

Post-Exhibition Report – PP-2022-1202

The planning proposal seeks to amend The Hills Local Environmental Plan (LEP) 2019 to increase maximum building height to part 25m and part 16m and introduce a floor space ratio of 1.69:1 at 10-16 Seven Hills Road, Baulkham Hills (66 Dwellings).

1 Introduction

The planning proposal is at the post exhibition stage, which is the last stage before an LEP may be made and finalised. The Sydney Central City Planning Panel (the Panel) determined at a rezoning review that the proposal had strategic and site merit (6 July 2023). Subsequently, a Gateway assessment was undertaken, and a Gateway determination was issued on 11 October 2023 for the proposal to proceed, subject to conditions. Consultation with Agencies and the community required by the Gateway determination conditions has now been completed.

The purpose of this report is to provide a summary of the key matters raised by members of the public, The Hills Shire Council (Council) and public agencies during the public exhibition of the planning proposal (**Attachment A**) for 10-16 Seven Hills Road, Baulkham Hills (the site). The report makes a recommendation to the Panel that it submit the proposal to the Department of Planning, Housing and Infrastructure for finalisation.

Table 1 – Timeline of planning proposal

Element	Description
Date of request to exhibit PP	8 November 2023
Date of panel determination on rezoning review	6 July 2023
Planning proposal no.	PP-2022-1202
LGA	The Hills Shire
LEP to be amended	The Hills LEP 2019
Address	10-16 Seven Hills Road, Baulkham Hills
Brief overview of the timeframe/progress of the planning proposal	<p>7 April 2022 – Planning proposal lodged with Council.</p> <p>18 August 2022 – Planning proposal reported to The Hills Local Planning Panel (LPP) for advice. The LPP advised that the planning proposal should not proceed to Gateway determination, having regard to a range of identified strategic and site-specific merit issues.</p> <p>16 September 2022 – Revised planning proposal material submitted to Council by proponent.</p> <p>14 March 2023 – Council resolved not to support planning proposal.</p>

Element	Description
	<p>24 March 2023 – Proponent submits request for a rezoning review (RR-2023-6) to the Department of Planning, Housing and Infrastructure.</p> <p>6 July 2023 – Panel recommended the planning proposal should be submitted for Gateway determination, subject to amendments. The Panel determined to appoint itself as the PPA for this planning proposal.</p> <p>8 September 2023 – Panel reviewed the revised planning proposal and found it had adequately addressed the Panel's conditions for the proposal to proceed to Gateway.</p> <p>11 October 2023 – Gateway Determination issued.</p> <p>13 November – 11 December 2023 – Public exhibition of the planning proposal.</p> <p>5 February 2024 – Response to submissions by proponent submitted to Agile Planning.</p>
Finalisation date required by Gateway determination	7 August 2024
Department contact:	Ian Woods - Planning Officer, Agile Planning

1.1 The Site and local context

The planning proposal applies to land at 10-16 Seven Hills Road, Baulkham Hills (**Figure 1**) and comprises of four lots legal described as Lot 1-2 DP 366137, Lot D DP 357085, and Lot F DP 363039. The site has a total area of approx. 3950m² with street frontage to Seven Hills Road and adjoins a pedestrian pathway linking Seven Hills Road and Yattenden Crescent. The site is currently zoned R4 High Density Residential under The Hills LEP 2019 with existing development on the consisting of four detached residential dwellings, with one dwelling located on each lot.



Figure 1 - Subject site (Source: SIX Maps - January 2024)

The site is located approximately 300m south of Grove Square Shopping Centre and 200m west of Baulkham Hills Library.

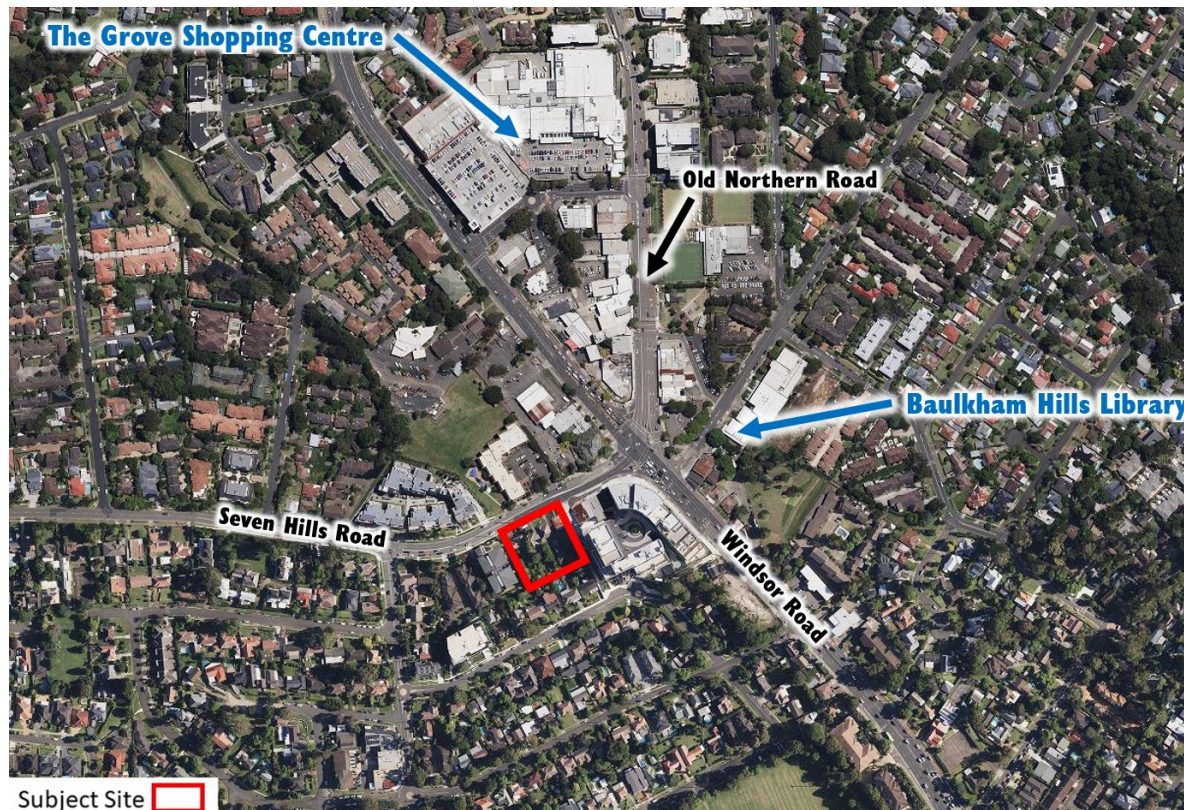


Figure 2 – Site Context (Source: SIX Maps – February 2024)

1.2 Planning proposal

Table 2 – Overview of planning proposal

Element	Description
Site Area	Approximately 3950m ²
Site Description	Lots 1-2 DP 366137, Lot D DP 357085, and Lot F DP 363039.
Proposal summary	<p>The planning proposal seeks to amend The Hills LEP 2019 to enable the redevelopment of the site for approximately 66 residential apartment units in a residential flat building ranging in height from 4-8 storeys.</p> <p>In summary, it seeks to:</p> <ul style="list-style-type: none"> • Increase the maximum height of building (HOB) control from 16m to part 16m and part 24m. • Introduce a maximum floor space ratio (FSR) control of 1.69:1
Relevant State and Local Planning Policies, Instruments	<ul style="list-style-type: none"> • Greater Sydney Region Plan (A Metropolis of Three Cities) • Central City District plan (2018) • The Plan for Growing Sydney (2014) • Hills Future 2036 • Hills Local Housing Strategy (2021)

Element	Description
	<ul style="list-style-type: none">• Draft Baulkham Hills Town Centre Master Plan 2014• 9.1 Ministerial Directions:<ul style="list-style-type: none">○ 1.4 Site Specific Provisions○ 5.1 Integrating Land Use and Transport○ 6.1 Residential Zones• SEPPs:<ul style="list-style-type: none">○ State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development○ State Environmental Planning Policy (Biodiversity and Conservation) 2021○ State Environmental Planning Policy (Housing) 2021○ SEPP (Resilience and Hazards) 2021○ State Environmental Planning Policy (Sustainable Buildings) 2022○ SEPP (Transport and Infrastructure) 2021

The planning proposal (**Attachment A** and **Table 1**) seeks to amend The Hills LEP 2019 as per the changes in **Table 3** below.

Table 3 - Current and proposed controls

Control	Current	Proposed
Zone	R4 High Density Residential	No Change
Maximum height of the building	16m	Part 16m and part 25m
Floor space ratio	No Control	1.69:1
Number of dwellings	4 (Approximately 35-50 permitted under current planning controls)	66

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.2.1 Mapping

The planning proposal includes amendments to the following maps:

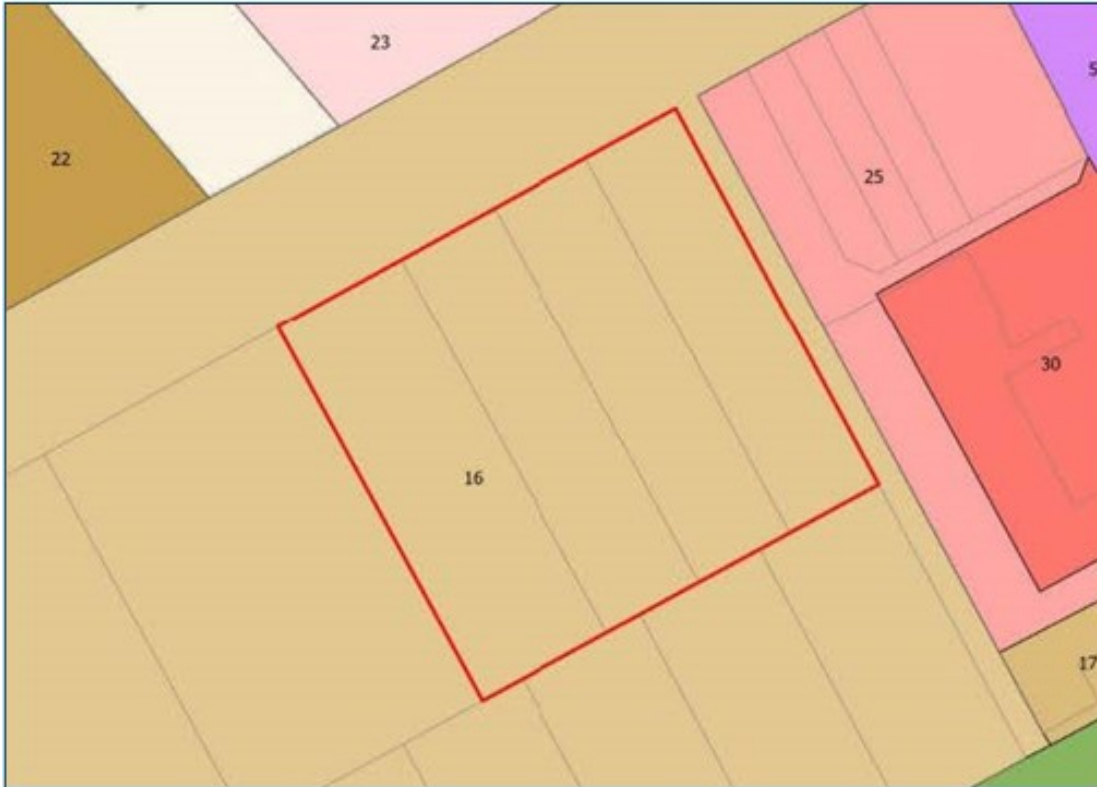


Figure 3 - Current HOB (Source: planning proposal, October 2023)

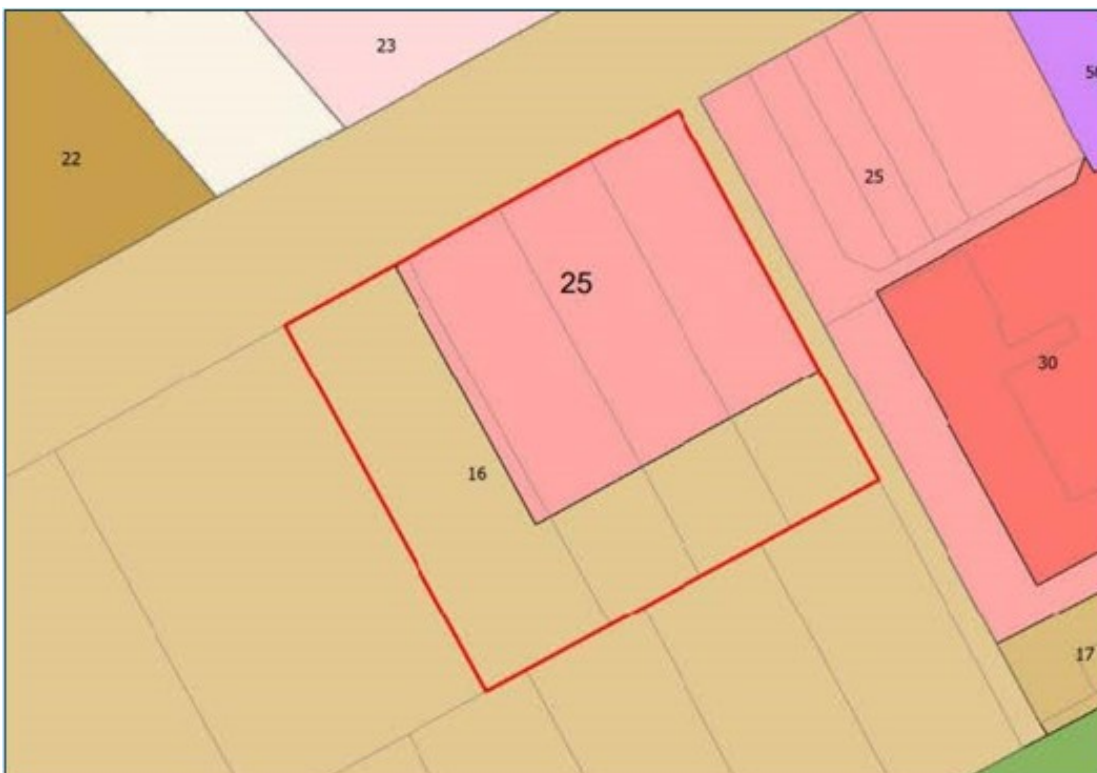


Figure 4 - Proposed HOB(source: planning proposal, October 2023)



Figure 5 - Current FSR(source: planning proposal, October 2023)



Figure 6 - Proposed FSR (source: planning proposal, October 2023)

1.3 Rezoning review

On 6 July 2023 the Panel considered a rezoning review for this planning proposal due to the Council notifying the proponent it will not support the proposed amendment. The Panel determined that the planning proposal demonstrated strategic and, subject to changes, site-specific merit (**Attachment B**) and should proceed, subject to amendments. In making its decision the Panel appointed itself as the Planning Proposal Authority (PPA).

On 8 September 2023 the Panel reviewed the revised planning proposal and determined that it adequately addressed the Panel's conditions and should be submitted to the Department for Gateway determination. The Panel's determination and reasons for its decision are provided in **Attachment B1**.

1.4 Gateway determination

The Gateway determination issued on 11 October 2023 (**Attachment C**) determined that the proposal should proceed subject to the following conditions:

1. *Prior to exhibition, the planning proposal and supporting documents are to be amended to:*

- (a) reflect the revised planning proposal considered by the Sydney Central City Planning Panel on 8 September 2023.*
- (b) provide an assessment of the consistency of the revised planning proposal with all relevant plans and policies.*

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 Guideline (Department of Planning, Housing and Infrastructure, August 2023) and must be made publicly available for a minimum of 20 working 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 Guideline (Department of Planning, Housing and Infrastructure, August 2023).*

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 Act:*

- The Hills Shire Council*
- Transport for NSW*
- Sydney Water*
- Other utility providers*

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 working days to comment on the proposal.

4. *A site-specific Development Control Plan or identification of similar LEP mechanism must be in place prior to finalisation.*

5. *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 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).*

The Gateway determination identifies that the proposal is to be finalised before 7 August 2024.

All conditions of the Gateway determination have been met (see **Attachment D**).

2 Community Consultation

2.1 Public Exhibition

On 8 November 2023, the Agile Planning team advised the Panel that the proposal had been satisfactorily amended to meet the Gateway Conditions for public exhibition to commence.

In accordance with the Gateway determination, the planning proposal and supporting material were publicly exhibited on the NSW Planning Portal for 20 working days, from 13 November 2023 to 11 December 2023.

3 Submissions

3.1 Submissions during exhibition

There were 17 submissions received from individuals, Council, and government agencies during and shortly after the exhibition period, including:

- 11 public submissions, with 9 unique and 2 duplicates submissions
- 5 Agency submissions
- 1 Council Submission

All unique public submissions objected to the proposal (9 submissions). All public submissions are provided in **Attachment I**.

A table outlining the Agile Planning team and Proponent's response to submissions is provided at **Attachment F** and the Proponent's response to submissions is provided at **Attachment J**.

3.1.1 Submissions from the community

In summary, the community raised the following issues in submissions:

- Building character/form
- Solar access and overshadowing
- Traffic
- Building height
- Privacy issues
- Construction impacts

3.1.2 Submissions from Agencies and Council

In accordance with the Gateway Determination, the following agencies were consulted:

- Transport for NSW (TfNSW)
- Sydney Water
- Endeavour Energy
- Ausgrid
- Jemena

In the 5 agency submissions received, no issues were raised by the relevant agencies that would preclude the proposal proceeding to finalisation. Agency submissions are provided in full at **Attachment H**.

TfNSW requested that the proponent update the supporting Traffic and Parking Assessment report and submit that, along with the draft site-specific development control plan and voluntary planning agreement for review prior to the making of the plan. TfNSW reviewed the updated Traffic and Parking Assessment and were satisfied it had addressed their previous concerns and had no further comments. In relation to the request to review the DCP and VPA, these items are the responsibility of The Hills Shire Council, the Agile team has informed Council of this request and has encouraged them to work with TfNSW on these aspects of the proposal, notwithstanding this, these two items should not delay the finalisation of the planning proposal.

The Hills Shire Council's submission (**Attachment G**) raised multiple concerns with the proposal including:

- Strategic merit, particularly in relation to consistency with Council's local strategic planning statement.
- Site-specific merit, including in relation to building height and transition, apartment configuration and mix, bulk and scale, setbacks, vehicular access, solar access.
- Traffic and Transport.
- Infrastructure demand and Voluntary Planning Agreement.

No issues were raised in the agencies and council submissions that would prevent the proposal proceeding to finalisation.

3.1.3 Representation from Parliamentary Members

The LGA falls within the Federal electorate of the Member for Mitchell, Alex Hawke MP and the State electorate of the Member for Castle Hills, Mark Hodges MP. To the team's knowledge, neither MP has made any written representation regarding the proposal.

3.2 Key Issues from submissions

3.2.1 Issue No.1 – Traffic and transport infrastructure

Community submission:

The community raised concern that the proposal will further contribute to the existing traffic congestion issues in the local area. They highlighted that a bottleneck would be created on Arthur Street and congestion at nearby intersection would be increased and could lead to safety issues. They noted that current public transport options in the area are limited, buses are overcrowded, and the metro station is too far away.

7 of 9 submissions (78%) raised traffic and transport infrastructure as an issue in their submission.

Council:

Council stated that the additional trips generated by the proposed development are not significant in isolation and will not materially impact on the current traffic situation around Baulkham Hills Town Centre. However, the current policy approach to discourage further uplift in this locality is an acknowledgement that a broader government solution is required to address the existing issue of traffic congestion.

Proponent Response:

The additional traffic from the proposed development is not expected to have a material impact on road network performance, which was also noted by Council. The proposed uplift from 50 units to 66 units (net increase of 16 units) is estimated to add 5 vehicles per peak hour (16 net increase from current use) which will not impact road network performance.

The subject site has access to high-frequency public transport options and will benefit from future public transport infrastructure project such as the Sydney Metro North West Line and the direct connection at Epping and Chatswood station to other trainlines. Additionally, should a Voluntary Planning Agreement be reached between Council and the Proponent, it is anticipated that some funding will be used to improve transport options and quality.

Transport for NSW:

Transport for NSW (TfNSW) did not object to the proposal proceeding but requested the supporting Traffic and Parking Assessment be updated and consolidated. TfNSW was provided the updated Traffic and Parking Assessment and raised no further comments and did not object to the proposal proceeding.

Agile Planning Response

The Agile Planning team has forwarded a revised Transport Impact Assessment, which was provided to TfNSW on 6 February 2024, as requested in their submission. TfNSW provided no further comments regarding the revised Transport Impact Assessment and raised no concern with the proposal proceeding to finalisation. In particular, the Agile Planning team note that TfNSW have raised no concern regarding the level of traffic generated from any potential redevelopment of the site.

Although the location of the subject site in Baulkham Hills Town Centre is questioned by Council, the site is in close proximity and therefore still retains access to its high-frequency public transport.

The concept plan submitted with the planning proposal represents an indicative concept scheme for the site only. The parking rates and vehicle access will be determined as part of any future development application on site.

The Agile Planning team are satisfied the proponent has addressed the issues raised by Council, TfNSW, and the community regarding transport and traffic that these issues do not prevent the progression of the proposal to finalisation.

3.2.2 Issue No.2 – Built form (character, height, density, configuration)

Community submission

The community was concerned about the increased height of building as it would significantly impact and contrast the character and visual landscape of the area. They state it will create issues for residents on the subject site and for nearby properties regarding privacy and visual amenity, particularly for adjacent properties south of the subject site.

5 of 9 submissions (56%) raised this as an issue in their submission.

Council

Council raised various concerns regarding compliance of the proposed building with the Hills DCP and the Apartment Design Guide (ADG) due to issues including insufficient setbacks, privacy, configuration, and non-compliant open common space.

Council noted that they support the retention of the R4 High Density Residential zoning but note that the Housing SEPP creates potential for a an FSR increase which would add to built form issues.

Council also raised concerns about the apartment configuration and mix, stating the proposed form does not achieve acceptable residential outcomes or compliance with baseline urban design controls and criteria. Council outlines that the proposed U-shape concept and configuration maximises FSR but creates privacy issues. Furthermore, they suggest the addition of a local provision in the LEP to ensure requirements for apartment size and mix are adhered to.

Council notes the setbacks in the proposed concept is non-compliant with The Hills DCP and the turntable vehicle access as an alternative solution for waste services is not desirable and does not represent superior built outcomes.

Proponent Response:

The Proponent notes that many of the built form issues with the concept design can be adequately and appropriately addressed at a future DA stage when detailed designs are provided for review and comment.

The Proponent highlights that the subject site zoning allowed for apartments near the town centre and public transport and is consistent with the height limits in the area. Furthermore, they state that the proposal outlines a height transition across the subject site for improved transition to surroundings as well as appropriate separation distances to maintain the privacy of neighbours. The Proponent notes that the ADG provides guidance for U-shaped courtyard buildings.

The Proponent notes that subject site can contain a well-designed apartment building and the potential additional FSR from the Housing SEPP is not proposed. They outline that the additional FSR can be addressed in a future DA stage should it be included in a future application.

Agile Planning Response:

The site is located within close proximity to the Baulkham Hills Town Centre, with existing high density residential of 9-15 storeys adjacent to the east of the site, to the west of the site is a 4-storey residential flat building. The proposed height is consistent with these existing and the planned future context of the area, including proposed heights.

The Agile Planning team notes Council's concerns regarding the provision of bonus FSR on site. Any future development application, with an affordable housing bonus, will still be subject to a merit-based assessment. Any issues relating to scale and visual impacts can be assessed as part of this process.

The concept plan supporting the proposal is an indicative built form. Further analysis of the final built form, including the size and location of setbacks, can be undertaken and assessed as part of any future DA stage.

The Agile Planning team is satisfied that the planning proposal has addressed the issues raised by Council and the community and they do not prevent the proposal from progressing to finalisation.

3.2.3 Issue No.3 – Solar access and overshadow

Community Submission

The community raised concerns regarding the inadequate solar access of the apartments within the development and adjacent properties impacted by overshadowing. Furthermore, they voice concern that the cumulative overshadowing of current and future developments in the area have not been considered and that the metrics in the shadow diagrams do not translate to the those used in The Hills DCP and the ADG.

2 of 9 submissions (22%) raised solar access and overshadowing as an issue in their submission.

Council Submission

The Council raised concerns regarding the inadequate level of solar access for the ground floor common open space, units within the proposed design concept, and adjoining residential properties to the south.

They note that reliance on rooftop communal open space to meet the minimum solar access requirements is not compliant with the ADG. They also state that the concept design indicates that too few units receive no direct solar access.

The Council also raised concern that the residential properties to the south, that currently experience overshadowing, will be further overshadowed by the proposed development thereby limiting potential development due to solar access.

Proponent Response

The Proponent note that solar access is ultimately a design issue that can be adequately addressed at a future DA stage when detailed designs are provided.

They also note that the communal open spaces on the roof are consistent with the ADG and therefore meet the minimum solar access requirements.

The Proponent acknowledges that the ADG recognises that direct solar access is not always feasible due to geographic factors and can be undesirable if it comes at the cost of increased street noise and decreased visual amenity.

The Proponent provided updated shadow diagrams and state that there is no excessive or unreasonable overshadowing. They also noted that development envelopes do not represent actual impacts on future developments due to occupancy limits and the potential for solutions based on design-excellence.

Agile Planning Response

It is noted that in response to the submissions received, the proponent has provided additional shadow diagrams to address issues surrounding overshadowing.

The Agile Planning team has undertaken an assessment of the proposed concept plan against the ADG and are satisfied that the proposal can be designed to be consistent with the ADG.

Notwithstanding the above, the supporting concept plan is indicative only. The issues raised regarding built form and solar access can be addressed as part of the DA stage and through changes to unit configuration and orientation.

The Agile Planning team are satisfied that the issues surrounding overshadowing have been addressed and do not prevent the progression of the planning proposal.

4 Next Steps

The Department is the Local Plan-Making Authority (LPMA) for this planning proposal. The Panel's decision and the final planning proposal will be submitted to the Department through the NSW Planning Portal for finalisation.

The Department will prepare a finalisation report in accordance with the LEP Making Guidelines (August 2023) and will determine whether to make the LEP, with or without variation. The Department may defer the inclusion of a matter in the proposed LEP or not make the LEP.

In accordance with section 3.36(1) of the EP&A Act, the Department will organise drafting of the LEP and finalisation of maps and will consult the panel on any draft instrument.

5 Recommendation

Based on this post-exhibition report, it is recommended that the Sydney Central City Planning Panel determine that the planning proposal should be submitted to the Department for finalisation:

The planning proposal is considered suitable for finalisation because:

- The proposal demonstrates strategic and site specific merit.
- The conditions of the Gateway have been met.
- Agency and community consultation has occurred in accordance with the Gateway determination.

5.1 Attachments

Attachment A – Planning proposal (exhibited)

Attachment A1 – Urban Design Report

Attachment A2 – Traffic Statement (November 2022)

Attachment A3 – Traffic Report (October 2021)

Attachment B – Panel Record of Decision (July 2023)

Attachment B1 – Panel Record of Decision (September 2023)

Attachment C – Gateway Determination (October 2023)

Attachment D – Assessment against Gateway Determination

Attachment E – Authorisation of exhibition (November 2023)

Attachment F – Summary of submissions and responses

Attachment G – Council submission

Attachment H – Agency submissions

Attachment I – Community submissions (redacted)

Attachment J – Proponent response to submissions (February 2024)

Attachment J1 – Additional Shadow Modelling (February 2024)

Attachment J2 – Revised Traffic and Parking Assessment (January 2024)



(Signature)

____05/03/2024_____
(Date)

Douglas Cunningham

Manager, Agile Planning

Post-Exhibition Report

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A handwritten signature in black ink, appearing to read "Louise McMahon".

_____(Signature)

14 March 2024_____(Date)

Louise McMahon

Director, Agile Planning

Assessment officer

Ian Woods

Planning Officer, Agile Planning