monetary development contributions required to be paid to the Council as specified in Schedule 4 .

Occupation Certificate has the same meaning as in the Act.

Party means a party to this document, including their successors and assigns.

Producer Price Index means the Producer Price Index for NSW published by the Australian Bureau of Statistics.

Proposed Development means the development approved by the Development Consent and that but for the Instrument Change could not have been approved.[Note to Council: this is to ensure that the trigger for contributions is works relying on the Instrument Change not existing development]

Regulation means the *Environmental Planning and Assessment Regulation 2021* (NSW).

Security means a Bank Guarantee or bond in favour of the Council on terms satisfactory to the Council, or such other form of security as the Council may require in its absolute discretion.

Works means the works specified or described in Column 1 of Schedule 3 and includes any Item of Works and any part of any Item of Works.

Works-As-Executed-Plan means detailed plans and specifications of the completed Works.

33.2 Interpretation

In this document unless the context otherwise requires:

- (a) clause and subclause headings are for reference purposes only;
- (b) the singular includes the plural and vice versa;
- (c) words denoting any gender include all genders;
- (d) reference to a person includes any other entity recognised by law and vice versa;
- (e) where a word or phrase is defined its other grammatical forms have a corresponding meaning;
- (f) any reference to a party to this document includes its successors and permitted assigns;
- (g) any reference to a provision of an Act or Regulation is a reference to that provision as at the date of this document;
- (h) any reference to any agreement or document includes that agreement or document as amended at any time;
- (i) the use of the word **includes** or **including** is not to be taken as limiting the meaning of the words preceding it;
- (j) the expression **at any time** includes reference to past, present and future time and the performance of any action from time to time;
- (k) an agreement, representation or warranty on the part of two or more persons binds them jointly and severally;
- (l) an agreement, representation or warranty on the part of two or more persons is for the benefit of them jointly and severally;
- (m) reference to an exhibit, annexure, attachment or schedule is a reference to the corresponding exhibit, annexure, attachment or schedule in this document;
- (n) reference to a provision described, prefaced or qualified by the name, heading or caption of a clause, subclause, paragraph, schedule, item, annexure, exhibit or attachment in this document means a cross reference to that clause, subclause, paragraph, schedule, item, annexure, exhibit or attachment;
- (o) when a thing is required to be done or money required to be paid under this document on a day which is not a Business Day, the thing must be done and the money paid on the immediately following Business Day; and
- (p) reference to a statute includes all regulations and amendments to that statute and any statute passed in substitution for that statute or incorporating any of its provisions to the extent that they are incorporated.

Schedule 1 – Location Plan

[Drafting Note. Insert a copy of a Location Plan, showing the location of the Works on the Land.]

Site plan showing location of works to be prepared.

DRAFT

Schedule 2 – Proposed Amendment of The Hills Local Environmental Plan 2019

A Planning Proposal has been prepared which seeks to amend *The Hills Local Environmental Plan 2019* (LEP 2019) to:

- Include 'Seniors Living' as an additional permitted use on the Land under Schedule 1 of LEP 2019 and associated Additional Permitted Uses Map
- Increase the Maximum building height development standard to range from 0 to 22m.
- introduce a maximum Floor Space Ratio development standard of 0.83:1 to the Land.

[Addisons Note to Council: have aligned the wording with the Gateway Determination description]

DRAFT

Schedule 3 – The Works (Clause 7)**Table**

Column 1	Column 2	Column 3	Column 4
Items of Works	Hand-Over Date	Defects Period	Liability Contribution Value
Offsite Roadworks - 60 metre left-turn deceleration lane on Old Northern Road and relocation of the existing traffic island.	Prior to issue of the Occupation Certificate for the 120 th new Dwelling in the Proposed Development.	[12 months	\$100,000
Provision of a 1.2 metre wide concrete footpath along the southern side of Palisander Place from the rear entry gate to the existing concrete footpath in First Farm Drive	Prior to issue of the Occupation Certificate for the 120 th new Dwelling in the Proposed Development.	12 months	\$90.000

Schedule 4 – Monetary Contributions**1. Monetary Contribution amounts**

1.1 The Monetary Contribution payable is set out below.

Column 1	Column 2	Column 3
Description	Timing of payment	Contribution
Monetary contribution towards upgrade of Palisander Place Reserve.	as in accordance with clause 2 of this Schedule	\$180,000
Monetary contribution towards infrastructure to deliver a public benefit as determined by Council	in accordance with clause 2 of this Schedule	\$510,000
Total monetary contribution		\$690,000

2. The timing of the Monetary Contribution payments**a. Pro Rata Payment**

- i. The parties acknowledge that the Proposed Development may be undertaken in a number of stages, with the construction of individual buildings authorised by separate Construction Certificates.
- ii. The Monetary Contribution is to be paid on a pro rata basis prior to the issue of each Construction Certificate for construction of the buildings comprising the Proposed Development.
- iii. The proportion of the Monetary Contribution payable at each relevant Construction Certificate will be calculated in accordance with the below formula:

$$b = \frac{ya}{x}$$

Where:

a = Monetary Contribution

b = proportion of Monetary Contribution payable in connection with the Construction Certificate

x = total number of newly approved dwellings in the Development Consent

y = number of dwellings to be constructed under the Construction Certificate

Execution Page

The common seal of **The Hills Shire Council** was
affixed under a resolution passed by council on
.....
in the presence of:

General Manager

Mayor

Print Name

Print Name

Witness

Print Name

Executed by the Developer in accordance with
s127 of the *Corporations Act 2001* (Cth):

Secretary/Director

Director

Print name

Print name

Annexure A – Caveat

DRAFT

EXPLANATORY NOTE TO

VOLUNTARY PLANNING AGREEMENT

DEVELOPMENT OF [Drafting Note. Insert Site Description]

(To be exhibited with VPA)

Background

[Drafting Note. To be completed]

Summary of Objectives, Nature and Effect of the proposed Planning Agreement

The objective of the proposed Planning Agreement is to record the terms of the offer made by the developer and its obligations (if the Planning Agreement is entered into with the Council) to:

- dedicate land to the Council;
- pay the monetary contribution to Council; and
- to carry out works in kind

(Development Contributions).

The Planning Agreement relates to [Drafting Note. To be completed]

Assessment of the Merits of the proposed Planning Agreement and Impact on the Public

[Drafting Note. To be completed]

Identification of how the proposed Planning Agreement promotes the public interest

[Drafting Note. To be completed]

Identification of how the proposed Planning Agreement promotes elements of the Council's charter under the Local Government Act 1993

The Planning Agreement promotes the Council's charter under section 8 of the *Local Government Act 1993* by [Drafting Note. To be completed]

Identification of the planning purpose served by the proposed Planning Agreement and whether the proposed Planning Agreement provides for a reasonable means of achieving that purpose

[Drafting Note. To be completed]

Identification of whether the agreement conforms with the Council's capital works program

[Drafting Note. To be completed]

The Hills Development Control Plan (DCP) 2012

www.thehills.nsw.gov.au

ATTACHMENT 3

THE
HILLS
Sydney's Garden Shire



Part D Section XX

346-350 Old Northern Road,
Castle Hill

DXX

In Force XX XX XXXX

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1 Introduction

This Section of the DCP has been prepared to guide the future redevelopment of land at 346 - 350 Old Northern Road, Castle Hill being the Castle Ridge Retirement Village.

1.1 Land to which this Section applies

This section applies to land at 346-350 Old Northern Road, Castle Hill, outlined in red in Figure 1.



Figure 1 Land to which this Section Applies

1.2 Purpose of this Section

The purpose of this Section of the DCP is to:

- Provide a clear vision, development principles and controls for the redevelopment of the Castle Ridge Resort (the site);
- Encourage high quality architectural and landscaping outcomes that positively contribute to the character of Castle Hill;
- Ensure that development provides for the retention of significant trees, minimises impacts on existing vegetation, promotes the retention of views and enhances the natural parkland setting;
- Ensure buildings are located to respond to the site's features, including open space and steep topography;

- Manage environmental constraints, including geotechnical constraints, through site-responsive design; and
- Promote the delivery of high quality seniors living units that support the needs of the residents and improve quality of life.
- Ensure development is only for the purpose of Seniors Housing.

1.3 Relationship to other Sections of the DCP

This section forms part of The Hills Development Control Plan 2012 (DCP 2012). Development on the site will need to have regard to this section of the DCP as well as other relevant controls in DCP 2012, including:

- Part B Section 2 – Residential
- Part B Section 5 – Residential Flat Buildings
- Part C Section 3 – Landscaping
- Part C Section 6 – Flood Controlled Land

In the event of any inconsistency between this section and other sections of DCP 2012, this section will prevail to the extent of the inconsistency.

1.4 Relationship to State Environmental Planning Policies

The subject site is zoned C4 – Environmental Living and benefits from an additional permitted use on the land of ‘seniors housing’. This unique combination of land use planning controls results in ambiguity in terms of the applicable State Environmental Planning Policies that would ordinarily apply to residential flat building developments and seniors housing developments.

It is appropriate that both State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development and State Environmental Planning Policy (Housing) 2021 are complied with as this development comprises seniors housing in the form of residential flat buildings.

As such, any future Development Application for this site must demonstrate compliance with State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development and State Environmental Planning Policy (Housing) 2021. In particular, the provisions of the Apartment Design Guide and Part 5 (including references to Schedule 4) of State Environmental Planning Policy (Housing) 2021

2 Urban Context

The site is located at 346-350 Old Northern Road, Castle Hill and is bound by Old Northern Road to the east and low to medium density residential housing to the north, south and west. Pioneer Place Reserve, a large public park, is located to the south west.

The site is approximately 3.7 hectares in area and currently contains the Castle Ridge Resort for retirement living. The existing buildings are 2-3 storey masonry dwellings built along the sloping topography that falls steeply to the centre of the site. The topography and existing vegetation are defining attributes of the site, which contribute to a unique sense of seclusion within a scenic and peaceful parkland setting.

The existing village has a number of issues currently impacting resident's accessibility, movement and amenity, including steep inclines and poor design of pedestrian routes with extensive stairs, units that are not universally accessible (access via stairs and no lifts), a lack of pathways and level access, ageing infrastructure and facilities that no longer meet the needs of residents and the future market, and insufficient parking located too far from residents' units.

The renewal of the site will provide a whole-of-site approach to delivering new seniors housing, to deliver a modern, functional and high-quality seniors' community in a landscaped, parkland setting.

3 Desired Future Character and Principles

Castle Ridge will be a high quality, accessible and connected seniors housing development, that reinforces the area's landscaped character and lifestyle, prioritising walkable and safe internal streets, and the retention of significant trees in a parkland setting.

Buildings will be focused around the large central parkland, which will be the focal point for social activity and outdoor recreation. The development will include a range of high quality communal spaces and facilities, and a high level of residential amenity.

Buildings will be located and designed to respond to the site's topography and natural features, creating a transition in scale and form across the site. The design of buildings will capitalise on the local and district views, with all residential units enjoying views to gardens, parkland, or beyond. Connection to green spaces and a natural environment is highly beneficial to mental and physical wellbeing, supporting positive outcomes for residents as they age.

Development is to demonstrate consistency with the following design principles:

- | | |
|--|---|
| a) Deliver excellent amenity outcomes for residents and neighbours | Deliver well designed, high quality apartment buildings that ensure amenity impacts on neighbouring sites is minimised and does not adversely affect solar access or reduce privacy. |
| b) Celebrate the unique topography by designing buildings to respond to the slope of the land | Design buildings to integrate with and respect the steep topography. Development is to be of a scale and form that aligns with the landscape character of the site and preserves the views to and from the Old Northern Road ridgeline. |
| c) Retain significant trees to protect the site's green and leafy character | Plan for the retention of significant trees where possible to protect the green and leafy character. Provide large areas of deep soil for landscaping and tree planting. |
| d) Preserve the central parkland and provide a variety of open spaces for passive and active recreation | The central parkland is to be retained as a focal point for outdoor activities and gatherings. Open spaces of varying scales should be developed to cater for both passive and active uses. |
| e) Provide parkland, garden and district views for the enjoyment of future residents of the village | Promote parkland, garden and district views and ensure all buildings have an outlook to greenery and a sense of connection to nature. |
| f) Create a walkable and accessible village that promotes physical and mental wellbeing | Provide appropriately graded pedestrian connections, along with lifts integrated into new buildings to improve accessibility and walkability for residents. Ensure residents can easily access communal facilities, open space, and residential buildings. |
| g) Carefully consider adjoining properties and provide an appropriate interface | Provide an appropriate interface to adjacent buildings that is compatible with the scale of neighbouring properties. Buildings should transition from the tallest buildings in the centre of the site, to lower buildings with generous landscaped setbacks at the edges. |

4 Illustrative Master Plan

Objectives

- a. To provide a framework for the future high-quality renewal of the site.
- b. To ensure future development maximises open space and provides a sense of openness.
- c. To ensure development responds to the site's topography and minimises impact on significant trees and existing vegetation.
- d. To minimise potential visual and amenity impacts to surrounding properties and public open space.
- e. To prioritise views to parkland and open space.
- f. To ensure integration with existing streetscape and character by providing appropriate transitions between existing neighbourhoods and more dense development on the site.

Controls

1. Development of the site should be generally consistent with the illustrative master plan shown in Figure 2.



Figure 2 Illustrative master plan

(*drafting note: updated plans to be provided by the Proponent having regard to draft controls)

5 General Controls

5.1 Layout and design

5.1.1 Site planning

Objectives

- a. To ensure sufficient space for landscaping that will complement the building form and enhance the landscape character of the locality.
- b. The site is to be arranged to provide sufficient areas for access, parking, landscaping, building separation and space for recreation and use by residents.

Controls

1. The siting of buildings on the site should take advantage of any views to open space, public reserves and bushland to promote natural surveillance and to enhance the visual amenity of residents.
2. The siting of buildings is to concentrate the tallest buildings in the centre of the site to minimise visual and amenity impacts on neighbouring residential development.

5.1.2 Site coverage

Objectives

- a. To ensure sufficient area for landscaping, including deep soil for canopy tree planting, and attractive and functional open space areas.
- b. To adequately manage stormwater and minimise run-off, in accordance with Council's ESD provisions within DCP 2012.
- c. To ensure a positive contribution to the local character by retaining the landscaped setting of the site.
- d. To ensure geotechnical risks are adequately managed on the site.

Controls

1. The total site coverage of future development on site must not exceed 50% of the site area.

Note. *For the purpose of calculating site coverage:*

- *Any impervious area including, but not limited to, buildings, driveways, patios, pools, tennis courts, decks, recreation facilities and the like will be included with the calculation of site coverage; and*
 - *The total land area of the lot will be used in the calculation of site coverage. The total land area excludes restricted development areas or land required for public purposes.*
2. A schedule showing the site coverage and landscape area should be submitted with the Development Application and included on the Site Plan.

5.1.3 Cut and Fill

Objectives

- a. To ensure that development is designed with regard to site conditions and minimise the impact on landform.
- b. To minimise the impact of earthworks on the stormwater regime, salinity and groundwater.
- c. To ensure the extent of cut and fill required for development does not detract from the appearance and design.
- d. To ensure development visually integrates with the surrounding environment.
- e. To minimise the risks and associated impacts of contaminated land and to ensure land is appropriately stabilised and retained.
- f. To ensure that cut and fill does not encroach within, or adversely affect the efficiency, integrity, and stability of any open space.
- g. To ensure the important environmental character of the site is retained.

Controls

1. Building siting and design should consider the topography of the site and if cut and fill is necessary it must be balanced to minimise any fill leaving the site.
2. Excavation to a maximum of 1 metre may be permitted within the boundary setback areas, subject to there being no adverse effect on the adjoining owners and the submission of structural engineers details of retaining walls with the Development Application.
3. Excavation in excess of 1 metre is only permitted to facilitate basement car parking and must be supported by the submission of structural engineers details of retaining walls and construction methods with the Development Application.
4. Where plans show an excess of 600mm of filling and, provided that the filling does not exceed 1.5 metres, a condition of approval will be imposed requiring a concealed dropped edge beam to contain the fill in excess of 600mm. Should the plans show an excess of filling above 1.5 metres, the applicant will be requested to amend the design to reduce the filling required.
5. In the areas of fill relevant provisions of Council's Flood Controlled Land DCP are to be applied. A Fill Plan must be prepared and submitted with a future Development Control Plan.
6. All cut and fill works shall be in accordance with Council's Design Guidelines Subdivisions/Developments and Works Specification Subdivisions/Developments.
7. All landfilled areas must comprise clean material free from contamination. Imported material shall be certified "Virgin Excavated Natural Material (VENM)".
8. Landfilled areas must be suitably compacted and stabilised with density tests to verify that compaction was achieved in accordance with Council requirements.
9. Embankment batters shall have a maximum slope of 1:6.
10. Embankment batters and retaining walls are to be landscaped to reduce erosion and provide a suitable screen. They should be vegetated preferably with native ground covers and small native trees with mature height of up to 10m.
11. Development shall comply with the provisions of State Environmental Planning Policy No. 55 – Remediation of Land.
12. Development shall comply with the Acid Sulfate Soils provisions of LEP 2019.

5.1.4 Landslide Risk

Objectives

- a. To ensure that development is safe and responsive to landslide risk.
- b. To ensure that development is commensurate to the underlying geotechnical conditions of the site.

Controls

1. The Development Application must demonstrate that the development is suitable in terms of in terms of site layout, access, building design, construction methods, waste water management, stormwater management, flooding management, drainage and the specific geotechnical constraints of the site.
2. The development is to be designed, sited, constructed and managed to avoid any landslide risk and potential adverse impact on the development or on land in the vicinity of the development.
3. The development must appropriately manage waste water, stormwater and drainage across the site so as to not affect the rate, volume and quality of water leaving the land.

5.2 Movement and access ---

5.2.1 Access

Objectives

- a. To ensure development does not have an unreasonable impact on traffic flows.
- b. To ensure vehicular access and movement network does not impact on streetscape quality, amenity or pedestrian safety.
- c. To provide safe access to the site.
- d. To minimise potential for pedestrian and vehicular conflict through good design.

Controls

1. The movement and access network should generally be in accordance with Figure 9.
2. A traffic management plan is to be submitted as part of the first development application for significant development of the site, detailing access and staging arrangements for the redevelopment of the site.
3. The primary entry to the site is to be provided from Old Northern Road.
4. A deceleration lane is to be provided from Old Northern Road. The deceleration lane is to be constructed by the applicant in accordance with Austroads and Transport for NSW requirements.
5. A secondary entry is to be provided from Palisander Place. Access is to be controlled from Palisander Place and limited to residents and deliveries / services.
6. With the exception of the primary and secondary entry points, accessways are not permitted within the landscaped boundary setbacks.
7. Vehicle and pedestrian access points are to be appropriately marked and sign posted.
8. Basement entries and cross-overs should be designed to minimise impacts on streetscape, amenity, pedestrian safety and circulation.
9. Internal streets should be designed with high quality hard landscape materials that reinforce the low speed pedestrian focussed village environment.

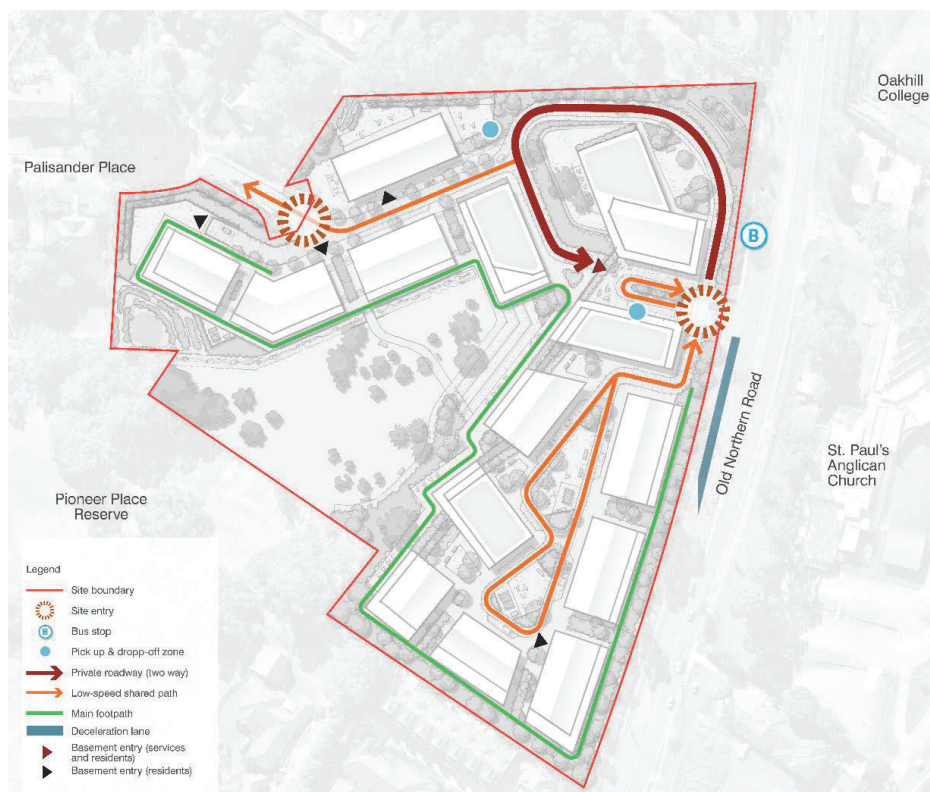


Figure 3 Vehicular Access and Movement

(note: updated plans to be provided by proponent to reflect northern/eastern boundary setbacks)

5.2.2 Parking and basement access

Objectives

- To provide sufficient parking that is convenient for residents and visitors.
- To ensure that basement entry points and design do not impact on the quality and function of internal streets, communal spaces and landscaped setbacks.
- To ensure basement car parking and access points are integrated with the form and arrangement of buildings on the site.

Controls

- A minimum of 1.3 car parking spaces is to be provided per unit.
- Car parking must be located below ground. Any partially above ground sections are not considered an acceptable design outcome.
- The extent of basement area must not exceed 23% of the site and must be located wholly within building footprints to ensure deep soil landscaping on the site and to ensure sufficient water volumes can be provided to support mature tree growth and water filtration.
- Accessible car parking spaces for people with mobility impairment are to be included in the allocation of car parking for the development and designed in accordance with the requirements of relevant Australian Standards.

5.2.3 Location and access to facilities and services

Objectives

- a. To ensure residents are provided with a high quality of life that includes access to required facilities and services.
- b. To ensure that access to facilities and services is safe and convenient.

Controls

1. Adequate access to facilities and services is required to be provided either on site or by a transport service.
2. Facilities and services means all of the following:
 - Shops and other retail and commercial services that residents may reasonably require;
 - Community services and recreation facilities; and
 - The practice of a general medical practitioner.
3. If facilities and services are not proposed to be provided on site, they must be accessible by a transport service.
4. Access to facilities and services is considered adequate if all of the following is achieved:
 - The facilities and services are, or the transport service is, located at a distance of not more than 400m from the site;
 - The distance is accessible by means of a suitable access pathway;
 - The transport service is not an on-demand booking service for the transport of passengers for a fare;
 - The transport service is available both to and from the site at least once between 8am and 12pm each day and at least once between 12pm and 6pm each day.
5. For the purposes of the above clause, suitable access pathway means a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like.

6 Residential Development

6.1 Built Form

6.1.1 Building heights

Objectives

- To provide variation in building height with the tallest buildings concentrated in the centre of the site.
- To ensure building heights respond to the site's topography and natural features.
- To minimise visual impacts from Old Northern Road, adjoining properties and public open space.
- To ensure a high level of solar amenity to communal and open spaces.
- To adopt building heights at the street frontage that are compatible in scale with adjacent buildings.

Controls

- Building heights should generally be in accordance with the building heights shown in Figure 4.
- A maximum of 2 storeys shall be provided along Old Northern Road and the site boundaries, with any additional storeys on the site significantly recessed to reduce visual dominance along the site's main frontage in accordance with Figure 5.
- A variety of building heights are to be provided across the site, with the tallest buildings located in the centre site, transitioning to lower heights at all boundaries of the site.
- Building heights are not to result in any overshadowing of neighbouring properties.
- Variation in building height and form across the site should be utilised to reduce visual impacts.
- Building heights are to respond to the slope of the site to prioritise views from all buildings and retail district views from Old Northern Road.



Figure 4 Building heights in storeys

6.1.2 Setbacks and Building Separation

Objectives

- a. To ensure buildings provide an adequate setback to adjoining properties.
- b. To maintain the existing low density character of the area.
- c. To ensure the bulk and scale of the development is not perceptible from adjacent properties and the street.
- d. To provide for landscaped setbacks that enhance the site's parkland setting and screen building bulk.
- e. To ensure adequate building separation between buildings to alleviate amenity impacts, including privacy, daylight access, acoustic control and natural ventilation.
- f. To maintain sufficient visual and acoustic privacy.

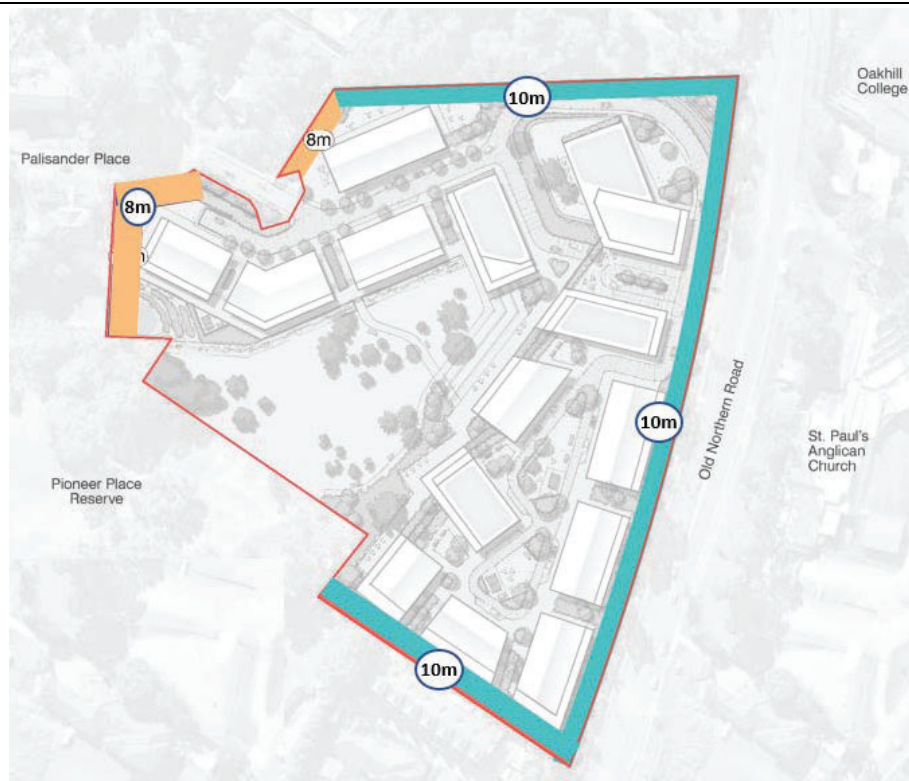
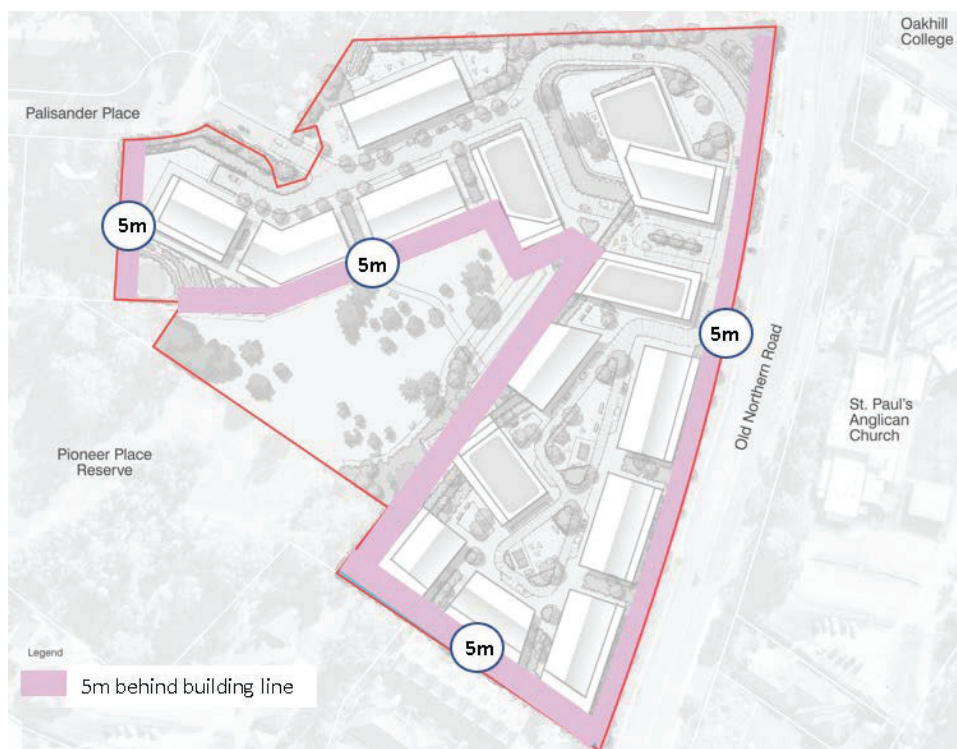
Controls

1. Setbacks are to be provided in accordance with Table 1.

Setbacks	Control
Front Boundary Setback (to Old Northern Road)	10m
Rear Boundary Setback (towards Palisander Place)	8m or to comply with SEPP 65. Whichever is greater
Side Boundary Setbacks	10m
Balconies	Balconies not to protrude into setbacks
Upper Level setbacks	5m behind building line or to comply with sightlines in Figure 7
Basement Parking Setback	Basements not to protrude into setbacks

Table 1 Building setbacks

2. Minimum building separation is to be provided in accordance with the Apartment Design Guide.
3. Townhouse units are not permitted within the building setbacks.
4. Building levels above 2 storeys that front the site boundaries should not encroach into the red sightline illustrated in Figure 7.

**Figure 5 Building setbacks****Figure 6: Upper level building setbacks**

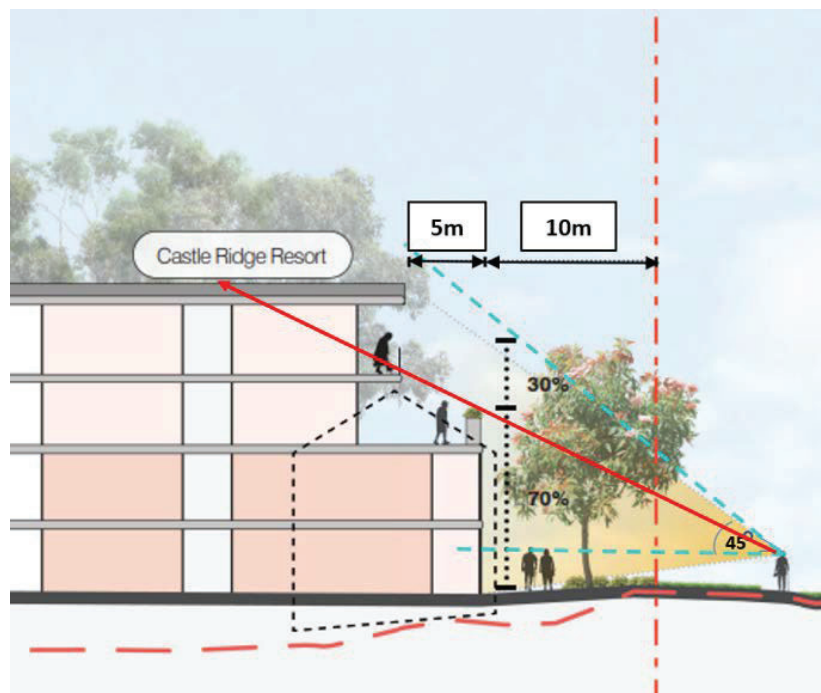


Figure 7: Sightline to upper level building setbacks (shown as red line)

6.1.3 Building design

Objectives

- To ensure building design is reflective of the landscape setting and environmental features of the site.
- To establish a fine grain built form.
- To ensure buildings provide the highest residential amenity.
- Buildings should be constructed with high quality materials.
- Buildings should contribute to activity and surveillance of streets and open spaces and foster a sense of community.

Controls

- Developments are to be stepped so that ground floor does not exceed 1m above natural ground level.
- Building design is to minimise visual impacts and overshadowing on adjoining sites.
- The maximum length of a building shall be no greater than 40m. Buildings should be articulated to manage the appearance of the mass and scale by breaking up buildings components with setback or variation in building heights to appear as two separate buildings
- Development should be compatible with the existing building context with respect to level design, cornice lines, window proportion and roof design.
- Access to all buildings including lobbies should be clearly visible from internal streets, footpaths and address the street frontage.

6. Balconies are to be generous in size and protected from the elements to facilitate outdoor living and provide a high level of amenity for residents.
7. All balconies and windows are to include architectural devices such as shutters and louvres to provide shade and natural ventilation. Windows are to be capable of being fully opened (e.g. sliding windows).
8. Buildings are to incorporate high-quality materials that relate to the surrounding parkland setting.
9. Where a garage is proposed within the primary frontage of a unit, it must not occupy more than 50% of unit frontage.
10. Subterranean dwellings are not permitted.

6.2 Amenity Controls

6.2.1 Solar access

Objectives

- a. To ensure residential apartments have a good level of solar access and residential amenity.
- b. To ensure development results in a good level of sunlight to communal open spaces, public spaces and neighbouring properties.

Controls

1. A minimum of 4 hours of solar access must be provided to at least 50% of the area of the central parkland on 21 June.
2. Residential development must comply with solar access requirements in accordance with SEPP 65 and the ADG.
3. Development is to demonstrate compliance with the overshadowing provisions in Section 3.14 Part B Section 5 of The Hills DCP 2012.
4. All development applications must include solar access diagrams that demonstrate, at a minimum, compliance with SEPP 65 and the ADG including plans and elevations showing the shadows of the proposal at each hour between 9am and 3pm on 21 June.

6.2.2 Noise

Objectives

- a. To ensure the amenity of future residents and workers by appropriately responding to noise impacts.

Controls

1. Site planning, building orientation and interior layout should be used as tools to lessen noise intrusion as far as possible.
2. Attenuation of noise at the source is preferred. Applicants are to indicate measures undertaken to mitigate the impact of noise upon adjacent residents and/or workers.
3. It is preferable that noise attenuation measures will last for a minimum of 10 years or the life of the development proposal, before being upgraded to meet current standards as required.

4. A Noise Impact Assessment prepared by a suitably qualified consultant may be required when submitting a development application for a new development or the renovation of an existing development.
5. The provisions of State Environmental Planning Policy (Infrastructure) 2007 and Development near Rail Corridors and Busy Roads Interim Guideline must be taken into consideration to minimise impacts of busy roads and railway corridors on residential and other sensitive development.
6. Development applications are to demonstrate how buildings comply with the noise criteria specified in the table below:

Noise Criteria		
Internal Space	Recommended Noise Criteria	Maximum Noise Criteria
Living areas Working areas	40 dBA	45 dBA
Sleeping areas	35 dBA	40 dBA

Table 2 Noise criteria

6.3 Open space and landscaping

6.3.1 Landscaping

Objectives

- a. To reinforce the importance of the defining natural and aesthetic character of the site through retention of trees and deep soil areas.
- b. To ensure sufficient space for landscaping that will complement buildings and enhance the landscape character of the site.
- c. To ensure that building bulk is appropriately screened from the public realm.
- d. To ensure adequate water management and overland flow.
- e. To ensure that private and communal open space areas are functional and meet user needs for privacy, solar access, shade and recreation.

Controls

1. A minimum of 50% of the total site area must be retained for landscaping. Landscaped area means any part of the site, at ground level, with ground permeability and consists of soft landscaping, turf or planted areas, pervious paved areas, and includes building setbacks.
2. Landscaped areas are to have a minimum width of 2m. Areas less than 2m will be excluded from the calculation of landscaped areas.
3. All trees must have access to 30 metres of deep soil (20m each for trees with shared volume).
4. Site planning should seek to maximise continuous soil areas for tree planting and vegetation.
5. 29 significant trees shall be retained on the site.
6. A 10m landscape buffer is required between the development and Old Northern Road to ensure adequate privacy and streetscape amenity. This buffer must be capable of accommodating deep soil planting.

7. A landscaping strategy is to be submitted as part of the first development application for the development of the site, in accordance with Part C Section 3 – Landscaping of The Hills DCP 2012.
8. The location of landscaping to be provided on the site is to be generally in accordance with the landscaping concept plan identified in Figure 7.
9. The landscaping strategy is to demonstrate how the site will integrate with Pioneer Place Reserve, including consideration of views, solar access, and improved access and security, as well as differentiation between private and public open space for residents.



Figure 8 Landscaping concept plan

6.3.2 Communal open spaces

Objectives

- a. To provide functional and useable communal open space on site for the enjoyment of residents.
- b. To maximise opportunities to retain trees within communal open space areas.

Controls

1. A consolidated communal open space (central parkland) with a minimum area of 8,200m² is to be retained on the site as shown in Figure 8.
2. A range of smaller, supporting communal open spaces are to be provided within the site, with a minimum combined area of 3,200m². The indicative communal open space areas are shown in Figure 8.
3. Communal open spaces should:
 - Be accessible, usable and safe;
 - Allow for the retention of significant trees and new tree plantings;
 - Provide opportunities for social interaction and recreation;
 - Enhance views and outlook from buildings;

- Be located to have a frontage to internal streets or pathways, communal spaces or ground floor residential apartments to maximise casual surveillance and activation; and
 - Have minimum dimensions of 4m.
4. Communal open spaces are to be designed in accordance with the Apartment Design Guide.
 5. All existing trees are to be retained within communal open space areas.
 6. Where possible, communal open space should be co-located with deep soil areas.



Figure 9 Indicative location of communal open space areas

6.3.3 Trees and vegetation

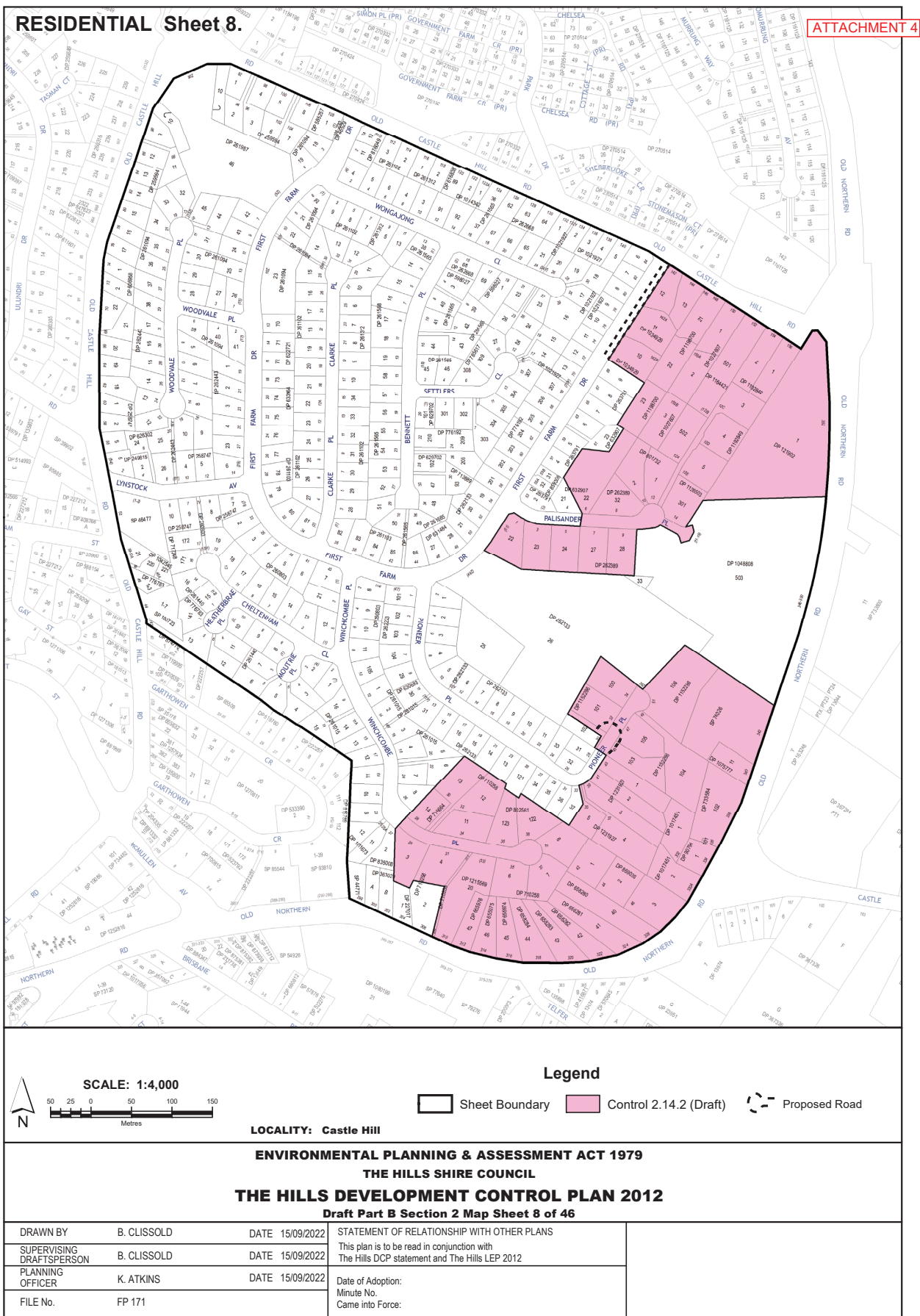
Objectives

- a. To retain the majority of significant trees and native vegetation on the site, where possible.
- b. To provide for new tree plantings to enhance the site's landscaped setting.

Controls

1. The layout and design of buildings and open spaces shall ensure the retention of 29 significant trees on the site.

2. A minimum of 150 new trees shall be planted throughout the site.
3. The communal open space areas within the site are to achieve a minimum canopy cover of 45%.
4. The remaining developable areas within the site are to achieve a minimum canopy cover of 15%.
5. A Tree Management Plan is to be submitted with the first development application for the site. For significant development, the Tree Management Plan is to be prepared by a suitably qualified Australian Qualification Framework Level 5 Arborist and contain the following information:
 - Identify all existing trees including species, condition, height and spread;
 - Identify whether trees are to be removed, replanted or retained; and
 - Provide details of how those trees to be retained will be protected during construction.
6. Native tree and shrub species are preferred.



MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 22 March 2022

ATTACHMENT 5

Being a planning matter, the Mayor called for a division to record the votes on this matter

VOTING FOR THE MOTION

Clr M Hodges
Clr F De Masi
Clr V Ellis
Clr M Blue
Clr J Brazier
Clr R Boneham
Clr Dr M Kasby
Clr Dr B Burton

VOTING AGAINST THE MOTION

None

MEETING ABSENT

Clr R Tracey
Clr A Hay OAM
Clr J Cox
Clr R Jethi

ABSENT FROM THE ROOM

Mayor Dr P Gangemi

ITEM 4

FURTHER REPORT – PLANNING PROPOSAL – CASTLE RIDGE RESORT AT 346-350 OLD NORTHERN ROAD, CASTLE HILL (1/2021/PLP)

A MOTION WAS MOVED BY COUNCILLOR HODGES AND SECONDED BY COUNCILLOR BLUE THAT the Recommendation contained in the report be adopted.

THE MOTION WAS PUT AND CARRIED.

124 RESOLUTION

1. Council write to the Planning Panels Secretariat to advise that it will accept and undertake the role of Planning Proposal Authority for the Planning Proposal at 346-350 Old Northern Road, Castle Hill ('Castle Ridge Resort').
2. Council prepare and submit the planning proposal for Gateway Determination under Section 3.33 of the *Environmental Planning and Assessment Act 1979* and in accordance with the determination of the Sydney Central City Planning Panel, within 42 days.
3. Prior to any public exhibition of the planning proposal, Council consider a further report with respect to a site specific Development Control Plan and infrastructure contributions mechanism, to be exhibited concurrent with the planning proposal.

This is Page 6 of the Minutes of the Ordinary Meeting of The Hills Shire Council held on 22 March 2022

MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 22 March 2022

CALL OF THE AGENDA

A MOTION WAS MOVED BY COUNCILLOR BLUE AND SECONDED BY COUNCILLOR DE MASI THAT items 5, 6, 7, 8, 11, 12 and 13 be moved by exception and the recommendations contained therein be adopted.

THE MOTION WAS PUT AND CARRIED.

RESOLUTION

Items 5, 6, 7, 8, 11, 12 and 13 be moved by exception and the recommendations contained therein be adopted.

ITEM 5**PROPERTY DEALINGS RELATING TO DEVELOPMENT MATTERS****125 RESOLUTION**

1. Council consent to the release of the temporary right of access from the title of Lot 142 DP 1217877, 19 Limax Street, Box Hill and the associated documents be authorised for execution under Council seal.
2. Council consent to the release of the temporary easement for public access and positive covenant relating to a bushfire asset protection zone from the title of Lot 12 DP 1219815, 31 Serpentine Avenue, North Kellyville and the associated documents be authorised for execution under Council seal.
3. Council consent to the release of the temporary right of access and restriction on the use of land from the title of Lot 225 DP 1195878, 50 McMillian Circuit, North Kellyville and the associated documents be authorised for execution under Council seal.
4. Council consent to the release of the temporary right of access from the title of Lot 172 DP 1225042, 13 Longerenong Avenue, Box Hill and the associated documents be authorised for execution under Council seal.
5. Council consent to the release of the temporary right of access from the title of Lot 1028 DP 1256790, Limerick Street, Box Hill and the associated documents be authorised for execution under Council seal.
6. Council consent to the release of the temporary right of access from the title of Lot 414 DP 1230476, Empire Drive, Gables and the associated documents be authorised for execution under Council seal.
7. Council consent to the release of the temporary easement for public access from the title of Lot 3 DP 271187 and Lot 2 DP 1246113, 9 Spurway Drive, Norwest and the associated documents be authorised for execution under Council seal.

ORDINARY MEETING OF COUNCIL

22 MARCH, 2022

ITEM 4	FURTHER REPORT – PLANNING PROPOSAL – CASTLE RIDGE RESORT AT 346-350 OLD NORTHERN ROAD, CASTLE HILL (1/2021/PLP)
THEME:	SHAPING GROWTH
GROUP:	SHIRE STRATEGY, TRANSFORMATION AND SOLUTIONS
	STRATEGIC PLANNING COORDINATOR
AUTHOR:	KAYLA ATKINS
RESPONSIBLE OFFICER:	MANAGER – FORWARD PLANNING NICHOLAS CARLTON

PURPOSE

This report seeks a decision from Council as to whether or not to accept the role of Planning Proposal Authority ('PPA') for the Planning Proposal for 346-350 Old Northern Road, Castle Hill ('Castle Ridge Resort'), in light of the Sydney Central City Planning Panel's ('SCCPP') recent rezoning review determination that the proposal *should* proceed to Gateway Determination.

RECOMMENDATION

1. Council write to the Planning Panels Secretariat to advise that it will accept and undertake the role of Planning Proposal Authority for the Planning Proposal at 346-350 Old Northern Road, Castle Hill ('Castle Ridge Resort').
2. Council prepare and submit the planning proposal for Gateway Determination under Section 3.33 of the *Environmental Planning and Assessment Act 1979* and in accordance with the determination of the Sydney Central City Planning Panel, within 42 days.
3. Prior to any public exhibition of the planning proposal, Council consider a further report with respect to a site specific Development Control Plan and infrastructure contributions mechanism, to be exhibited concurrent with the planning proposal.

IMPACTS**Financial**

This matter has no direct financial impact upon council's adopted budget or forward estimates. Accepting the role of PPA would result in the allocation of Council resources to the administration and progression of the proposal. Council has retained the full planning proposal lodgement fee originally paid by the Proponent to offset this cost if needed (where Council resolves not to proceed to Gateway but a Proponent lodges a Rezoning review, the full lodgement fee is retained by Council).

TO STRIVE FOR BETTER THINGS

ORDINARY MEETING OF COUNCIL

22 MARCH, 2022

Further consideration would be required, as part of a future report to Council, with respect to the additional demand for local infrastructure that would result from the proposed uplift as well as an appropriate infrastructure contributions mechanism.

Strategic Plan - Hills Future

The planning proposal is inconsistent with the desired outcomes of The Hills Future as it does not reflect the values and aspirations and the Hills community. The character and amenity of the locality would be disrupted by the proposal. Notwithstanding this and Council's decision that the proposal should not proceed, the SCCPP has determined that the application will proceed to Gateway Determination.

By accepting the role of PPA, Council would retain a greater ability to represent and protect the interests of the local community through a site specific Development Control Plan and infrastructure contributions mechanism, in comparison to the alternative of allowing the SCCPP to take carriage of the Planning Proposal.

LINK TO HILLS SHIRE PLAN**Outcomes:**

5 Well planned and liveable neighbourhoods that meets growth targets and maintains amenity

Strategy:

5.1 the shire's natural and built environment is well managed through strategic land use and urban planning that reflects our values and aspirations

EXECUTIVE SUMMARY

On 14 September 2021, Council resolved that the planning proposal for 346-350 Old Northern Road, Castle Hill ('Castle Ridge Resort') should *not* proceed to Gateway Determination. The Proponent subsequently lodged a Rezoning Review Application on 17 September 2021, seeking a review of Council's decision by the SCCPP.

On 24 February 2022, the SCCPP determined that the Planning Proposal should proceed to Gateway Determination. This determination by the SCCPP overrides Council's previous decision and cannot be appealed or challenged by Council. The Planning Panels Secretariat has now written to Council, to invite Council to accept and undertake the role of Planning Proposal Authority with respect to the Proposal.

Notwithstanding Council's disagreement with the planning outcomes that will be facilitated by the planning proposal, this report recommends that Council accept the role of Planning Proposal Authority. While the role is largely administrative, it would allow for Council to retain some level of control over the planning proposal and ensure that an appropriate site specific Development Control Plan and Voluntary Planning Agreement can be progressed concurrent with the planning proposal. Council would not have certainty that this would occur if it does not accept the role of PPA (in which case the SCCPP would become the responsible PPA).

1. THE SITE

The site is located at 346-350 Old Northern Road, Castle Hill (Lot 503 DP 1048808). It has an area of approximately 3.7 hectares, is irregular in shape and is located approximately 1.2 kilometres to the north east of the Castle Hill Town Centre, on the prominent ridgeline along Old Northern Road. It has a primary frontage to Old Northern Road (to the east) and an

alternative vehicular entry/exit point at the end of Palisander Place (to the north-west) as shown in Figure 1 below.



Figure 1
Aerial view of the site and surrounding locality

The surrounding locality is characterised by low density residential development, with the exception of one (1) large lot residential development to the north, a townhouse development to the south and the Pioneer Place Public Reserve to the south west. Land to the east on the opposite side of Old Northern Road is within Hornsby Shire Council and includes St Paul's Church and the Anglican Retirement Village (ARV) – Castle Hill Campus.

The site currently accommodates a seniors' living development known as Castle Ridge Resort, with 113 independent living units. The existing development demonstrates a medium density outcome in terms of bulk, height (one (1) to three (3) storeys).

2. BACKGROUND

Previous Planning Proposals (2016 and 2019)

Two previous planning proposals have been lodged for the site in 2016 and 2019 respectively. In both instances, Council resolved not to progress to Gateway Determination. The Hills Local Planning Panel also considered the 2019 planning proposal and advised that the planning proposal should not proceed. The two proposals were subject to rezoning reviews and on both occasions, the Sydney Central City Planning Panel determined that the proposals should not proceed to Gateway Determination.

Current Planning Proposal (2020)

The current planning proposal was submitted to Council on 25 September 2020. It sought to amend The Hills Local Environmental Plan 2019 to introduce seniors housing as an additional permitted use on the site and increase the maximum height and floor space ratio controls to permit 247 independent living units. While the existing seniors housing development benefits from existing use rights, the proposal seeks to facilitate redevelopment and expansion of the facility well beyond that which can be achieved under existing use rights provisions.

Specifically, the proposal sought to amend LEP 2019 to:

1. Include 'Seniors Living' as an additional permitted use on the site under Schedule 1 of LEP 2019 and associated Additional Permitted Uses Map (the existing facility currently operates under existing use rights);
2. Increase the Maximum Height of Buildings applicable to the site from nine (9) metres to part 9 metres, 15 metres, 18 metres and 22 metres (enabling building heights of 3-7 storeys); and
3. Apply a Floor Space Ratio control of 0.83:1 to the site.



Figure 2
Proposed Development Concept

The development concept submitted by the Proponent depicts a high density residential development, which would necessitate the redevelopment of the existing seniors housing facility on the site. The development seeks to enable the development of 247 independent living units, within 14 buildings ranging in height between three (3) to six (6) storeys (it is noted that the maximum height of building control requested through the planning proposal could potentially allow up to seven (7) storeys, being an additional storey to that depicted in the Proponent's concept plans).

TO STRIVE FOR BETTER THINGS



Figure 3
Proposed Development Concept

Local Planning Panel Advice

On 18 August 2021, The Hills Local Planning Panel considered the proposal and advised that it should *not* proceed to Gateway Determination on the basis that the proposal had not sufficiently justified the scale of uplift and the proposed development exceeded the capacity of the site. The Panel noted issues with height, scale, density, character, traffic impacts and access with the proposed development. The Panel also noted The Hills is well placed to meet the housing needs of senior residents, with sufficient opportunities already available in more appropriate locations. The Local Planning Panel's advice is provided as Attachment 1.

Council Determination

Following the Panel's advice, Council considered the proposal at its meeting of 14 September 2021 and resolved that the planning proposal *not* proceed to Gateway Determination, on the same basis as the Local Planning Panel. The Council Report and Minute from 14 September 2021 contains a detailed assessment of the planning proposal and is provided as Attachment 2.

3. REZONING REVIEW - SYDNEY CENTRAL CITY PLANNING PANEL

On 17 September 2021, the Proponent lodged an application for a Rezoning Review with the Department of Planning and Environment (DPE), seeking a review of Council's decision.

The Sydney Central City Planning Panel has now considered the Proponent's rezoning review application and on 24th February 2022, the Panel determined that the proposal *should* be submitted for Gateway Determination. The Panel was of the view that the proposal demonstrated both strategic and site-specific merit, although the Panel noted that some site specific matters still required further attention and resolution, including building heights, interface, visual impacts, excavation and social infrastructure. The record of the Panel's decision is provided as Attachment 3.

The decision of the Panel does not align with Council's resolution on the matter, or the advice of the Local Planning Panel, or indeed even the earlier considerations of the proposal by the SCCPP itself. Interestingly, no reasons were provided by the Panel with respect to how they came to the view that the proposal meets the strategic merit test. Further, the range of site specific matters listed by the Panel as yet to be resolved were the basis for both Council and the Local Planning Panel's concluding assessments that the proposal did not meet the site specific merit test. It is unclear how the SCCPP came to the conclusion that the proposal has adequate site specific merit whilst concurrently identifying a number of key and outstanding site specific issues with the proposal that need to be resolved. Notwithstanding this, the Panel's decision is final and there are no opportunities for Council to challenge or appeal the Panel's determination.

On 2 March 2022, the Planning Panels Secretariat wrote to Council advising of the SCCPP's determination and inviting Council to be the Planning Proposal Authority ('PPA') for the proposal (refer to Attachment 4). Council now has the opportunity to determine whether or not to accept the role as PPA.

4. MATTERS FOR CONSIDERATION

The following matters are provided for Council's consideration in determining whether or not to accept the role as Planning Proposal Authority ('PPA'):

- The decision of the SCCPP on 24 February 2022 overrides Council's previous decision of 21 September 2021 that the planning proposal should *not* proceed to Gateway Determination. Council has no further right of appeal at this point in the process. Accordingly, the proposal will now progress to the next step in the process, being submission to the Department of Planning and Environment for Gateway Determination.
- The matter is being reported to Council to determine whether or not Council will accept and undertake the role of PPA. Council is required to advise the Planning Panel Secretariat, by no later than 13 April 2022, whether or not it will accept and undertake the role of PPA for the proposal.
- The PPA is the body responsible for carrying out the process for amending the Local Environmental Plan. For Council, the key components of the process that would be administered as the PPA include the following:
 - a) Preparing the planning proposal and submitting to DPE for a Gateway Determination;
 - b) Enforcing any conditions of a Gateway Determination;
 - c) Facilitating public exhibition and consultation with the community;
 - d) Facilitating consultation with relevant public authorities;
 - e) Reviewing submissions from the community and public authorities; and
 - f) Submitting the planning proposal to DPE for determination and finalisation.
- The role of the PPA is largely administrative, and Council would be highly unlikely to be granted delegation by the Department to ultimately determine whether or not the planning proposal proceeds to finalisation following the completion of public exhibition and public agency consultation.

ORDINARY MEETING OF COUNCIL

22 MARCH, 2022

- Should Council resolve *not* to accept the role of PPA (or fail to advise the Planning Panel Secretariat of a decision by 13 April 2022), the SCCPP will be appointed as the PPA and the Panel would take carriage of the progression of the Planning Proposal through the process to finalisation. This pathway includes some level of risk that the Panel may progress the planning proposal without adequate supporting controls (through a site specific DCP) or infrastructure mechanisms (through a VPA). Critically, the Panel does not have the authority to concurrently prepare or exhibit an infrastructure contributions mechanism (such as a Voluntary Planning Agreement (VPA)) to address any local infrastructure deficits associated with the proposed uplift.
- Notwithstanding Council's previous decision that the proposal should not proceed, there is still value in Council accepting the role as PPA, as it would retain some ability to:
 - Ensure that an appropriate site specific Development Control Plan is prepared, exhibited and progressed concurrently with the planning proposal;
 - Ensure that local infrastructure requirements are given appropriate consideration and progress with a suitable infrastructure contributions mechanism (likely a Voluntary Planning Agreement) concurrent with the planning proposal; and
 - Consider the outcomes of the public exhibition and public agency consultation period and make recommendations to the Department, at the finalisation stage, with respect to any amendments that should be made to the proposal (noting that the Department would ultimately be responsible for the finalisation and determination of the proposal, not Council).

Accordingly, despite Council's disagreement with the planning outcome that will be facilitated by the Planning Proposal, accepting the role of PPA would provide Council with greater opportunity to represent and protect the interests of the local community, in comparison to the alternative of allowing the SCCPP to take carriage of the Planning Proposal.

NEXT STEPS

Should Council resolve to accept the role of PPA:

- The Panel Secretariat would be advised of this decision by no later than 13 April 2022;
- Council officers would be required to prepare the relevant material and submit the proposal to the Department for Gateway Determination, within 42 days of Council's acceptance of the role; and
- The Proponent would be requested to undertake further work to prepare a draft Development Control Plan and submit a Voluntary Planning Agreement, to be the subject of a further report to Council, prior to any public exhibition of the planning proposal.

Should Council resolve *not* to accept the role of PPA:

- The SCCPP would take on the role of PPA for the proposal and submit the proposal to the Department for Gateway Determination;

ORDINARY MEETING OF COUNCIL**22 MARCH, 2022**

- Council would be provided with the opportunity to comment on the proposal during any subsequent public exhibition period; and
 - The Panel *may* request that Council separately prepare and progress a draft Development Control Plan and infrastructure contributions mechanism, however the Council would not have any control over the sequencing of these supporting documents in comparison to the progression of the planning proposal by the Panel.
-

ATTACHMENTS

1. Local Planning Panel Advice, 18 August 2021 (3 pages)
2. Council Report and Minute, 14 September 2021 (47 pages)
3. Rezoning Review Record of Decision, 24 February 2022 (3 pages)
4. Planning Panels Secretariat Invitation to be Planning Proposal Authority (1 page)

TO STRIVE FOR BETTER THINGS

LOCAL PLANNING PANEL – THE HILLS SHIRE COUNCIL**DETERMINATION OF THE LOCAL PLANNING PANEL ON 18 AUGUST 2021****PRESENT:**

Pamela Soon	Chair
Glennys James	Expert
Chris Young	Expert
Ken Willimott	Community Representative

DECLARATIONS OF INTEREST:

In relation to Item 2 Mr Young declared that the proponent's Traffic and Parking Assessment report was approved by a previous colleague which Mr Young has not had any contact with for approximately 3 years. This is a separate professional engagement to which does not represent a significant conflict of interest under the LPP Code of Conduct and he is still able to consider and advise on the matter.

COUNCIL STAFF:

The Panel were briefed by the following Council Staff on 18 August 2021:

David Reynolds	-	Group Manager – Shire Strategy, Transformation & Solutions
Nicholas Carlton	-	Manager – Forward Planning
Megan Munari	-	Principal Coordinator, Forward Planning

**ITEM 1: LOCAL PLANNING PANEL – PLANNING PROPOSAL – CASTLE
RIDGE RESORT, 346-350 OLD NORTHERN ROAD, CASTLE HILL -
LOCAL PLANNING PANEL (1/2021/PLP)**

COUNCIL OFFICER'S RECOMMENDATION:

The planning proposal not proceed to Gateway Determination.

PANEL'S ADVICE:

The planning proposal should not proceed to Gateway Determination on the basis that:

- a) The proposal has not sufficiently justified the scale of uplift sought in an area outside of the walking catchment of Castle Hill Town Centre on land that is not strategically identified for uplift. There is limited strategic justification for permitting uplift on this land and the proposal could set an undesirable precedent for the density, scale and character of development in infill and environmentally sensitive areas of Castle Hill. In this regard, the proposal is inconsistent with Planning Priorities 6, 7 and 8 of the Hills Future Local Strategic Planning Statement;
- b) The height, scale, density and character of the proposed development is inconsistent with the objectives of the E4 Environmental Living Zone and the character of the locality;
- c) The development exceeds the capacity of the site, as evidenced by the range of site specific issues detailed within this report (character, height, interface and visual impacts), the inability for the proposal to comply with baseline development standards within Council's DCP (in particular, the extent of cut and fill permitted and minimum setback distances);
- d) The proposal has not satisfactorily resolved traffic and access arrangements to the point where increased yield and associated traffic generation is supportable at this location. The other public infrastructure contributions proposed by the Proponent are inadequate to support the proposal; and
- e) Council is already well placed to meeting the housing needs of senior residents, with sufficient opportunities available to provide new seniors housing developments in more appropriate locations than the subject site.

VOTING:

Unanimous

**ITEM 2: LOCAL PLANNING PANEL – PLANNING PROPOSAL – 21-23
LEXINGTON DRIVE, BELLA VISTA - LOCAL PLANNING PANEL
(1/2019/PLP)**

COUNCIL OFFICER'S RECOMMENDATION:

The planning proposal proceed to Gateway Determination.

PANEL'S ADVICE:

1. The planning proposal applicable to land at 21-23 Lexington Drive Bella Vista (Lot 7081 DP 1037626) to increase the maximum floor space ratio from 2:1 to 2.7:1 proceed to Gateway Determination.
2. Council Officers prepare amendments to The Hills DCP 2012 to reduce the parking rate applicable to the land to 1 space per 40m² of commercial gross floor area.
3. Prior to the application being reported to Council, the Proponent submit additional information demonstrating the ability to achieve compliance with the proposed parking rates under the DCP following the conversion of the two above ground parking levels to commercial space.

VOTING:

For – 3 (Pamela Soon, Glennys James & Ken Willimott)

Against – 1 (Chris Young)

**PLANNING PROPOSAL - CASTLE RIDGE RESORT AT
346-350 OLD NOTHERN ROAD, CASTLE HILL
(1/2021/PLP)**

THE MOTION WAS PUT AND CARRIED.

485 RESOLUTION

- a) The proposal has not sufficiently justified the scale of uplift sought in an area outside of the walking catchment of Castle Hill Town Centre on land that is not strategically identified for uplift. There is limited strategic justification for permitting uplift on this land and the proposal could set an undesirable precedent for the density, scale and character of development in infill and environmentally sensitive areas of Castle Hill;
- b) The height, scale, density and character of the proposed development is inconsistent with the objectives of the E4 Environmental Living Zone and the character of the locality;
- c) The development exceeds the capacity of the site, as evidenced by the range of site specific issues detailed within this report (character, height, interface and visual impacts) and the inability for the proposal to comply with baseline development standards within Council's DCP (in particular, the extent of cut and fill permitted and minimum setback distances); and
- d) The proposal has not satisfactorily resolved traffic and access arrangements to the point where increased yield and associated traffic generation is supportable at this location.

Being a planning matter, the Mayor called for a division to record the votes on this matter

VOTING FOR THE MOTION

Mayor Dr M R Byrne
Clr R Jethi
Clr Dr P J Gangemi
Clr B L Collins OAM
Clr J Jackson
Clr M G Thomas
Clr E M Russo
Clr S P Uno
Clr F P De Masi

VOTING AGAINST THE MOTION

Clr R M Tracey
Clr A N Haselden

This is Page 4 of the Minutes of the Ordinary Meeting of The Hills Shire Council held on 14 September 2021

MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 14 September 2021

MEETING ABSENT

Clr A J Hay OAM

CALL OF THE AGENDA

A MOTION WAS MOVED BY COUNCILLOR DE MASI AND SECONDED BY COUNCILLOR JETHI THAT items 4, 5, 6 and 7 be moved by exception and the recommendations contained therein be adopted.

THE MOTION WAS PUT AND CARRIED.

486 RESOLUTION

Items 4, 5, 6 and 7 be moved by exception and the recommendations contained therein be adopted.

ITEM-4

LTC RECOMMENDATION AUGUST 2021 - HALLOWAY BOULEVARD, NORTH KELLYVILLE - PROPOSED GIVE WAY SIGNS AND LINEMARKING

487 RESOLUTION

The installation of a Give Way control with associated linemarking at the intersection of Halloway Boulevard and Gasnier Avenue, North Kellyville be approved in accordance with Figure 4 in the report.

ITEM-5

LTC RECOMMENDATION AUGUST 2021 - CASTLEWOOD DRIVE, CASTLE HILL - PROVISION OF DOUBLE CENTRELINE LINEMARKING

488 RESOLUTION

Council approve the provision of double centreline linemarking in Castlewood Drive, Castle Hill from Darcey Road to Bolwarra Crescent as detailed in Figure 4 in the report.

ITEM-6

MINUTES OF AUDIT COMMITTEE MEETING - 17 AUGUST 2021

489 RESOLUTION

Council adopt the recommendations of the Audit Committee Meeting dated 17 August 2021.

ITEM-7

AMENDMENT TO A SUBDIVISION OF COUNCIL ASSET FOR PUBLIC PURPOSE & SALE OF RESIDENTIAL LANDHOLDING - 33 TERRY ROAD, BOX HILL

490 RESOLUTION

1. Council approve the undertaking and completion of the subdivision of Lot 1 DP 237578 in accordance with the *Environmental Planning & Assessment Act (NSW) 1979* and

This is Page 5 of the Minutes of the Ordinary Meeting of The Hills Shire Council held on 14 September 2021

ITEM-2

**PLANNING PROPOSAL - CASTLE RIDGE RESORT AT
346-350 OLD NORTHERN ROAD, CASTLE HILL
(1/2021/PLP)****THEME:**

Shaping Growth

OUTCOME:

5 Well planned and liveable neighbourhoods that meets growth targets and maintains amenity.

STRATEGY:

5.1 The Shire's natural and built environment is well managed through strategic land use and urban planning that reflects our values and aspirations.

MEETING DATE:**14 SEPTEMBER 2021**

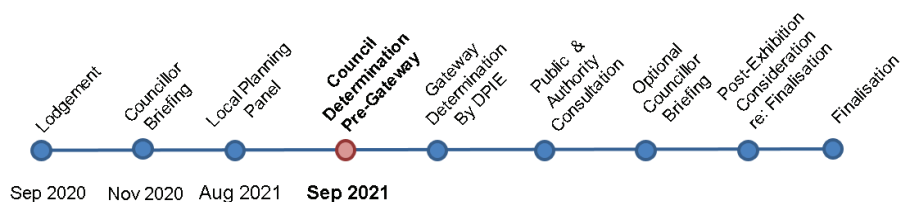
COUNCIL MEETING

GROUP:**SHIRE STRATEGY, TRANSFORMATION AND SOLUTIONS****AUTHOR:****SENIOR TOWN PLANNER**

LAURA MORAN

RESPONSIBLE OFFICER:**MANAGER – FORWARD PLANNING**

NICHOLAS CARLTON

**REPORT**

This report relates to the planning proposal applicable to land at 346-350 Old Northern Road, Castle Hill (1/2021/PLP). The matter is being reported to Council for a decision on whether or not the planning proposal should be submitted to the Department of Planning, Industry and Environment (DPIE) for a Gateway Determination.

RECOMMENDATION

The planning proposal applicable to land at 346-350 Old Northern Road, Castle Hill not proceed to Gateway Determination on the basis that:

- The proposal has not sufficiently justified the scale of uplift sought in an area outside of the walking catchment of Castle Hill Town Centre on land that is not strategically identified for uplift. There is limited strategic justification for permitting uplift on this land and the proposal could set an undesirable precedent for the density, scale and character of development in infill and environmentally sensitive areas of Castle Hill;

- b) The height, scale, density and character of the proposed development is inconsistent with the objectives of the E4 Environmental Living Zone and the character of the locality;
- c) The development exceeds the capacity of the site, as evidenced by the range of site specific issues detailed within this report (character, height, interface and visual impacts) and the inability for the proposal to comply with baseline development standards within Council's DCP (in particular, the extent of cut and fill permitted and minimum setback distances); and
- d) The proposal has not satisfactorily resolved traffic and access arrangements to the point where increased yield and associated traffic generation is supportable at this location.

PROPONENT & OWNER - Stockland Castleridge Pty Ltd**POLITICAL DONATIONS - Nil disclosures by the proponent****1. HISTORY****May 2016**

Planning Proposal (22/2016/PLP) lodged for a high density seniors living redevelopment comprising 359 independent living units incorporated within nine buildings with heights varying from three to 10 storeys. The Proposal was subsequently revised to reduce the yield and heights slightly

December 2017

Council resolved not to proceed with the planning proposal (22/2016/PLP) due to inconsistencies with the E4 Environmental Living zone objectives, inappropriate density and built form, insufficient strategic justification and potential impact in association with geotechnical constraints, traffic impacts and increased demand for local infrastructure. The Proponent subsequently lodged a rezoning review application.

August 2018

The Sydney Central City Planning Panel considered the rezoning review request lodged by the Proponent and determined that the proposal should not proceed to Gateway Determination.

January 2019

New planning proposal (7/2019/PLP) lodged for a high density seniors living development including 298 dwellings within nine buildings with heights varying from three to six storeys.

April 2019

Planning proposal (7/2019/PLP) considered by The Hills Local Planning Panel. The Panel advised that the proposal is unsatisfactory and should not proceed to Gateway Determination.

May 2019

Council resolved that the proposal should not proceed to Gateway Determination due to insufficient justification of the proposed scale and density at this location, inconsistencies with the E4 Environmental Living zone objectives, potential amenity impacts on adjoining development and open space, and unresolved traffic issues. The Proponent subsequently lodged a rezoning review application.

August 2019

The Sydney Central City Planning Panel considered the rezoning review application lodged by the Proponent and determined that the proposal should not proceed to Gateway Determination on the basis that it does not demonstrate site specific merit.

September 2020

Current planning proposal (1/2021/PLP) lodged

2. THE SITE

The site and existing seniors housing development is known as Castle Ridge Resort and is located at 346-350 Old Northern Road, Castle Hill (Lot 503 DP 1048808). It has an area of approximately 3.7 hectares, is irregular in shape and is located approximately 1.2 kilometres to the north east of the Castle Hill Town Centre, on the prominent ridgeline along Old Northern Road. The site has a primary frontage to Old Northern Road (to the east) and an alternative vehicular entry/exit point at the end of Palisander Place (to the north-west) as shown in Figure 1 below.

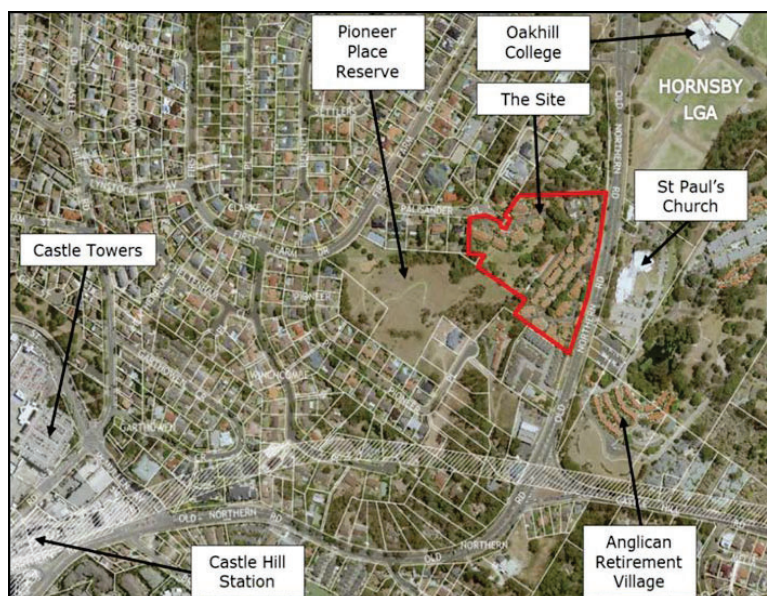


Figure 1
Aerial view of the site and surrounding locality

The surrounding locality is characterised by low density residential development, with the exception of one (1) large lot residential development to the north, a townhouse development to the south and the Pioneer Place Public Reserve to the south west. Land to the east on the opposite side of Old Northern Road is within Hornsby Shire Council and includes St Paul's Church and the Anglican Retirement Village (ARV) – Castle Hill Campus.

The site currently accommodates a seniors' living development with 113 independent living units. The existing development demonstrates a medium density outcome in terms of bulk, height (one (1) to three (3) storeys) and distribution of massing over the site, with fine-grain buildings and minimal excavation. This enables the achievement of a sympathetic outcome having regard to the sloping topography of the site and existing bushland/vegetated setting.

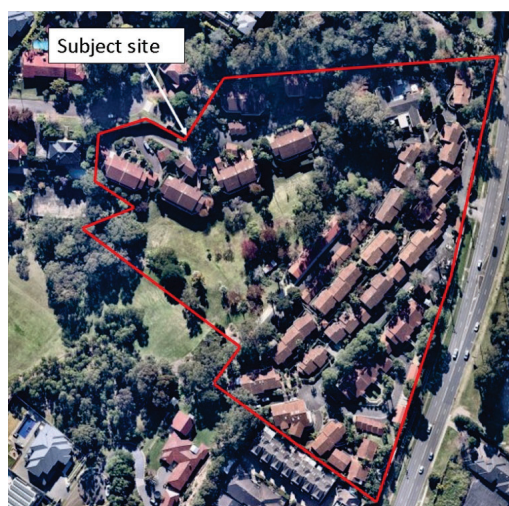


Figure 2
Aerial View of the subject site

The maximum heights and fragmented distribution of existing buildings on the site reduces the extent to which buildings visually protrude above the existing tree canopy and enables the existing development to 'blend' into its bushland setting. Despite this, even the existing development, with its relatively low scale built form, already exhibits some visual dominance on the adjoining Pioneer Place Reserve and is clearly visible from part of Pioneer Place and Winchcombe Place.



Figure 3
Low scale built form of existing Castle Ridge Resort

Council's mapping indicates that parts of the site are affected by Landslip Risk and the presence of Blue Gum High Forest, which is a Critically Endangered Ecological Community (CEEC) under the Biodiversity Conservation Act 2016. However, further targeted surveys by

the Proponent concluded that the presence of this species could not be found within the vegetation on the site.

The land was zoned Rural 1(b) under the Baulkham Hills Planning Scheme Ordinance (1964). Local Environmental Plan 1991 zoned the land "Residential 2(d) – Protected" to reflect geotechnical issues, the drainage line traversing the site, vegetation on the site and the scenic values of the prominent ridgeline along Old Northern Road. General district views to the Blue Mountains from Old Northern Road and the rural area is an important local characteristic, particularly in combination with urban bushland that contributes to a scenic landscape. Similarly, the site and ridgeline is visually prominent when viewed from areas to the west.

In the translation to the Standard Instrument in 2012, the E4 Environmental Living zone was applied to the site, being an equivalent zone to the Residential 2(d) – Protected zone. The objectives of the E4 Environmental Living zone are:

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.

LEP 2019 does not permit seniors housing in the E4 Environmental Living zone. However, the existing seniors living facility on the site was constructed in the early 1980's and currently operates under existing use rights afforded by the Environmental Planning and Assessment Act 1979. The site is also precluded from the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors SEPP) as a result of the environmental zoning of the site.

3. DESCRIPTION OF PLANNING PROPOSAL APPLICATION

The development concept, as submitted by the Proponent, depicts a high density residential seniors living development, replacing the existing seniors living development on the site. The development seeks to enable the development of 247 independent living units, within 14 buildings ranging in height between three (3) to six (6) storeys (it is noted that the maximum height of building control requested through the planning proposal could potentially allow up to seven (7) storeys, being an additional storey to that depicted in the Proponent's concepts).



Figure 4

Artist's impression of proposed Castle Ridge Resort from the southern boundary of the site



Figure 5

Concept site plan and proposed building heights

In order to facilitate the proposed development outcome, the proposal seeks to amend LEP 2019 to:

1. Include 'Seniors Living' as an additional permitted use on the site under Schedule 1 of LEP 2019 and associated Additional Permitted Uses Map;
2. Increase the Maximum Height of Buildings applicable to the site from nine (9) metres to part 9 metres, 15 metres, 18 metres and 22 metres (enabling building heights of 3-7 storeys); and
3. Apply a Floor Space Ratio control of 0.83:1 to the site.

Table 1 below and the History section of this report provide details on the previous planning proposals submitted for this site.

	Current Controls (LEP 2019)	First Planning Proposal 2016 (22/2016/PLP)	Second Planning Proposal 2019 (7/2019/PLP)	Current Planning Proposal 2020 (1/2021/PLP)
Land Zone	E4 Environmental Living			
Min. Lot Size	2,000m ²			
Additional Permitted Use	Nil	Seniors Housing		
Height	9 metres (2 storeys)	14 – 27 metres (facilitates up to 9 storeys)	12 – 22 metres (facilitates up to seven storeys)	9 – 22 metres (facilitates up to seven storeys)
Floor Space Ratio	N/A	1:1		0.83:1
Dwellings (Independent Living Units)	113	323	298	247
Parking Spaces	Unidentified. At- grade and garages incorporated into villas	420 spaces, predominantly in basement levels	388 spaces, predominantly in basement levels	321 spaces, predominantly in basement levels
Landscaped Area	Unidentified	48% of site area	53% of the site area	
Basement Area	Nil	40% of site area	25% of site area	29% of site area

Table 1

Proposed Amendments to LEP 2019 and Comparison of Proposed Concepts

For reference, a comparison between the two previous planning proposal concepts and the current concept is provided below.



Figure 6

Design concept for each planning proposal

3. MATTERS FOR CONSIDERATION

A summary and discussion of key considerations associated with the planning proposal is provided below. A full technical assessment of the proposal is contained within the Council Officer Assessment Report to the Local Planning Panel on 18 August 2021, provided as Attachment 1 to this Report.

Key Consideration	Comment
Strategic Context	<p>The planning proposal is partially consistent with objectives and priorities of the Greater Sydney Region Plan and Central City District Plan as they relate to the provision of housing supply and meeting the needs of the ageing population. However, consistency with these objectives is not based on dwelling numbers alone. Rather, it is contingent upon a place-based approach to development in a local context, with consideration given to appropriateness of the site location and ability to respond to and integrate with environmental constraints. These site specific considerations then inform an appropriate scale of development.</p> <p>The proposed development is within a low density, environmentally sensitive setting outside the walking catchment of the Castle Hill Station Precinct and Town Centre. The proposal has not demonstrated that the density sought can be accommodated within a built form that respects the surrounding context (particularly environmental and scenic values of the site), interface with adjoining low scale development and the availability of services and infrastructure.</p> <p>Further, while the strategic framework emphasises the importance of providing for the ageing population, a recent review of current seniors housing supply in the Hills Shire (completed as part of a Project Control Group with DPIE and the Greater Sydney Commission) concluded that Council is already well placed to meet the housing needs of senior residents. Further, there are sufficient opportunities to provide new seniors housing developments in more appropriate locations. Given that the needs of senior residents can be comfortably met elsewhere in the Shire on more connected and well-serviced sites, the planning proposal should demonstrate a superior built form and place-making outcome to warrant the uplift sought.</p> <p>The planning proposal is also inconsistent with the Region and District Plan as it relates to the management of scenic and environmental qualities of the land. While the existing development benefits from existing use rights, the scale of uplift and high density built form proposed through the planning proposal would represent a significant change with respect to the built form outcome and character on the land, which would adversely impact on these qualities and would therefore fail to align with this priority.</p> <p>The level of uplift sought on the subject site is considered unnecessary for the purposes of supply alone, given that there is no shortage of opportunities for seniors housing to be provided elsewhere in the Shire in more appropriate locations. While it is acknowledged that there is merit in facilitating redevelopment of the site, the extent of uplift sought is not warranted on strategic grounds.</p>
Objectives of the E4 Environmental Living Zone	<p>The E4 Environmental Living zone within LEP 2019 is applied to land that has special ecological, scientific or aesthetic values. Development permitted with consent in this zone is generally low density and low-impact residential development uses (such as dwelling houses, secondary dwellings and attached dual occupancies only) which enable some development to occur in a sensitive manner. The environmental</p>

	<p>constraints and prominent location of the site on the ridgeline are reflected in the zoning of this particular site as E4 Environmental Living.</p> <p>The specific objectives of the E4 Environmental Living zone under LEP 2019 are:</p> <ul style="list-style-type: none"> ▪ <i>To provide for low-impact residential development in areas with special, ecological, scientific or aesthetic values; and</i> ▪ <i>To ensure that residential development does not have an adverse effect on those values.</i> <p>In the E4 Environmental Living zone, multi dwelling housing and residential flat buildings are prohibited under LEP 2019. The site is also excluded from the provisions of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 due to its environmental zoning. Accordingly, it is clear that the planning framework actively discourages higher density development and built form at this location.</p> <p>The proposal would enable what is essentially a high density residential built form, which is <i>not</i> considered to be '<i>low-impact residential development</i>' and would be likely to have an adverse impact on the ecological and aesthetic values of the site and locality. A development of this scale is contrary to the intended outcomes for this land and would fail to align with the objectives of the zone.</p> <p>The existing use of the site for seniors housing (which benefits from existing use rights) is not, in and of itself, sufficient justification to permit an intensification of the development (in terms of both density and built form) to an extent that is inconsistent and incompatible with the objectives of the applicable land use zone.</p>
Residential Density and Yield	<p>The proposal seeks to facilitate development with a density well in excess of that envisaged for the E4 Environmental Living zone (low density residential development typically with a density of five (5) dwellings per hectare) and in excess of surrounding land uses.</p> <p>The existing development on the site achieves a density of 30.5 dwellings per hectare, which is already six (6) times the density typically provided within the zone. In comparison, the proposed development (for 247 dwellings) equates to a density of 66.7 dwellings per hectare, which is more than 13 times the typical outcome provided in the zone and double that of the existing development.</p> <p>With respect to typical densities for seniors living developments, it is noted that the proposed density is significantly higher than other seniors' living developments within the locality, even those on sites which are less constrained. This is further discussed (and comparisons provided) within Section 3(c) of the Council Officer Assessment Report to the Local Planning Panel (Attachment 1).</p>

	<p>While the site is already used for the purpose of an aged care facility, this is the result of an historical approval and it is necessary for consideration of a planning proposal to be based on the most appropriate planning and built form outcome for the site. In this regard, the Proponent has not adequately demonstrated that a density of this magnitude can be accommodated on the land within a 'low-impact' development without adverse impacts on the aesthetic and scenic values of the site and locality.</p> <p>The existing use of the land and the need for uplift to enable economically viable rejuvenation of the site are not sufficient grounds to justify a doubling of the residential density and an outcome which is beyond that envisaged under the zoning and strategic framework.</p>
Built Form	<p><u>Character</u></p> <p>Old Northern Road is characterised by stretches of vegetation, landscaped fences and varying 9-30 metre setbacks that create a buffer to the arterial road. The existing streetscape and buildings heights are sympathetic to the public realm. The streetscape facilitates views west to the Blue Mountains and integrates with the steep ridgeline. Stepped down buildings on descents conform to the steep topography and buildings fronting the street primarily present as modest and integrated into the landscape.</p> <p>In comparison, the proposal presents a 4–6 storey built form as viewed from Old Northern Road, with a 7 metre setback. The substantial building bulk and massing along the Old Northern Road prominent ridgeline has been a reason for not proceeding with previous planning proposals for this site and was raised in the Rezoning Reviews by the Sydney Central Planning Panel.</p> <p>Council officers have previously advised the Proponent that buildings at the boundaries of the site should be limited to 2 storeys, in order to address this issue, and have communicated this again during the assessment of this current proposal. In response, 2 storey <i>elements</i> are now proposed along this frontage, with the higher 4 storey components setback marginally. However, this does not effectively mitigate the bulk and scale of the building, which continues to present as at least 4 storeys along this frontage.</p> <p>Furthermore, the planning proposal would result in substantial clearing and loss of existing mature vegetation on the site that currently screens and minimises the development when viewing the site from an external location. This existing vegetation also contributes to internal amenity and privacy. The proposed development concept would expose the proposed high density built form on the site in stark contrast to the existing character of the site and surrounding locality.</p> <p>The visual impact of the proposed built form is further discussed and illustrated in Section 3(d)(i) of the Council Officer Assessment Report to the Local Planning Panel (Attachment 1).</p>

Building Heights and Scale

The development concept supporting the proposal indicates buildings ranging from 2 storeys to 6 storeys, however it is noted that a 22 metre maximum building height limit sought within the application could facilitate up to 7 storeys.

In terms of the proposed heights at the site's boundaries, the proposal seeks to achieve three to six storeys, with the built form stepped inwards marginally above the second storey. These setbacks are somewhat tokenistic and do not meaningfully address the core objectives of reducing the scale of the buildings, adequately providing for transition to adjacent properties and integrating with the character of the locality. This is illustrated in the figure below, which also demonstrates overreliance on substantial site excavation with a 5 metre retaining wall along the boundary to address interface concerns. This is not reflective of sympathetic or place-based design that integrates with the topography of the site.

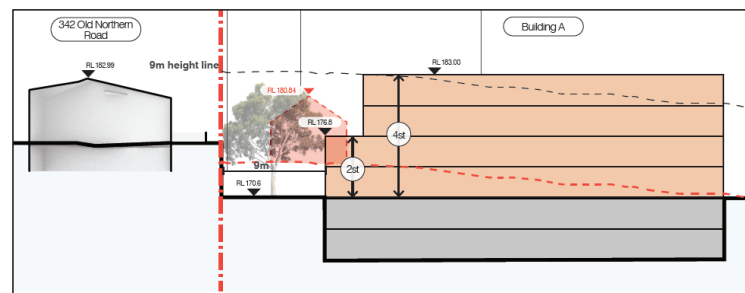


Figure 7

Interface to the southern boundary at 342 Old Northern Road
(current ground level shown as dotted red line)

It is considered that a more appropriate response at the boundaries would be to incorporate building elements which are truly limited to 2 storeys in height, or alternatively, have a minimum depth of 10 metres at a height of two storeys before any stepping-up to taller building elements.

While the building elements proposed in the centre of the site are smaller and finer grain building footprints, they are still primarily 5-6 storey building forms that jut out of the landscape. The scale of these building is exacerbated by the 'dip' in the centre of the site, while the cluster of buildings on the eastern side (Old Northern Road frontage) present as a high density development when viewed from Palisander Place, which is unsympathetic to the character of the locality.

Cut and Fill

The subject site is extremely steep and it is acknowledged that some cut and fill will be required to facilitate redevelopment of the site. The concept plans note that the areas required for basement excavation have been minimised to ensure areas of deep soil remain for existing trees. However, the plans indicate basement excavation over approximately

	<p>30% of the site, up to the Old Northern Road boundary on the north-eastern part of the site. Basement car parking is not contemplated in the E4 Environmental Living Zone, as it is not generally considered to correspond with low impact development.</p> <p>Further to this, the proposed cut and fill is not in accordance with the Hills DCP, which allows a maximum fill of 600mm and cut of 1 metre (excavation in excess of 1 metre may be permitted, subject to there being no adverse effect on the adjoining owners). While the proposed concept incorporates substantial cut to accommodate basement carparks, it is also apparent that cut is being proposed as a design mechanism to facilitate additional storeys of development (and yield) within the proposed height limits and as a response to interface issues along the boundaries of the site, which is not a site responsive design. The extent of these design issues is detailed within Section 3(d) of the Council Officer Assessment Report to the Local Planning Panel (Attachment 1).</p> <p>Amendments to the cut and fill DCP controls are not proposed within the proposal, however would be required to enable the concept design to be developed without substantial non-compliance with Council's planning controls. Notwithstanding this, it is considered that such significant cut and fill is unlikely to be supported, especially within the E4 Environmental Living zone, as it does not demonstrate low impact development or a site responsive design</p> <p><u>Setbacks</u></p> <p>The prevailing large landscaped setbacks along Old Northern Road are desirable and should be complied with as part of any future development. The proposed setback to Old Northern Road is not consistent with the current Hills DCP requirements. Setbacks to classified roads are required to be 10 metres, however only 7 metre setbacks are proposed. This setback is proposed to be further reduced to 5 metres for a portion of the site frontage as a result of the proposed deceleration lane.</p> <p>The concept plans include proposed side setbacks ranging from 7 metres to 10 metres. Given the deviation from the anticipated character of the area, these setbacks are considered insufficient to provide an appropriate buffer between the subject site and adjacent development.</p> <p><u>Interface to Palisander Place</u></p> <p>Palisander Place is characterised by low density, detached dwelling houses comprising of large setbacks, integrated with the surrounding vegetation.</p> <p>From Palisander Place, the development presents a single building form, which lacks permeability due to the configuration of buildings encircling the open space. The building height in combination with minimal setbacks would dominate the streetscape and is not a desirable design response.</p> <p>The impact of the reduced setbacks is further illustrated in Section (3)(d)(iv) of the Council Officer Assessment Report to the Local Planning Panel (Attachment 1).</p>
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Geotechnical Constraints	<p>LEP 2019 identifies the undeveloped portions of the site as affected by landslip risk. It is noted that the steep topography slope is distributed across the site, including where the existing development is located. The proposed development incorporates significant basement parking and podiums with substantial floor plates that could only be facilitated through significant landform modification (cut and fill, as discussed above).</p> <p>No detailed geotechnical assessment report has been submitted to enable proper consideration of the geotechnical impacts and constraints. Should the proposal proceed, in this or any form in the future, adequate technical information would be required to properly assess the geotechnical capacity of the site to accommodate the built form proposed and determine the stability of soil and bedrock.</p>
Traffic	<p>The Traffic Assessment Report submitted with the proposal calculates that the proposal would generate an additional 21 vehicle trips in the AM and PM peak, as well as an additional 51 vehicle trips between 11:45am and 12:45pm on a Saturday. Based on the existing distribution data, the development relies heavily on the existing entry point via Old Northern Road for vehicles entering and departing the site, however there would also be an increase in traffic along Palisander Place (a local street).</p> <p>The proposal incorporates a deceleration lane on the Old Northern Road frontage to prevent vehicles slowing to turn into the subject site impacting on traffic flow. The provision of this lane reduces the depth of developable land and, as previously stated, reduces the front setback in this location and limits the ability to provide landscaping to Old Northern Road to soften the scale of the built form at this frontage.</p> <p>The traffic assessment notes that there has been ongoing traffic safety issues with respect to the existing retirement village development and that the current left in left out arrangement (which the proposal seeks to retain) is known to generate unsafe traffic movements by the residents who seek to join southbound traffic towards the Castle Hill Town Centre on Old Northern Road. Specifically, vehicles utilise a redundant road verge immediately adjoining the grounds of St Paul's Church to make a 'u-turn' or three point turn across Old Northern Road and join southbound traffic.</p> <p>The proposal states that an alternative to this would be for more traffic to exit the site via Palisander Place, or for traffic exiting onto Old Northern Road to rely on the existing Oakhill College Drop-off zone or St Paul's Church Parking Lot. These informal 'solutions' are all currently available and do not alleviate the problem. Further, they rely on coordination with other entities (Oakhill College and St Paul's Church), neither of which have indicated a willingness to enable their drop-off zone and/or parking lot to form part of the solution to local traffic issues generated by the development. Given the above, it is anticipated that an increase in density on the site would only exacerbate the current issue and increase the frequency of these 'right turns' and unsafe movements.</p>

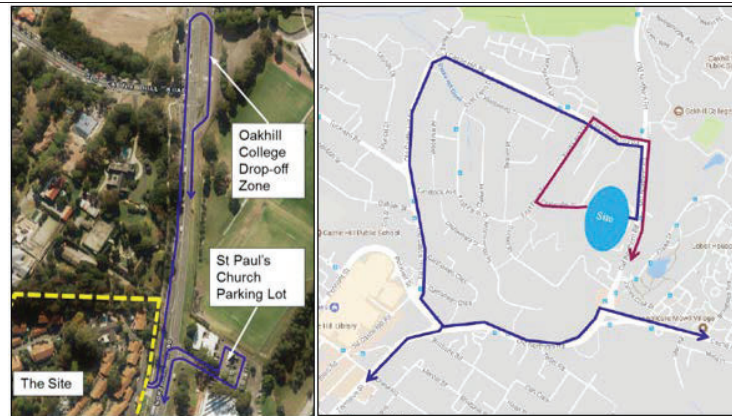


Figure 8

Proposed options available for merging into southbound traffic along Old Northern Road (Left) and Alternative methods for travelling towards Castle Hill Town Centre (Right)

The traffic assessment also proposes the relocation of a pedestrian crossing 60 metres further to the north of its existing location to enable for the provision of the deceleration lane. The implications of this should be further addressed by the Proponent in terms of how this may affect the pedestrian experience and accessibility levels for local residents in the locality who may use this crossing.

Palisander Place is currently constrained in terms of available carriageway width as a result of a substantial number of parked vehicles during the day. Concern is raised with respect to any proposal to introduce heavier traffic flows at this location as a result of two vehicular entry points to basement car parks in proximity to the Palisander Place access point. This would potentially result in significant amenity concerns for existing residents along Palisander Place. The above traffic issues remain unresolved by the Proponent.

Infrastructure Demand and Public Benefit

While the total yield of 247 units that would result from this planning proposal may not, in isolation, create the need for new local infrastructure facilities, it is crucial to consider the cumulative impact of incremental uplift and growth on local infrastructure provision.

While the concept masterplan incorporates central parkland (3,800m² in total area) within the subject site (with a capacity to hold fetes and communal events), such a proposal is primarily to the benefit of residents of the future development, in order to promote a sense of belonging within the local community through event participation.

Notwithstanding the different local infrastructure requirements of the specific demographic group the proposal would cater for, the provision of community benefits in the form of local infrastructure to accommodate the increased density on the site would still be required.

	<p>The Proponent has provided a public infrastructure offer which comprises:</p> <ul style="list-style-type: none">▪ Offsite Open Space Contribution of \$500,000 towards the upgrade of Pioneer Place Reserve;▪ Offsite Road Works – 60 metre deceleration lane valued at \$100,000; and▪ Provision of a 1.2 metre wide footpath on the southern side of Palisander Place valued at \$90,000. <p>The provision of additional funds to upgrade local parks and provide footpath has some community benefits, however more detail is needed for Council officers to assess whether the proposed benefits are appropriate. The delivery of the deceleration lane will primarily service the proposed development and is considered to be necessary traffic works associated with any future development of the site, rather than a public benefit to the broader community.</p> <p>If the proposal is to proceed in any form, further negotiations to address the demand for public infrastructure will need to occur.</p>
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4. LOCAL PLANNING PANEL ADVICE

On the 18 August 2021, The Hills Local Planning Panel considered the proposal and provided the following advice:

The planning proposal should not proceed to Gateway Determination on the basis that:

- a) The proposal has not sufficiently justified the scale of uplift sought in an area outside of the walking catchment of Castle Hill Town Centre on land that is not strategically identified for uplift. There is limited strategic justification for permitting uplift on this land and the proposal could set an undesirable precedent for the density, scale and character of development in infill and environmentally sensitive areas of Castle Hill. In this regard, the proposal is inconsistent with Planning Priorities 6, 7 and 8 of the Hills Future Local Strategic Planning Statement;*
- b) The height, scale, density and character of the proposed development is inconsistent with the objectives of the E4 Environmental Living Zone and the character of the locality;*
- c) The development exceeds the capacity of the site, as evidenced by the range of site specific issues detailed within this report (character, height, interface and visual impacts), the inability for the proposal to comply with baseline development standards within Council's DCP (in particular, the extent of cut and fill permitted and minimum setback distances);*
- d) The proposal has not satisfactorily resolved traffic and access arrangements to the point where increased yield and associated traffic generation is supportable at this location. The other public infrastructure contributions proposed by the Proponent are inadequate to support the proposal; and*

- e) *Council is already well placed to meeting the housing needs of senior residents, with sufficient opportunities available to provide new seniors housing developments in more appropriate locations than the subject site.*

The Local Planning Panel minutes are provided as Attachment 2 to this Report.

IMPACTS

Financial

The determination of the planning proposal has no direct financial impact on Council's adopted budgets or forward estimates. However, if the planning proposal were to proceed, further negotiations would need to occur to address the demand for infrastructure generated by any uplift granted and establish an appropriate contributions mechanism.

Strategic Plan – The Hills Future

The planning proposal is inconsistent with the desired outcomes of The Hills Future as it does not reflect the values and aspirations and the Hills community. The character and amenity of the locality would be disrupted by the proposal, if it were to proceed.

RECOMMENDATION

The planning proposal applicable to land at 346-350 Old Northern Road, Castle Hill not proceed to Gateway Determination on the basis that:

- a) The proposal has not sufficiently justified the scale of uplift sought in an area outside of the walking catchment of Castle Hill Town Centre on land that is not strategically identified for uplift. There is limited strategic justification for permitting uplift on this land and the proposal could set an undesirable precedent for the density, scale and character of development in infill and environmentally sensitive areas of Castle Hill;
- b) The height, scale, density and character of the proposed development is inconsistent with the objectives of the E4 Environmental Living Zone and the character of the locality;
- c) The development exceeds the capacity of the site, as evidenced by the range of site specific issues detailed within this report (character, height, interface and visual impacts) and the inability for the proposal to comply with baseline development standards within Council's DCP (in particular, the extent of cut and fill permitted and minimum setback distances); and
- d) The proposal has not satisfactorily resolved traffic and access arrangements to the point where increased yield and associated traffic generation is supportable at this location.

ATTACHMENTS

- 1. Council Officer Assessment Report to Local Planning Panel (18 August 2021) (26 pages)
- 2. Local Planning Panel Minutes (19 August 2021) (3 pages)

ATTACHMENT 1

LOCAL PLANNING PANEL MEETING 18 AUGUST, 2021

THE HILLS SHIRE

ITEM-1	LOCAL PLANNING PANEL - PLANNING PROPOSAL - CASTLE RIDGE RESORT 346 - 350 OLD NORTHERN ROAD, CASTLE HILL (1/2021/PLP)
THEME:	Shaping Growth
OUTCOME:	5 Well planned and liveable neighbourhoods that meets growth targets and maintains amenity.
STRATEGY:	5.1 The Shire's natural and built environment is well managed through strategic land use and urban planning that reflects our values and aspirations.
MEETING DATE:	18 AUGUST 2021 LOCAL PLANNING PANEL
AUTHOR:	SENIOR TOWN PLANNER LAURA MORAN
RESPONSIBLE OFFICER:	MANAGER – FORWARD PLANNING NICHOLAS CARLTON

Proponent & Landowner	STOCKLAND CASTLERIDGE PTY LIMITED
Planning Consultant Urban Designer	ARCHITECTUS GROUP PTY LTD
Traffic Consultant	ARUP PTY LTD
Demand Assessment	ELTON CONSULTING
Ecological Consultant	ACS ENVIRONMENTAL PTY LTD
Geotechnical Consultant	J K GEOTECHNICS PTY LTD
Hydraulics Consultant	NORTHROP CONSULTING ENGINEERS
Site Area	36,990m ²
List of Relevant Strategic Planning Documents	GREATER SYDNEY REGION PLAN CENTRAL CITY DISTRICT PLAN SECTION 9.1 MINISTERIAL DIRECTIONS THE HILLS LOCAL STRATEGIC PLANNING STATEMENT
Political Donation	NIL DISCLOSED BY PROPONENT
Recommendation	THAT THE PLANNING PROPOSAL NOT PROCEED TO GATEWAY DETERMINATION

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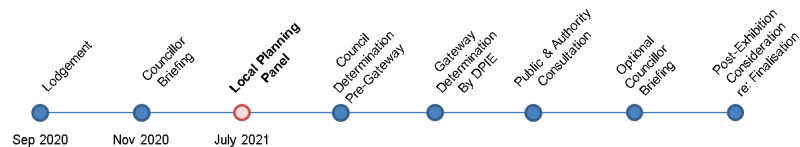
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LOCAL PLANNING PANEL MEETING 18 AUGUST, 2021

THE HILLS SHIRE



EXECUTIVE SUMMARY

This report recommends that the planning proposal applicable to land at Castle Ridge Resort, 346-350 Old Northern Road, Castle Hill, which seeks to amend LEP 2019 to facilitate redevelopment of the existing seniors living development on the site, not proceed to Gateway Determination.

It is acknowledged that there is some merit in facilitating the feasible redevelopment and rejuvenation of the existing seniors living facility. However, the amendments sought under the planning proposal are not supported for the following reasons:

- The proposal has not sufficiently justified the scale of uplift sought in an area outside of the walking catchment of Castle Hill Town Centre on land that is not strategically identified for uplift. There is limited strategic justification for permitting uplift on this land and the proposal could set an undesirable precedent for the density, scale and character of development in infill and environmentally sensitive areas of Castle Hill;
- The height, scale, density and character of the proposed development is inconsistent with the objectives of the E4 Environmental Living Zone and the character of the locality;
- The development exceeds the capacity of the site, as evidenced by the range of site specific issues detailed within this report (character, height, interface and visual impacts) and the inability for the proposal to comply with baseline development standards within Council's DCP (in particular, the extent of cut and fill permitted and minimum setback distances); and
- The proposal has not satisfactorily resolved traffic and access arrangements to the point where increased yield and associated traffic generation is supportable at this location.

The site has been the subject of two previous unsuccessful planning proposal applications (2016 and 2019) and the current application has been amended a number of times by the Proponent. Many of the issues identified within this report are long-standing concerns which have been consistently communicated to the Proponent as part of the current application and each previous unsuccessful proposal.

The benefits of facilitating redevelopment of the site and improvement of the existing seniors housing facility are acknowledged. However, this should be in a form which is appropriate in the setting and context of the site. Council officers have advised the Proponent that, in their view, a lower-scale and stepped built form that integrates with the topography of the land and retains greater significant vegetation would better respond to surrounding lower-scale residential development and the site's location on a prominent visual ridgeline, as well as the unique topography and environmental constraints. In this respect, Council officers had

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LOCAL PLANNING PANEL MEETING 18 AUGUST, 2021

THE HILLS SHIRE

indicated that building heights on all boundaries should be no more than 2 storeys. To date, the Proponent has been unable to submit a scheme that satisfactorily demonstrates that the density sought can be accommodated in an appropriate built form outcome and as such, it is recommended that the planning proposal, in its current form, should not proceed to Gateway Determination.

Feedback from the Local Planning Panel and Sydney Central City Planning Panel identified similar issues with respect to the previous planning proposals, leading these Panels to ultimately conclude that the earlier proposals should not proceed to Gateway Determination. The LPP advised that the proposal should not proceed on the basis that the scale sought lacked strategic merit and failed to respond to the objectives of the E4 Environmental Living zone and that the proposal did not adequately address safety concerns related to traffic. In determining the rezoning reviews associated with the previous proposals, the Sydney Central City Planning Panel was not satisfied the proposal demonstrated site specific merit due to inconsistencies with the E4 zone objectives and insufficient justification for the extent of FSR proposed.

THE HILLS LOCAL ENVIRONMENTAL PLAN 2019

A comparison between the current controls and proposed amendments to LEP 2019 is provided below, along with the previous two (2) unsuccessful applications.

	Current Controls (LEP 2019)	First Planning Proposal 2016 (22/2016/PLP)	Second Planning Proposal 2019 (7/2019/PLP)	Current Planning Proposal 2020 (1/2021/PLP)
Land Zone	E4 Environmental Living			
Min. Lot Size	2,000m ²			
Additional Permitted Use	Nil	Seniors Housing		
Height	9 metres (two storeys)	14 - 27 metres (facilitates up to nine storeys)	12 - 22 metres (facilitates up to seven storeys)	9 - 22 metres (facilitates up to seven storeys)
Floor Space Ratio	N/A	1:1		0.83:1
Dwellings (Independent Living Units)	113	323	298	247
Parking Spaces	Unidentified. At-grade and garages incorporated into villas	420 spaces, predominantly in basement levels	388 spaces, predominantly in basement levels	321 spaces, predominantly in basement levels
Landscaped Area	Unidentified	48% of site area	53% of site area	53% of site area
Basement Area	Nil	40% of site area	25% of site area	29% of site area

Table 1

Proposed Amendments to LEP 2019 and Comparison of Proposed Concepts

LOCAL PLANNING PANEL MEETING 18 AUGUST, 2021

THE HILLS SHIRE

HISTORY

May 2016

Planning Proposal (22/2016/PLP) lodged for a high density seniors living redevelopment comprising 359 independent living units incorporated within nine buildings with heights varying from three to 10 storeys. The Proposal was subsequently revised to reduce the yield and heights slightly.

December 2017

Council resolved not to proceed with the planning proposal (22/2016/PLP) due to inconsistencies with the E4 Environmental Living zone objectives, inappropriate density and built form, insufficient strategic justification and potential impact in association with geotechnical constraints, traffic impacts and increased demand for local infrastructure. The Proponent subsequently lodged a rezoning review application.

August 2018

The Sydney Central City Planning Panel considered the rezoning review request lodged by the Proponent and determined that the proposal should not proceed to Gateway Determination.

January 2019

New planning proposal (7/2019/PLP) lodged for a high density seniors living development including 298 dwellings within nine buildings with heights varying from three to six storeys.

April 2019

Planning proposal (7/2019/PLP) considered by The Hills Local Planning Panel. The Panel advised that the proposal is unsatisfactory and should not proceed to Gateway Determination.

May 2019

Council resolved that the proposal should not proceed to Gateway Determination due to insufficient justification of the proposed scale and density at this location, inconsistencies with the E4 Environmental Living zone objectives, potential amenity impacts on adjoining development and open space, and unresolved traffic issues. The Proponent subsequently lodged a rezoning review application.

August 2019

The Sydney Central City Planning Panel considered the rezoning review application lodged by the Proponent and determined that the proposal should not proceed to Gateway Determination on the basis that it does not demonstrate site specific merit.

September 2020 Current planning proposal (1/2021/PLP) lodged.

REPORT

The purpose of this report is to present the subject planning proposal to the Local Planning Panel for advice, in accordance with Section 2.19 of the Environmental Planning and Assessment Act 1979.

1. THE SITE

The site and existing seniors housing development is known as Castle Ridge Resort and is located at 346-350 Old Northern Road, Castle Hill (Lot 503 DP 1048808). It has an area of approximately 3.7 hectares, is irregular in shape and is located approximately 1.2 kilometres to the north east of the Castle Hill Town Centre, on the prominent ridgeline along Old Northern Road. The site has a primary frontage to Old Northern Road (to the east) and an

alternative vehicular entry/exit point at the end of Palisander Place (to the north-west) as shown in Figure 1 below.



Figure 1

Aerial view of the site and surrounding locality

The surrounding locality is characterised by low density residential development to the west, a large lot residential development to the north, a townhouse development to the south and the Pioneer Place Public Reserve to the south west. Land to the east, on the opposite side of Old Northern Road, is within Hornsby Shire Council and includes St Paul's Church and the Anglican Retirement Village (ARV) – Castle Hill Campus.

The site currently accommodates a seniors' living development with 113 independent living units. The existing development demonstrates a medium density outcome in terms of bulk, height (one (1) to three (3) storeys) and distribution of massing over the site, with fine-grain buildings and minimal excavation. This enables the achievement of a sympathetic outcome having regard to the sloping topography of the site and existing bushland/vegetated setting.

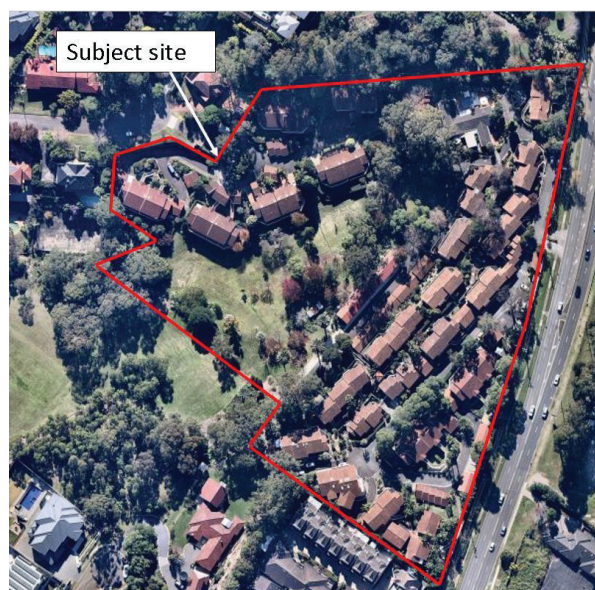


Figure 2
Aerial View of the subject site

The maximum heights and fragmented distribution of existing buildings on the site reduces the extent to which buildings visually protrude above the existing tree canopy and enables the existing development to 'blend' into its bushland setting. Despite this, even the existing development, with its relatively low scale built form, already exhibits some visual dominance on the adjoining Pioneer Place Reserve and is clearly visible from part of Pioneer Place and Winchcombe Place.



Figure 3

Low scale built form of existing Castle Ridge Resort

Council's mapping indicates that parts of the site are affected by Landslip Risk and the presence of Blue Gum High Forest, which is a Critically Endangered Ecological Community (CEEC) under the Biodiversity Conservation Act 2016. However, further targeted surveys by the Proponent concluded that the presence of this species could not be found within the vegetation on the site.

The land was zoned Rural 1(b) under the Baulkham Hills Planning Scheme Ordinance (1964). Local Environmental Plan 1991 zoned the land "Residential 2(d) – Protected" to reflect geotechnical issues, the drainage line traversing the site, vegetation on the site and the scenic values of the prominent ridgeline along Old Northern Road. General district views to the Blue Mountains from Old Northern Road and the rural area is an important local characteristic, particularly in combination with urban bushland that contributes to a scenic landscape. Similarly, the site and ridgeline is visually prominent when viewed from areas to the west.

In the translation to the Standard Instrument in 2012, the E4 Environmental Living zone was applied to the site, being an equivalent zone to the Residential 2(d) – Protected zone. The objectives of the E4 Environmental Living zone are:

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.

LEP 2019 does not permit seniors housing in the E4 Environmental Living zone. However, the existing seniors living facility on the site was constructed in the early 1980's and currently operates under existing use rights afforded by the Environmental Planning and Assessment Act 1979. The site is also precluded from the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors SEPP) as a result of the environmental zoning of the site.

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2. DESCRIPTION OF THE PLANNING PROPOSAL

The development concept, as submitted by the Proponent, depicts a high density residential seniors living development, replacing the existing seniors living development on the site. The development seeks to enable the development of 247 independent living units, within 14 buildings ranging in height between three (3) to six (6) storeys (it is noted that the maximum height of building control requested through the planning proposal could potentially allow up to seven (7) storeys, being an additional storey to that depicted in the Proponent's concepts).

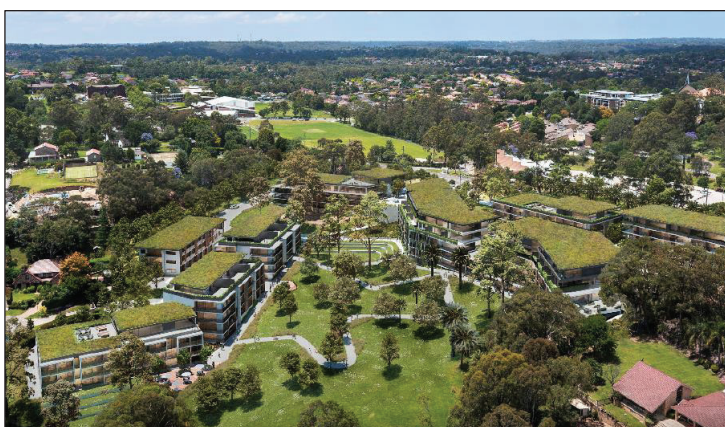


Figure 4

Artist's impression of proposed Castle Ridge Resort from the southern boundary of the site



Figure 5
Concept site plan and proposed building heights

In order to facilitate the proposed development outcome, the proposal seeks to amend LEP 2019 to:

1. Include 'Seniors Living' as an additional permitted use on the site under Schedule 1 of LEP 2019 and associated Additional Permitted Uses Map;
2. Increase the Maximum Height of Buildings applicable to the site from nine (9) metres to part 9 metres, 15 metres, 18 metres and 22 metres (enabling building heights of 3-7 storeys); and
3. Apply a Floor Space Ratio control of 0.83:1 to the site.

Table 1 above and the History section of this report provide details on the previous planning proposals submitted for this site. For reference, a comparison between the two previous planning proposal concepts and the current concept is provided below.



Figure 6

Design concept for each planning proposal

3. MATTERS FOR CONSIDERATION

The planning proposal requires consideration of the following matters:

- a) Strategic Context;
- b) Objectives of the E4 Environmental Living Zone;
- c) Residential Density and Yield;
- d) Built Form;
 - i) Character
 - ii) Building height and scale
 - iii) Cut and fill
 - iv) Setbacks
 - v) Interface to adjoining properties
- e) Geotechnical Constraints;
- f) Traffic; and
- g) Infrastructure Demand and Public Benefit

a) Strategic Context

A discussion on consistency with the strategic planning framework is provided below.

▪ Greater Sydney Region Plan and Central City District Plan

Objective 10 of the Greater Sydney Region Plan and Planning Priority C5 of the Central City District Plan seek to ensure ongoing housing supply and a range of housing types in the right locations. While the proposal is partially consistent with this objective through the provision of increased residential density to cater for the ageing population, the scale of development proposed is not appropriate in this location.

The Plan specifies that consistency with this objective is not measured by dwelling numbers alone, but rather it requires a place-based approach to development in a local context. The proposed development is within a low density, environmentally sensitive setting outside the walking catchment of the Castle Hill Station Precinct and Town Centre.

As demonstrated through the assessment within this report, the uplift sought does not demonstrate a balance between feasible redevelopment uplift and integration with the surrounding context, particularly environmental and scenic values of the site, interface with adjoining low scale development and the availability of services and infrastructure. Given this, the planning proposal is considered to be inconsistent with this objective as the location is not appropriate for the level of uplift sought.

Planning Priority C3 identifies that The Hills Shire LGA will be subject to one of the largest projected growth in aged population. The Priority encourages that demand for seniors housing be met through the delivery of more diverse housing types and medium density housing, in walkable neighbourhoods that maintain closeness to family, friends and established health and support networks for enhanced well-being. Planning Priority C4 promotes the need to foster healthy, creative, culturally rich and socially connected communities.

While the planning proposal is partially consistent with these priorities as it seeks to deliver housing for the aged population, a recent review of current seniors housing supply in the Hills Shire (completed as part of a Project Control Group with DPIE and the Greater Sydney Commission) concluded that Council is already well placed to meet the housing needs of senior residents. Further, there are sufficient opportunities to provide new seniors housing developments in more appropriate locations.

It is important to note that the subject site is not identified within the strategic framework as an area within the Shire that is suitable for increased development potential. Notwithstanding this, the merits of increased provision of seniors housing through the planning proposal are acknowledged, as is the need for revitalisation and rejuvenation of the existing development, by way of increased maintenance, refurbishment or redevelopment. However, the application has not demonstrated that the development density sought by the Proponent can be achieved in an appropriate built form outcome with acceptable amenity, environmental and infrastructure outcomes. Given that the needs of senior residents can be comfortably met elsewhere in the Shire on more connected and well-serviced sites, the planning proposal should demonstrate a superior built form and place-making outcome to warrant the uplift sought.

Objective 28 and Planning Priority C15 identify the importance of protecting and enhancing bushland, biodiversity and scenic and cultural landscapes. In comparison to the existing development on the site which is relatively sensitive to these factors, the proposal seeks to facilitate a high density residential development outcome and built form character in an area that is identified for its environmentally sensitive and scenic values. The area is characterised by low density development which responds to site specific constraints and protects and retains the aesthetic/scenic qualities of the prominent ridgeline along Old Northern Road.

While the existing development benefits from existing use rights, it would otherwise be a prohibited form of development considered incompatible with the site and context. Notwithstanding this, the existing development on the site does demonstrate a scale, built form and character which is not entirely inconsistent or incompatible with the environmental and scenic qualities of the land. The scale of uplift and high density built form proposed through the planning proposal would represent a significant change with respect to the built form outcome and character on the land, which would adversely impact on these qualities and would therefore fail to align with this priority.

▪ Section 9.1 Ministerial Directions

The following Directions issued by the Minister for Planning and Public Spaces under Section 9.1 of the Environmental Planning and Assessment Act 1979 require consideration:

Direction 2.1 - Environmental Protection Zones

The proposed development would be unlikely to significantly impact on threatened ecological communities. The Flora and Fauna Assessment submitted with the proposal concludes that the majority of the vegetation present within the study area comprises landscape plantings and does not constitute critically endangered species. However, the proposed development would result in the clearing of some existing vegetation on the site. Though not critical species, the existing urban bushland contributes to the values of the E4 Environmental Living zone and the vegetated character of the locality.

Further, the planning proposal is inconsistent with this Direction as the proposed high density residential development (which is not a permitted use in the zone) requires substantial land take for the purposes of communal open space, landscaping, and building footprint, which is not commensurate with a low impact development.

It is acknowledged that the current development would not be considered to conform with this objective either, however proceeding with a development with greater impacts to the site in comparison to what exists would not be prudent land use management. The level of impact should be equal to (or ideally improve) the current impacts to warrant development uplift.

Direction 3.1 - Residential Zones

While the planning proposal may be partially consistent with this Direction as it does not decrease the current residential density on the site, the Direction also requires development to demonstrate good design on sites that are adequately serviced. In this respect, the planning proposal would not align with the objectives of the Direction as an improved design outcome has not been demonstrated and the additional demand for infrastructure generated by the proposal has not been adequately addressed.

Direction 3.4 - Integrating Land Use and Transport

The proposal is inconsistent with this direction as it seeks to facilitate a high density residential development in a location that is not compatible with the principles of transit oriented development and is not in the walkable catchment of the Castle Hill Metro Station. Higher density development outside of catchments well-served with high-frequency public transport is likely to promote reliance on private vehicle usage to access the site, which does not align with the objectives of this Direction.

Direction 6.3 - Site Specific Provisions

This Direction requires that a planning proposal seeking to allow a particular development to be carried out be evaluated to ensure that unnecessarily restrictive site specific planning controls are not adopted. The Direction encourages Council to rezone sites to allow particular development rather than introduce additional permitted uses on the site and discourages the introduction of new site specific development standards.

In the case of this development the proposal seeks to formalise an existing use which has been applied to the site since the 1980s. The formalisation of seniors housing as a permissible use is a logical extension of permitted uses on the site. The purpose of formalising the use should however, not to be used as a mechanism to facilitate a high density residential development that is inconsistent with the objectives of the zone and inappropriate in the context of the site and locality.

- The Hills Local Strategic Planning Statement and Supporting Strategies

The LSPS has based the location of future high density development on the principles of transit oriented development which is demonstrated through the Planning Priority 6 new housing to support Greater Sydney. Dwellings are to align with planned infrastructure and The Hills' future growth is anticipated in areas connected to or within reach of transport and other urban services, being the Sydney Metro Northwest Corridor and Growth Centre Precincts. The planning proposal seeks to facilitate increased residential uplift outside of these strategically identified locations.

Planning Priority 7 of the LSPS responds to the previously discussed objective of providing new housing in the right locations. Planning Priority 8 also emphasises that location is a crucial element of the liveability of a development. Council's Housing Strategy stipulates that while there is demand for seniors housing, it is by no means excessive given the existing stock and that many older residents choose to age in place. It is therefore likely that there will be greater demand for higher care facilities than independent living units.

The level of uplift sought on the subject site is considered unnecessary for the purposes of supply alone, given that there is no shortage of opportunities for seniors housing to be provided elsewhere in the Shire in more appropriate locations. While it is acknowledged that there is merit in facilitating redevelopment of the site, the extent of uplift sought is not warranted on strategic grounds.

b) Objectives of the E4 Environmental Living Zone

The E4 Environmental Living zone within LEP 2019 is applied to land that has special ecological, scientific or aesthetic values. Development permitted with consent in this zone is generally low density and low-impact residential development uses (such as dwelling houses, secondary dwellings and attached dual occupancies only) which enable some development to occur in a sensitive manner. The environmental constraints and prominent location of the site on the ridgeline are reflected in the zoning of this particular site as E4 Environmental Living.

The specific objectives of the E4 Environmental Living zone under LEP 2019 are:

- *To provide for low-impact residential development in areas with special, ecological, scientific or aesthetic values; and*
- *To ensure that residential development does not have an adverse effect on those values.*

In the E4 Environmental Living zone, multi dwelling housing and residential flat buildings are prohibited under LEP 2019. The site is also excluded from the provisions of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 due to its environmental zoning. Accordingly, it is clear that the planning framework actively discourages higher density development and built form at this location.

The proposal would enable what is essentially a high density residential built form, which is *not* considered to be 'low-impact residential development' and would be likely to have an adverse impact on the ecological and aesthetic values of the site and locality. A development of this scale is contrary to the intended outcomes for this land and would fail to align with the objectives of the zone.

The existing use of the site for seniors housing (which benefits from existing use rights) is not, in and of itself, sufficient justification to permit an intensification of the development (in terms of both density and built form) to an extent that is inconsistent and incompatible with the objectives of the applicable land use zone. Further discussion regarding the impact of this development in terms of character, building heights, cut and fill, setbacks and interface to adjacent properties is provided in the Section 3d 'Built Form' of this Report.

c) Residential Density and Yield

The proposal seeks to facilitate development with a density well in excess of that envisaged for the E4 Environmental Living zone (low density residential development typically with a density of five (5) dwellings per hectare) and in excess of surrounding land uses.

The existing development on the site achieves a density of 30.5 dwellings per hectare, which is already six (6) times the density typically provided within the zone. In comparison, the proposed development (for 247 dwellings) equates to a density of 66.7 dwellings per hectare, which is more than 13 times the typical outcome provided in the zone and double that of the existing development.

With respect to typical densities for seniors living developments, it is noted that the proposed density is significantly higher than other seniors' living developments within the locality, even those on sites which are less constrained. This is demonstrated in the table below. Of particular relevance, the proposed density is more than double the density achieved within the nearby campus-style Anglican Retirement Village Castle Hill seniors' living development which is zoned R2 Low Density Residential within Hornsby Council LGA.

Name	Zone	Land Size (ha)	Dwelling No.	Density (per ha)
Anglican Retirement Village – Old Northern Road and Castle Hill Road, Castle Hill	R2 – Low Density Residential – Hornsby LGA	43.672 Ha	882 dwellings	20.2 dwellings/ha
Anglican Retirement Village – 599-607 Old Northern Road, Glenhaven	RU2 – Primary Production - Hornsby LGA	9.853 Ha	352 dwellings	35.7 dwellings/ha
Living Choice Glenhaven - 50 Old Glenhaven Road, Glenhaven	RU6 – Transition	13.29 Ha	236 dwellings	17.8 dwellings/ha
Castle Ridge Retirement Village (Current)	E4 – Environmental Living	3.7 Ha	113 dwellings	30.5 dwellings/ha
Castle Ridge Retirement Resort (Previous proposal, 7/2019/PLP)	E4 – Environmental Living	3.7 Ha	298 dwellings	80.5 dwellings/ha
Castle Ridge Retirement Resort (Proposed, 1/2021/PLP)	E4 – Environmental Living	3.7 Ha	247 dwellings	66.7 dwellings/ha

Table 2

Comparison of density with other nearby seniors' housing developments

While the site is already used for the purpose of an aged care facility, this is the result of an historical approval and ongoing existing use rights. It is necessary for consideration of a planning proposal to be based on the most appropriate planning and built form outcome for

the site. In this regard, the Proponent has not adequately demonstrated that a density of this magnitude can be accommodated on the land within a 'low-impact' development without adverse impacts on the aesthetic and scenic values of the site and locality.

The existing use of the land and the need for uplift to enable economically viable rejuvenation of the site are not sufficient grounds to justify a doubling of the residential density and an outcome which is beyond that envisaged under the zoning and strategic framework.

d) Built Form

Discussion regarding the proposed built form is set out below into the following categories:

- i) Character;
- ii) Building height and scale;
- iii) Cut and fill;
- iv) Setbacks; and
- v) Interface to Palisander Place.

i) Character

Old Northern Road is characterised by stretches of vegetation, landscaped fences and varying 9-30 metre setbacks that create a buffer to the arterial road. The existing streetscape and buildings heights are sympathetic to the public realm. The streetscape facilitates views west to the Blue Mountains and integrates with the steep ridgeline. Stepped down buildings on descents conform to the steep topography and buildings fronting the street primarily present as modest and integrated into the landscape. It is noted that the adjacent development at 342 Old Northern Road is two stories in height and setback 10m from Old Northern Road, however is not entirely consistent with the desired outcomes as it blocks ridgeline views and does not step down with topography.



Figure 7
Local Character along Old Northern Road

When observing the surrounding properties, a balance is struck between the setback to the road and scale of development. Larger developments are set back from the road around 30m whilst buildings setback at 9 metres are one to two stories with roof RLs generally in line with the road level (refer to Figure 8).



Figure 8
Dwellings along Old Northern Road that allow prominent ridgeline views to be retained.

The proposal presents a 4–6 storey built form as viewed from Old Northern Road, with a 7 metre setback. Minor 2 storey elements proposed along this frontage (with the 4 storey component setback slightly) are ultimately lost in the overall building mass. In Figure 9 below, the existing building roof line is visible under the opaque building massing, indicating the difference between the current streetscape and that being proposed.

**Figure 9**

View of proposed building envelopes on Old Northern Road streetscape

The substantial building bulk and massing along the Old Northern Road prominent ridgeline has been a reason for not proceeding with previous planning proposals for this site and was raised in the Rezoning Reviews by the Sydney Central Planning Panel. Council officers have previously advised the Proponent that buildings at the boundaries of the site should be limited to 2 storeys, in order to address this issue, and have communicated this again during the assessment of this current proposal. In response to this, the Proponent has still retained substantial built form at the boundaries of the site, however has marginally increased the setback distance for levels above the second story. As demonstrated above, this does not drastically change the bulk and scale of the development, as viewed from Old Northern Road, or meaningfully respond to the core issues raised by Council officers.

The site is currently heavily vegetated and this screens and minimises the development when viewing the site from an external location. It also contributes to internal amenity and privacy. The incorporation of high quality landscaping screening and fencing, and low building heights achieve an overall impression of built forms blending into the steep topography and vegetation, rather than protruding. Substantial clearing and loss of this mature vegetation would expose the high density built form in stark contrast to surrounding character.

The existing development already exhibits a level of visual dominance on the adjoining Pioneer Place Reserve, from which it is clearly visible. Further increasing the height and removing existing vegetation from the site will only exacerbate this, with the potential to diminish the character, amenity and enjoyment of the adjoining public park.

The scale of development, as depicted in Figure 9 above, further blocks prominent scenic views to the Blue Mountains which are a defining characteristic of properties along Old Northern Road. The scenic view from the public realm along Old Northern Road should be protected and enhanced, rather than reduced. Although there are developments and natural rises in the landscape that block these views along Old Northern Road, development should endeavour to preserve and expand on such views where there is opportunity to do so.

ii) Building height and scale

The development concept supporting the proposal indicates buildings ranging from 2 storeys to 6 storeys, however it is noted that a 22 metre maximum building height limit sought within the application could facilitate up to 7 storeys.



Figure 10
Proposed Building Heights

In terms of the proposed heights at the site's boundaries, the proposal seeks to achieve three storeys (western boundary), three and four storeys (northern boundary), four and six storeys (eastern boundary), and four and five storeys (southern boundary). While the buildings include some increased setbacks for taller building elements, this does not meaningfully address the core objective of adequately providing for transition to adjacent properties, nor does it integrate with the character of the locality. The two storey elements incorporated into the development concept are tokenistic and in most cases would do little to mitigate visual impacts as they will ultimately blend into the overall bulk and scale of the building envelopes. As discussed above, the proposed development of 4-6 storey buildings along the Old Northern Road frontage would not align with the existing, prevailing and intended character for this locality.

By way of example, the southern boundary interface with 342 Old Northern Road shows the fourth storey of the proposed development as having an RL equivalent to the adjoining dwelling (refer to Figure 11 below). However, this is contingent on a 5 metre retaining wall on the boundary, which is not reflective of a design sympathetic with the topography (this is discussed further below). Further, Figures 11 and 12 below also depict the upper level setbacks proposed by the Proponent (in excess of 2 storeys) which, in the view of Council officers, are unlikely to meaningfully mitigate the bulk and height of the built form when viewed from adjoining land.

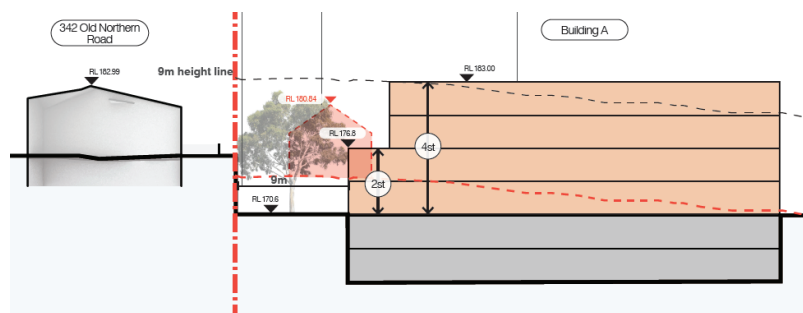


Figure 11

Interface to the southern boundary at 342 Old Northern Road
(current ground level shown as dotted red line)

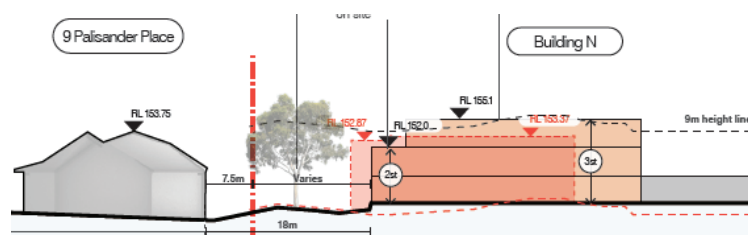


Figure 12

Interface to the Western boundary at Palisander Place

It is considered that a more appropriate response at the boundaries would be to incorporate building elements which are truly limited to 2 storeys in height, or alternatively, have a minimum depth of 10 metres at a height of two storeys before any stepping-up to taller building elements.

While the building elements proposed in the centre of the site are an improvement on previous concepts (in that they are smaller and finer grain building footprints), they are still primarily 5-6 storey building forms that jut out of the landscape. The scale of these building is exacerbated by the 'dip' in the centre of the site. The cluster of buildings on the eastern side (Old Northern Road frontage) present as a high density development when viewed from Palisander Place, which is unsympathetic to the character of the locality.

iii) *Cut and fill;*

The subject site is extremely steep and it is acknowledged that some cut and fill will be required to facilitate redevelopment of the site. The concept plans note that the areas required for basement excavation have been minimised to ensure areas of deep soil remain for existing trees. However, the plans indicate basement excavation over approximately 30% of the site, up to the Old Northern Road boundary on the north-eastern part of the site. Basement car parking is not contemplated in the E4 Environmental Living Zone, as it is not generally considered to correspond with low impact development.

The proposed cut and fill is not in accordance with the Hills DCP, which allows a maximum fill of 600mm and cut of 1 metre (excavation in excess of 1 metre may be permitted, subject to there being no adverse effect on the adjoining owners). While the proposed concept incorporates substantial cut to accommodate basement carparks, it is also apparent that cut is being proposed as a design mechanism to facilitate additional storeys of development (and yield) within the proposed height limits, which is not a site responsive design.

For example, adjacent to Building A, approximately 5 metres of cut is proposed to be retained on the boundary with 342 Old Northern Road (4 metres greater than what is stipulated in The Hills DCP). It would be preferable for development on this part of the site to follow the natural topography (shown as a dotted red line in the Figure below), with potential for a 2 storey development outcome to be achieved, with minimal cut, and with the number of storeys potentially increasing further away from the boundary (and further down slope).

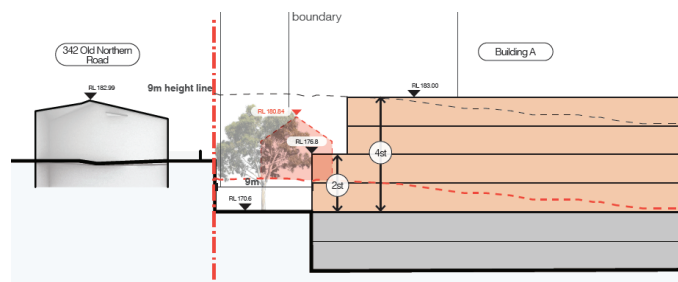


Figure 13

Section depicting Building A and boundary retaining wall (current ground level shown as dotted red line)

While the absolute height of these buildings is broadly consistent with the adjoining development, significant levels of cut are proposed to achieve the 4-5 storey building in this location, necessitating the 5 metre retaining wall on the boundary. This is not indicative of appropriate building heights or a low impact development and is a poor response to the site constraints.

Building B also demonstrates a poor response to the site topography with significant excavation proposed to achieve a four storey built form.

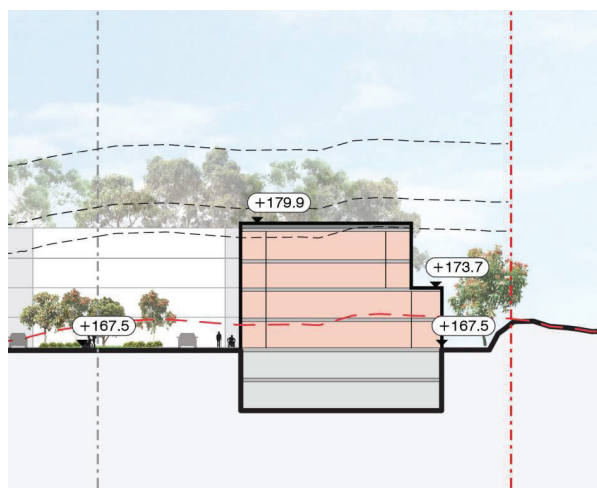


Figure 14

Section depicting Building B and excavation to eastern boundary (current ground level shown as dotted red line)

Amendments to the cut and fill DCP controls are not proposed within the proposal, however would be required to enable the concept design to be developed without substantial non-compliance with Council's planning controls. Notwithstanding this, it is considered that such significant cut and fill is unlikely to be supported, especially within the E4 Environmental Living zone, as it does not demonstrate low impact development or a site responsive design.

iv) *Setbacks;*

The prevailing large landscaped setbacks along Old Northern Road are desirable and should be complied with as part of any future development. The proposed setback to Old Northern Road is not consistent with the current Hills DCP requirements. Setbacks to classified roads are required to be 10 metres, however only 7 metre setbacks are proposed. This setback is proposed to be further reduced to 5 metres for a portion of the site frontage as a result of the proposed deceleration lane.

The concept plans include proposed side setbacks ranging from 7 metres to 10 metres. Given the deviation from the anticipated character of the area, these setbacks are considered insufficient to provide an appropriate buffer between the subject site and adjacent development.

v) *Interface to Palisander Place*

Palisander Place is characterised by low density, detached dwelling houses comprising of large setbacks, integrated with the surrounding vegetation.



Figure 15
Existing character at Palisander Place

From Palisander Place, the development presents a single building form, which lacks permeability due to the configuration of buildings encircling the open space (particularly buildings K, L and M). The building height in combination with minimal setbacks would dominate the streetscape and is not a desirable design response.

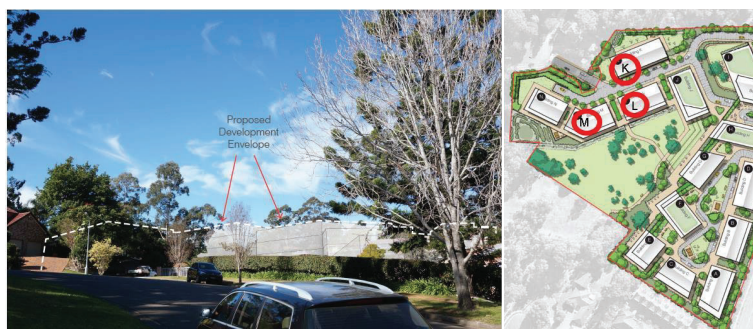
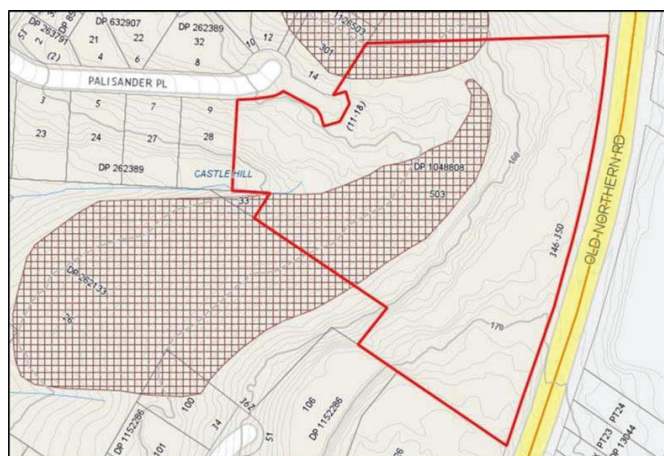


Figure 16
Eastern view of Interface when viewed from Palisander Place.

e) Geotechnical Constraints

LEP 2019 identifies the undeveloped portions of the site as affected by landslip risk, as shown in Figure 17 below. It is noted that the steep topography slope is distributed across the site, including where the existing development is located. The proposed development incorporates significant basement parking and podiums with substantial floor plates that could only be facilitated through significant landform modification (cut and fill).

**Figure 17**

Area affected by landslip risk (hatched) and contour lines depicting steep topography of the site

No detailed geotechnical assessment report has been submitted to enable proper consideration of the geotechnical impacts and constraints. Should the proposal proceed, in this or any form in the future, adequate technical information would be required to properly assess the geotechnical capacity of the site to accommodate the built form proposed and determine the stability of soil and bedrock.

f) Traffic

The Traffic Assessment Report submitted with the proposal calculates that the proposal would generate an additional 21 vehicle trips in the AM and PM peak, as well as an additional 51 vehicle trips between 11:45am and 12:45pm on a Saturday. Based on the existing distribution data, the development relies heavily on the existing entry point via Old Northern Road for vehicles entering and departing the site, however there would also be an increase in traffic along Palisander Place (a local street).

The proposal incorporates a deceleration lane on the Old Northern Road frontage to prevent vehicles slowing to turn into the subject site impacting on traffic flow. The provision of this lane reduces the depth of developable land and, as previously stated, reduces the front setback in this location and limits the ability to provide landscaping to Old Northern Road to soften the scale of the built form at this frontage.

The traffic assessment notes that there has been ongoing traffic safety issues with respect to the existing retirement village development and that the current left in left out arrangement (which the proposal seeks to retain) is known to generate unsafe traffic movements by the residents who seek to join southbound traffic towards the Castle Hill Town Centre on Old Northern Road. Specifically, vehicles utilise a redundant road verge immediately adjoining the grounds of St Paul's Church to make a 'u-turn' or three point turn across Old Northern Road and join southbound traffic.

The proposal states that an alternative to this would be for more traffic to exit the site via Palisander Place, or for traffic exiting onto Old Northern Road to rely on the existing Oakhill College Drop-off zone or St Paul's Church Parking Lot. These informal 'solutions' are all currently available and do not alleviate the problem. Further, they rely on coordination with other entities (Oakhill College and St Paul's Church), neither of which have indicated a willingness to enable their drop-off zone and/or parking lot to form part of the solution to local traffic issues generated by the development. Given the above, it is anticipated that an increase in density on the site would only exacerbate the current issue and increase the frequency of these 'right turns' and unsafe movements.

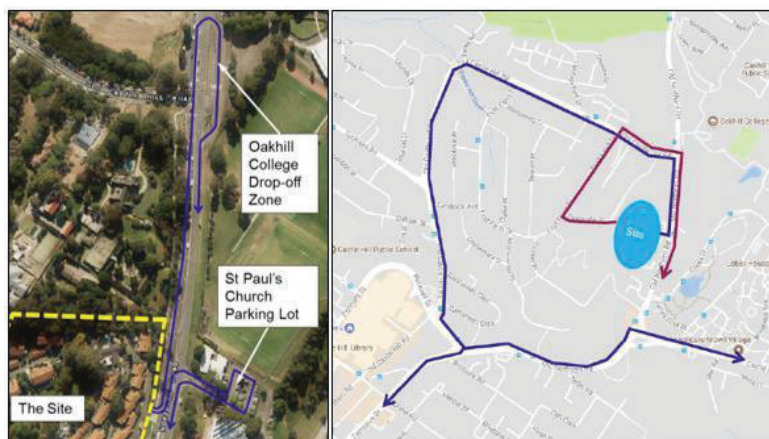


Figure 18

Proposed options available for merging into southbound traffic along Old Northern Road (Left) and Alternative methods for travelling towards Castle Hill Town Centre (Right)

The traffic assessment also proposes the relocation of a pedestrian crossing 60 metres further to the north of its existing location to enable for the provision of the deceleration lane. The implications of this should be further addressed by the Proponent in terms of how this may affect the pedestrian experience and accessibility levels for local residents in the locality who may use this crossing.

Palisander Place is currently constrained in terms of available carriageway width as a result of a substantial number of parked vehicles during the day. Concern is raised with respect to any proposal to introduce heavier traffic flows at this location as a result of two vehicular entry points to basement carparks in proximity to the Palisander Place access point. This

would potentially result in significant amenity concerns for existing residents along Palisander Place. The above traffic issues remain unresolved by the Proponent.

g) Infrastructure Demand and Public Benefit

While the total yield of 247 units that would result from this planning proposal may not, in isolation, create the need for new local infrastructure facilities, it is crucial to consider the cumulative impact of incremental uplift and growth on local infrastructure provision.

While the concept masterplan incorporates central parkland (3,800m² in total area) within the subject site (with a capacity to hold fetes and communal events), such a proposal is primarily to the benefit of residents of the future development, in order to promote a sense of belonging within the local community through event participation.

Notwithstanding the different local infrastructure requirements of the specific demographic group the proposal would cater for, the provision of community benefits in the form of local infrastructure to accommodate the increased density on the site would still be required.

The Proponent has provided a public infrastructure offer which comprises:

- Offsite Open Space Contribution of \$500,000 towards the upgrade of Pioneer Place Reserve;
- Offsite Road Works – 60 metre deceleration lane valued at \$100,000; and
- Provision of a 1.2 metre wide footpath on the southern side of Palisander Place valued at \$90,000.

The provision of additional funds to upgrade local parks and provide footpath has some community benefits, however more detail is needed for Council officers to assess whether the proposed benefits are appropriate. The delivery of the deceleration lane will primarily service the proposed development and is considered to be necessary traffic works associated with any future development of the site, rather than a public benefit to the broader community.

If the proposal is to proceed in any form, further negotiations to address the demand for public infrastructure will need to occur.

IMPACTS

Financial

The determination of the planning proposal has no direct financial impact on Council's adopted budgets or forward estimates. However, if the planning proposal were to proceed, further negotiations would need to occur to address the demand for infrastructure generated by any uplift granted and establish an appropriate contributions mechanism.

Strategic Plan – The Hills Future

The planning proposal is inconsistent with the desired outcomes of The Hills Future as it does not reflect the values and aspirations and the Hills community. The character and amenity of the locality would be disrupted by the proposal, if it were to proceed.

RECOMMENDATION

The planning proposal applicable to land at 346-350 Old Northern Road, Castle Hill not proceed to Gateway Determination on the basis that:

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- a) The proposal has not sufficiently justified the scale of uplift sought in an area outside of the walking catchment of Castle Hill Town Centre on land that is not strategically identified for uplift. There is limited strategic justification for permitting uplift on this land and the proposal could set an undesirable precedent for the density, scale and character of development in infill and environmentally sensitive areas of Castle Hill;
- b) The height, scale, density and character of the proposed development is inconsistent with the objectives of the E4 Environmental Living Zone and the character of the locality;
- c) The development exceeds the capacity of the site, as evidenced by the range of site specific issues detailed within this report (character, height, interface and visual impacts) and the inability for the proposal to comply with baseline development standards within Council's DCP (in particular, the extent of cut and fill permitted and minimum setback distances); and
- d) The proposal has not satisfactorily resolved traffic and access arrangements to the point where increased yield and associated traffic generation is supportable at this location.

ATTACHMENTS

- 1. Proponent's Planning Proposal, 25 September 2020
- 2. Revised Master Plan and Urban Design Report. (58 pages)
- 3. Cover Letter (2 pages)
- 4. Public Benefit Letter (2 pages)
- 5. Attachment B – Draft Development Control Plan (16 pages)
- 6. Attachment C – Site Survey (6 pages)
- 7. Attachment E – Seniors Living Demand Study (36 pages)
- 8. Attachment F – Arborist Report (34 pages)
- 9. Attachment G – Ecological Assessment (42 pages)
- 10. Attachment H – Preliminary Geotechnical Advice (4 pages)
- 11. Attachment I – Stormwater and Flooding Due Diligence Report (14 pages)
- 12. Attachment J – Electrical Services Due Diligence Report (17 pages)
- 13. Attachment K – Hydraulic Services Due Diligence Report (13 pages)
- 14. Attachment L – Rezoning Review Record of Decision 2018 (3 pages)
- 15. Attachment M – Council Resolution 2017 (1 pages)
- 16. Attachment N – Rezoning Review Record of Decision 2019 (3 pages)
- 17. Attachment O – Council Resolution 2019 (5 pages)

ATTACHMENT 2

LOCAL PLANNING PANEL – THE HILLS SHIRE COUNCIL**DETERMINATION OF THE LOCAL PLANNING PANEL ON 18 AUGUST 2021****PRESENT:**

Pamela Soon	Chair
Glennys James	Expert
Chris Young	Expert
Ken Willimott	Community Representative

DECLARATIONS OF INTEREST:

In relation to Item 2 Mr Young declared that the proponent's Traffic and Parking Assessment report was approved by a previous colleague which Mr Young has not had any contact with for approximately 3 years. This is a separate professional engagement to which does not represent a significant conflict of interest under the LPP Code of Conduct and he is still able to consider and advise on the matter.

COUNCIL STAFF:

The Panel were briefed by the following Council Staff on 18 August 2021:

David Reynolds	-	Group Manager – Shire Strategy, Transformation & Solutions
Nicholas Carlton	-	Manager – Forward Planning
Megan Munari	-	Principal Coordinator, Forward Planning

**ITEM 1: LOCAL PLANNING PANEL – PLANNING PROPOSAL – CASTLE
RIDGE RESORT, 346-350 OLD NORTHERN ROAD, CASTLE HILL -
LOCAL PLANNING PANEL (1/2021/PLP)**

COUNCIL OFFICER'S RECOMMENDATION:

The planning proposal not proceed to Gateway Determination.

PANEL'S ADVICE:

The planning proposal should not proceed to Gateway Determination on the basis that:

- a) The proposal has not sufficiently justified the scale of uplift sought in an area outside of the walking catchment of Castle Hill Town Centre on land that is not strategically identified for uplift. There is limited strategic justification for permitting uplift on this land and the proposal could set an undesirable precedent for the density, scale and character of development in infill and environmentally sensitive areas of Castle Hill. In this regard, the proposal is inconsistent with Planning Priorities 6, 7 and 8 of the Hills Future Local Strategic Planning Statement;
- b) The height, scale, density and character of the proposed development is inconsistent with the objectives of the E4 Environmental Living Zone and the character of the locality;
- c) The development exceeds the capacity of the site, as evidenced by the range of site specific issues detailed within this report (character, height, interface and visual impacts), the inability for the proposal to comply with baseline development standards within Council's DCP (in particular, the extent of cut and fill permitted and minimum setback distances);
- d) The proposal has not satisfactorily resolved traffic and access arrangements to the point where increased yield and associated traffic generation is supportable at this location. The other public infrastructure contributions proposed by the Proponent are inadequate to support the proposal; and
- e) Council is already well placed to meeting the housing needs of senior residents, with sufficient opportunities available to provide new seniors housing developments in more appropriate locations than the subject site.

VOTING:

Unanimous

ITEM 2: **LOCAL PLANNING PANEL – PLANNING PROPOSAL – 21-23
LEXINGTON DRIVE, BELLA VISTA - LOCAL PLANNING PANEL
(1/2019/PLP)**

COUNCIL OFFICER'S RECOMMENDATION:

The planning proposal proceed to Gateway Determination.

PANEL'S ADVICE:

1. The planning proposal applicable to land at 21-23 Lexington Drive Bella Vista (Lot 7081 DP 1037626) to increase the maximum floor space ratio from 2:1 to 2.7:1 proceed to Gateway Determination.
2. Council Officers prepare amendments to The Hills DCP 2012 to reduce the parking rate applicable to the land to 1 space per 40m² of commercial gross floor area.
3. Prior to the application being reported to Council, the Proponent submit additional information demonstrating the ability to achieve compliance with the proposed parking rates under the DCP following the conversion of the two above ground parking levels to commercial space.

VOTING:

For – 3 (Pamela Soon, Glennys James & Ken Willimott)

Against – 1 (Chris Young)



Planning
Panels

**REZONING REVIEW
RECORD OF DECISION**
SYDNEY CENTRAL CITY PLANNING PANEL

ATTACHMENT 3

DATE OF DECISION	24 February 2022
PANEL MEMBERS	Abigail Goldberg (Chair), David Ryan and Roberta Ryan
APOLOGIES	None
DECLARATIONS OF INTEREST	None

REZONING REVIEW

RR-2021-90 – The Hills Shire - 350 Old Northern Road, Castle Hill, The rezoning review request seeks to amend The Hills Local Environmental Plan 2019 to introduce 'seniors housing' as an additional permitted use, increase the maximum height of buildings and introduce a maximum floor space (as described in schedule 1).

Reason for Review:

- ☒ The council has notified the proponent that the request to prepare a planning proposal has not been supported
- ☐ The council has failed to indicate its support 90 days after the proponent submitted a request to prepare a planning proposal or took too long to submit the proposal after indicating its support

PANEL CONSIDERATION AND DECISION

The Panel considered: the material listed at item 4 and the matters raised and/or observed at meetings listed at item 5 in Schedule 1.

Based on this review, the Panel determined that the proposed instrument:

- ☒ **should** be submitted for a Gateway determination because the proposal has demonstrated strategic and site-specific merit
- ☐ **should not** be submitted for a Gateway determination because the proposal has
- ☐ not demonstrated strategic merit
 - ☐ has demonstrated strategic merit but not site-specific merit

The decision was unanimous.

REASONS FOR THE DECISION

Strategic merit

The Panel is satisfied by the material provided that the planning proposal demonstrates strategic merit.

Site-Specific merit

The Panel notes that the site is currently occupied by a seniors living facility which is aged and outdated in terms of current standards of seniors living. The Panel observes that the planning proposal has evolved over time, with reductions proposed to key factors including the number of seniors living units provided, height of buildings and parking provision.

The Panel considers that adequate site-specific merit has been achieved for the planning proposal to progress to public exhibition, noting that the proposed new facility will:




- Occupy a similar building footprint to the existing facility.
- Retain the majority of existing significant trees, as well as planting new trees.
- Enable potential landslide issues to be addressed through geotechnical measures, including managed excavation of the site.

While the Panel considers the proposal exhibits both strategic and site-specific merit, the Panel advises that the following require further attention:

- The proposed height of buildings, particularly where the site interfaces with either existing housing or public streets.
- Visual impacts resulting from the proposed building heights and massing of buildings, including impact on Old Northern Road and Palisander Place.
- The extent of proposed cut-and-fill.
- The applicant's proposal regarding the provision of social infrastructure.

Such further analysis is necessary to confirm the appropriate form and density of development on the site.

The Panel notes that there are inconsistencies in some of the material put forward, for example in relation to which significant trees are to be retained as well as the proposed height of buildings. These inconsistencies are required to be resolved prior to public exhibition.

PANEL MEMBERS	
 Abigail Goldberg (Chair)	 Roberta Ryan
 David Ryan	

SCHEDULE 1		
1	PANEL REF – LGA – DEPARTMENT REF - ADDRESS	RR-2021-90 – The Hills Shire - 350 Old Northern Road, Castle Hill
2	LEP TO BE AMENDED	The Hills Local Environmental Plan 2019
3	PROPOSED INSTRUMENT	Rezoning Review to amend The Hills LEP 2019 to: <ul style="list-style-type: none"> • Introduce 'seniors housing' as an additional permitted use for the site • Increase the maximum height of buildings from 9m to up to 22m allowing for development of up to six storeys with height concentrated in the centre of the site away from adjoining properties. • Introduce a maximum floor space ratio of 0.83:1 for the site.
4	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Rezoning review request supporting documentation • Briefing report from Department of Planning and Environment
5	BRIEFINGS AND SITE INSPECTIONS BY THE PANEL/PAPERS CIRCULATED ELECTRONICALLY	<p>Site inspection has been curtailed due to COVID-19. Panel members may undertake site inspections individually.</p> <ul style="list-style-type: none"> • Briefing with Department of Planning, Industry and Environment (DPIE): 17 February 2022 <ul style="list-style-type: none"> ○ Panel members in attendance: Abigail Goldberg (Chair), David Ryan and Roberta Ryan ○ DPIE staff in attendance: Jasmine Van Veen, Elizabeth Kimbell • Briefing with Council: 17 February 2022 <ul style="list-style-type: none"> ○ Panel members in attendance: Abigail Goldberg (Chair), David Ryan

		<p>and Roberta Ryan</p> <ul style="list-style-type: none">○ DPIE staff in attendance: Jasmine Van Veen, Elizabeth Kimbell○ Council representatives in attendance: Nicholas Carlton – Manager Forward Planning, Megan Munari – Principal Coordinator Forward Planning, Laura Moran – Senior Town Planner, David Reynolds – Group Manager• Briefing with Proponent: 17 February 2022<ul style="list-style-type: none">○ Panel members in attendance: Abigail Goldberg (Chair), David Ryan and Roberta Ryan○ DPIE staff in attendance: Jasmine Van Veen, Elizabeth Kimbell○ Proponent representatives in attendance: Calum Ross, Nick Cappetta, Nick Bucktin, Michael File, Anna Johnston, Samantha Czyz, Andrew Jackaman, Clarence Li and Lucas Flecha.• Papers were circulated electronically on 4 February 2022.
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Mr Michael Edgar
General Manager
The Hills Shire Council
3 Columbia Court,
Norwest NSW 2153

Attn: Nicholas Carlton – Manager Forward Planning

2 March 2022

Dear Michael

Request for a Rezoning Review - RR-2021-90 – The Hills Shire - 350 Old Northern Road, Castle Hill

I refer to the request for a Rezoning Review for a proposal at 350 Old Northern Road, Castle Hill to amend The Hills Local Environmental Plan 2019 to introduce 'seniors housing' as an additional permitted use, increase the maximum height of buildings and introduce a maximum floor space.

The Sydney Central City Planning Panel has recommended that the proposal should be submitted for a Gateway determination. In making this decision, the Planning Panel considered the request and advice provided by Council. A copy of the panel's decision is attached.

Consequently, Council is invited to be the Planning Proposal Authority (PPA) for this proposal and to advise the Planning Panels Secretariat within 42 days of the date of this letter whether it will undertake the role of PPA for this proposal. Should Council agree to be the PPA, it will need to prepare a planning proposal under section 3.33 (formerly section 55) of the *Environmental Planning and Assessment Act 1979* and submit it for a Gateway determination within 42 days after accepting this role.

If Council does not wish to progress this matter, the panel will be appointed to prepare the planning proposal.

If you have any queries on this matter, please contact George Dojas, Case Manager, Planning Panels Secretariat on (02) 8275 1223 or via email to george.dojas@planning.nsw.gov.au

Yours sincerely

A handwritten signature in black ink, appearing to read 'Abigail Goldberg'.

Abigail Goldberg
Chair, Sydney Central City Planning Panel

encl. Rezoning Review Record of Decision

Planning Panels Secretariat

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