

Rezoning Review Briefing Report – RR-2023-24

The Montefiore Seniors Living Proposal; 116-120 High Street, 2-20 Gaza Avenue and 45-47 Barons Crescent, Hunters Hill – Planning Proposal seeks to rezone the site from R2 Low Density Residential to SP2 Infrastructure (Seniors Housing) and increase the maximum building height and the floor space ratio.

Element	Description
Date of request	30 October 2023
Department ref. no	RR-2023-24
LGA	Hunters Hill
LEP to be amended	Hunters Hill LEP 2012
Address	116-120 High Street, 2-20 Gaza Avenue, and 45-47 Barons Crescent, Hunters Hill.
Reason for review	<div><input checked="" type="checkbox"/> Council notified the proponent it will not support the proposed amendment</div> <div><input type="checkbox"/> Council failed to indicate support for the proposal within 90/115 days, or failed to submit the proposal after indicating its support</div>
Has council nominated PPA role	As Hunters Hill Council (Council) resolved not to support the planning proposal, in accordance with the Local Environmental Plan (LEP) Making Guideline (August 2023), the Panel should act as the PPA if it is supported to Gateway determination.
Consultation	The Hunters Hill Local Planning Panel (LPP) considered the planning proposal on 22 June 2023. The Hunters Hill LPP resolved that it did not support sending the Planning Proposal for a Gateway Determination by the Department of Planning and Environment (the Department).
Brief overview of the timeframe/progress of the planning proposal	<p>6 February 2023: Following preliminary discussions with Council, a planning proposal for the Sir Moses Montefiore Jewish Home (Montefiore) site was lodged. Council returned this proposal, requesting the proponent undertake a formal pre-lodgement and scoping meeting.</p> <p>26 May 2023: The planning proposal was lodged with Council.</p>

Rezoning Review – Briefing Report

PP-2023-1109 (RR-2024-24)



Element	Description
	<p>22 June 2023: Hunters Hill LPP considered the proposal, recommending it not progress to Gateway.</p> <p>26 June 2023: Council considered the proposal, resolving that a further review of the Proposal's technical reports be undertaken.</p> <p>9 August 2023: An amended planning proposal was lodged addressing the Hunters Hill LPP and Council resolutions, as well as community feedback.</p> <p>12 September 2023: Council considered the proposal again at an Extraordinary Meeting and resolved not to support it proceeding to Gateway. The Council officer's report recommended the proposal proceed to Gateway as it demonstrates strategic merit, generally aligning with the NSW strategic planning framework and relevant government priorities and demonstrates consistency with council's Local Housing Strategy (LHS).</p> <p>30 October 2023: A rezoning review application (RR-2023-24) is lodged with the Department.</p>
Department contact:	Matt Carpenter – Planning Officer

Planning Proposal

Table 1. Overview of planning proposal

Element	Description
Site Area	40,878m ²
Site Description	<p>The Montefiore Seniors Living proposal includes land at; 116-120 High Street, 2- 20 Gaza Avenue, and 45-47 Barons Crescent, Hunters Hill (the site).</p> <p>The site contains 1-2 storey residential aged care facilities (RACF) which will be retained in the south-east corner of the site. The site also contains a synagogue and a locally listed heritage garden ('Montefiore Home' Number I472) which will both also be retained.</p> <p>There are 10 1-2 storey dwelling houses fronting Gaza Avenue.</p> <p>The proposal includes 2 Gaza Avenue and while the owner did not grant their consent to be included in the planning proposal it is not required.</p> <p>The applicant indicates that discussions have been held with the landowner between September 2021 and February 2023, however, the landowner declined to sell.</p>

Rezoning Review – Briefing Report

PP-2023-1109 (RR-2024-24)



Element	Description
Surrounding Area	<p>Low-density dwelling houses are opposite the site to the north, east, and west of the site on Barons Crescent and Gaza Avenue.</p> <p>To the east of the site on Meyers Avenue are higher density five storey residential flat buildings.</p> <p>Boronia Park is located to the south of the site, and the Lane Cove River is located further east of the site (Figure 2).</p>
Proposal summary	<p>The planning proposal seeks to amend the Hunters Hill Local Environmental Plan (LEP) 2012 to:</p> <ul style="list-style-type: none">• rezone the site from R2 Low Density Residential to SP2 Infrastructure (Seniors Housing),• increase the maximum building height on the site from 8.5m to part 8.5m, 16m, 18 and 24m,• increase the floor space ratio from part 0.5:1 and part 1:1 to 1:1 across the entire site. <p>The proposal (Attachment A) seeks to facilitate an increase to the total amount of seniors independent living units (ILUs) from 18 to 144, providing a net increase of 126 ILUs.</p> <p>This is in addition to the site's existing aged care facility, which is proposed to be retained.</p> <p>The additional development includes the seniors living units shown in Figure 10;</p> <ul style="list-style-type: none">• 2 storey developments on Gaza Avenue, indicated in yellow• 4 storey developments on Barons Crescent, indicated in orange• 6 storey developments in the centre of the site, indicated in red.
Relevant State and Local Planning Policies, Instruments	<ul style="list-style-type: none">• Greater Sydney Region Plan• North District Plan• Hunters Hill Local Strategic Planning Statement (March 2020)• Hunters Hill Local Housing Strategy (May 2021)• Hunters Hill Local Environmental Plan 2012• SEPPs<ul style="list-style-type: none">○ SEPP (<i>Resilience and Hazards</i>) 2021○ SEPP (<i>Industry and Employment</i>) 2021○ SEPP (<i>Transport and Infrastructure</i>) 2021○ SEPP (<i>Exempt and Complying Development Codes</i>) 2008○ SEPP (<i>Building Sustainability Index: BASIX</i>) 2004

Rezoning Review – Briefing Report

PP-2023-1109 (RR-2024-24)

Element	Description
	<ul style="list-style-type: none"> ○ SEPP (<i>Housing</i>) 2021 ○ SEPP (<i>Biodiversity and Conservation</i>) 2021 ● 9.1 Ministerial Directions <ul style="list-style-type: none"> ○ 1.2 Implementation of Regional Plans ○ 1.4 Approval and Referral Requirements ○ 1.5 Site Specific Provisions ○ 3.2 Heritage Zones ○ 4.3 Planning for Bushfire Protection ○ 4.5 Acid Sulfate Soils ○ 5.1 Integrating Land Use and Transport ○ 6.1 Residential Zones

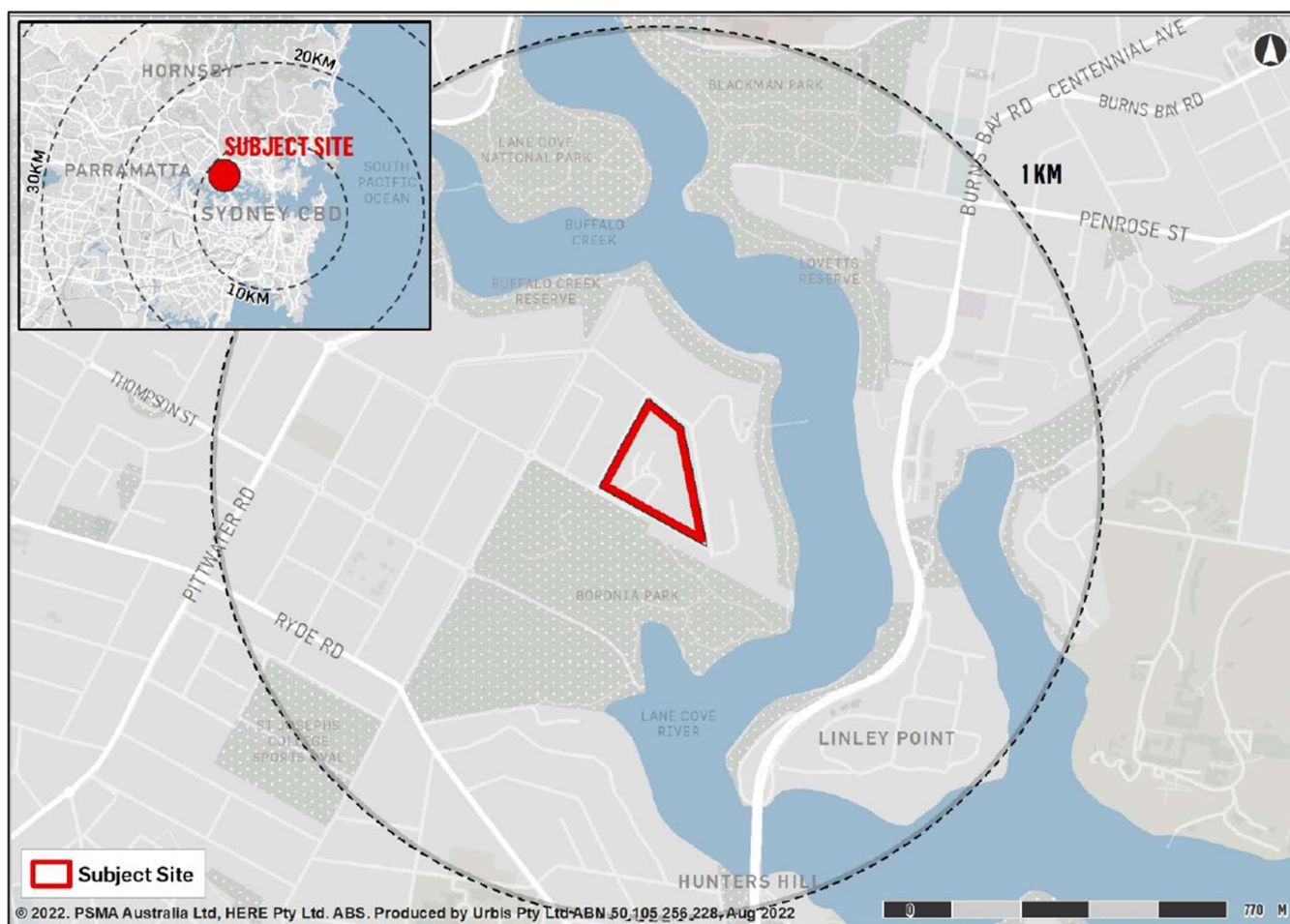


Figure 1: Site context map (source: Urbis, *Planning Proposal*, Aug 2023)

Rezoning Review – Briefing Report

PP-2023-1109 (RR-2024-24)



Figure 2. Montefiore seniors living site (source: *Urbis, Planning Proposal, Aug 2023*)

The planning proposal seeks to amend Hunters Hill LEP 2012 per the changes below.

Table 2. Current and proposed controls and dwellings

Control	Current	Proposed
Zone	R2 Low Density Residential	SP2 Infrastructure (Seniors Housing)
Maximum height of buildings	8.5m (2 storeys)	Part 8.5m (2 storeys), 16m, 18m (4 storeys) and 24m (6 storeys)
Floor Space Ratio (FSR)	Part 0.5:1 and 1:1	1:1
Dwellings	18 ILUs	144 ILUs (an increase of 126 ILUs)

Rezoning Review – Briefing Report

PP-2023-1109 (RR-2024-24)

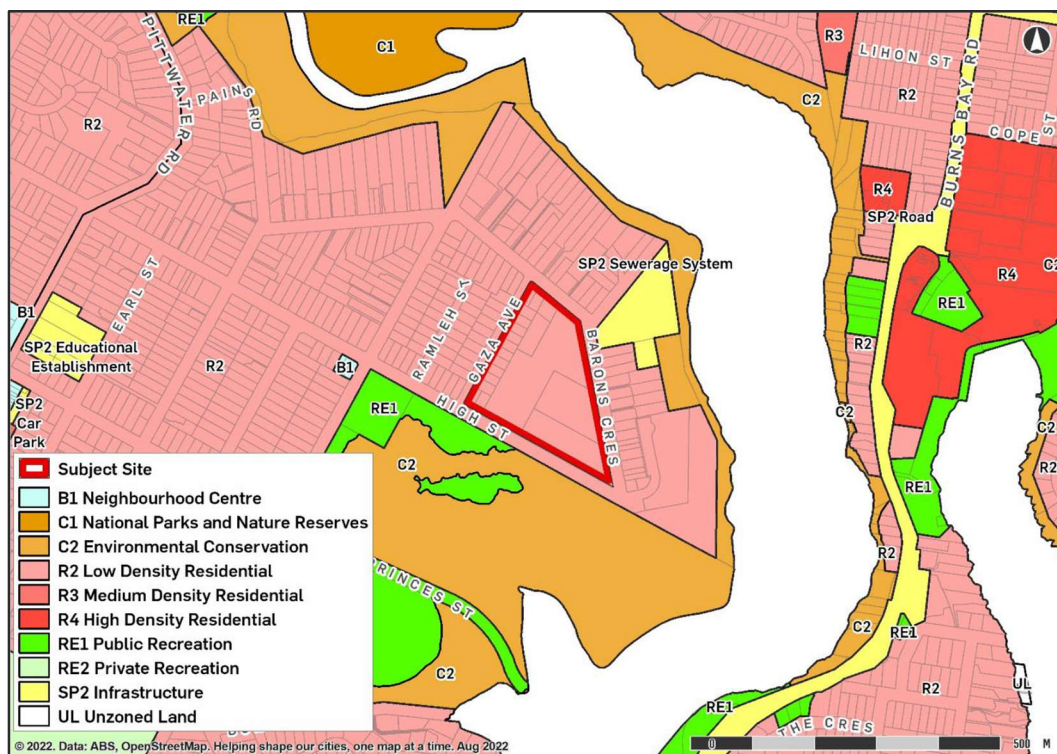


Figure 3. Current zoning (source: *Urbis, Planning Proposal, Aug 2023*)

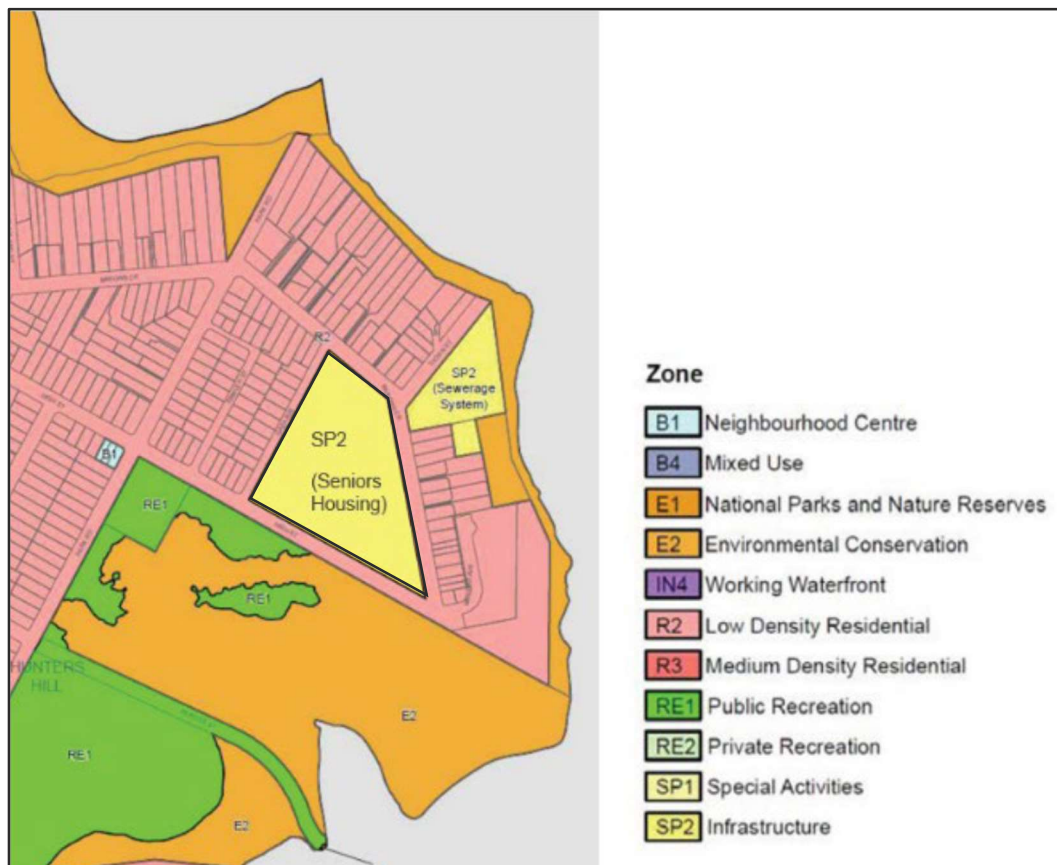


Figure 4. Proposed zoning (source: *Urbis, Planning Proposal, Aug 2023*)

Rezoning Review – Briefing Report

PP-2023-1109 (RR-2024-24)



Figure 5. Current height of building mapping (source: Urbis, Planning Proposal, Aug 2023)

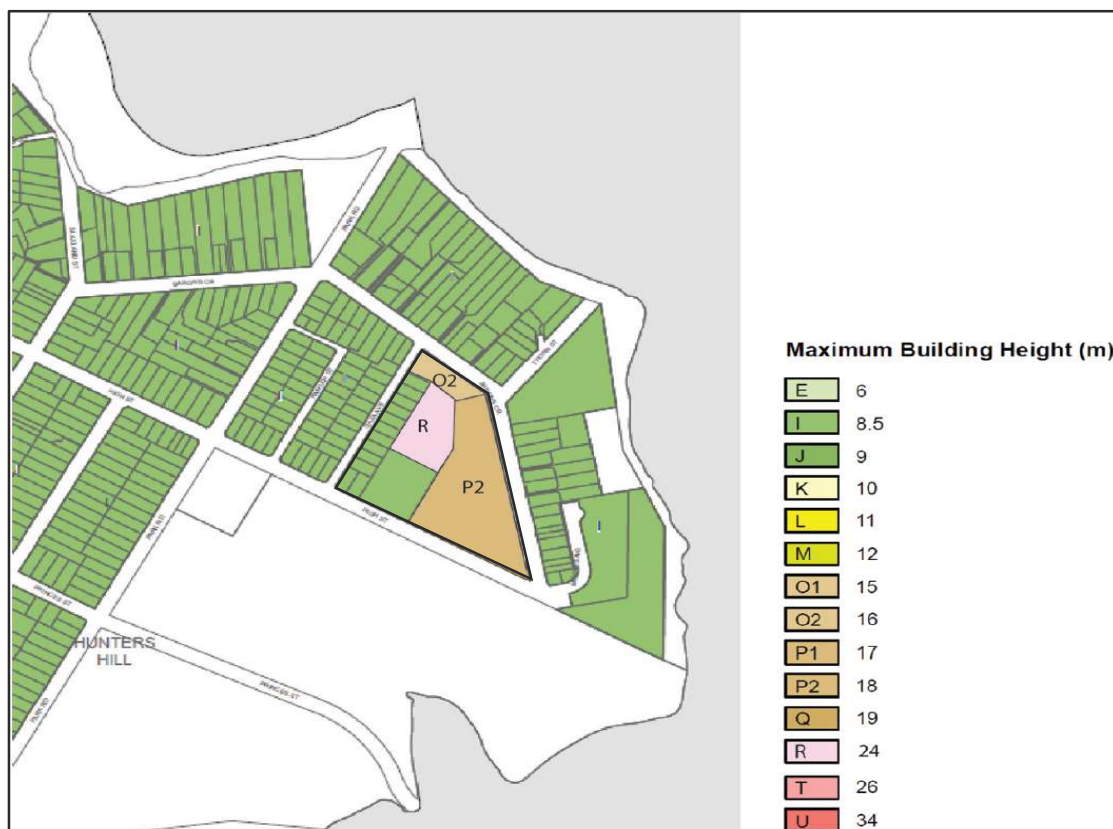


Figure 6. Proposed height of building mapping (source: Urbis, Planning Proposal, Aug 2023)

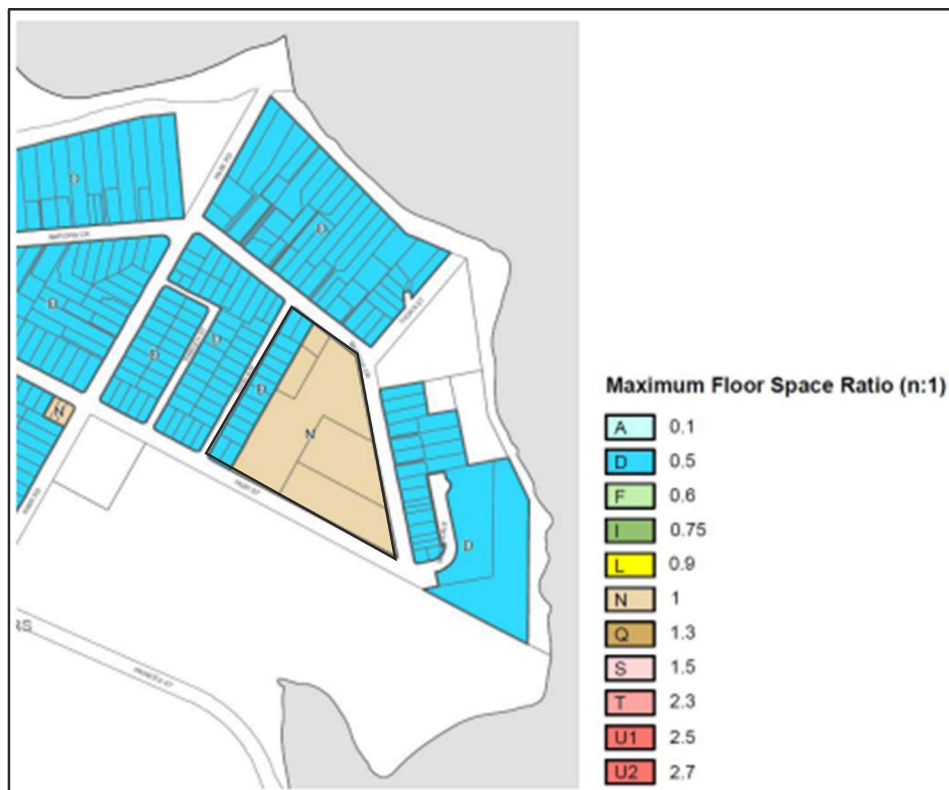


Figure 7. Current floor space ratio mapping (source: *Urbis, Planning Proposal, Aug 2023*)

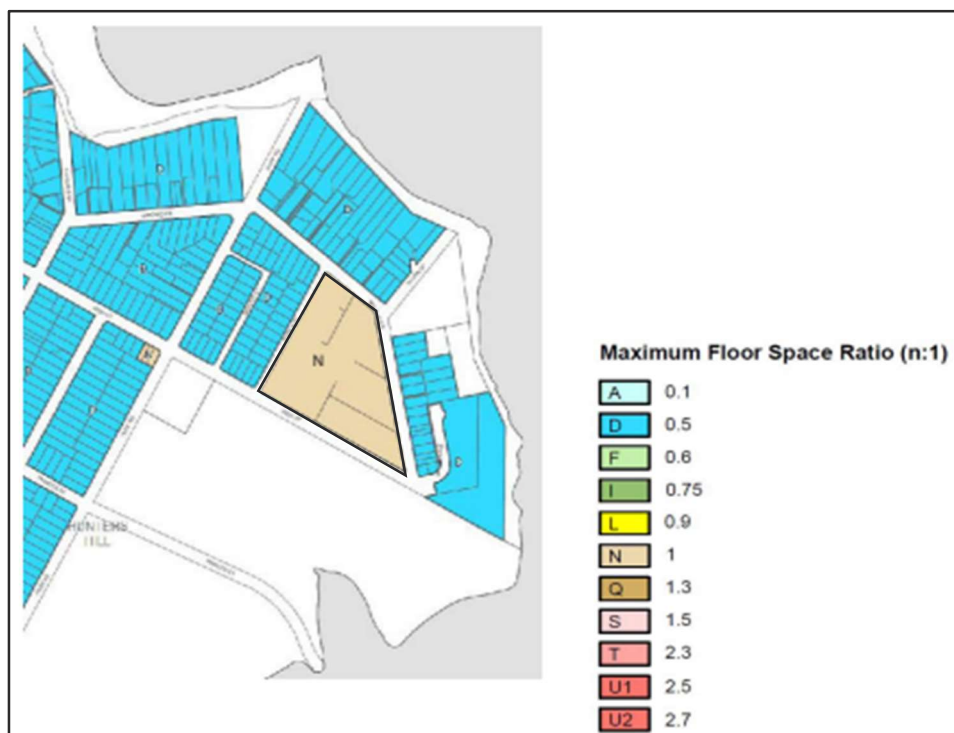


Figure 8. Proposed floor space ratio mapping (source: *Urbis, Planning Proposal, Aug 2023*)

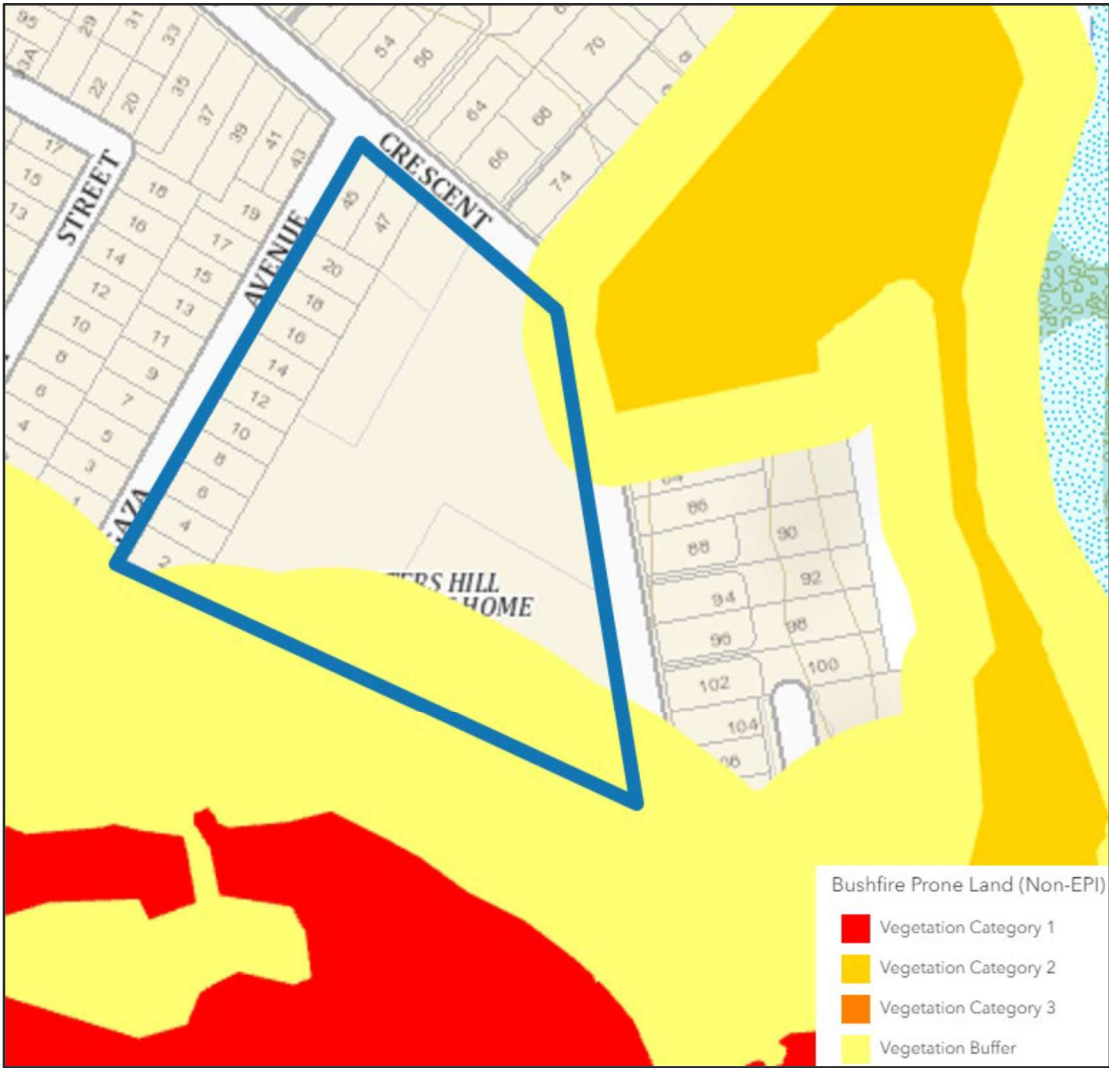






Figure 9. Montefiore Site Bushfire classification (source: NSW Planning Portal)

The following explanation is included from the [NSW Rural Fire Service](#). There are four colours on the bush fire prone land (BFPL) map. Three of the colours represent different types of vegetation and one colour represents the buffer from the vegetation. These are:

Colour	Category	Meaning
	Vegetation Category 1 (red)	Forests with a lot of eucalypt trees and considered to be a high hazard for bush fires. Includes areas of forest, woodlands, heaths (tall and short), forested wetlands and timber plantations.
	Vegetation Category 2 (light orange)	Rainforests and smaller areas of vegetation that are considered to be a low hazard.
	Vegetation Category 3 (dark orange)	Land that is covered with grass and considered to be a medium hazard.
	Vegetation Buffer (yellow)	Buffers are created based on the bushfire vegetation, with buffering distance being 100 metres for vegetation category 1 and 30 metres for vegetation category 2 and 3.

Rezoning Review – Briefing Report

PP-2023-1109 (RR-2024-24)

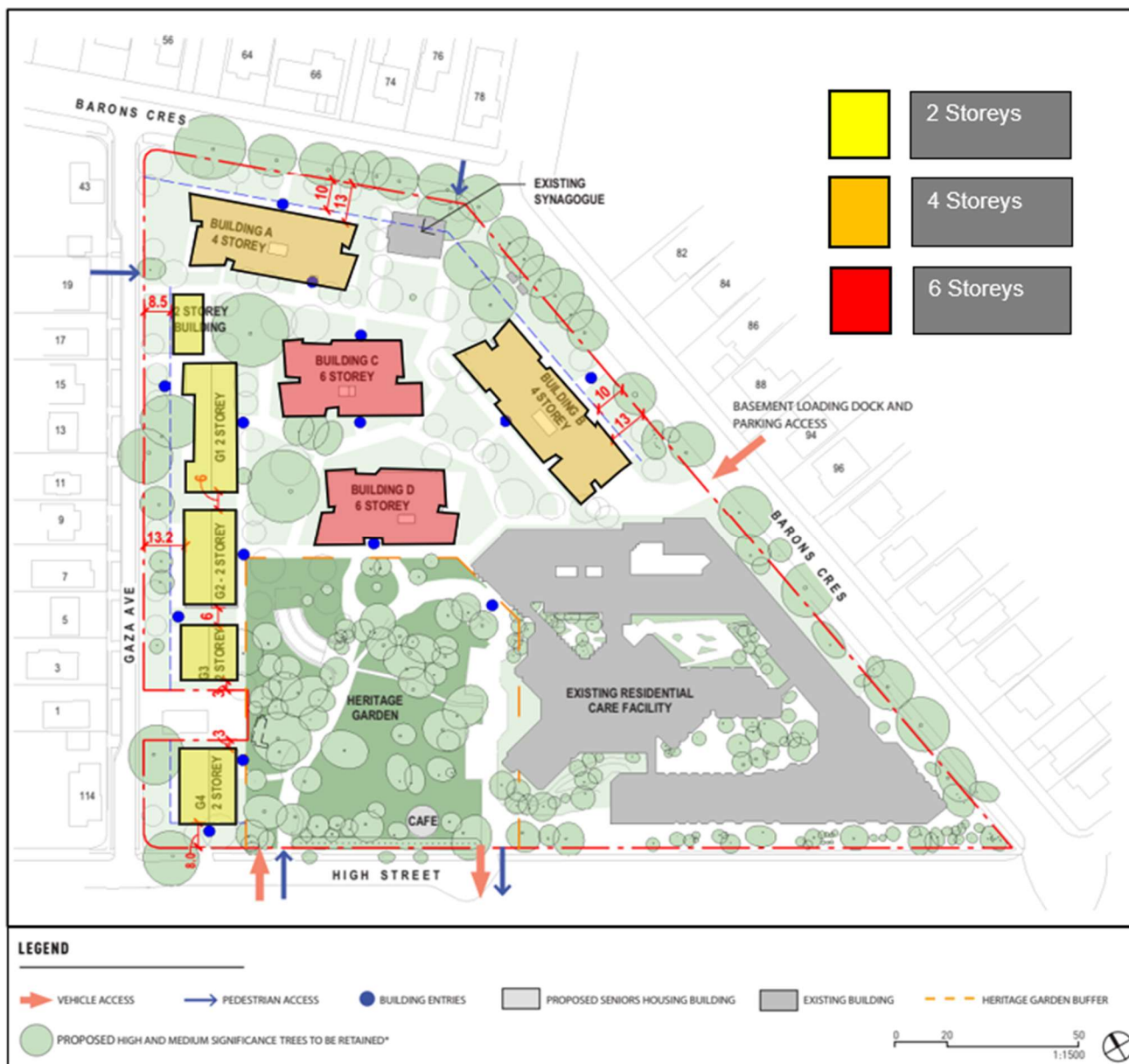


Figure 10. Updated masterplan, proposed mix of 2, 4, and 6 storey ILUs (source: *Urbis, Planning Proposal*, Aug 2023)

Rezoning Review – Briefing Report

PP-2023-1109 (RR-2024-24)

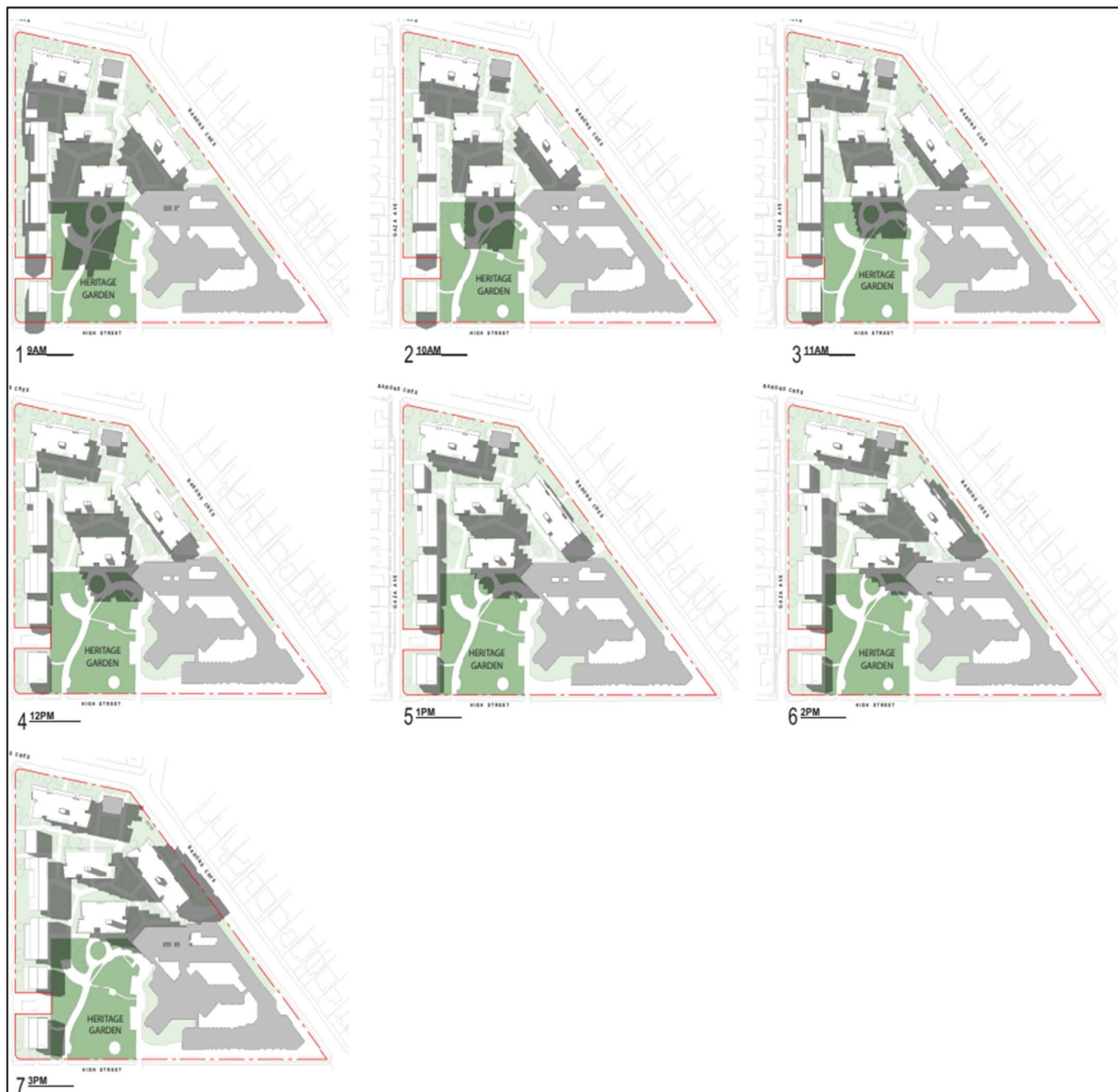


Figure 11: Shadow Diagrams of the concept supporting the planning proposal (source: *Urbis, Planning Proposal, Aug 2023*)

Key Issues

The following section summarises the key issues, drawn from the proponent's rezoning review request (**Attachment B**) and planning proposal (**Attachment A**), the Council officer report (**Attachment C**), and Council's resolution on 12 September 2023 (**Attachment D**).

Issue no. 1 – Council considers the proposal lacks strategic merit.

Council position:

- Council resolved that, *'the Planning Proposal lacks strategic merit and fails to meet relevant Government guidelines and community expectations.'*
- The Council officer's report states that the proposal demonstrates strategic merit, generally aligning with the NSW strategic planning framework and relevant government priorities and demonstrates consistency with council's LHS.
- The report also states that it is unclear whether the intent to provide 'diverse and affordable housing' will be satisfied by the proposal, as required by the Greater Sydney Region and North District planning strategies.
- Council states the provided Community Needs Assessment (**Attachment A4**) provides insufficient analysis to support an assessment of this issue.

Proponent view:

- The proponent outlines that the Montefiore seniors living site is identified in council's LHS as a 'key strategic site'. The proponent argues that the site is therefore earmarked for increased density and the proposed uplift demonstrates merit.
- The proponent states that the Planning Proposal demonstrates strategic merit and is consistent with all applicable policies and directions, providing an assessment of the proposal against each (**Attachment A**).
- The proponent states that this proposed uplift will make additional residential stock available within the Hunters Hill LGA, as senior residents re-locate to the additional ILUs provided on-site, addressing the concerns raised by council.

Issue no. 2 – The proposal lacks site-specific merit.

Council position:

- Council resolved that the proposal fails to meet site-specific merit and relevant Government guidelines and community expectations.
- Council states that the Site Specific DCP (**Attachment A1**) is inadequate and will not apply if a future development application is State significant development.
- The report states that the potential social impacts of the proposed increased density on residents on the site has not been addressed.
- The Council officer's report states the proposal does not address the oversupply of RACFs in Hunters Hill. Council states the proposal should clearly outline that a potential reduction in the number of RACF beds on the site would be possible without detrimental social impacts.

- The report comments that the Community Needs Assessment is insufficient and does not provide a guarantee that existing social infrastructure will meet the needs of the increased occupants of the site.

Proponent view:

- The proponent argues that the planning proposal allows the ageing population of Hunters Hill to age in place, by providing additional seniors living housing stock on-site.
- The proposal's Community Needs Assessment recommends the provision of a multipurpose and flexible indoor community room on-site.
- The proponent states that the increase in residents to the site will not generate demand for additional social infrastructure provision, and future residents will have access to sufficient existing on-site facilities.

Issue no. 3 – Application of a SP2 Infrastructure (Seniors Housing) zone.

Council position:

- The council resolution states that permitting an SP2 (Seniors Housing) zone will set a precedent for zonings and heights inconsistent with the Hunters Hill LEP.
- As stated previously, the council resolution states the SP2 zoning is not appropriate in this context.
- The officer's report indicates that council sought legal opinion on the proposed SP2 zoning and clarifies that there are no environmental planning instrument provisions prohibiting land to be zoned SP2 Infrastructure 'Seniors Housing'.

Proponent view:

- As stated above, the proponent indicates the Montefiore site appears in council's LHS as a 'key strategic site'. The proponent states that the proposed rezoning will not create a precedent as other locations in the Hunter's Hill LGA are not identified by Council's LHS.
- The proponent states that the SP2 zoning was implemented to ensure the site is retained for seniors living. The proponent states this will reduce community perception that the site will be utilised for medium-density housing.
- The proponent states that the SP2 zoning is not unprecedented and cites existing examples where SP2 Seniors Housing zonings have been applied.

These examples include:

- 34 Sturt Street, Campbelltown - **Current Zoning:** SP2 Cemetery, Church and Seniors Housing under the Campbelltown LEP 2015.
- The Scottish Hospital Site, 2 Cooper Street Paddington - **Current Zoning:** SP2 Seniors Housing under the Woollahra LEP 1995.
- 70 Market St, Randwick - **Current Zoning:** SP2 Seniors Housing under the Randwick LEP 2012.

Issue no.4 – Local character and the proposed height and scale of the proposal.

Council position:

- Council resolved that the proposed building heights of 16m, 18m and 24m, are not aligned with existing local character.
- Council resolved that the proposal needs to be more moderate in scale, and ensure it meets the standards of SEPP (Housing), including neighbourhood amenity, streetscapes, existing character, heritage conservation and visual and acoustic privacy.
- Council resolved that the planning proposal fails to address key requirements of the Hunters Hill LEP, including the strategic outcome 'Neighbourhoods Reflect Local Character'.
- The officer's report cites the following concerns regarding the proposed increase in building height and associated amenity impacts:
 - Increased overshadowing resulting from the proposed uplift will impact the site's trees and landscaping spaces, including the Heritage Garden.
 - Due to the low-density nature of surrounding land, the proposed increased building heights will impact on existing streetscape amenity.
 - The report recommends further controls in the site specific DCP (**Attachment A1**) to mitigate the risks of taller, bulkier and heavier massing proposed.
 - The report states that the presentation of building D imposes on the heritage gardens and upper levels are recommended to be set back further.

Proponent view:

- As discussed above, the proponent, in response to feedback from the community and council, amended the Masterplan and site-specific DCP (see **Figure 10**), lowering building heights to address perceived impacts relating to height, bulk and scale.
- The amended building form includes:
 - A lower scale 2 storey building height along Gaza Avenue,
 - A 3 storeys setback 10m from Barons Crescent, with a further 3m set-back for the 4th storey.
 - 6 storeys heights located within the centre of the site.
- The draft site specific DCP provides design solutions to reinforce local character. This includes:
 - separation between buildings and setbacks from the street and surrounding dwellings,
 - retention of fig trees, and
 - landscaping to screen buildings.

Issue no. 5 – Community consultation for the planning proposal.

Council position:

- Council states that ‘Community consultation for the Montefiore Planning Proposal has been inadequate, and not conducted in accordance with both Council Meeting and LPP resolutions.’
- The officer’s report notes that, as is normal practice, no formal community consultation was undertaken regarding the proposal prior to reporting it to Council on it.
- Notes that the applicant has not adequately consulted the local community and a broader range of community views should be sought regarding the potential social impacts of the proposal.

Proponent view:

- The proponent notes that extensive pre-gateway engagement with the community was undertaken, including preliminary consultation with council and the local community. The proponent distributed newsletters, set up a 1-800 phone number, and conducted an in-person community information session attended by 37 people on 25 September 2022.
- The proponent also noted that a formal community consultation process is conducted after a planning proposal is issued with a Gateway Determination.
- The proponent prepared an amended planning proposal, lodged 9 August 2023, in response to Council and community concerns.
- The proponent notes that council’s resolution on 26 June 2023 noted that: “(E) Should Council consider the Montefiore Planning Proposal to have strategic and site-specific merit, a community consultation meeting [will] be held at the commencement of the public exhibition and assessment phase providing the community with adequate notice to the community.”

Other issues

Traffic generation, parking, and access

Council position:

- The Council resolution raises concerns regarding “rat running, traffic speeds and irresponsible driving, pedestrian safety and parking.”
- The resolution raises concern that the site is in an isolated location away from major roads, transport, and facilities.
- The resolution raises concern that the underground carpark entry and loading dock may impact accessibility for houses on Barons Crescent.
- The resolution raises concerns that the pedestrian entry adjacent to the Synagogue is likely to generate parking impacts on Barons Crescent.

- The council officer's report is supported by a review of the proponent's Transport Impact Assessment (**Attachment A2**). This recommended that the following documents be provided:
 - A parking report showing compliance with the Hunters Hill DCP, RMS Guidelines and Australian Standards,
 - A Construction Traffic Management plan and,
 - A Traffic Impact Study.

Proponent view:

- The proponent states that the traffic impacts of the proposal are negligible, and this is supported by their Transport Impact Assessment (TIA) (**Attachment A2**). The TIA outlines:
 - The proposed development will not exceed the environmental capacity limits for local roads set out by TfNSW.
 - The impact of parking will be reduced as all parking will be contained on-site.
 - The impact of service vehicles will be negligible as it is unlikely that there will be an increase in the number of service vehicles accessing the site. Safety is improved for service vehicles using Barons Crescent due to the addition of a turning bay in the proposed service area, allowing forward-in and forward-out movements.
- The proponent states that the car parking provision complies with controls in the Transport for NSW Guide to Traffic Generation Developments and sufficiently caters for staff, residents, and visitors to the site.

Bushfire risk

Council resolution:

- The council resolution does not specifically cite the proposal's location on bushfire prone land as a reason the proposal was not supported.

Council officer's report:

- The council officer's report notes that the proposal is located on bushfire prone land (**Figure 9**) and does not achieve full compliance with all applicable Bushfire Protection Measures.
- The council officer's report comments that "there are opportunities available to the development to provide better outcomes to enhance setback distances and reduce these BAL requirements to be more manageable and effective".
- The council officer's report notes that evacuation of the site should be considered within the Traffic Impact Assessment.
- The council officer's report notes that consultation with the NSW Rural Fire Service will be needed regarding the proposal's compliance with Planning for Bush Fire Protection 2019.

Proponent view:

- The Planning Proposal is provided with a Bushfire Report (**Attachment A5**), concluding that the proposal can satisfy the requirements of Planning for Bushfire Protection 2019,
- The report proposes the following measures to ensure an improved bushfire protection outcome for the site:
 - Replacement of aged construction with BAL compliant buildings,
 - A decrease in the risk profile and occupancy rate
 - Application of ember protection measures to the aged care facility
 - Preparation of a 'Bushfire Emergency Management and Evacuation Plan'
- The report also recommends future consultation with the NSW Rural Fire Service following a Gateway Determination, to confirm compliance.

Local Planning Panel Comments

- The Hunters Hill Local Planning Panel considered the proposal on 22 June 2023 (**Attachment F**).
- The Panel recommended that:
 - Preliminary analysis of technical reports is required,
 - Adequate time for assessment of the Proposal by the Local Planning Panel is needed,
 - There is a need for contextual understanding of the impacts of similar aged care sites within the Municipality,
 - A conservation plan to assess the whole site including the garden and synagogue be prepared by an independent heritage expert,
 - The Panel recommends wider community consultation prior to gateway determination, including providing information on the process of a Planning Proposal and gateway determination.
- The Panel advised Council not to support the proposal progressing to the Department for Gateway determination.

Attachments

Attachment A – Planning Proposal Report (August 2023)

Attachment A1 – Site-specific DCP

Attachment A2 – Transport Impact Assessment

Attachment A3 – Urban Design Report, Masterplan and Shadow Diagrams

Attachment A4 – Community Needs Assessment

Attachment A5 – Bushfire Report

Attachment A6 – Survey Report

Rezoning Review – Briefing Report

PP-2023-1109 (RR-2024-24)



Attachment A7 – Services and Infrastructure Report

Attachment A8 – Detailed Site Investigation Report

Attachment A9 – Preliminary Arborist Report

Attachment A10 – Engagement Outcomes Report

Attachment A11 – Heritage Report

Attachment A12 – Economic Impact Assessment

Attachment A13 – Landscape Plan

Attachment A14 – Archaeology Report

Attachment A15 – Planning Proposal Update August 2023

Attachment B – Rezoning Review Request Letter (24 October 2023)

Attachment C – Council Officer's Assessment Report (12 September 2023)

Attachment D – Council Resolution (12 September 2023)

Attachment E – Council Response to Rezoning Review (14 November 2023)

Attachment F – Hunters Hill Local Planning Panel Minutes (22 June 2023)

8 December 2023

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