

509 RESOLUTION

1. Council to light up its atrium at its Norwest Administration Building to support Mental Health Awareness Month.
2. Council to also paint the Old Tree Trunk Bike Rack blue to acknowledge the Blue Tree Project and to raise awareness of mental health and wellbeing in The Hills Shire.

COMMUNITY FORUM

There were no addresses to Council during Community Forum.

ITEM-2 PLANNING PROPOSAL - 21-23 LEXINGTON DRIVE, BELLA VISTA (1/2019/PLP)

Proceedings in Brief

Simon Wilkes, Associate Director, Urban Pty Ltd addressed Council regarding this matter.

A MOTION WAS MOVED BY COUNCILLOR JETHI AND SECONDED BY COUNCILLOR HAY OAM THAT the Recommendation contained in the report be adopted.

THE MOTION WAS PUT AND CARRIED.

510 RESOLUTION

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. Draft amendments to The Hills DCP 2012, to apply the Commercial Centres Parking Rate to the site, be prepared and exhibited concurrently with the planning proposal.
3. Council accept, in principle, the draft Voluntary Planning Agreement (Attachment 4), 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.

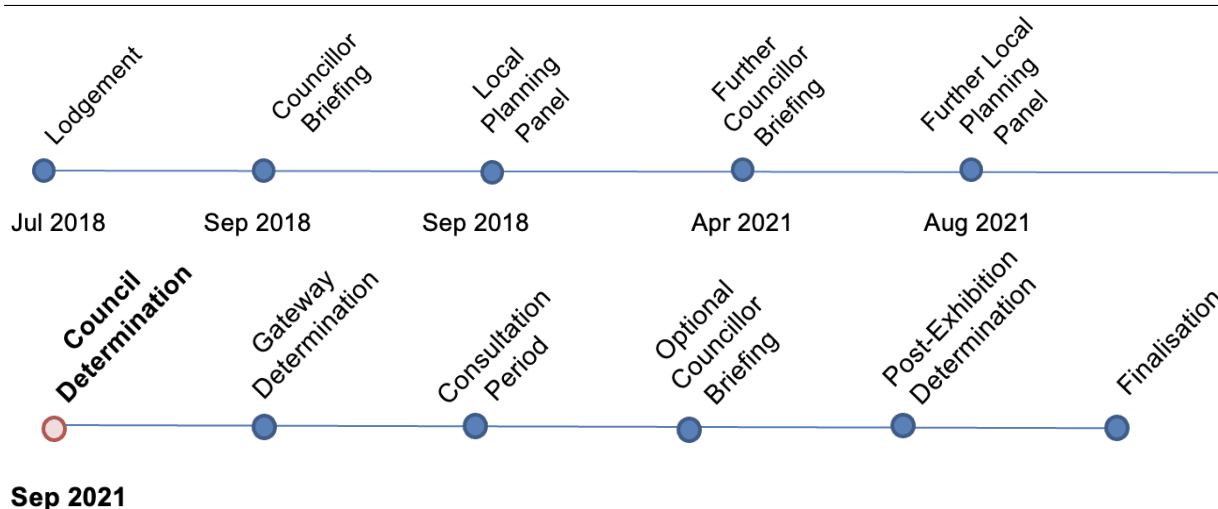
Being a planning matter, the Mayor called for a division to record the votes on this matter

VOTING FOR THE MOTION

Mayor Dr M R Byrne
Clr Dr P J Gangemi
Clr B L Collins OAM
Clr A N Haselden
Clr J Jackson
Clr M G Thomas
Clr E M Russo
Clr A J Hay OAM
Clr F P De Masi
Clr R M Tracey
Clr R Jethi

ITEM **PLANNING PROPOSAL - 21-23 LEXINGTON DRIVE, BELLA VISTA (1/2019/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:	28 SEPTEMBER 2021 COUNCIL MEETING
GROUP:	SHIRE STRATEGY, TRANSFORMATION AND SOLUTIONS
AUTHOR:	SENIOR TOWN PLANNER TAMARA WEST
RESPONSIBLE OFFICER:	MANAGER – FORWARD PLANNING NICHOLAS CARLTON



REPORT

This report relates to the planning proposal applicable to land at 21-23 Lexington Drive (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

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. Draft amendments to The Hills DCP 2012, to apply the Commercial Centres Parking Rate to the site, be prepared and exhibited concurrently with the planning proposal.

3. Council accept, in principle, the draft Voluntary Planning Agreement (Attachment 4), 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.

PROPONENT

Urbis Pty Ltd

OWNER

Capital Projects Corporation Pty Limited

POLITICAL DONATIONS

Nil disclosures by the proponent.

1. HISTORY

December 2017	The Bella Vista Station Precinct (including the subject site) was rezoned as part of the NSW Government's Planned Precinct Program. At this time, the site was subject to an increased FSR from 1:1 to 2:1.
July 2018	The subject planning Proposal (1/2019/PLP) was lodged to permit a twelve to fourteen storey commercial building with a total gross floor area of 35,153m ² and FSR of 3.45:1.
September 2018	The proposal was presented to the Local Planning Panel (LPP) where no advice was given.
December 2018	At the request of the Proponent, the Planning Proposal was placed on hold until further notice.
August 2020	A Development Application (172/2021/JP) was lodged with Council for the construction of an eleven storey commercial development, equating to an FSR of 2:1. The development comprised 16,500m ² of commercial floor space as well as food and drink premises, an indoor recreation facility, serviced apartments and 753 car spaces.
January 2021	Revised planning proposal documentation was received which sought to reduce the proposed maximum floor space ratio under the planning proposal from 3.45:1 to 2.7:1.
9 June 2021	Development Application (172/2021/JP) was unanimously approved by the Sydney Central City Planning Panel (SCPP).
August 2021	Planning Proposal 1/2019/PLP) was considered by the Local Planning Panel (LPP), who advised that the revised proposal is suitable to proceed to Gateway Determination.

2. THE SITE

The subject site has an area of 1.02 hectares and is currently vacant. The land has a fall of approximately 8 metres from the north-east to the south-west of the site, towards Lexington Drive. The land is located approximately 500m walking distance from the Bella Vista Metro

Station (refer to the figure below). It is within the Bella Vista Station Precinct and the Sydney Metro Northwest tunnel is located directly beneath the land.



Figure 1
Aerial view of the site and surrounding locality

The development application was approved under the current planning framework and complies with the relevant development standards currently applicable to the land (including the maximum building height of RL116 metres, maximum FSR of 2:1 and required parking rate of 1 space per 25m² of commercial GFA). The approval allows for an 11 storey commercial development with a total gross floor area of 20,400m² (FSR of 2:1) comprising 16,500m² of commercial floor space as well as food and drink premises, an indoor recreation facility, serviced apartments and 753 car spaces, as depicted below. The front elevation of the building is shown in Figure 2 below.



Figure 2
Approved built form Development Consent 172/2021/JP

3. DESCRIPTION OF PLANNING PROPOSAL APPLICATION

The planning proposal seeks to increase the maximum floor space ratio applicable to the site under LEP 2019 from 2:1 to 2.7:1. The Proponent is also seeking to reduce the car parking rate applicable to the site under Council's DCP from 1 parking per 25m² of GFA to Council's established Commercial Centres rate of 1 car parking space per 40m² of GFA.

In combination, these amendments would enable the Proponent to preserve the recently approved building envelope (DA 172/2021/JP) however convert two levels of approved above ground car parking into additional office space instead. The development concept provided to support the planning proposal is provided in Figures 3 and 4 below.



Figure 3
Proposed development concept, 21-23 Lexington Drive, Bella Vista

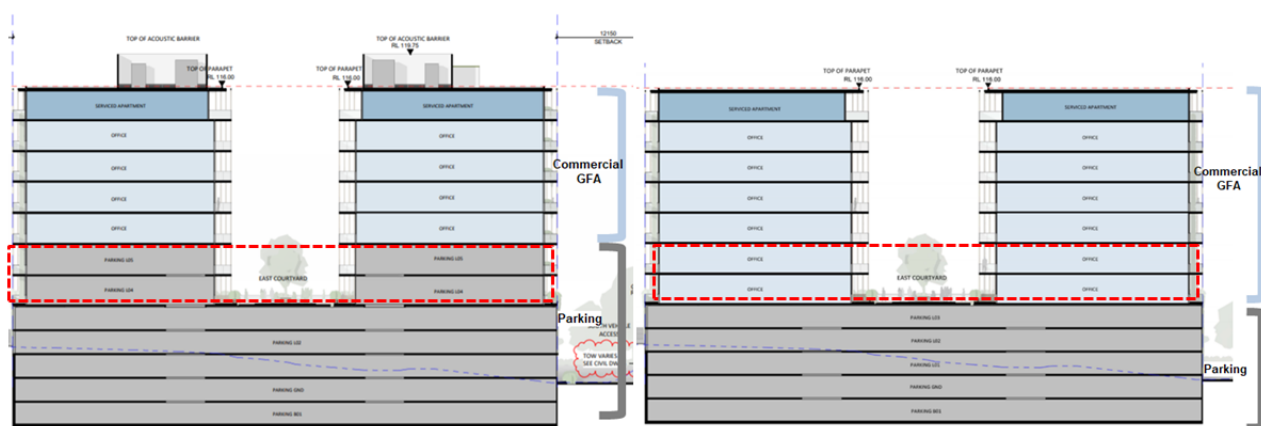


Figure 4
Development Consent (left) and Planning Proposal Concept (right)
Floors to be converted from parking to commercial space outlined in red

A comparison between the outcomes recently approved under the Development Consent (DA 172/2021/JP) and those sought through the planning proposal is provided in the table below.

	DA Approval (DA172/2021/JP)	Planning Proposal (2021)	Proposed changes
Zone	B7 Business Park	B7 Business Park	No change
Building Height	RL116 (11 storeys)	RL116 (11 storeys)	No change
FSR	2:1 (20,400m ² GFA)	2.7:1 (27,540m ² GFA)	+ 0.7:1 (7,140m ² GFA)
Jobs	680	918	+ 238 jobs
Parking spaces	753	676	- 77 spaces

Table 1
Comparison table between approved DA172/2021/JP to Planning Proposal

As detailed in the table above, the proposal would facilitate an additional 7,140m² of gross floor area (GFA) (approximately 238 jobs), with a corresponding reduction in the number of required parking spaces on the site from 753 to 676. It is noted that a portion of the commercial yield within both the approved and proposed development includes food and drink premises and serviced apartments. Parking rates for these components of the development are calculated in accordance with the respective DCP controls for these uses, rather than the general commercial parking rate.

A draft Voluntary Planning Agreement (VPA) has been submitted in association with the proposal. The VPA offer acknowledges that the existing development application (with an FSR of 2:1) has already been approved, with a contribution levy of 1% of the cost of works applied under the existing Section 7.12 Contributions Plan (which applied at the time of consent). The draft VPA does not seek to amend this established contribution amount, however offers a monetary contributions at a rate or 2.8% of the cost of works, with respect to the additional 7,140m² of commercial floor space that would be facilitated through the planning proposal. This is intended to reflect the rate established under Council's draft Section 7.12 Norwest Innovation Plan and would result in an approximate monetary contribution of \$249,000.

3. MATTERS FOR CONSIDERATION

A summary and discussion of key technical considerations associated with the planning proposal is provided below. The assessment has regard to and draws upon the previous technical assessment 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 data-bbox="416 239 1406 338">A detailed discussion on the planning proposal's consistency with all applicable policies of the strategic planning framework is provided within the Council Officer Assessment Report (Attachment 1).</p> <p data-bbox="416 371 1406 504">The planning proposal is consistent with the Greater Sydney Region Plan and Central City District plan as it seeks to facilitate a 30-minute city where houses, jobs, goods and services are co-located and supported by public transport.</p> <p data-bbox="416 537 1406 808">The planning proposal would facilitate increased private sector investment in higher density commercial uses and assist the Norwest Business Park in realising its role as a strategic centre and one of nine (9) commercial office precincts that are essential for growing jobs and productivity to enhance Sydney's global economic competitiveness. The planning proposal would facilitate additional jobs and a choice of modern office space close to where people live, in a location that has good access to services and the Bella Vista Metro Station.</p> <p data-bbox="416 842 1406 1144">The proposal demonstrates consistency with Council's Local Strategic Planning Statement (LSPS) as it would allow employment-generating development that suits the skills of local residents. The LSPS identifies that the Shire has historically had high levels of car ownership and usage, due to limited public transport options and long distances from key employment areas of Sydney. The proposed reduced parking rates, on a site within walking distance to Bella Vista station, is consistent with the priorities of the LSPS, which seek to ensure that future growth influences travel behaviour to promote sustainable choices.</p> <p data-bbox="416 1178 1406 1413">The State Government's North West Rail Link Corridor Strategy and Bella Vista Structure plan anticipated that the Business Park area of the precinct (including the subject site) could accommodate 4-6 storey commercial offices where development can be carefully designed to integrated into the surrounds. It is noted that this indicative height range is less than what could already be achieved under the height control that applied to the land at the time.</p> <p data-bbox="416 1447 1406 1816">The site was not included in Council's The Hills Corridor Strategy (2015) as the majority of land along Lexington Drive was heavily constrained by strata title developments and this land was subject to the State Government's precinct planning process at this time. The subject site is however an exception to this, being the one remaining vacant development site along Lexington Drive. The site is not subject to the same redevelopment constraints as other land within this locality, being strata title ownership and existing buildings/uses on the land. This places the site uniquely as one of the few opportunity sites within the locality that could feasibly develop in the short term and contribute to the supply of new jobs and Council's employment targets.</p> <p data-bbox="416 1850 1406 2040">Both the North West Rail Link Corridor Strategy and The Hills Corridor Strategy were higher-level strategic planning documents, intended to be superseded by more detailed precinct planning work. Accordingly, while these documents provide useful context, the Bella Vista Precinct (including the subject site) has since been subject to detailed precinct planning work completed by Government in 2017, through the Planned Precinct program,</p>

Key Consideration	Comment
	<p>which resulted in the application of an FSR of 2:1 to this site.</p> <p>In other Station Precincts, the Government's NWRL Corridor Strategy identifies that commercial development within a walkable catchment of a station would range in density between 2:1 - 4:1, with the density on individual sites ultimately depending on more detailed site specific consideration through the precinct planning phase.</p> <p>In contrast to this and the approach for Government-land surrounding the Bella Vista Station, the Department's approach of applying a blanket FSR of 2:1 to all sites along Lexington Drive appeared to have minimal regard to the unique circumstances affecting each individual site in this locality, including the scale and quality of existing development, ownership patterns and the potential for individual sites to accommodate differing scales and density of built form having regard to site specific factors.</p> <p>As noted above, much of the land along Lexington Drive has well-established and occupied development outcomes with strata titled ownership, which is a significant constraint to redevelopment in the short to medium term. Despite the uplift permitted through the Government's precinct planning work, the consolidation of ownership and demolition of established developments along Lexington Drive is unlikely to be feasible, in the short term, at an FSR of 2:1. As a result, the majority of this land will likely remain unchanged for the foreseeable future, representing longer term development opportunities.</p> <p>From a strategic planning perspective, a number of other sites within this locality would likely be capable of justifiably accommodating a yield in excess of 2:1. In comparison to the Government's approach of applying a blanket FSR of 2:1 to all land along Lexington Drive, Council-led precinct planning would generally attempt to differentiate between higher and lower FSRs having regard to the circumstance of each individual site. This would include the fundamental principle of reducing density as distance from the station increases (up to a walkable catchment of approximately 1 km, which would broadly encompass land up to the intersection of Lexington Drive and Norwest Boulevard) as well as consideration of the specific capacity of each individual site.</p> <p>Despite this, given the layout of the precinct and the constraints to redevelopment of the majority of land along Lexington Drive in the short term, the FSR applied by the Government of 2:1 is considered to be an appropriate control to remain in place at this point in time. It is also the extent of growth which the Council has identified as being able to be supported by new and upgraded local infrastructure under the draft Section 7.12 Plan for the Norwest Innovation Precinct. Any broad-scale increase to permissible densities along Lexington Drive may have the impact of increasing potential local infrastructure requirements and costs, without actually unlocking any further redevelopment opportunities in the short to medium term.</p> <p>Should individual sites be able to demonstrate an ability to feasibly accommodate a higher employment yield without adverse built form or traffic impacts, it would be appropriate for Council to consider this in the future, especially as a means of accommodating further employment</p>

Key Consideration	Comment
	<p>capacity beyond the 2036 employment targets. At this time, there would be ability to also consider the impact of such increases on infrastructure requirements, with greater knowledge of longer-term travel behaviours associated with the Sydney Metro North West. In such instances, the planning proposal pathway would provide the appropriate mechanism for further site-specific and detailed investigations to occur to ascertain the actual capacity of each individual site to accommodate density, in the same manner that has occurred with respect to the site subject of this planning proposal application.</p> <p>At a strategic level, it is considered that the higher FSR of 2.7:1 sought for the subject site through the planning proposal is not an unreasonable density to be applied to a development site within 500 metres walking distance of a station. A density of this scale would be comparable with the scale of other development expected to occur within the Norwest Strategic Centre and the walkable catchment of a train station.</p> <p>In terms of the more detailed level of site specific consideration required to determine the appropriateness of this density on an individual parcel of land, it is critical to note that the proposed density can be wholly accommodated within a built form that has already been approved under the existing development consent. That is, the density proposed can be accommodated within a built form outcome that has already been deemed to be acceptable on this specific site under the current planning framework, having regard to the rigorous and site specific assessment undertaken through the Development Assessment process (which included consideration of the proposal by the Design Excellence Panel).</p> <p>This is a particularly unique situation given the presence of an existing development consent over a vacant parcel of land and the proposal to increase the density of development without amending the approved building envelope. While the alternate development outcome that may result if the planning proposal is not supported is not strictly a strategic planning consideration, the Proponent has an existing development consent which could be readily acted upon and comparison between this “base case” development outcome and the planning proposal outcome is nonetheless a critical consideration in determining the planning proposal.</p> <p>In this respect, from a strategic planning perspective the outcome sought through the planning proposal is considered to be superior in comparison to the outcome approved through the development consent, given the increased contribution towards employment within 500m walking distance from the station, reduced parking provision and absence of impact on the built form outcomes already approved.</p>
Built form and density	<p>In addition to relevant strategic factors (such as proximity to a public transport node), it is important for the determination of appropriate densities (FSR) and heights for any site to have regard to the individual characteristics of each site. Even in instances where two sites may be located similar distance from a transport node, the ultimate density and height appropriate for each site would nonetheless be influenced by other factors such as the size of the site (undersized, standard or master-planned), topography, environmental constraints, proximity to sensitive uses (for example low density residential development) and existing built form</p>

Key Consideration	Comment
	<p>and approvals.</p> <p>Uniquely, the built form and building envelope proposed by this planning proposal has already been approved, by way of Development Consent granted in June 2021 (DA 172/2021/JP). This existing development consent could (and likely would) be readily acted upon by the Proponent if the planning proposal does not progress. Accordingly, while the site is vacant, the currently approved development outcome for the site is the “baseline” development scenario for the purposes of assessing this planning proposal.</p> <p>As a result of the rail corridor running beneath the north-eastern half of the site, there is limited scope for excavation of basement parking to occur and it was therefore necessary for the approved development to accommodate a greater share of the required on-site car parking in above-ground parking levels within the building envelope. Despite this constraint, the approved development application was able to demonstrate compliance with the current maximum floor space ratio and height controls for the site applicable under LEP 2019 as well as the required parking provisions under the DCP.</p> <p>The planning proposal does not seek to amend the applicable maximum height of buildings and would not result in any change to the height, built form or building envelope which is already permitted under the current controls and which has already been approved under the current Development Consent. Accordingly, in comparison to the “baseline” development scenario, the planning proposal would not result in any impacts in terms of amenity, bulk, scale, visual impact or overshadowing. This means that a number of site-specific considerations, which would typically be the subject of in-depth discussion in the assessment of a planning proposal, are not issues of concern for this particular proposal.</p> <p>The planning proposal would permit an increased density of development on the site, by replacing two approved floors of above ground car parking with additional commercial floor space, equivalent to an FSR increase of 0.7:1 (approximately 7,140m² of commercial floor space and 238 additional jobs).</p> <p>Having regard to the unique factors relevant to this individual site, the proposed FSR increase is considered to be supportable for a number of reasons. These include the opportunity to increase employment capacity in close proximity to the Metro Station without any resulting built form impacts, the short term opportunity site given that the subject land is currently vacant and the decrease in traffic generation associated with development on the site as a result of the reduced parking rate. These factors are discussed in greater detail in Section 3(b) of the Council Officer Assessment Report (Attachment 1).</p>
Car parking and traffic impact	<p><u>Reduced Car Parking Rate</u></p> <p>The planning proposal is accompanied by a proposed amendment to the Hills DCP to apply Council’s existing Commercial Centres parking rate of 1 car parking space per 40m² of commercial GFA, in comparison to the rate currently applicable to this site of 1 car parking space per 25m² of commercial GFA.</p> <p>The existing Development Consent includes 753 car parking spaces for a</p>

Key Consideration	Comment
	<p>development with an FSR of 2:1 (it is noted that this incorporates some parking associated with serviced apartments, which has a rate of 1 car parking space per guest room and 1 per 2 employees). In comparison, if Councils Commercial Centres parking rate was applied to the proposed development (with an FSR of 2.7:1), the total number of parking spaces required would be approximately 676.</p> <p>The application of Council's existing Commercial Centres parking rate to the site is considered reasonable. This reduced rate was established prior to the opening of the Sydney Metro Northwest and has been applied to the centres of Castle Hill, Rouse Hill and Baulkham Hills in recognition of the availability of bus services to and from these centres at that time. While the Commercial Centres rate has not been revisited following the opening of the Sydney Metro Northwest and does not currently apply to the Norwest Strategic Centre, the opening of the Sydney Metro Northwest provides strong justification for the extension of this rate (or application of lower rates) to land within walking distance of Metro stations. This has been reflected in decisions on a number of other planning proposals in Norwest, where an even lower rate of 1 space per 60m² of commercial GFA was permitted. It is noted that a rate of 1 space per 60m² of commercial GFA would likely be justifiable for this subject site, however the Proponent has not sought to reduce the parking rate to this extent.</p> <p>It is acknowledged that some users of the Norwest Strategic Centre may be travelling from areas within the Shire that do not benefit from access to the Sydney Metro Northwest (for example the suburbs of Baulkham Hills or Crestwood). It is likely that many trips to the centre from these areas (for example, to access medical services) will continue to demonstrate a higher level of car dependency and it is therefore important that adequate parking be available for customers/patients of uses within the centre, as distinct from employee parking for commercial development. This will ensure that the centre can be accessed by all users and avoid the need to rely on informal parking within nearby residential areas to service development.</p> <p>The proposed parking rate of 1 space per 40m² represents a balanced reduction that simultaneously acknowledges the mode shift that will occur as a result of the opening of the Metro (especially for workers within the centre), as well as the ongoing need to continue to provide parking for some users.</p> <p>As part of the detailed development application process, further consideration will need to be given to the particular commercial tenants that are likely to occupy the spaces and where these uses will attract a higher proportion of car dependent users, the car parking rates should be tailored and apportioned between the tenancies accordingly (also having regard to the rates within Council's DCP for certain distinct uses). A Green Travel Plan would also be an important component in reducing the parking demand from workers within the development, to offset the proposed parking reduction and ensure available spaces for customers and/or patients.</p> <p>Further, it is important to note that the proposed parking rate would be expressed as a <i>minimum</i> rate and therefore, additional spaces could be provided within the development should a particular use necessitate a</p>

Key Consideration	Comment
	<p>greater provision of parking for access and/or viability (subject to appropriate re-design).</p> <p>Section 3(c) of the Council Officer Assessment Report (Attachment 1) provides further analysis on the appropriateness of applying Council's Commercial Centres parking rate to the subject site.</p> <p>It is recommended that if Council were to proceed with this reduced parking rate, it should be expressed as a minimum parking rate, which would result in the requirement for 676 spaces to be provided in association with the proposal. Parking requirements are currently specified as minimum rates within Council's DCP and are not mandated through primary controls contained within Council's LEP. When specified as minimum parking rates, individual developers would continue to have discretion to provide parking at a higher rate on any individual site, in response to market demands or the requirements of any specific tenants.</p> <p>It is noted that separate to this planning proposal, a broader review of parking rates within Council's Centres is currently underway in accordance with Action 12.1 of Council's LSPS. Regional traffic modelling for Castle Hill, Showground, Norwest and Bella Vista Precincts is also underway and expected to near completion in late-2021. The progression of this additional work will provide an evidence base for Council to determine the most appropriate parking rates and policies within its centres. It is anticipated that if the planning proposal progresses to Gateway Determination and public exhibition, this evidence base would be available to Council at the time of making a decision with respect to the finalisation of the proposal and as such, the final parking rate could be reconsidered at this time.</p> <p>It would be open for Council to resolve to proceed with the DCP amendment to reduce the parking rate without also permitting the increased FSR sought. Irrespective of this proposal, there is substantial merit to the broader review of parking rates within the Norwest Strategic Centre and this work is currently underway holistically for Council's Strategic Centres. However, in the context of this individual site, given the Proponent already has an approved development outcome with which they can readily proceed to construction, there would be minimal incentive for the Proponent to amend their existing development consent to reduce the provision of parking (or make amendments to the built form), without these changes also resulting in a higher development yield. In short, if the FSR uplift sought through the planning proposal does not proceed, the currently approved development outcome (with the higher rate of parking already approved) would be the most likely development outcome to occur, regardless of whether or not the Council was to amend the DCP parking rate.</p> <p><u>Traffic Impact</u></p> <p>The Proponent has submitted a Strategic Transport Review in support of the proposal. The Review calculated that the proposed development would generate 332 AM peak trips and 252 PM peak trips. In comparison, the approved Development Application outcome would generate 361 trips in the AM peak and 272 trips in the PM peak, when calculated using the same methodology in the Strategic Transport Review provided with the planning proposal. Although the Development Consent provides less commercial</p>

Key Consideration	Comment
	<p data-bbox="416 239 1410 405">floor space, the current car parking rate provides for significantly more car parking spaces and therefore greater potential for peak hour trip generation to and from the site. Therefore, the proposed increase in density would not result in any increase in traffic generated from the site, as a result of the reduced parking rate.</p> <p data-bbox="416 441 783 472"><u>Existing Car Parking Design</u></p> <p data-bbox="416 477 1410 842">The existing development consent accommodates 629 spaces within the first 5 parking levels within the development. It was anticipated that through minor internal re-design of the layout of these parking levels, additional car parking spaces would be accommodated on these levels. The mix of uses proposed within the additional commercial floor space would ultimately determine the required car parking provision. Based on the plans provided in support of the planning proposal a total of approximately 676 spaces would be required within the 5 parking levels within the approved building envelope (with the other 2 above ground parking levels being converted to commercial space). However, the plans provided indicate that 635 car parking spaces are proposed to be provided.</p> <p data-bbox="416 878 1410 1010">The Proponent was requested to provide additional information with respect to the proposed car parking rate, including demonstrating that the parking spaces required under the requested parking rate of 1 space per 40m² could be achieved.</p> <p data-bbox="416 1046 1410 1245">The Proponent has subsequently provided a written submission which seeks to justify the current parking design scheme, which is provided as Attachment 3 to this report. The implication of this is that the Proponent is foreshadowing the intent to vary the requested car parking rate of 1 space per 40m² at the development application stage, to instead seek approval for the provision of 635 car parking spaces (rather than the required 676).</p> <p data-bbox="416 1281 1410 1615">The justification put forward by the Proponent relies on various uses within the development sharing car parking spaces as they have peak demand at different times of the day or the customers are already accounted for in terms of parking as they are workers on the site or within walking distance. The sharing of car spaces between uses in a commercial development has merit, however the onus is on an applicant to demonstrate that the main usage periods of the component uses do not coincide. It is also noted that restaurants and cafés in commercial office buildings already attract a lower rate of 1 space per 25m², as distinct from those operating in other locations which attract a higher car parking rate.</p> <p data-bbox="416 1650 1410 1917">It is noted that even with the provision of 635 spaces (rather than the required 676 spaces), the proposal would result in parking provided at an approximate car parking rate of 1 space per 43m² of commercial floor space, which is similar to Council's centres parking rate and still represents a higher level of provision than a number of other recent planning proposals (with 1 space per 60m² of commercial floor space). It is considered that an effective rate of 1 space 43m² of commercial floor space is entirely justifiable given the proximity of the site to the Bella Vista station.</p> <p data-bbox="416 1953 1410 2049">Any variations to the required car parking rates would ultimately need to be assessed at the Development Application stage. However, it is considered that there is sufficient merit to enable the proposal to proceed, on the basis</p>

Key Consideration	Comment
	<p>of a parking rate of 1 space per 40m², notwithstanding the foreshadowed variation of this rate at the DA stage to achieve an effective rate of 1 space per 43m² of commercial GFA (factoring in proposed car space sharing arrangements between uses).</p>
Infrastructure demand	<p><u>Infrastructure Demand and Voluntary Planning Agreement Offer</u></p> <p>The site is located within the Norwest Innovation sub-precinct of the Norwest Strategic Centre. Council recently adopted a draft Section 7.12 Contributions Plan for this sub-precinct, following the State Government's rezoning of the Bella Vista Station Precinct without any local contributions framework established to cater for the increased demand on infrastructure. This draft Plan is currently being reviewed by the Department of Planning, Industry and Environment, with Council seeking approval to levy a contribution of 2.8% of the cost of development to fund new and upgraded infrastructure necessary to service the precinct.</p> <p>Council has previously relied on VPAs in association with a number of other site specific planning proposals, as a means to have in place an appropriate contributions mechanism where the proposal was in advance of the completion of detailed precinct planning and associated update of the contributions planning framework. However, within the Norwest Innovation Sub-Precinct, Council's planning has now progressed to the point where the uplift in development associated with the Sydney Metro Northwest has been considered, planned and catered for within this draft Norwest Innovation Section 7.12 Contributions Plan.</p> <p>The draft Norwest Innovation Section 7.12 Contributions Plan includes road upgrade works to Lexington Drive, contributions to traffic signals for Lexington Drive/Norwest Boulevard and intersection expansions at Lexington/Irvine and Woolworths Way and Lexington/Meridian Place. It also includes additional public domain works, pedestrian and cycle connections and passive open space for future workers within the Precinct.</p> <p>This plan was not in force at the time the existing Development Consent for the site was issued and as such, contributions were imposed within the existing development consent under the Shire-wide Section 7.12 Contributions Plan (1% of the cost of development). Following the finalisation of the draft Norwest Innovation Section 7.12 Contributions Plan, any <i>new</i> Development Consents would include conditions levying for contributions under the new contributions plan that applies.</p> <p>Once a Contributions Plan has been prepared and adopted for a Precinct which addresses the infrastructure requirements associated with the development of that Precinct, it is fair and reasonable for development within to be levied under this Contributions Plan. It is considered that the new draft Norwest Innovation Precinct Section 7.12 Contributions Plan is therefore appropriate to cater for the local infrastructure demand likely to be generated by this proposal, especially noting that the outcome would result in lower traffic generation in comparison to the currently approved development.</p> <p>The Proponent's revised planning proposal material had originally indicated that the uplift sought would be realised through a new development application. Accordingly, on this basis and at the time that Council Officers</p>

Key Consideration	Comment
	<p>prepared the Local Planning Panel report, it was expected that if approved, the proposed development would be levied under Council's new Section 7.12 Contributions Plan (once in force), at a rate of 2.8% of the cost of development.</p> <p>However, since the finalisation of the Council Officer report to the Local Planning Panel and the consideration of the proposal by the Panel, the Proponent has indicated that they may pursue a Section 4.55 modification application to the existing development consent (as opposed to lodgement of a new development application). It is noted that when assessing a Section 4.55 Modification (as distinct from a new development application) a consent authority is required to levy contributions under the Plan that applied at the time the original consent was issued, regardless of any new contribution plan which may have superseded this. Accordingly, should the Proponent seek approval for the uplift by way of a modification application, this uplift would only be levied at a rate of 1% of the cost of development.</p> <p>The development already benefits from a consent that was obtained in the interim period <i>between</i> the Government increasing the FSR in this locality (from 1:1 to 2:1). Despite the higher rate established by Council's S7.12 Plan for the Norwest Innovation Precinct, the existing development consent has secured the Proponent an outcome of 2:1 at a contribution rate of 1% of the cost of development. While it would be preferable for the entire development to pay contributions at the higher rate of 2.8% established by Council's draft S7.12 Plan, this outcome has not been achieved by virtue of the timing of the developer obtaining development consent.</p> <p>Given that the planning proposal application deals with the granting of additional development uplift (in the form of 7,140m² additional commercial floor space), it is considered to represent an acceptable balance for the higher contribution rate now established for that precinct to be applied to the portion of commercial floor space which is the subject of the planning proposal application. Accordingly, as a compromised position, it is considered that, at a minimum, the uplift sought through the planning proposal should pay contributions at the rate established by Council's draft S7.12 Plan.</p> <p>In recognition of the above, the Proponent has submitted a draft VPA (provided as Attachment 4), which would:</p> <ol style="list-style-type: none"> 1. Retain the contribution amount payable with respect to the currently approved development yield (up to 2:1) as per the existing development consent; and 2. Apply a higher contribution rate of 2.8% of the cost of works to the additional development yield (7,140m² of commercial floor space) sought through the planning proposal. <p>The draft VPA is intended to reflect the rate established under Council's draft Section 7.12 Norwest Innovation Plan and, based on an estimated cost of development of \$8.9 million for the proposed additional yield (7,140m²), would result in an approximate monetary contribution of \$249,000. These funds would be allocated towards infrastructure upgrades in the Norwest locality as identified in the Works Schedule to Council's</p>

Key Consideration	Comment
	<p>Section 7.12 Plan for the Norwest Innovation Precinct.</p> <p>In doing so, the draft VPA would ensure that Council is able to secure a contribution of 2.8% of the cost of works associated with the uplift sought, irrespective of the timing of the finalisation of the draft Section 7.12 Plan for the Norwest Innovation Precinct and regardless of whether the Proponent seeks to achieve this development uplift through a new development application or a Section 4.55 modification application. The application of the rate established under Council's new Section 7.12 Plan for the Precinct to the uplift sought through the proposal is considered to represent a fair and reasonable outcome given the circumstances of this case.</p> <p>With respect to State infrastructure, it is anticipated that as part of the Gateway determination process, consultation will occur with State government agencies and the need for further contributions toward state infrastructure may be identified.</p>

4. LOCAL PLANNING PANEL ADVICE

On the 18 August 2021, The Hills Local Planning Panel issued the following advice with respect to the subject planning proposal:

- 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.*

The Local Planning Panel minutes are provided as Attachment 2 to this Report. The additional information submitted by the Proponent in response to Point 3 has been addressed in Section 3 of this Report and is provided as Attachment 3 to this Report.

IMPACTS

Financial

The planning proposal has no impact on Council's budget or forward estimates. Should Council resolve to proceed with the proposal, the draft VPA would ensure that as part of any future development application or Section 4.55 Modification Application, the additional 7,140m² of commercial floor space resulting from the proposal would be levied at a rate of 2.8% of the cost of works, consistent with the rate established under Council's draft Section 7.12 Contribution Plan for the Norwest Innovation Precinct (equating to approximately \$249,000).

Strategic Plan – The Hills Future

The Hills Future aims to manage new and existing development with a robust framework of policies, plans and processes that is in accordance with community needs and expectations. The planning proposal seeks to provide for additional employment opportunities, consistent with the Strategic Plan. The scale and built form of the development is consistent with what

has been approved via Development Consent and is appropriate given the location of the site within the Norwest Strategic Centre and specialised employment precinct.

CONCLUSION

This report recommends that the planning proposal for land at 21-23 Lexington Drive, Bella Vista proceed to Gateway Determination.

In conjunction with the amendments to the maximum floor space ratio control under LEP 2019, it is recommended that a reduced car parking rate of 1 space per 40m² of gross floor area be applied to the site by way of amendments to the Parking section of The Hills Development Control Plan (DCP 2012) to identify the site as an area where the commercial centres parking rate applies. These amendments should be exhibited concurrently with the planning proposal. This reduced rate is consistent with Council's existing Commercial Centres rate and is appropriate given the proximity of the site to Bella Vista Metro Station.

In association with the development uplift sought through the planning proposal, it is recommended that Council accept, in principle, the draft Voluntary Planning Agreement (VPA) (Attachment 4), which would ensure the additional commercial floor space would be levied at a rate of 2.8% of the cost of works. This VPA should be subject to legal review at the cost of the Proponent prior to public exhibition, updated to reflect the outcomes and recommendations of the legal review and exhibited concurrently with the planning proposal and draft DCP.

RECOMMENDATION

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. Draft amendments to The Hills DCP 2012, to apply the Commercial Centres Parking Rate to the site, be prepared and exhibited concurrently with the planning proposal.
3. Council accept, in principle, the draft Voluntary Planning Agreement (Attachment 4), 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.

ATTACHMENTS

1. Council Officer Assessment Report to Local Planning Panel (18 August 2021) (15 pages)
2. Local Planning Panel Minutes (18 August 2021) (3 pages)
3. Additional Information Submitted by Proponent – Car Parking and Infrastructure (2 pages)
4. Draft Voluntary Planning Agreement (16 pages)