

JRPP PLANNING REPORT

JRPP NO:	2009SYW031
DA NO:	DA 895/2010/JP
APPLICANT:	CARLING DEVELOPMENTS PTY LTD
PROPOSAL:	STAGED EIGHTEEN (18) STOREY MIXED USE DEVELOPMENT COMPRISING 408 RESIDENTIAL UNITS, 799M ² OF RETAIL SPACE & 735 BASEMENT CAR PARKING SPACES
PROPERTY:	Lot 33 DP 8001, Lot 34 DP 8001, Lot 35 DP 8001, Lot 36 DP 8001, Lot 2 DP 209917, Lot 1 DP 209917, Lot 30 DP 8001, Lot 1 DP 530832, Lot 2 DP 530832, Lot 28 DP 8001, Lot 26 DP 8001, Lot 1 SP 43088, Lot 2 SP 43088, Cnr. Jenkins Road, James Street and Thallon Street, Carlingford
LODGEMENT DATE:	14 DECEMBER 2009
REPORT BY:	CLARO PATAG DEVELOPMENT ASSESSMENT CO-ORDINATOR THE HILLS SHIRE COUNCIL
RECOMMENDATION:	DEFERRAL

BACKGROUND

MANDATORY REQUIREMENTS

Applicant:	Carling Developments Pty Ltd	1.	<u>LEP 2005</u> – Prohibited (Permissible in the Draft LEP.)
Owner:	Carling & Merc Projects	2.	<u>SEPP (Major Development) 2005</u> - Complies
Zoning:	Currently Residential 2(a1) and proposed rezoning to Residential 2(a4)	3.	<u>SEPP No. 65 – Design Quality of Residential Flat Development</u> – Complies
Area:	11,413.5m ²	4.	<u>SEPP (Infrastructure) 2007</u> – Complies
Existing Development:	Nine dwellings including a dual occupancy development and a power line stanchion. Nos. 2-8 Thallon Street are vacant.	5.	<u>SEPP 1 Development Standards</u> – Satisfactory
Capital Investment Value	\$65 million	6.	<u>BHDCP Part C Section 7 Apartment Buildings-</u> Variation, refer Attachment A1 – Previous Report.
		7.	<u>Draft BHDCP Part E Section 22 – Carlingford Precinct</u> – Variation,

			refer Attachment A1 – Previous Report.
		8.	<u>Section 79C (EP&A Act)</u> – Satisfactory
			<u>Section 94 Contribution</u> – to be determined as part of the VPA.

SUBMISSIONS

REASONS FOR REFERRAL TO JRPP

1. Exhibition:	Yes, 17 days.	1.	Capital Investment Value in excess of \$10 million pursuant to SEPP (Major Development) 2005.
2. Notice Adj Owners:	Yes, 39 days due to Christmas/New Year's break.		
3. Number Advised:	One hundred and sixty-five (165)		
4. Submissions Received:	Seven (7)		

HISTORY

25/05/2010

Status report submitted to the Joint Regional Planning Panel.
(History prior to this date in previous Report – see Attachment A1)

28/05/2010

Additional information received from the applicant relating to acoustic and vibration, cumulative shadow impacts, details in relation to parking and driveway gradients, amended landscape plans and garbage collection arrangement.

17/06/2010

Amended architectural and stormwater drainage plans received from the applicant.

22/06/2010

Council considered a report on the draft LEP, DCP and Section 94 Contributions Plan for the Carlingford Precinct and resolved that:

1. The draft Local Environmental Plan, draft Baulkham Hills Development Control Plan Part E Section 22 – Carlingford precinct, draft Section 94 Contributions Plan No. 14 – Carlingford Precinct and draft Planning Agreements and Explanatory Notes be exhibited for a minimum period of 28 days in accordance with the Environmental Planning and Assessment Act 1979; and

2. The applicant be requested to modify the draft Voluntary Planning Agreement to address the identified funding gap when compared to the Draft Section 94 Plan.

3. The applicant modify the Voluntary Planning Agreement to clearly identify the route of the undergrounding of the 132kv high voltage powerlines and it is not to include any towers, switch yards and the like in any of the development sites within the precinct.

4. Once amended to the satisfaction of the General Manager, the matter be brought back to Council to seek authorisation to publicly exhibit the draft Voluntary Planning Agreement.

5. The General Manager write to the NSW Premier and NSW Transport Minister requesting urgent State Government funding and priority to improving train service levels to Carlingford and commence construction of the Carlingford to Epping Rail link as a priority.

07/07/2010

The Joint Regional Planning Panel instructed Council to request the applicant to withdraw the subject Development Application and to make a further application when consideration of the planning control instruments relating to development of the precinct is far more advanced, and should the applicant not agree to withdrawal it was requested that the application be submitted to the Panel for determination within four weeks.

13/07/2010
13/08/2010

to Draft LEP, DCP and Contributions Plan for the Carlingford Precinct re-exhibited. Upon a further report to Council addressing submissions received, the Draft LEP will be forwarded to the Department of Planning for Publication / Gazettal.

29/07/2010

Further letter sent to the applicant requesting the withdrawal of the subject Development Application.

09/08/2010

Electromagnetic field study received from the applicant.

13/08/2010

Letter received from the applicant's planning consultant requesting that the subject Development Application not be determined until the draft LEP is gazetted. This response was based on a letter from the Department of Planning to Council dated 30 June 2010 (see Attachment A3) advising that the draft LEP must be published prior to 31 December 2010 and that the final version of the plan be made available to the Department at least 6 weeks prior to the projected publication date.

Background

On 25 May 2010, a status report on the subject Development Application was submitted to the Joint Regional Planning Panel (JRPP) (refer Attachment A1). This report included an assessment against the heads of consideration under Section 79C of the Environmental Planning and Assessment Act 1979, SEPP 65, BHLEP 2005, proposed Draft Local Environmental Plan – Carlingford Precinct, BHDCP Part C Section 7 – Apartment Buildings and BHDCP Part E Section 22 – Carlingford Precinct. The report concludes that the proposal is considered satisfactory under the provisions of the draft LEP and underlying DCP. It was indicated to the JRPP that the proposal is prohibited in the current zone and at odds with the current DCP, hence it was advised that it is not appropriate to determine the Development Application until the draft LEP is gazetted.

Amendments were made to the draft LEP which include an increase in the building height limit on the western side of the block (along Jenkins Road) from 26.7m to 45m to enable a development of 14 storeys on this part of the site (to correspond with the current proposal on this part of the site) and to achieve the maximum allowable FSR on the site. It should be noted that in the previous report it was highlighted that the 14-storey component along Jenkins Road (Stage A Building West) which has a maximum height of 43.7m exceeds the

previous development standard by 17m. As a result of the amendments to the draft LEP, Building West is now fully compliant with the 45m building height limit. The proposal however still breaches the 54m height limit for Building East and Building North by a maximum of 3.16m and 2.94m respectively. A SEPP 1 objection was foreshadowed by the applicant and submitted with the Development Application (refer discussion in the previous report to JRPP in Attachment A1). It is considered that the non-compliance with the 54m height limit on this section of the site is supportable. It is acknowledged that the infringement of the 54m height limit for Building North by 2.94m is generated by the slope of the land along Thallon Street, while the 3.16m variation for Building East is generated by the additional 1 metre required in floor to ceiling height for the retail/commercial floor space and by the variation in the slope of the land down to the north along Thallon Street. The variation to the 54m height limit for Building North and Building East will not be discernable as the proposal still presents as 18 storeys as envisaged in the draft DCP for the Carlingford Precinct. The foreshadowed SEPP 1 objection is therefore supported in this regard.

It was recommended in the previous report that the determination of the subject Development Application be deferred pending adoption of the draft VPA and notification of the making of draft BHLEP – Carlingford Precinct and commencement of the draft Carlingford Precinct DCP.

Joint Regional Planning Panel's Advice

The Joint regional Planning Panel in its letter dated 7 July 2010 (refer Attachment A2) instructed Council to request the applicant to withdraw the subject Development Application and make a further application when consideration of the planning instruments relating to development of the precinct is far more advanced, otherwise it was requested that a report on the subject Development Application be submitted to JRPP for determination within four weeks. Subsequently, Council sent a letter to the applicant to this effect.

Applicant's Response

In response, the applicant requested that the subject Development Application not be determined until the draft LEP is gazetted, relying upon the provisions under clause 72J of the Environmental Planning and Assessment Act, 1979 which allows a Development Application to be lodged subject to an environmental planning instrument applying to the land on which the development is proposed to be carried out is appropriately amended. This is exactly the situation that relates to the subject Development Application and accordingly the delay in determining this application pending gazettal of the draft LEP is anticipated in the Act by virtue of clause 72J. It should be noted that the applicant and Council's Strategic Planning staff have been working closely to amend the existing LEP to enable the Development Application (and the other Development Applications within the Carlingford Precinct) to proceed. It should also be noted that the draft Section 94 Contributions Plan for the Carlingford Precinct was required to be re-exhibited together with the draft LEP and draft DCP as the proposed rate per unit exceeds the \$20,000 per unit threshold directed by the Minister. The draft LEP proposes to remove areas of public open space so as to reduce the Section 94 contributions. The draft LEP, DCP and Section 94 plan came off exhibition on 13 August 2010.

Status of the Draft Planning Control Instruments and Voluntary Planning Agreement

Council considered on 22 June 2010 a report on proposed amendments to the draft LEP, DCP, Contributions Plan and four separate Voluntary Planning Agreements (VPAs) for the Carlingford Precinct. Council resolved to exhibit the amended plans with the exception of the VPAs. These VPAs were excluded to enable the applicant to modify the Agreements to address an identified funding gap of \$4.8 Million when compared to the Draft Contributions Plan.

As noted above, the exhibition of the draft plans concluded on 13 August 2010 and resulted in eleven (11) submissions being received. A further report to Council is likely to be scheduled in October 2010 to enable Council to consider submissions to the plans.

Council have been advised by the Department of Planning that the draft LEP must be published prior to 31 December 2010 and that the final version of the plan be made available to the Department at least 6 weeks prior to the projected publication date. Subsequently it is intended to finalise the draft LEP as soon as possible being no later than 1 November 2010.

CONCLUSION

The Development Application has been assessed against the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, Baulkham Hills Local Environmental Plan 2005, draft Baulkham Hills Local Environmental Plan, Baulkham Hills Development Control Plan, draft Baulkham Hills Development Control Plan, State Environmental Planning Policy (Major Development) 2005, State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy No. 1 – Development Standards, and is considered satisfactory, with the exception of the retail component's prohibition in the current BHLEP 2005.

It was previously recommended to the Joint Regional Planning Panel that determination of the subject Development Application be deferred pending the resolution of outstanding matters and notification of the making of draft BHLEP – Carlingford Precinct and commencement of the draft BHDGP Part E Section 22 – Carlingford Precinct. Due to the uncertainty of the finalisation of the relevant planning instruments that are to be relied upon for the determination of this matter, the JRPP has instructed Council in writing to request the applicant to withdraw the Development Application, otherwise it was requested that a report on the matter be submitted to JRPP for determination.

The applicant has declined to withdraw the Development Application relying upon the provisions under clause 72J of the Environmental Planning and Assessment Act 1979, which states:

Nothing in this Act prevents:

(a) the making of a development application to a consent authority for consent to carry out development that may only be carried out if an environmental planning instrument applying to the land on which the development is proposed to be carried out is appropriately amended, or

(b) the consideration by a consent authority of such a development application, subject to this Division."

Given that the Department of Planning has advised that the draft LEP must be published by the end of this year, it is assumed that the JRPP now has a clear timeframe for the determination of this Development Application and it is recommended the application be deferred. However, if the JRPP feels this Development Application must be finalised now it could only be refused given part of this development is prohibited in the current LEP. This issue cannot be dealt with by condition of consent.

IMPACTS:

Financial

The applicant is required to demonstrate to Council that satisfactory arrangements have been made with Energy Australia for funding and undergrounding of the 132kV power lines with no cost to Council.

Council is currently engaged with the applicant to resolve an identified funding gap of \$4.8 Million when compared to the draft Contributions Plan. In relation to the undergrounding of the 132kV power lines, representations have been made to the Minister for Planning seeking support to address the rising cost of works as estimated by Energy Australia which have the potential to jeopardise the redevelopment of the Carlingford Precinct in the manner envisaged.

Notwithstanding this issue, the amended VPAs will be reported to Council concurrently with the exhibited LEP, DCP and Contributions Plan in October 2010. Exhibition and adoption of the VPAs may occur concurrently with the submission of the draft LEP to the Director-General for finalisation.

Hills 2026

The proposal responds to the revitalisation of the Carlingford Precinct which is an integral component of Council's Residential Direction and response to the State Governments Draft North West Sub-regional Strategy. The proposal provides a good mix of housing which is an environmentally sustainable form of residential development and would protect and enhance the character of the locality and the Shire as a whole.

RECOMMENDATION

That determination of the subject Development Application be deferred pending the resolution of outstanding matters and notification of the making of draft BHLEP – Carlingford Precinct and commencement of the draft BHDCP Part E Section 22 – Carlingford Precinct, draft Contributions Plan No. 14 Carlingford Precinct and Voluntary Planning Agreements.

ATTACHMENTS

- A1. Copy of Previous Status Report to JRPP
- A2. Copy of correspondence from JRPP dated 7 July 2010
- A3. Copy of Department of Planning's letter dated 30 June 2010

JRPP STATUS REPORT

JRPP NO:	2009SYW031
DA NO:	895/2010/JP
APPLICANT:	Carling Developments Pty Ltd
PROPOSAL:	Demolition of existing buildings and structures on the site and construction of a mixed use development, eighteen (18) storeys in height.
PROPERTY:	Lot 33 DP 8001, Lot 34 DP 8001, Lot 35 DP 8001, Lot 36 DP 8001, Lot 2 DP 209917, Lot 1 DP 209917, Lot 30 DP 8001, Lot 1 DP 530832, Lot 2 DP 530832, Lot 28 DP 8001, Lot 26 DP 8001, Lot 1 SP 43088, Lot 2 SP 43088, Cnr. Jenkins Road, James Street and Thallon Street, Carlingford
LODGEMENT DATE:	14 December 2009
REPORT BY:	Claro Patag – Development Assessment Coordinator The Hills Shire Council
RECOMMENDATION:	Deferral for continued assessment pending the gazettal of the Local Environmental Plan, enforcement of the Carlingford Precinct Development Control Plan and approval and adoption by Council of a Voluntary Planning Agreement for the development.

BACKGROUND

MANDATORY REQUIREMENTS

Applicant:	Carling Developments Pty Ltd	1.	<u>LEP 2005</u> – Prohibited (Permissible in the Draft LEP.)
Owner:	Carling & Merc Projects	2.	<u>BHDCP Part C Section 7 Apartment Buildings- Variation</u> , see report.
Zoning:	Currently Residential 2(a1) and proposed rezoning to Residential 2(a4)	3.	<u>Draft BHDCP Part E Section 22 – Carlingford Precinct</u> – Variation, see report.
Area:	11,413.5m ²	4.	<u>SEPP (Major Development) 2005</u> – Complies
Existing Development:	Nine dwellings including a dual occupancy development and a power line stanchion. Nos. 2-8 Thallon Street are vacant.	5.	<u>SEPP (Infrastructure) 2007</u> – Complies.
Capital Investment Value	\$65 million	6.	<u>SEPP 1 Development Standards</u> – Foreshadowed SEPP 1 objection still under consideration.

Political Donation Disclosure	Yes.	7.	Section 79C (EP&A Act) – Satisfactory
		8.	Section 94 Contribution – to be determined as part of the VPA.

SUBMISSIONS JRPP

REASONS FOR REFERRAL TO

1. Exhibition:	Yes, 17 days.	1.	Capital Investment Value in excess of \$10 million pursuant to SEPP (Major Development) 2005.
2. Notice Adj Owners:	Yes, 39 days due to Christmas/New Year's break.		
3. Number Advised:	One hundred and sixty-five (165)		
4. Submissions Received:	Seven (7)		

HISTORY

26/06/2003

Deferred commencement consent granted under DA 637/2003/HB for the construction of a 2 x 4 storey apartment building containing 66 units granted by Council. Deferred commencement requirements relate to the creation of a drainage easement and approval from Energy Australia regarding installation of the 900mm dia. drainage pipe and subsequent widening of the existing drainage easement within their existing electrical easement. The applicant failed to satisfy these requirements within the prescribed period and the consent lapsed on 26/06/2004.

10/01/2006

Development Consent 1515/2006/HB for the demolition of existing dwelling houses and associated structures and construction of an apartment development containing 59 x 2 bedroom and 8 x 1 bedroom apartment units within two separate buildings and basement parking for 157 vehicles approved by Council.

19/05/2009

Council resolved to adopt the Draft Local Environmental Plan (Draft LEP) for the Carlingford Precinct and the Draft Baulkham Hills Development Control Plan Part E Section 22 – Carlingford Precinct.

05/06/2009

Pre-lodgement meeting held with applicant to discuss concept proposal for the site together with three other apartment proposals within the vicinity.

14/12/2009

Subject Development Application lodged.

17/12/2009

Letter sent to the applicant advising of the outcome of the briefing held with the Joint Regional Planning Panel on 26 November 2009 regarding another development application (DA 562/2010/JP) where members raised concerns regarding the impact of the adjacent electricity station (opposite the subject

site on the western side of Jenkins Road) upon the amenity of future occupants. The applicant was requested to undertake an electromagnetic impact study to address concerns relating to health effects resulting from exposure to electric and magnetic fields.

- 18/12/2009** Subject Development Application referred to Joint Regional Planning Panel.
- 22/12/2009** **to** Subject Development Application notified to adjoining and
29/01/2010 surrounding properties. It was also advertised in the local paper for public comment.
- 07/01/2010** Letter sent to the applicant requesting additional waste management information.
- 20/01/2010** Letter sent to the applicant requesting additional information to address two aspects in the acoustic assessment of this application, the first being the noise received by the commercial and residential areas proposed within this application and the second being the impact of the development on existing neighbouring premises.
- 03/03/2010** Letter sent to the applicant requesting the withdrawal of the subject Development Application due to uncertainty of LEP gazettal and determination timeframe raised by JRPP.
- 04/03/2010** Response received from the applicant's town planning consultant advising that they do not wish to withdraw the subject application and request Council to undertake a merit assessment of the application based on the draft planning controls and that the final determination of the application be held in abeyance until the draft LEP is gazetted as contemplated by Clause 72J of the EP & A Act.
- 04/03/2010** Briefing held with the Joint Regional Planning Panel in Parramatta.
- 22/04/2010** Briefing held at Council's Administration Building at the request of JRPP to discuss status of the application.
- 03/05/2010** Letter to applicant requesting additional engineering information relating to flooding, drainage, parking and driveway issues.

BACKGROUND

Council, at its meeting of 19 May 2009, considered a report on the Carlingford Precinct and resolved to adopt the Draft Local Environmental Plan (Draft LEP) for the Carlingford Precinct and the Draft Baulkham Hills Development Control Plan Part E Section 22 – Carlingford Precinct upon gazettal of the Draft LEP.

A further recommendation was made in relation to endorsing Draft Section 94 Contribution Plan No. 14 – Carlingford Precinct. Council resolved to support the recommendation as indicated above.

This proposal together with three other apartment proposals within the Carlingford Precinct by the same developer were the subject of a pre-lodgement meeting held with Council staff on 5 June 2009, where it was advised that a positive determination of the proposed development could occur until notification of the making of the Draft LEP for the Carlingford Precinct. The proposed development contains retail floor space on the ground floor, which is prohibited in the current zone. The applicant has requested that this application be assessed against the Draft LEP and DCP controls for the Carlingford Precinct but not determined until the Draft LEP for Carlingford Precinct is gazetted, anticipating that at that time the new DCP for the Carlingford Precinct will come into force.

The applicant is currently negotiating a Voluntary Planning Agreement (draft VPA) with Council to satisfy Council's resolution in relation to the gazettal of the draft LEP. Should Council support this plan, the draft Contributions Plan must be amended to reduce the total value of works in order to ensure that the remainder of development in the Precinct is not required to contribute disproportionately to the provision of infrastructure as a result of the VPA.

Accordingly, amendments to the draft LEP and DCP are necessary to address land to be dedicated by the agreement and other consequent amendments to the draft DCP. Consideration of the proposed amendments by Council is expected to occur concurrently with the Draft VPA in June 2010.

SUBJECT SITE AND SURROUNDS

Site Description & Zoning

The subject site known as Nos. 7-13 Jenkins Road, Carlingford (Lots 33-36 DP 8001) and Nos. 2-14 Thallon Street, Carlingford (Lots 1 & 2 DP 209917, Lots 26, 28 & 30 DP 8001, Lots 1-2 DP 530832 and Lots 1 & 2 SP 43088) has a total site area of 11,413.5m².

The subject site is irregular in shape and consists of 13 existing residential allotments.

The subject site is bounded to the south by James Street, to the east by Thallon Street, to the west partly by Jenkins Road and Nos. 17A, 19A and 21-25 Jenkins Road, and to the north partly by Nos. 17 & 17A Jenkins Road and No. 16 Thallon Street. An electricity easement traverses the centre of the site.

The subject site slopes from the south downward to the north by 7.24m. The highest point on the site is at the south-eastern boundary, whilst the lowest point on the site is at the north-western boundary of 14 Thallon Street.

The subject site is currently zoned Residential 2(a1) under the provisions of Baulkham Hills Local Environmental Plan 2005 and is proposed to be rezoned to Residential 2(a4) under the draft amendments to BHLEP 2005 (see Attachment 15). The proposal is permissible in the draft LEP subject to compliance with building height and floor space ratio controls (see Attachments 16 & 17). The proposal has been designed in accordance with draft BHDCP Part E Section 22 – Carlingford Precinct which will automatically be in force upon gazettal of the draft LEP, however the proposal does not comply with the following numerical standards under BHDCP Part C Section 7 – Apartment Buildings, which is the current DCP for apartment buildings within the Shire: setbacks, building height, building separation, landscaped area, building length, density, unit size, common open space and parking.

The applicant has lodged a SEPP 1 objection to the building height standard as prescribed in the draft LEP. The development proposal exceeds the 54m building height limit by a maximum of 3.16m, whilst the 26.7m building height limit is exceeded by 17m.

The draft LEP also includes a provision which states "*Development consent must not be granted for any development on land to which this clause applies unless the Director General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated state public infrastructure in relation to that land.*"

Council has referred the matter to the Director General pursuant to the above draft provision and it was advised that until the LEP is made, the applicant is entitled to have the DA processed and determined without reference to the "*satisfactory arrangements*" clause.

Surrounding Development

The James Ruse High School livestock grazing paddocks are located on the western side of Jenkins Road opposite the subject site.

On the southern side of James Street are existing one and two storey dwelling houses. Two separate Development Applications (DA 562/1010/JP and DA 561/2010/HB) have been lodged to construct mixed-use developments at 2-8 James Street and 12 James Street respectively for the construction of up to 18-storey apartment buildings with ground floor retail development.

The Carlingford Railway Station is located diagonally to the south-east of the subject site. Pedestrian access to the Carlingford Railway Station is via an open space area on the intersection of James and Thallon Streets.

On the eastern side of Thallon Street opposite the subject site are predominantly one and two storey dwelling houses except for No. 1 Thallon Street which contains a weatherboard and galvanized iron shed associated with the Carlingford Produce Store site and No. 11 Thallon Street which consists of two storey brick townhouses. A separate Development Application (DA 943/2010/JP) has been lodged for Nos. 1-7A Thallon Street for the construction of a mixed use development with ground floor retail space and a residential component up to 18 storeys in height.

To the north of the subject site along Jenkins Road is a mix of single storey dwelling houses and residential apartment buildings.

PROPOSAL

The proposal is to demolish the existing buildings on site and construct a mixed use development in four stages which consists of the following components:

- 29 x 1 bedroom units
- 299 x 2 bedroom units
- 80 x 3 bedroom units
- 799m² of retail floor space at ground level
- 3 basement parking levels providing 735 car parking spaces

The staging is proposed as follows:

- Stage A - Building West, basement car park that is located to the south of the transmission easement and landscaping
- Stage B - Building South
- Stage C - Building West
- Stage D - Building North and basement car park located on the northern side of the electricity easement

The proposal will retain 27 trees and remove 95 trees.

The proposed mixed use development consists of four separate buildings. As the site contains an electricity easement which passes through the site in an east west direction, the developable area is essentially split into two parcels, this being land to the south of the easement and land to the north of the easement. The land to the south of the easement contains the bulk of the developable area and contains three separate buildings (Stages A, B & C), whilst the land to the north of the easement contains one building (Stage D).

Stage A Building West, which addresses Jenkins Road, is 14 storeys in height. The western building presents to James Street as an 8-storey building with a communal landscaped area on the roof of Level 8. The 14-storey component of the building is setback 24.1m from James Street.

All the ground floor units that present to James Street and Jenkins Road are provided with ground level private open space within the front setback area. These areas are heavily landscaped to provide additional privacy to the ground floor areas.

Stage B Building South contains retail spaces on ground level, which contain glazed shop fronts. Building South presents to James Street as a 6-storey building with a landscaped roof garden above.

Stage C Building East contains ground level retail space which addresses Thallon Street. Building East has a podium height of 6 storeys at the southern end and 7 storeys at the northern end. The slope downward to the north generates the additional storey at the northern end by more than 3m. Above the podium level is the tower element, which is a maximum of 18 storeys. Like the other buildings, Building East has strong vertical and horizontal design lines, which frame the balconies and windows breaking the building up into compartments.

Stage D Northern Building is a maximum of 18 storeys and does not contain any ground level retail space. The building presents with an 8-storey podium level to Thallon Street with Levels 9 to 18 being the tower component.

The development proposal aims to provide landmark buildings to promote the location and sustainability of the proposed urban village surrounding the Carlingford Railway Station. These buildings vary in built form from that envisaged in the Draft LEP Carlingford Precinct and the draft DCP Carlingford Precinct, but satisfy the objective of the zone to establish the urban village. The variations are as follows:

- 14-storey component along Jenkins Road where a 10-storey maximum is required. It also exceeds the 26.7m height limit by 17m.
- 7-storey podium height is provided to a section of the Thallon Street frontage.
- An 8-storey podium is provided to Building North where a 4-storey podium is required.
- 18-storey towers exceed the 54m height limit (between 1m to 2.16m) for Building East and 2.94m for Building North.

ISSUES FOR CONSIDERATION

1. Baulkham Hills Local Environmental Plan 2005

The proposal is currently prohibited under the provisions of Residential 2(a1) zone as it is defined as shop-top housing in the current Local Environmental Plan. However, the shop-top housing proposal would be permissible upon gazettal of the draft Baulkham

Hills LEP – Carlingford Precinct that proposed the rezoning of the land from Residential 2(a1) to Residential 2(a4). As such the development application will be permissible with consent on gazettal of the draft Baulkham Hills LEP 2005. The proposal is permissible in the draft LEP subject to compliance with building height and floor space ratio controls (see Attachments 16 & 17). The proposal has been designed in accordance with draft BHDCP Part E Section 22 – Carlingford Precinct which will automatically come into force upon gazettal of the draft LEP.

The proposal does not comply with the 54m and 26.7m building height limit prescribed under Clause 60(4)(b) of the draft LEP, hence a SEPP 1 objection has been submitted by the applicant foreshadowing the proposal's non-compliance with this draft statutory requirement. The SEPP 1 Objection is discussed later in this report.

2. Status of draft Local Environmental Plan – Carlingford Precinct

Council considered a report on a draft Local Environmental Plan, draft Development Control Plan and draft Section 94 Contributions Plan ("the Carlingford Precinct Plan") on 19 May 2009 and resolved that:

1. *Council adopt the Draft Local Environmental Plan as per Attachment 1 and issue a Section 69 report to the Director General for gazettal subject to:*
 - a. *Endorsement of the Draft Section 94 Contributions Plan No.14 – Carlingford Precinct by the Minister for Planning in accordance with the Direction issued to Council's under S94E of the EP&A Act; and*
 - b. *the major land owner demonstrating to Council that satisfactory arrangements have been made with Energy Australia for funding and undergrounding of the 132kV power lines.*
2. *Council adopt Draft Baulkham Hills Development Control Plan, Part E Section 22 – Carlingford Precinct as per Attachment 2 with its commencement to occur upon gazettal of the Draft LEP.*
3. *Council endorse Draft Section 94 Contributions Plan No.14 – Carlingford Precinct as per Attachment 3 for further review by the Department of Planning's Developer Contributions Review Panel and endorsement by the Minister for Planning in accordance with the Direction issued to Council's under S94E of the EP&A Act.*
4. *Council request the State government increase the frequency of the direct train service from Carlingford to the City and increase all other public transport services to and from the Carlingford precinct in line with the proposed increase in dwellings.*

Actions required to address Council's resolution outlined above are well advanced and summarised below:

Draft Section 94 Contributions Plan

The adopted Draft Contributions Plan No.14 ("the Draft CP") was referred to the Department of Planning's Developer Contributions Review Panel for review on 2 March 2009. The Department did not consider the Draft CP in its first round of assessments concluded in July 2009.

On 30 July 2009, Council received an expression interest to enter into a Voluntary Planning Agreement (VPA) on behalf of five separate companies ("the developers") who control key sites within the Carlingford Precinct. Given that the VPA offer relates to approximately 55% of the anticipated development (1129 dwellings) within the Precinct,

submission of a revised Draft CP to the Department was deferred pending agreement on the general terms of the VPA.

The developers lodged a draft VPA on 14 April 2010 supported by a report entitled '*Energy Australia 132kv double circuit Under-grounding at Carlingford*' ("the Energy Australia Report") prepared by Parsons Brinkerhoff to, in part, satisfy Council's resolution item 1(b). The report identifies the preferred route, method of construction and cost estimate. The report does not commit the Developers to delivery of this work.

The draft VPA is currently under legal review by Council's lawyer with the findings to be presented to Council on 1 June 2010. An important element of the review involves consideration of whether under grounding of the 132kv power represents a material public benefit to be referenced by the VPA. If so, the Minister's consent would be required for inclusion of the work as additional key community infrastructure prior to making the plan.

Finally, the value of works proposed by the draft VPA is \$13.1 Million. Should Council support this plan, the Draft CP must be amended to reduce the total value of works in order to ensure that the remainder of development in the Precinct is not required to contribute disproportionately to the provision of infrastructure as a result of the VPA.

Draft Local Environmental Plan and Development Control Plan

Pursuant to the draft VPA proposal, amendments to the Draft LEP and DCP are necessary to address the following matters:

- Land to be dedicated by the draft VPA; and
- Development controls to address works deleted from the draft Contributions Plan and

A range of other transport management facilities will be required by Council to be undertaken directly by the developer as conditions of consent under section 80A(1)(f) of the EP&A Act, the demand for which is considered to be generated entirely by the

The consideration of the proposed amendments by Council is expected to occur concurrently with the Draft VPA in June 2010.

Upon exhibition and consideration of submissions to the draft VPA, LEP, DCP and Contributions Plan, a Section 69 report recommending the making of the Draft LEP will be submitted to the Department. Council is committed to the timely completion of this process which represents a key element of Council's Residential Direction.

Should Council support this plan, the draft Contributions Plan must be amended to reduce the total value of works in order to ensure that the remainder of development in the Precinct is not required to contribute disproportionately to the provision of infrastructure as a result of the VPA.

Accordingly, amendments to the draft LEP and DCP are necessary to address land to be dedicated by the agreement and other consequent amendments to the draft DCP. Consideration of the proposed amendments by Council is expected to occur concurrently with the Draft VPA in June 2010.

It should be noted that amendments to the draft planning controls for the Precinct as a result of the draft VPA are anticipated to result in the removal of public domain works such as street lighting and landscaping from the draft Contributions Plan in order to reduce the overall cost of the plan. The removal of these works from the draft Contributions Plan will trigger an amendment to section 3.6 of the draft DCP to require the provision of works within the public domain as a condition of development consent.

3. Compliance with BHDCP Part C Section 7 – Apartment Buildings

The proposed development has been assessed against the relevant development standards and objectives of BHDCP Part C Section 7 – Apartment Buildings (current general controls for apartment buildings in the Shire) and the table below shows the extent of the proposal's performance against the current development standards:

DEVELOPMENT STANDARD (CLAUSE NO.)	BHDCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
3.1 Site Requirements	Min. lot size 4000m ² Min. frontage – 30m	11,413.5m ² Thallon Street – 169.27m James Street – 45.72m Jenkins Road – 80.39m	Yes. Yes.
3.3 Setbacks – Building Zone	Front (two street frontages) Primary frontage – 10m (Thallon Street) Secondary frontage – 6m (James Street and Jenkins Road) Side – 6m Rear – 8m	6m for first 2 storeys and 8m from third storey and above 6m to James Street and 8m to Jenkins Road 6m (northern side) 13.7m to Nos. 17A, 19A and 21-25 Jenkins Road	No. Yes. Yes. Yes.
3.4 Building Heights (per storey)	13 metres eaves 16 metres ridgeline	Max. 57.16m to ridgeline	No.
3.5 Building Separation and Treatment	12 metre building separation	4m between Stage A Building West and Stage B Building South 30.5m between Stage a Building West and Stage C Building East. 33.5m between Stage C Building East and Stage D Building North	No. Yes. Yes
3.6 Landscaped Area	50% of site area = 1,496.4m ²	Deep soil landscaping - 2,744m ² or 24% of site area	No.

3.7 Building Length	max. 50 metres	Stage A Building West - 65.5m Stage B Building South - 51.4m Stage C Building East - 50.7m Stage D - Building North - 59.1m	No. No. No. No.
3.9 Urban Design Guidelines	Demonstrate conformity with "Baulkham Hills Multi Unit Housing - Urban Design Guidelines 2002"	In conformity with the Guidelines in terms of desire future character of the area as envisaged in the Draft DCP for Carlingford Precinct.	Yes.
3.10 Density	150-175 persons per hectare	772.42 persons per hectare	No.
3.11 Unit Layout and Design	1 bedroom - 75m ² 2 bedroom - 110m ² 3 bedroom - 135m ²	Min. 63m ² Min. 88m ² Min. 110m ²	No. No. No.
3.13 Open Space	Private: Ground level - 4m x 3m (min) Above ground - min. 10m ² with min. depth 2.5m Common: 20m ² per dwelling @408 dwellings = 8,160m ²	>min. provided (34m ² - 170m ²) >min. provided Total common area = 5,996m ² or 14.7m ² per dwelling	Yes. Yes. No.
3.14 Solar Access	Adjoining buildings & / open space areas - four hours between 9am & 3pm on 21 June Common open space - four hours between 9am & 3pm on 21 June	Shadow elevations show that opposite properties (south of James Street) will receive more than four hours between 9am-3pm during mid-winter (see Attachments 32 & 33). The applicant has been requested to submit a cumulative shadow impact study to confirm it.	Yes.

3.19 Car parking	<p>Rate per unit & visitor parking:</p> <p>1 space per 1 BR @ 29 x 1 bedroom = 29 spaces 2 spaces per 2 or 3 BR @ 299 x 2 bedroom = 598 spaces @ 80 x 3 bedroom = 160 spaces Total = 787 spaces</p> <p>Visitor – 2 spaces per 5 dwellings @408 dwellings = 163.2 spaces</p> <p>1 space per 18.5m² retail floor area (per BHDCP Part D Section 1 – Parking) @799m² = 43.19 spaces</p> <p>Total requirement = 993.39 or 994 parking spaces</p>	<p>534 resident spaces</p> <p>157 visitor spaces</p> <p>44 retail spaces</p> <p>Total provision = 735 parking spaces</p>	<p>No.</p> <p>No.</p> <p>Yes.</p> <p>No.</p>
3.20 Storage	10m ³ with an area 5m ² and dimension 2 metres	A total of 4,251m ³ of central storage areas provided within the basement car park levels, i.e. 10.42m ³ per unit.	Yes.
3.21 Adaptability, Pedestrian Access & Safety	<p>Lift provided if greater than 2 storeys</p> <p>Accessible housing: 5% in a development >20 units, i.e. total of 21 units</p>	<p>Provided.</p> <p>27 adaptable Class B units.</p>	<p>Yes</p> <p>Yes.</p>

The proposal does not comply with the current development standards that generally apply to apartment buildings within the Shire in terms of setback, building height, building separation, landscaped area, building length, density, unit size, common open space and parking. The proposal has been designed in accordance with the draft LEP and draft DCP controls for the Carlingford Precinct and has been lodged on the basis that an assessment of the application can be made against the provisions of these draft instruments and that the determination can be held in abeyance until the draft LEP is gazetted.

4. Compliance with Draft BHDCP Part E Section 22 – Carlingford Precinct

The proposed development has been assessed against the relevant development standards and objectives of Draft BHDCP Part E Section 22 – Carlingford Precinct as follows:

Clause 2.2 Key Site

The subject site sits within Block 3 which is identified as a key site. Clause 2.2 indicates that the key sites comprise large land holdings that are mainly under single ownership and are in locations critical to the establishment of a village centre. The key sites are suitable for buildings containing a relatively large number of units and as a result development of a substantial size and complexity can be delivered promptly. The DCP indicates that the key sites will be a catalyst for the redevelopment of the Southern Precinct near Carlingford Railway Station.

The subject site is the largest of the Key Sites in the Carlingford Precinct and as such will be responsible for providing the bulk of residential and commercial floor area to provide the envisaged urban village.

Clause 3.3 Desired Future Character Statements

Section 3.3.1 – Southern Precinct provides the Desired Future Character for the Southern Precinct which contains the subject site. The Desired Future Character Statement identifies the following key points:

The character will be largely determined by the development of landmark buildings on the key sites

Creating street orientated village built forms

Creating a civic plaza link to the railway station

Buildings on key sites on the south side of the precinct have been placed to provide a transition in building scale and to provide natural ventilation, solar access, outlook from apartments and year round sunlight to communal open spaces

Streetscapes are to be resident and visitor friendly in an urban landscape setting

The landscape works in the public realm help to define the character of the area

The proposed development is considered to be consistent with the desired future character

for the Southern Precinct as the development forms a transition in building height from Jenkins Road up to that part of the site that is closest to the railway station. The slender tower element is at the eastern end of the site, which is closest to the railway station and accords with Figure 12 - Conceptual Built Form Controls provided in Section 5.1 Block 3 Jenkins and Thallon Street. See Attachment 18.

The 799m² of retail/commercial floor space located on the ground floor level directly addressing James Street and Thallon Street will assist in creating an active and lively village setting in close proximity to Carlingford Railway Station.

Clause 3.5 Structure Plan (Open Space Strategy)

The principle of providing quality residential open space areas is relevant to this Development Application. The proposal is consistent with this principle as it is considered that the open space provided on the ground level will enhance the quality of the setting of the mixed use development through the provision of a private landscaped area that is accessible to all units which contains a pergola and swimming pool. A second pool and pergola is provided exclusively for Building North. In addition, two gyms are located adjacent to the rear communal open space area for both the southern and northern sections of the mixed use development. As such, the communal open space provides opportunities for both passive and active recreation.

The landscaping features along the front and side boundaries (i.e. James Street, Jenkins Road and Thallon Street frontages) ensures that at street level there is a significant amount of site landscaping visible to the public domain which will soften the built edge of the development.

Clause 3.6 Structure Plan (Public Domain)

Figure 6 Structure Plan – Public Domain (Attachment 19) indicates that in the vicinity of the intersection of James Street and Thallon Street a town square/civic plaza should be provided. The proposed development is consistent with Figure 6 Structure Plan – Public Domain as it provides 799m² of retail/commercial space at the eastern end of the subject site which is closest to the intersection of Thallon Street and James Street and the Carlingford Railway Station.

Clause 3.7 Structure Plan (Indicative Building Height and FSR)

The principle that building heights should increase the closer a site is to the Carlingford Railway Station is relevant to this application. The proposed development complies with the 4:1 maximum floor space ratio requirement applicable to Block 3 – Jenkins Road and Thallon Street. The proposal exceeds the 54m height limit along James Street and Thallon Street and exceeds the 26.7m height limit along Jenkins Road.

The development proposal provides the tallest building components along Thallon Street to ensure the primacy of the urban village.

The 14-storey component along Jenkins Road will not affect the primacy of the urban village as it is read as a purely residential component due to its setback from James Street.

Clause 3.8 Illustrative Masterplan

The development proposal is consistent with Figure 8 Illustrative Masterplan (see Attachment 20) for the following reasons:

- It is consistent with the intention that high-rise development is to be concentrated close to the Carlingford Railway Station.
- The proposed development provides 799m² of commercial/retail space on the ground floor level which is located on a pedestrian route to Carlingford Railway Station.
- The apartment tower components of the mixed-use development are slender in form and are orientated north/south so as to minimise overshadowing to the south and to provide east and west facing units.
- The towers are considered to be iconic buildings in terms of the DCP and are located at a gateway to the Carlingford Railway Station.

Clause 4 Precinct and Built Form Controls

Clause 4 states

*"the following development controls apply to development across the Precinct **with the exception of the key sites** (see Figure 3 – Key Sites)."*

The subject site is located within Block 3 being Jenkins Road and Thallon Street, which is listed as a key site (see Attachment 21) and as such, Clause 4 of the DCP does not apply.

Clause 5 Key Site Built Form Controls

The subject site is located within Block 3: Jenkins and Thallon Street. Clause 5.2.1 Development Controls provides the following design criteria.

Development Parameter	Development Controls	Proposal	Compliance
Building Height	54m (James and Thallon Streets) 26.7m (Jenkins Road)	Max. 57.16m Max. 43.7	No, see SEPP 1 Objection.
FSR	4:1	3.86:1	Yes.
Building Site Coverage	40% max.	39.7%	Yes.
Vehicular Access and Circulation	DCP indicates there should be 2 vehicular entry points to the site, one being on Jenkins Road and the second on Thallon Street.	It is proposed to provide 3 vehicular entry points to the site. The Jenkins Road entry and Thallon Street entry are as indicated on Figure 12, however it is proposed to provide a separate vehicular entry to the northern building as it is not possible to connect the basements between the southern and northern parts of the site as a result of the proposed undergrounding of the existing high tension power lines that separate the north and south component of the site.	Yes.
Car parking requirements	0.8 spaces per 1 bedroom unit @29 x 1 bedroom = 23.2 spaces 1 space per 2 bedroom unit @299 x 2 bedroom = 299 spaces 1.3 spaces per 3 bedroom unit @80 x 3 bedroom = 104 spaces 2 visitor spaces per	Total number of spaces provided = 735 spaces	Yes.

	<p>5 units @408 units = 163.2 spaces</p> <p>1 space per 18.5m² of retail floor space @799m² - 43.19 spaces</p> <p>Total number of parking spaces required = 633 spaces</p>		
Distribution of uses within the building	Retail and commercial uses limited to ground floor	Retail/commercial space is provided on ground floor with total floor area of 799m ² .	Yes.
SEPP 65 Compliance Statement	Required	<p>A Design Verification Statement has been submitted with the DA.</p> <p>The provisions of SEPP 65 have been assessed against the residential flat building design code under the Heading 5.1.1 - State Environmental Planning Policy No. 65 - Design of Residential Flat Buildings contained within the SEE submitted with the application.</p>	Yes.
Deep Soil Planting	15% of total site area.	24%	Yes.

5. SEPP 1 Objection

A written SEPP Objection to the building height prescription under Clause 60(4) (b) of the draft Local Environmental Plan accompanied the proposal.

Clause 6 of SEPP 1 states:

"Where development could, but for any development standard, be carried out under the Act (either with or without the necessity for consent under the Act being obtained) therefore the person intending to carry out that development may make a development application in respect of that development, supported by a written objection that compliance with that development standard is unreasonable or unnecessary in the circumstances of the case, and specifying the grounds of that objection."

The proposed development exceeds the building height development standard of 54m and 26.7m (as indicated on the Carlingford Precinct Height Map referenced under Clause 60(4)(b) in the draft LEP).

The proposal breaches the 54m height limit by a maximum of 3.16m on the north elevation of Building East. Building North exceeds the 54m maximum height by a maximum of 2.94m. The non-compliance with the 54m height limit is generated by the following:

- 54m height limit is based on a maximum 18-storey development with 3m floor to floor heights;
- This does not consider the increase in floor to ceiling heights required for the retail/commercial space on the ground floor;
- The significant slope of the site; and
- The need to keep level floor plates to provide accessible units.

Development along Jenkins Road is subject to a building height development standard of 26.7m, which equates to a 9-storey limit. The development proposed contains a 14-storey component in Building West which addressed Jenkins Road. The maximum height of this 14-storey component is 43.7 metres. Therefore, the proposal exceeds this development standard by 17m. The non-compliance with the 26.7m height limit is generated by the following:

- Compliance with the building footprint requirement and maximising solar access to the units and surrounding development would result in a development with 25 less units which equates to 0.24:1 of floor space.

The applicant in the SEPP 1 objection argues that strict compliance with this standard is considered to be unreasonable and unnecessary for the following reasons:

1. It is considered that the mixed use proposal is consistent with the objectives of the building height development standard.

2. The exceedance of the 54 metre height limit for Building North by 2.94 metres is generated by the slope of the land along Thallon Street. As discussed previously, the 54 metre height limit facilitates an 18 storey building located on flat land with a 2.7 metre floor to ceiling height and 300mm floor thickness. As soon as there is any slope variation in the land this height limit is exceeded. It is not practical to put a step in the floor level as this adversely impacts upon building costs and accessibility by disabled residents and visitors. Furthermore, to comply with the 54 metre height limit on a sloping site, it would be necessary to lower the ground floor levels significantly and provide multiple level changes.

3. The exceedance of the 54 metre height limit by 3.16 metres for Building East is generated by the additional 1 metre required in floor to ceiling height for the retail/commercial floor space and by the variation in the slope of the land down to the north along Thallon Street.

4. The exceedance of the 54 metre height limit for Building North and Building East will not be discernable as the proposal still provides 2 x 18 storey towers as envisaged by the Development Control Plan – Carlingford Precinct.

5. Compliance with the 54 metre height limit would require the deletion of 21 units that would impact upon the viability and vitality of the urban village.

6. The exceedance of the 26.7 metre height limit along Jenkins Road is an additional building component that is not envisaged by either the draft LEP or the DCP – Carlingford Precinct. The development proposal provides a building footprint of 39.7% whereas up to 40% is permitted. Therefore, in order to provide quality private and communal open space areas, it is not possible to extend the building envelopes any further across the site. As such the only way to increase the residential density and floor area as envisaged by the 4:1 maximum FSR control to maximise residential housing opportunities is to provide greater building height at some point on the site. The location of the area of increased number of storeys chosen by the applicant's consultant team is the northern section of Building West where it will have no adverse impacts on the future urban village nor the amenity of surrounding properties. It was considered appropriate for a 14 storey building component as it provides a transition in height up to the 18 storey building component on Thallon Street and due to its setback to James Street of approximately 30 metres, did not adversely overshadow the future urban village or properties on the southern side of James Street.

The northern end of Building West was chosen for the 14 storey building component for a number of reasons which are discussed below. The 14 storey building component is setback 30 metres from the intersection of James Street ensuring that this component is not visually discernable from ground level as viewed from within the urban village along James Street and Thallon Street. This is demonstrated by the photomontages that are attached at Appendix E of the SEE. The setback does not result in any adverse solar access impacts on future development on the southern side of James Street or within the urban village itself.

Opposite Building West on the western side of Jenkins Street the grazing paddocks of James Ruse Agricultural High School are present. Therefore there are no adverse privacy or solar access impacts to the west. Furthermore, the existence of these paddocks will not result in the 14 storey building component contributing to the visual enclosure of Jenkins Road.

The 14 storey building component is located at the northern end which is at the lowest part of the Jenkins Road site frontage which reduces the visual perception of the building height.

The 14 storey component will not have any adverse impacts on future development to the north as it will be separated by approximately 33 metres. This 33-metre separation distance is generated by Council's requirement to have a 12-metre setback on either side of the transmission line easement and the 9-metre easement width. This 33 metres building separation distance will ensure that there are no privacy impacts generated by the additional building height.

The 14 storey building component does not generate any adverse solar access impacts for the central communal open space area as it faces north and enjoys more than 3 hours of solar access to 50% of the open space.

7. The 14 storey building component in Building West allows approximately 25 additional dwellings to be provided that will assist in sustaining the future urban village. The zone objectives for the 2(a4) zone include:

- To maximise opportunities for residential development in close proximity to the facilities and services of certain town centres
- To promote a range of housing types and styles
- To provide opportunities for affordable housing
- To integrate residential development with public transport facilities.

The additional 25 dwellings provided in Building West are consistent with the 2(a4) zone objectives as it seeks to maximise residential housing opportunities that are in close proximity to the future urban village and the Carlingford Railway Station. The proposed

mixed use development easily complies with the 4:1 maximum floor space ratio control and as such the density of the proposed development is consistent with Council's desire to maximise residential housing opportunities in the locality.

Comment:

Council staff are still considering the merit of the foreshadowed SEPP 1 application and its context in terms of the draft LEP.

6. Urban Design

The application has been assessed having regard to the design quality principles outlined in SEPP 65 and Urban Design Guidelines adopted by Council on 4 September 2001. The merits of the application in terms of urban design and the relationship to the site constraints are:

- The proposed development fits within the context of the site and responds to the site conditions. The proposal will integrate with the desired future character of the area as envisioned in the Draft LEP 2005 and draft BHDGP Part E Section 22 – Carlingford Precinct. There are other development applications within the vicinity of the site (DA 562/2010/JP for 2-8 James Street, DA 561/2010/HB for 12 James Street and DA 943/2010/JP for 1-7A Thallon Street) which are also mixed use developments (apartment buildings with retail uses at ground floor level) in buildings up to 18 storeys in height in accordance with the Draft LEP 2005 and the Draft Baulkham Hills DCP Part E Section 22 – Carlingford Precinct. These applications are currently under consideration with DA 562/2010/JP and DA 943/2010/JP being the subject of separate status reports to the Panel. As such, the desired future character of this area will be transformed from low density detached dwellings to high density residential buildings with ground floor retail and commercial uses. It is considered that the proposed mixed-use development is consistent with the desired future character of the locality.
- The scale and height of the proposed development is appropriate within the context of the desired future character of the area. The proposal has been designed in a way it has reduced the perception of bulk and scale of the mixed-use development. The visual bulk is reduced by the use of horizontal features, glass balustrades and wide balconies. The development proposal has been divided into building compartments by the use of articulation zones that not only provide cross ventilation opportunities but separate buildings into separate components. It is considered that the scale is consistent with that envisaged by the new development controls contained within the Draft LEP 2005 and the Baulkham Hills DCP Part E Section 22 – Carlingford Precinct with the exception of the 14 storey component on Jenkins Road.
- The built form is in keeping with the aims of the Baulkham Hills DCP – Carlingford Precinct which provides podium levels to the street with residential towers above. Council's DCP encourages 6-storey podium levels, however due to level changes across the site and seeking to provide a development that provides a reasonable density yield on the site which is still well below the 4.0:1 maximum permitted FSR, it was necessary to increase the podium level from 4 storeys up to 8 storeys for Building North. Where the podium level is above 6 storeys, architectural treatments have been utilised so as to reduce the visual perception of the podium level above 6 storeys. This has been achieved by not accentuating vertical building components, increasing glazed surfaces and providing a lighter colour palette.
- The proposal recognises the growth patterns of the Shire, the proximity of the site to the Carlingford Rail Station and the increase amenity for residents having good access to services and transport options. The proposed residential density is consistent with the development standards contained within the Draft LEP 2005

and Draft BHDCP Part E, Section 22 – Carlingford Precinct. The maximum floor space ratio controls for the site is 4:1 and the development proposal is 3.86:1. The maximum floor space ratio control of 4:1 has been established by Council in recognition of the sites close proximity to the Carlingford Railway Station and Council's vision of creating an urban village surrounding the railway station. The residential density proposed for this area will promote the economic viability of the proposed ground floor shops.

- The proposed development meets the code's requirements for resource, energy and water efficiency as well as Council's ESD objectives. Passive solar design principles have been incorporated through reasonable solar access and natural ventilation of units with a high level of thermal massing provided by the multi-unit buildings. A BASIX Certificate has been prepared for the development proposal, which indicates compliance with the required water, thermal comfort and energy ratings have been achieved.
- The development proposal complies with the deep soil landscape requirements contained within the Draft DCP for Carlingford Precinct. The Landscape Plan indicates that these deep soil zones will be heavily landscaped with a large variety of trees, shrubs and groundcovers. The Landscape Plan has been cross-referenced with the BASIX Certificate to ensure that proposed site landscaping is low maintenance and has a low water demand. The proposal is considered resource and energy efficient as it provides deep-root planting zones, passive solar design, low maintenance and quality communal open spaces.
- The proposal provides a high level of amenity for all the units including layout, visual privacy, natural ventilation, solar access, private open space and ground floor unit amenity. The proposed units are considered to have a high degree of amenity given that the 73% of units are cross ventilated and 93% of units will receive a minimum of 3 hours of solar access. All units have access to at least one private balcony that is at least 10m² in area. The development has been designed to restrict the number of south facing units. All units have access to ground level communal open space with good solar access and which include a swimming pool, pergola and gym.
- The locality has good access to public transport, educational facilities and retail and commercial services. The proposal provides alternate housing opportunities in the locality.
- Aesthetically, the design of the proposed development has been driven by a number of criteria, which generally attempt to reduce the visual bulk and scale of the development by the use of colours, building materials and compartmentalisation of the architectural design of the proposed development. It is considered that the proposed development is well articulated by the use of strong horizontal and vertical design lines and provision of wide-open balconies. The proposed site landscaping will ensure that the development is set within a heavily landscaped setting which will soften the built form at the lower levels.

7. Issues Raised in Submissions

The above development application was notified to adjoining and surrounding properties (165 in total) between 22 December 2009 and 29 January 2010 and seven (7) submissions were received. The proposal was also notified to Parramatta City Council given the site's proximity to Parramatta LGA boundary. It should be noted that Parramatta City Council was also notified of the draft LEP and DCP.

The following issues raised in the seven submissions are summarised as follows:

ISSUE/OBJECTION	COMMENT	OUTCOME
Carlingford can no longer cope with a development of this size due to lack of	Carlingford's strategic location within the Sydney Metropolitan Area, easy access to public transport system and	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
public transport (i.e. unreliable bus and railway service) the fact that it is already over populated.	significant potential for redevelopment were the main reasons why it was identified in Council's Residential Direction as one of the key existing urban areas to accommodate an additional 3000 dwellings to help achieve the North West Sub-regional Strategy's housing target for the Shire. Given these circumstances, along with aging dwelling stock and significant land holdings by developers has placed the Carlingford Precinct in a position where the urban renewal process is beginning to occur. The proposal is consistent with the desired future character of the locality.	
An eighteen (18) storey building is not appropriate opposite a sub-station and aviation control tower (as being claimed there is one in the area). This location should not be the centre of anything unless the sub-station is demolished.	There is no existing aviation tower in the locality. The sub-station is outside the scope of the Carlingford Precinct, however due to its proximity to the development site the applicant has been requested to undertake an electromagnetic study to determine the impact of the sub-station on the health of the future residents within the development, which remains outstanding to date.	Issue addressed. The electromagnetic study requested from the applicant has not been received to date.
An average of 80-100 airplanes fly over the precinct daily and future occupants of the proposed high rise development will be subject to aviation noise.	No evidence is provided to substantiate this claim. Carlingford is outside the flight path zone. Nonetheless, appropriate conditions will be imposed in any consent requiring compliance with the relevant Australian Standards. Use of appropriate glazing materials has been recommended in the noise and vibration assessment report submitted with the Development Application to control airborne traffic noise intrusion and comply with the relevant noise criteria.	Issue addressed.
The site is only suitable for small development of 3-4 storeys with no retail shops unless the railway will be built in the near future.	<p>The Draft LEP proposes a range of building heights within the Precinct from 2 storeys on the northern end of the Precinct (Moseley Street) to a group of 18 storey high-rise buildings on the southern end of the Precinct (where the subject site is situated) adjacent to the railway station.</p> <p>Council has previously made representations to the NSW State</p>	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
	<p>Government endorsing and supporting the proposed Parramatta to Chatswood Rail Link and North West Rail Link (currently North West Metro), including the lead tunnel extensions at Epping to facilitate connections to Parramatta via Carlingford. Council has always supported the passing loop project under the rail clearways program to improve Carlingford Line service levels.</p> <p>Such rail access via Carlingford supports Council initiatives to increase population densities around the existing Carlingford Rail Station and encourage transport-oriented urban renewal at Carlingford.</p> <p>The delivery of substantial infrastructure and public domain improvements which have been identified in the draft DCP will be assisted by the development incentives provided by additional building heights and floor space ratios.</p>	
<p>The surrounding streets are not designed to cater for the amount of traffic that the proposed development will generate.</p>	<p>The Carlingford Precinct Plan Traffic Report (May 2008) prepared by Council's Transport consultant concludes that traffic generated by the proposed development can be accommodated within the local road network if recommended traffic improvements are implemented. A Draft Section 94 Contributions Plan to fund the necessary traffic facilities will ensure provision of planned improvements when adopted and implemented by Council.</p>	<p>Issue addressed.</p>
<p>Street parking in Thallon Street is full at times and with the flow of traffic along Jenkins Road there will not be any on-street parking available which will only aggravate the parking problem.</p>	<p>The amount of off-street parking spaces complies with the minimum parking requirement of the draft DCP for Carlingford Precinct. The parking rates depicted in the draft DCP were based on a parking study.</p>	<p>Issue addressed.</p>
<p>There are not enough medical practitioners in the area to serve the current population and will only be</p>	<p>The proposal includes ground floor commercial and retail spaces which could accommodate this type of practice/ development.</p>	<p>Issue addressed.</p>

ISSUE/OBJECTION	COMMENT	OUTCOME
aggravated by the additional population generated by this development.		
The quality of life in the area will be affected as well as the value of properties.	No evidence is provided to substantiate this claim of property devaluation. The exhibited draft LEP proposes to rezone these properties from Residential 2(a1) to Residential 2(a4) and increase permissible building heights and floor space ratios for future development enabling increased development potential and residential densities. The draft plans will enable improved living environment, local infrastructure, public domain and character for the Precinct. These features are likely to make the precinct a more desirable place to live.	Issue addressed.
<p>The relevant appendices referred to in the Development Application which appeared on Council's website were not available for viewing, only the wind impact assessment has been published. Council should extend the submission end date to allow proper scrutiny of this huge development.</p> <p>The retail component on the ground floor is prohibited in the current zoning of the land.</p>	The draft LEP for Carlingford precinct allows this type of mixed-use development. The proposal has been designed in accordance with the provisions of the draft LEP subject to variation in building height.	Issue addressed.
All buildings are in breach of the maximum permissible height even for the future rezoning (i.e. Residential 2(a4)).	The development Application is accompanied by a written SEPP 1 objection. SEPP 1 gives an applicant the ability to lodge a development proposal with variation to a development standard prescribed in an environmental planning instrument supported by a written objection that compliance with that development standard is unreasonable or unnecessary in the circumstances of the case, and specifying the grounds of that objection. A SEPP 1 objection has been submitted by the applicant and is addressed separately in this report.	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
	Council staff are still considering the SEPP 1 application and its context in terms of the draft LEP.	
Noise associated with vehicle movements and commercial deliveries will be added to the level of noise in these small and narrow streets.	Appropriate conditions of consent will ensure the likely noise impacts of the proposed development on the existing residential amenity of the area would be minimal. Traffic calming measures recommended in the traffic report will also assist in mitigating traffic noise.	Issue addressed. Conditions to be applied upon approval of the Development Application.
There will be huge excavations and removal activity during construction to remove around 91,580m ³ of materials from the site. It is expected there will be 11,443 trucks coming (average 8m ³ per truck), which will generate heavy traffic load in a residential area, and no information submitted with the DA to address this issue.	<p>A Waste Management Plan has been submitted with the Development Application and has been assessed and considered to be satisfactory. A Traffic Control Plan will be required for submission and approval by Council prior to any works (including demolition and excavation) commencing on site to ensure the likely environmental impacts (e.g. noise and dust) of the development on the amenity of the neighbourhood would be minimal.</p> <p>Appropriate conditions will be imposed in any consent to ensure compliance with the above.</p>	Issue addressed. Conditions to be applied upon approval of the Development Application.
These types of buildings are only seen in major metropolitan areas such as the City centre, Parramatta, North Sydney, Chatswood and few other suburbs, which have more appropriate public transportation unlike a dead end single line train route to a yet another second-rate train station like Clyde with overloaded trains in the city. These types of buildings increase the population density disproportional to the public infrastructure in this area which is not suitable for Carlingford with such a poor public transport system.	<p>The draft Carlingford Precinct Plan put on exhibition makes provision for more open space and expansion of existing facilities within the locality. In addition, road, water management and public domain facilities are proposed to support the needs of the future incoming population.</p> <p>Carlingford has good access to public transport, and is located along the Strategic Bus Corridor No. 9 (Parramatta to City via Macquarie Park) and No. 41 (Parramatta to Hornsby) providing access to major employment and entertainment areas in the region.</p>	Issue addressed.
Did the developer know Council's decision beforehand on rezoning of	Pursuant to Section 72J of the Environmental Planning and Assessment Act 1979 nothing in the	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
<p>the area? Did someone in authority give the developer some sort of assurance to go ahead with this development? It is just strange that the developer has spent so much money on developing this proposal on a land which has not been rezoned yet.</p> <p>The most appropriate course of action for the Council was to decline accepting any DA of this nature from any developer until after the final result of the rezoning application is announced.</p> <p>The developer takes a financial risk spending huge sums of money developing such a large DA with no guarantee the rezoning will be approved. An appropriate body in the Council should investigate this matter prior to making any decision on either the rezoning application or this DA.</p>	<p>Act prevents the making of a development application to a consent authority for consent to carry out development that may only be carried out if an environmental planning instrument applying to the land on which the development is proposed to be carried out is appropriately amended. The draft Local Environmental Plan has been exhibited and adopted by Council and is awaiting gazettal by the Minister of Planning.</p> <p>It was the applicant's decision to lodge the Development Application who is fully aware that final determination of this matter will be held in abeyance pending the gazettal of the draft LEP and adoption of the draft DCP for Carlingford Precinct.</p>	
<p>It is interesting to find out that for a DA, residents should receive a written notice from the Council (which they did), but for a much more important matter, i.e. rezoning of the area, the application has just been communicated in the newspapers. Not all residents read newspapers. Concerned residents are seeking legal advice to challenge this rezoning decision although a decision has already been made.</p>	<p>The draft Local Environmental Plan which proposed the rezoning of the Carlingford Precinct was notified in accordance with Council's Notification Policy.</p>	<p>Issue addressed.</p>
<p>This DA requires more time and more scrutiny in the way it has been presented, its missing appendices, the circumstances surrounding its preparation and its interaction with the</p>	<p>The residents have been given sufficient time to comment on the Development Application. It was put on public exhibition between 22 December 2009 and 29 January 2010 and documentation submitted with the Development Application was</p>	<p>Issue addressed.</p>

ISSUE/OBJECTION	COMMENT	OUTCOME
rezoning application, and potential collusive conduct in both processes.	made available for public viewing in Council's website.	
Recommends this DA be approved subject to a condition that at least the Epping/Parramatta Rail link is completed with additional public/commuter parking at Carlingford Station.	There is no guarantee that the Epping/Parramatta Rail Link will be pursued or completed as it is only the NSW State Government who can make a final decision regarding this matter. As noted above, Council has previously made representations to the NSW State Government endorsing and supporting the proposed Parramatta to Chatswood Rail Link and North West Rail Link (currently North West Metro), including the lead tunnel extensions at Epping to facilitate connections to Parramatta via Carlingford. Council has always supported the passing loop project under the rail clearways program to improve Carlingford Line service levels.	Issue addressed.
It is the residents' understanding that the zoning in this area should only be Residential 2(a1).	The objective of rezoning land within the vicinity of the existing railway station from 2(a1) to 2(a4) is to encourage ground floor retail/commercial which is essential to activate street level pedestrian activities and to create a town centre style environment, as identified in the Metropolitan Strategy, with easy access to public transport and community facilities. This will be created by strengthening the streetscape character of the precinct with buildings near the railway station on Thallon and James Streets designed to have a strong presence to the streets and uses that invite interaction from pedestrians.	Issue addressed.
In the last 12 months, apartment complex have already experienced numerous car theft/break in's. Safety of residents and crime level in the areas should be addressed first before increasing the population density.	The NSW Police has assessed the proposal and no objection is raised subject to a number of Crime Prevention Through Environmental Design (CPTED) factors being recommended for consideration.	Issue addressed. Condition to be applied upon approval of the Development Application.
The building phase will inconvenience current residents in the area for at	Standard construction hours will be imposed as a condition of consent to minimise impacts on the amenity of	Issue addressed. Condition to be applied upon

ISSUE/OBJECTION	COMMENT	OUTCOME
least 2-3 years due to the amount of construction workers and associated vehicles that will be involved in so large a project. Will a curfew on construction hours be included if the development is approved?	neighbours during the course of construction.	approval of the Development Application.
When completed this development will drastically change the face of the suburb. The Hills District will lose its appeal as a suburb of choice for those looking for an area that offers suburban living within a reasonable proximity to the city.	The proposed development responds to the desired future character of the area as envisaged in the draft DCP for Carlingford Precinct.	Issue addressed.
General infrastructure of the local area is not designed to cater for such a large increase in population. What has been done to ensure the sewerage, electricity supply and water supply will meet the increased demand.	The precinct planning for Carlingford has taken into consideration the necessary infrastructure improvement works required to cater for the higher density proposed for the precinct. The applicant will be required to lodge a Notice of Requirements with the relevant service providers to ensure adequate services will be provided and catered for.	Issue addressed.
Traffic photographs of Jenkins Road have not been taken during peak hour periods. Between the hours of 7.30am and 9.00am Monday to Friday, Jenkins Road traffic trying to enter Pennant Hills Road stalls beyond Post Office Street, sometimes back to the lights at Moseley Street. This is compounded by buses on Jenkins Road and students meandering across at the lights at Pennant Hills Road. To add an additional 735 vehicles from one complex alone will be a sheer traffic nightmare.	The traffic report submitted with the development Application concludes that traffic generated by the proposed development can be accommodated within the local road network if recommended traffic improvements are implemented.	Issue addressed.
Cars will need to park on the street when lifts are out of order or being serviced.	There is no requirement for lifts to access the basement car park.	Issue addressed.

SUBDIVISION ENGINEERING COMMENTS

Additional engineering information has been requested from the applicant to address a number of outstanding issues which relates to flooding, drainage, vehicular access and parking. These matters remain outstanding.

ENVIRONMENTAL HEALTH & SUSTAINABILITY COMMENTS

Additional information has been requested from the applicant to address noise and vibration from the nearby railway line. This information remains outstanding.

WASTE MANAGEMENT COMMENTS

Additional waste management information has been requested from the applicant. This information remains outstanding.

FORWARD PLANNING COMMENTS

A Voluntary Planning Agreement is currently being negotiated with the applicant to satisfy Council's resolution in relation to the gazettal of the draft LEP.

RAILCORP COMMENTS

No objection is raised to the proposal subject to conditions.

ROADS & TRAFFIC AUTHORITY COMMENTS

No objection is raised subject to conditions. Council's Traffic Section has noted the RTA's requirements and will be taken into consideration in their final assessment.

NSW POLICE COMMENTS

The NSW Police has reviewed the development application and outlined a number of Crime Prevention Through Environmental Design (CPTED) factors that should be considered in this development in relation to surveillance, access control, territorial reinforcement, and other matters relating to use of security sensor lights during construction, installation of alarm system in garages and storage areas, and concerns regarding traffic to be generated by this development.

CONCLUSION

The proposal has been assessed against the relevant heads of consideration under Section 79C of the Environmental Planning and Assessment Act 1979, SEPP 65, BHLEP 2005, proposed Draft Local Environmental Plan – Carlingford Precinct, BHDCP Part C Section 7 – Apartment Buildings and BHDCP Part E Section 22 – Carlingford Precinct, and is considered satisfactory under the provisions of the draft LEP and underlying DCP. Clearly however, the proposal is prohibited in the current zone and at odds with the current DCP. It is not appropriate to determine the Development Application until the making of the draft LEP is notified.

The SEPP 1 objection foreshadows the proposed variation to the 54m and 26.7m building height limits. Council staff are still considering the merit of the SEPP 1 application and its context in terms of the draft LEP.

The proposed staged mixed use development generally follows the development pattern established in the key sites Block 3 – Jenkins Road and Thallon Street provided in the BHDCP – Carlingford Precinct with the exception of podium heights on Building West, Building East and Building North and a number of storeys at the northern end of Building West.

It is recommended that determination of the subject development application be deferred pending the resolution of outstanding design matters, adoption of the draft VPA

and notification of the making of draft BHLEP – Carlingford Precinct and commencement of the draft Carlingford Precinct DCP.

Upon exhibition and consideration of submissions to the draft VPA, LEP, DCP and Contributions Plan, a Section 69 report recommending the making of the Draft LEP will be submitted to the Department. Council is committed to the timely completion of this process which represents a key element of Council's Residential Direction.

IMPACTS:

Financial

The applicant is required to demonstrate to Council that satisfactory arrangements have been made with Energy Australia for funding and undergrounding of the 132kV power lines with no cost to Council.

A draft Voluntary Planning Agreement (draft VPA) has been submitted by the applicant that outlines proposed works in kind, monetary contributions and land dedication in lieu of contributions pursuant to draft Contributions Plan No.14 – Carlingford Precinct. The draft VPA is currently under legal review and will require exhibition and adoption by Council prior to commencement.

Hills 2026

The proposal responds to the revitalisation of the Carlingford Precinct which is an integral component of Council's Residential Direction and response to the State Governments Draft North West Sub-regional Strategy. The proposal provides a good mix of housing which is an environmentally sustainable form of residential development and would protect and enhance the character of the locality and the Shire as a whole.

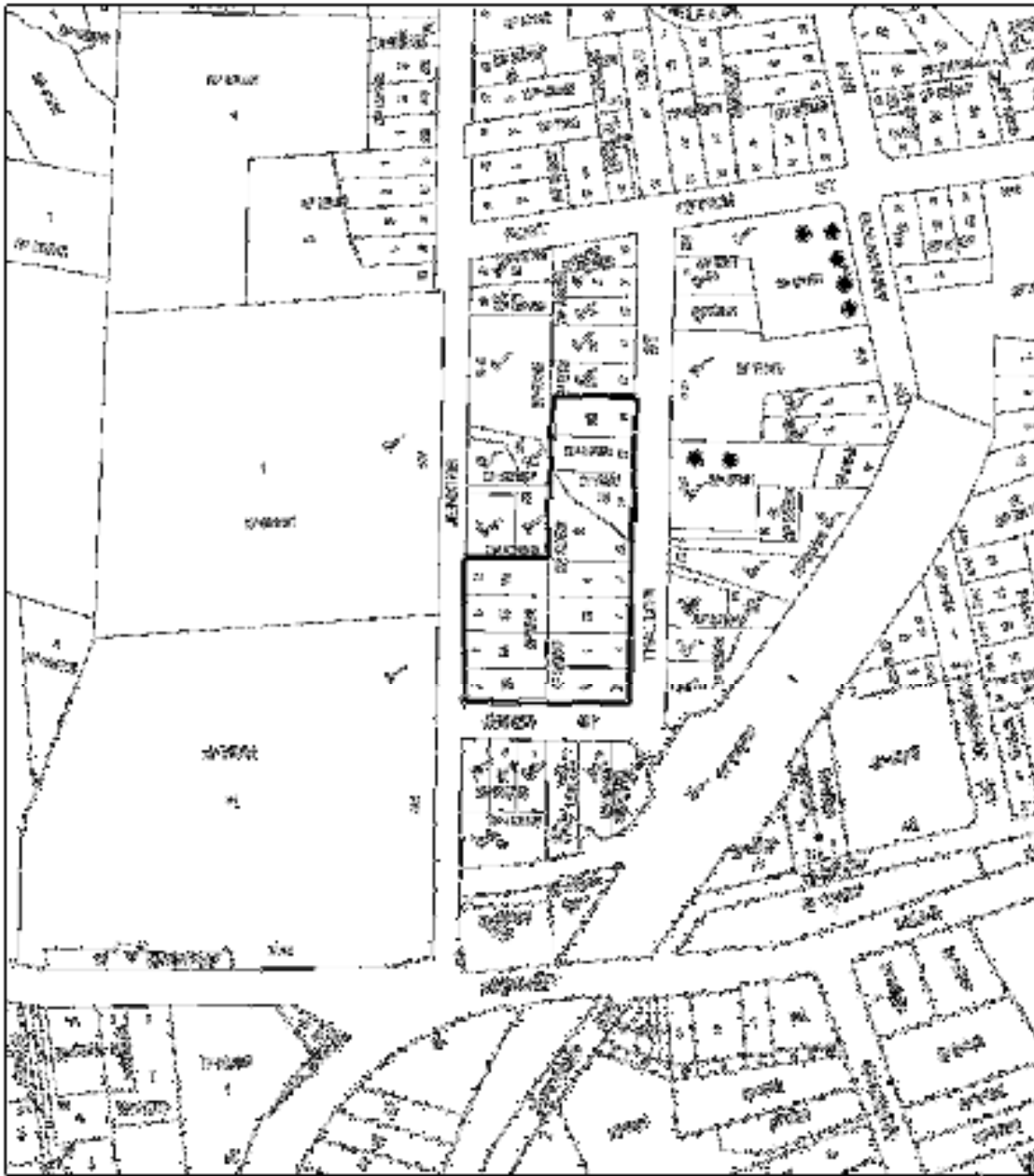
RECOMMENDATION




That determination of the subject Development Application be deferred pending the resolution of outstanding design matters and notification of the making of draft BHLEP – Carlingford Precinct and commencement of the draft BHDGP Part E Section 22 – Carlingford Precinct.

ATTACHMENTS

1. Locality Plan
2. Aerial Photo
3. Site Plan
4. Jenkins Road Elevation
5. James Street Elevation
6. Thallon Street Elevation (Part A)
7. Thallon Street Elevation (Part B)
8. Shadow Diagram 9am mid-winter
9. Shadow Diagram 12pm mid-winter
10. Shadow Diagram 3pm mid-winter
11. Shadow Impact on Nos 2-8 James Street
12. Shadow Impact on Nos. 12 James Street
13. Perspective as viewed from Jenkins Road
14. Perspective as viewed from cor. James and Thallon Streets
15. Proposed Rezoning Map
16. Building Height Map
17. Floor Space Ratio Map
18. Conceptual Built Form Controls
19. Structure Plan – Public Domain
20. Illustrative Masterplan
21. Key Sites

ATTACHMENT 1 – LOCALITY PLAN



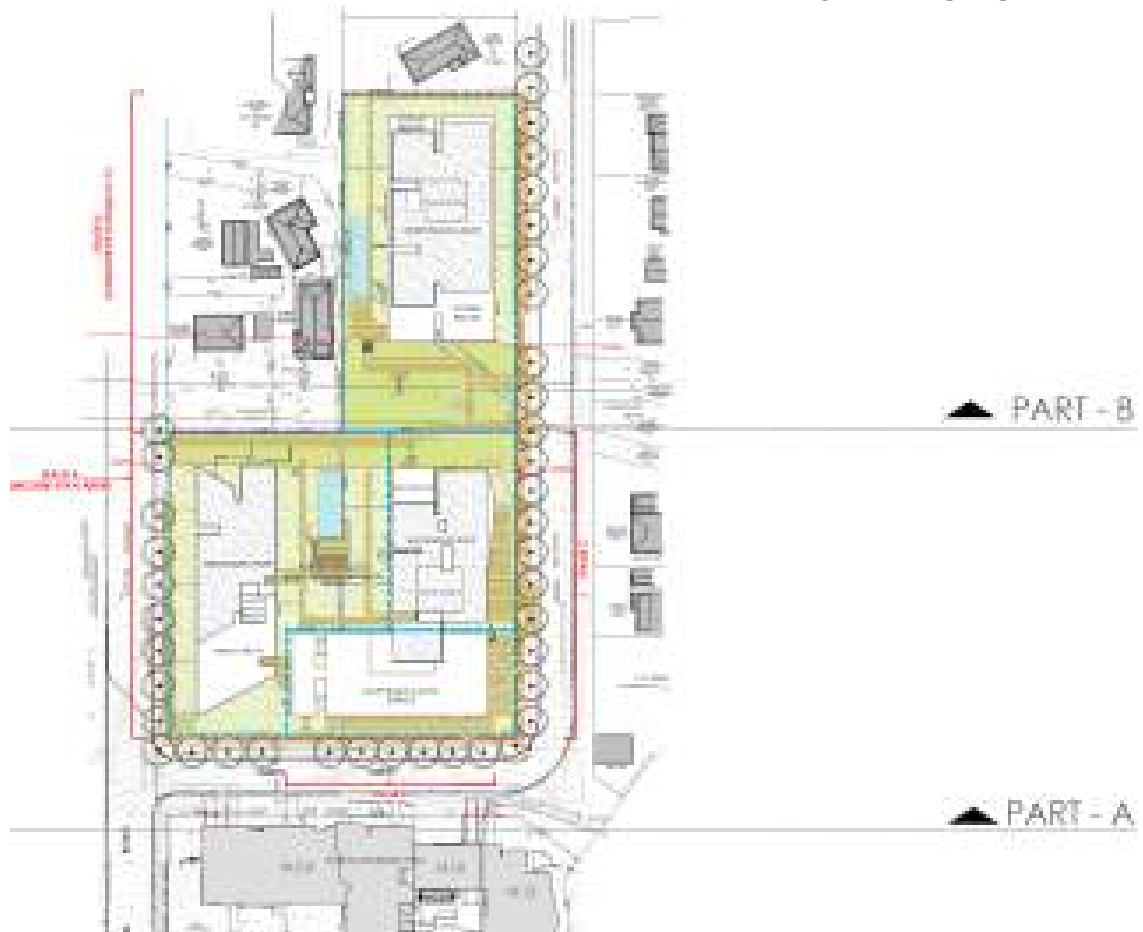
-  ALBERT AREA
-  PROPERTIES NOT SHOWN
-  ALBERT AREA

THESE PROPERTIES ARE NOT SHOWN
ON THE ALBERT AREA MAPS
BECAUSE THEY ARE NOT IN THE
ALBERT AREA

ATTACHMENT 2 – AERIAL PHOTO

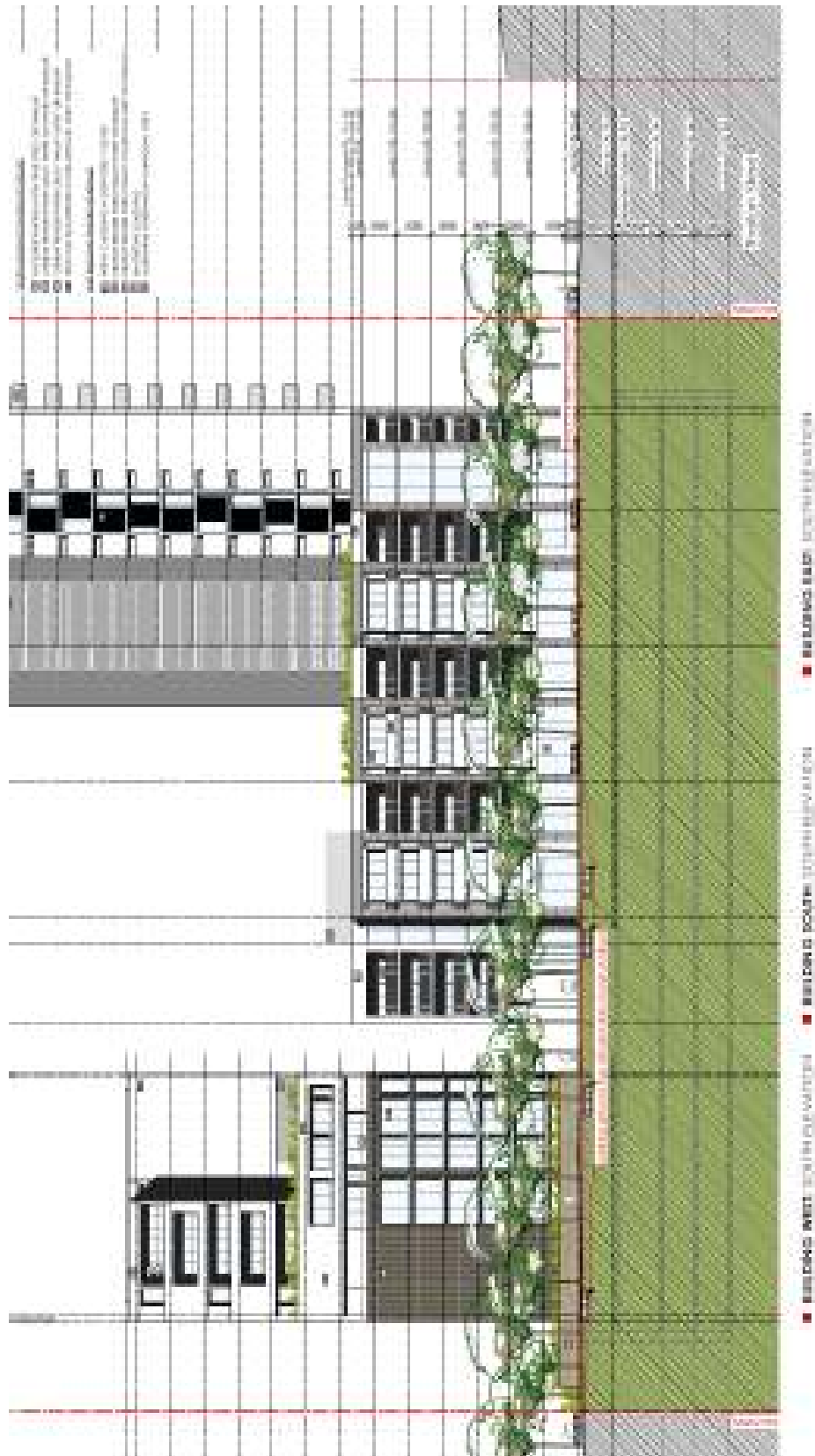


ATTACHMENT 3 – SITE PLAN



Architectural site plan showing building layout, parking, and landscaping. The plan includes a north arrow, a scale bar (0 to 100 feet), and various labels for building components and landscaping. A legend at the bottom right indicates 'Existing Plant Material' with a green circle symbol.

ATTACHMENT 5 – JAMES STREET ELEVATION



Architectural elevation drawing of a building facade. The drawing shows a multi-story building with a grid of windows and a central entrance. The facade is divided into three main sections: a central section with a grid of windows, a left section with a grid of windows, and a right section with a grid of windows. The drawing includes a scale bar at the top left, a north arrow at the top right, and a legend at the bottom. The legend lists materials and colors: 'Concrete' (light gray), 'Brick' (dark gray), 'Glass' (dark gray), 'Wood' (light brown), 'Green' (green), and 'Blue' (blue). The drawing is labeled 'Elevation' at the bottom center.

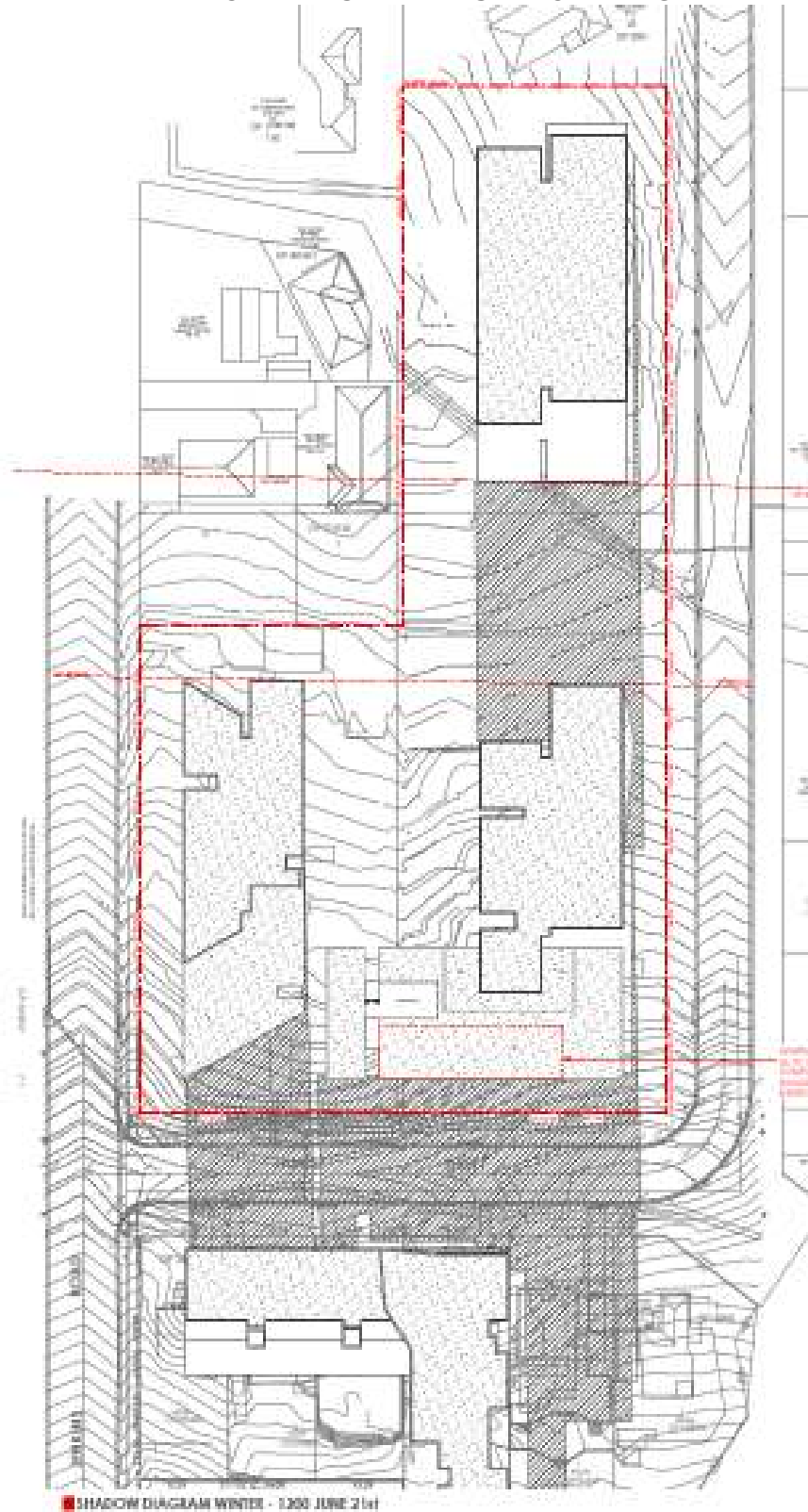
ATTACHMENT 7 – THALLON STREET ELEVATION (PART B)



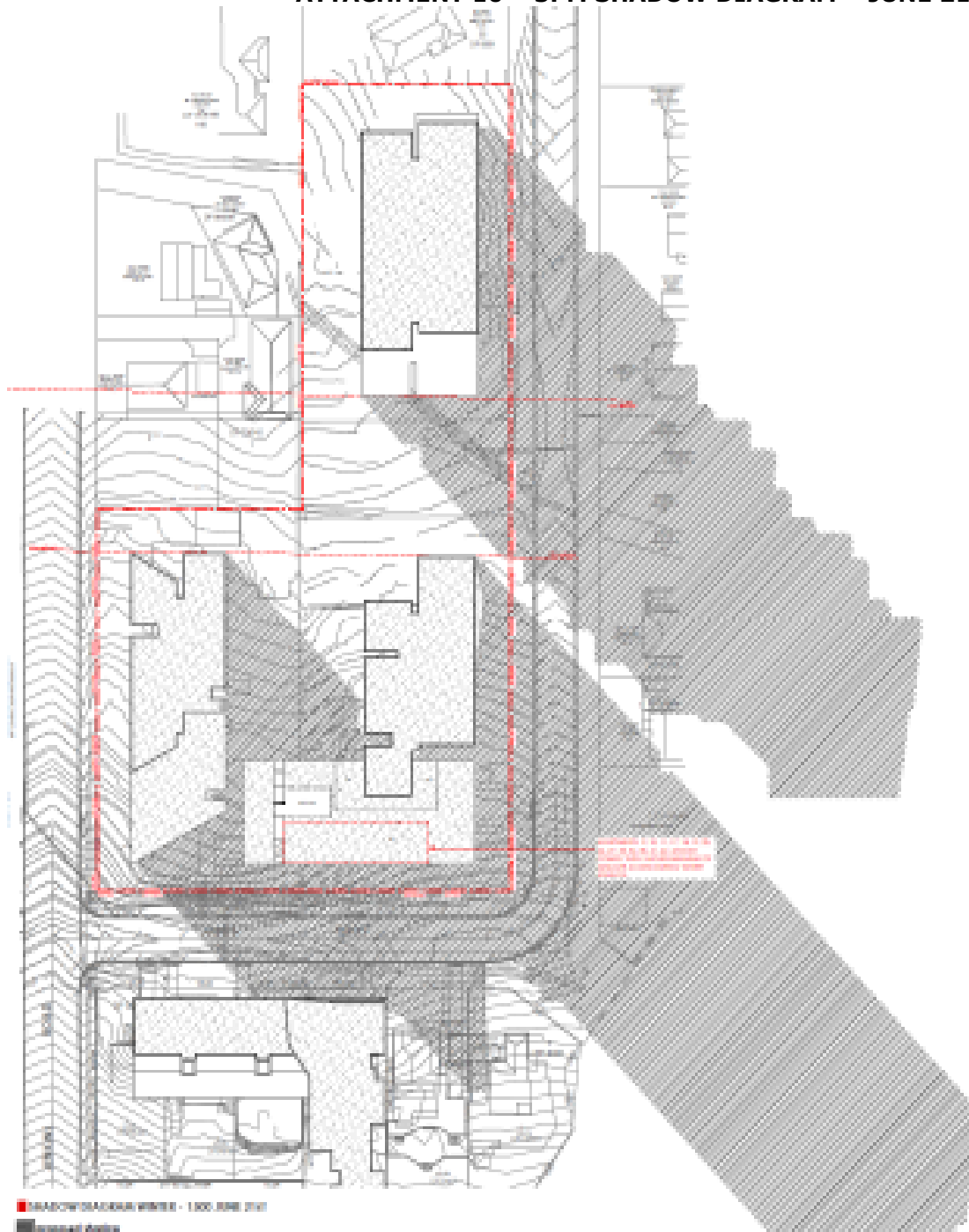
ATTACHMENT 8 – SHADOW DIAGRAM 9AM MID-WINTER



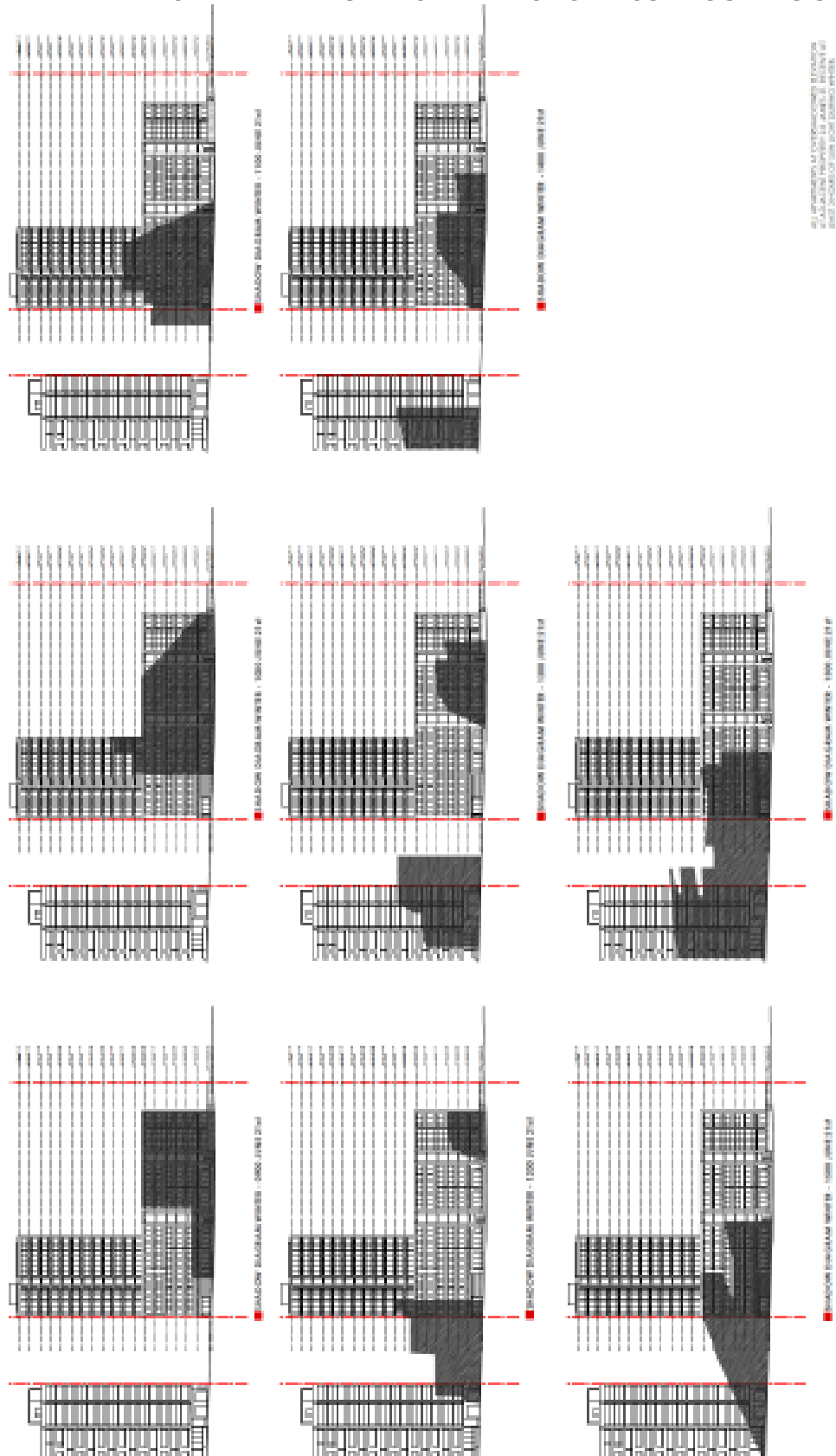
ATTACHMENT 9 – 12PM SHADOW DIAGRAM – MID-WINTER



ATTACHMENT 10 – 3PM SHADOW DIAGRAM – JUNE 21ST

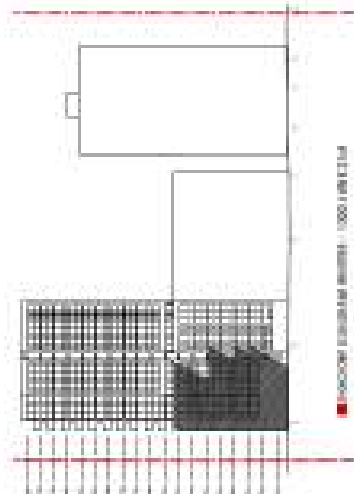
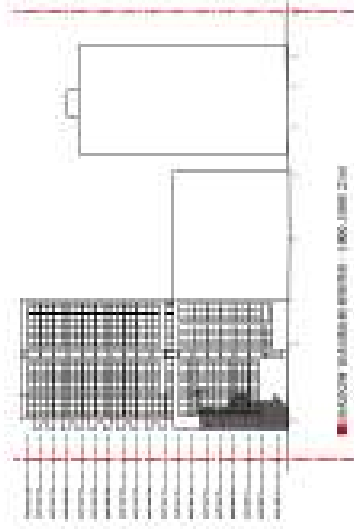
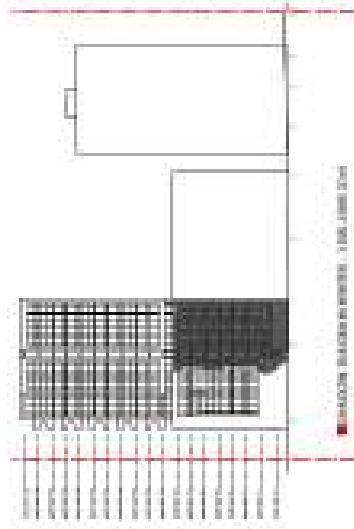
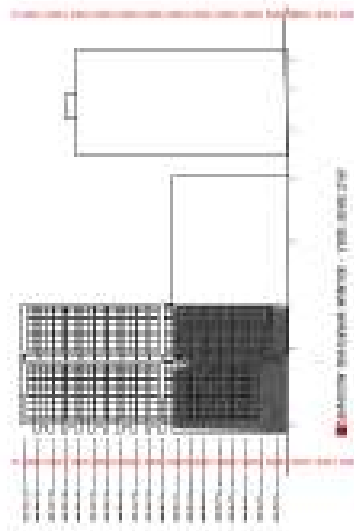


ATTACHMENT 11 - SHADOW IMPACT ON NOS. 2-8 JAMES STREET



SHADOW 10/01/2010

ATTACHMENT 12 – SHADOW IMPACT ON No. 12 JAMES STREET



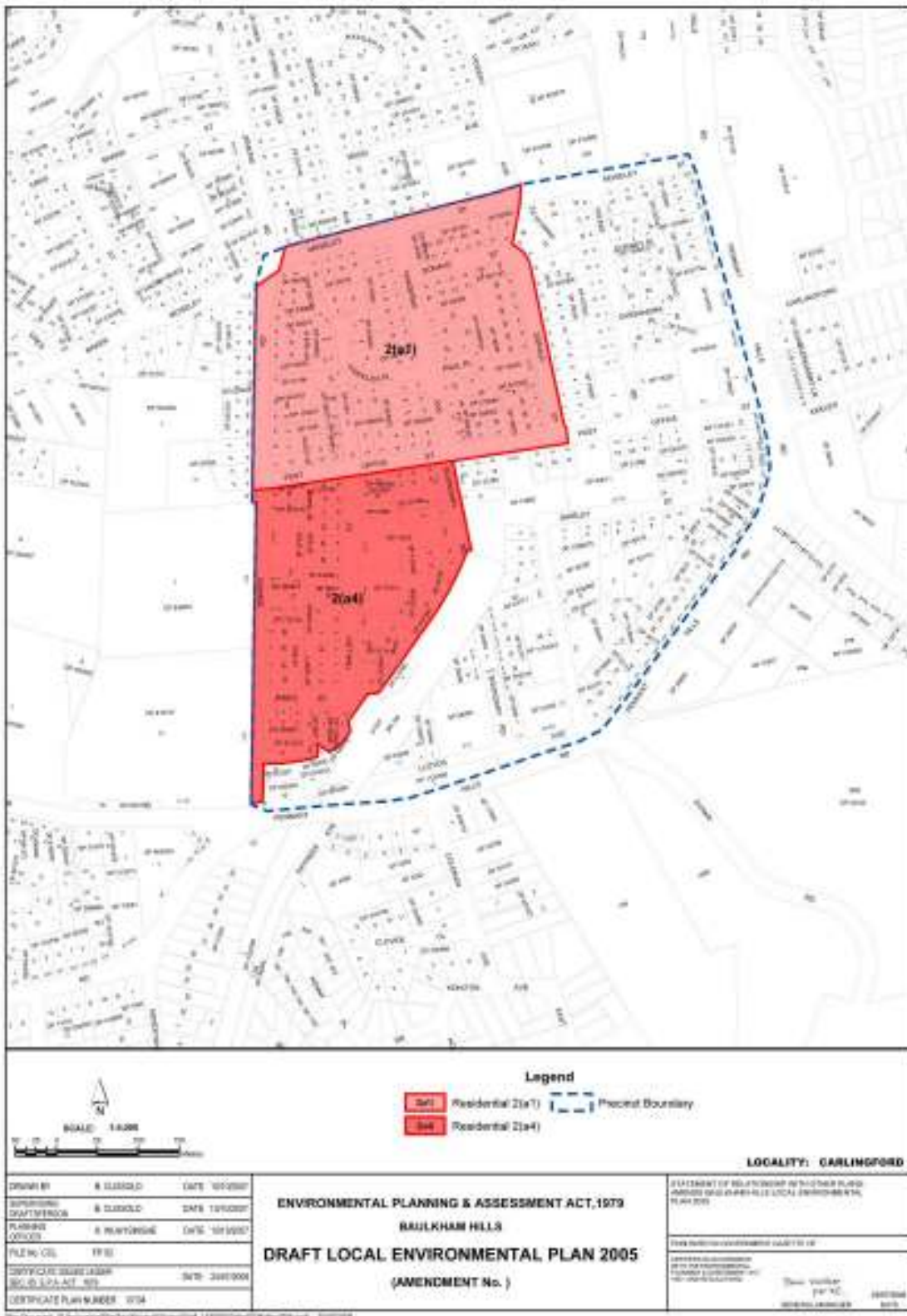
ATTACHMENT 13 – PERSPECTIVE AS VIEWED FROM JENKINS RD



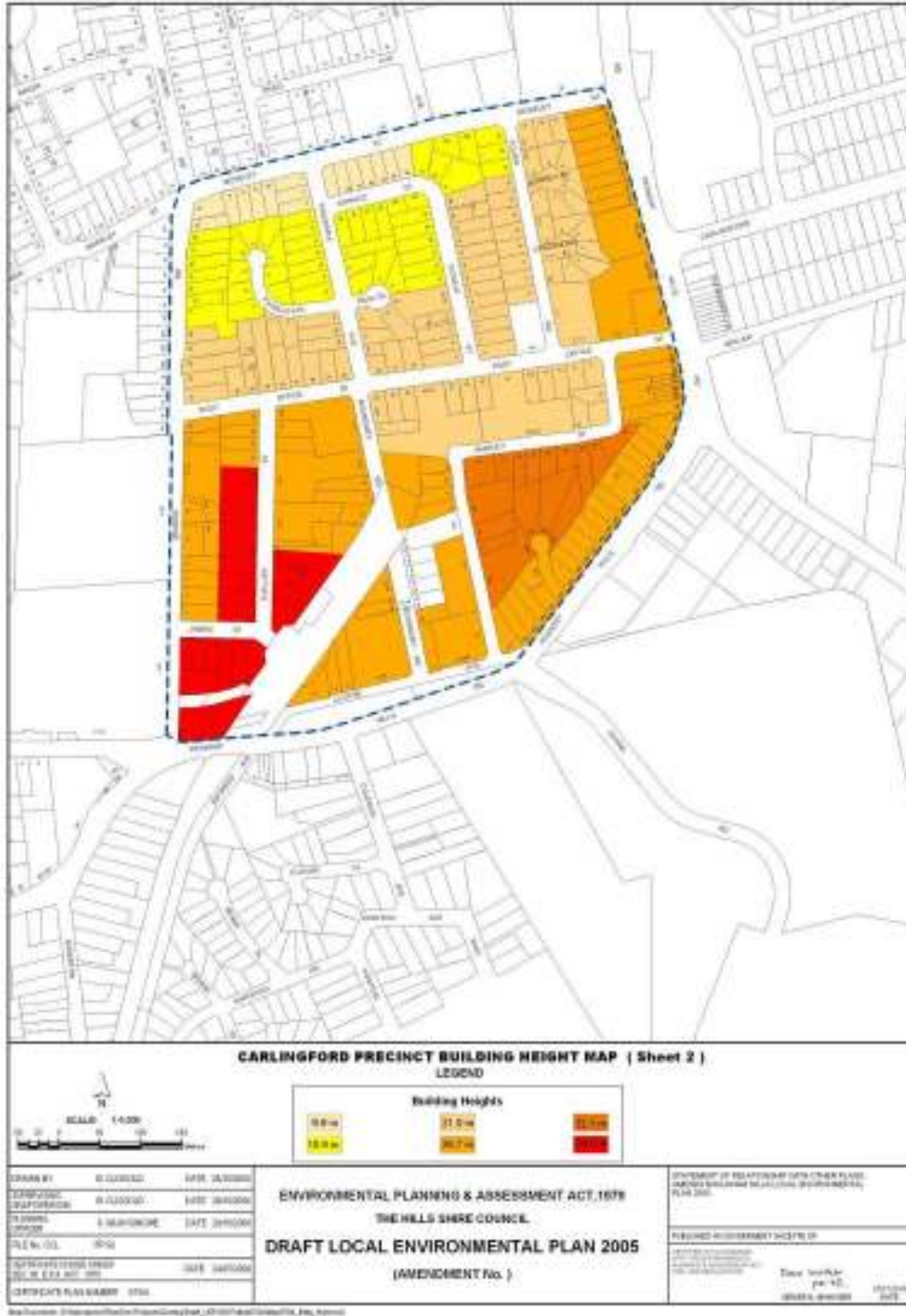
ATTACHMENT 14–PERSPECTIVE VIEWED FROM CNR. JAMES AND THALLON STS.



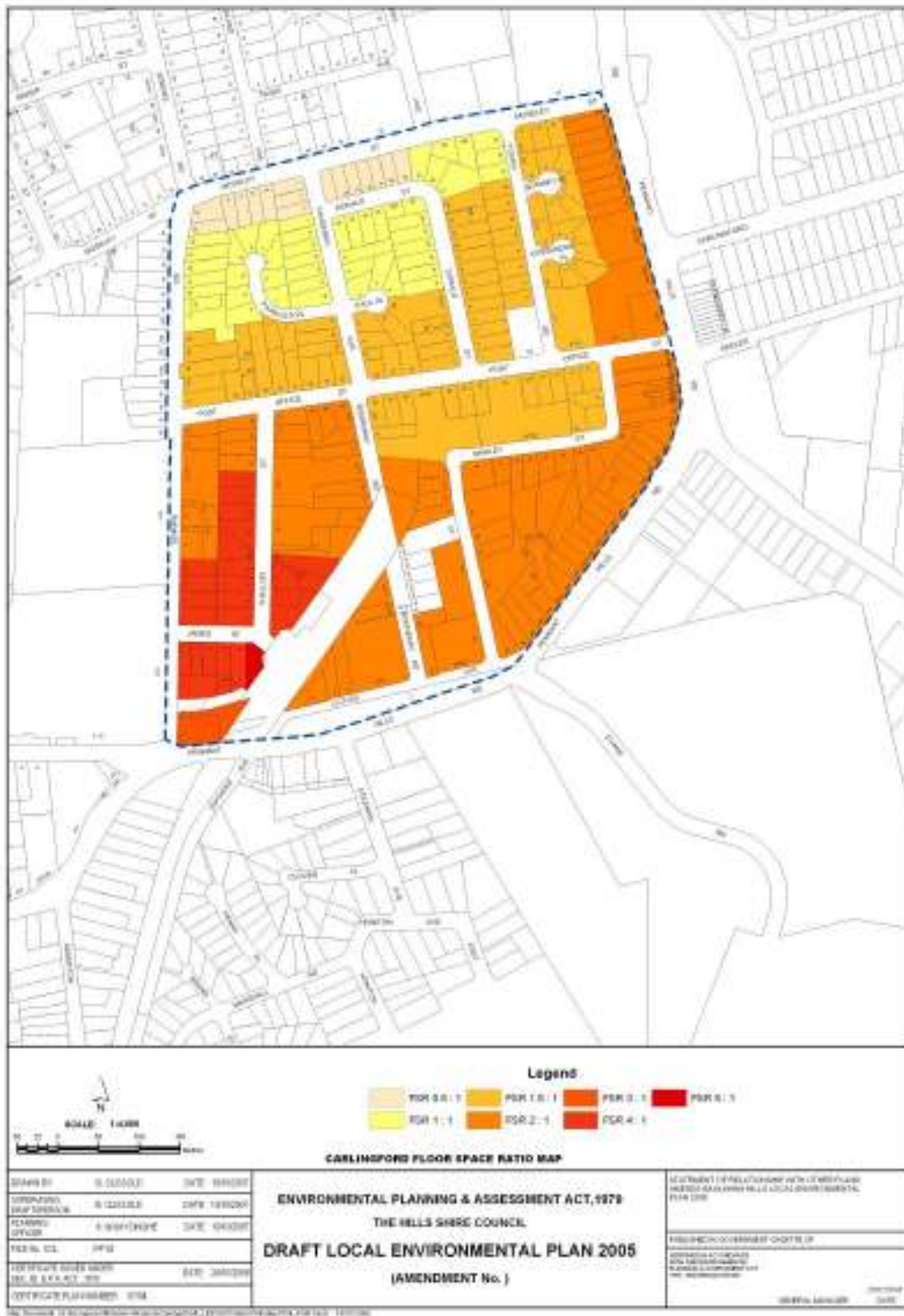
ATTACHMENT 15 – PROPOSED REZONING MAP



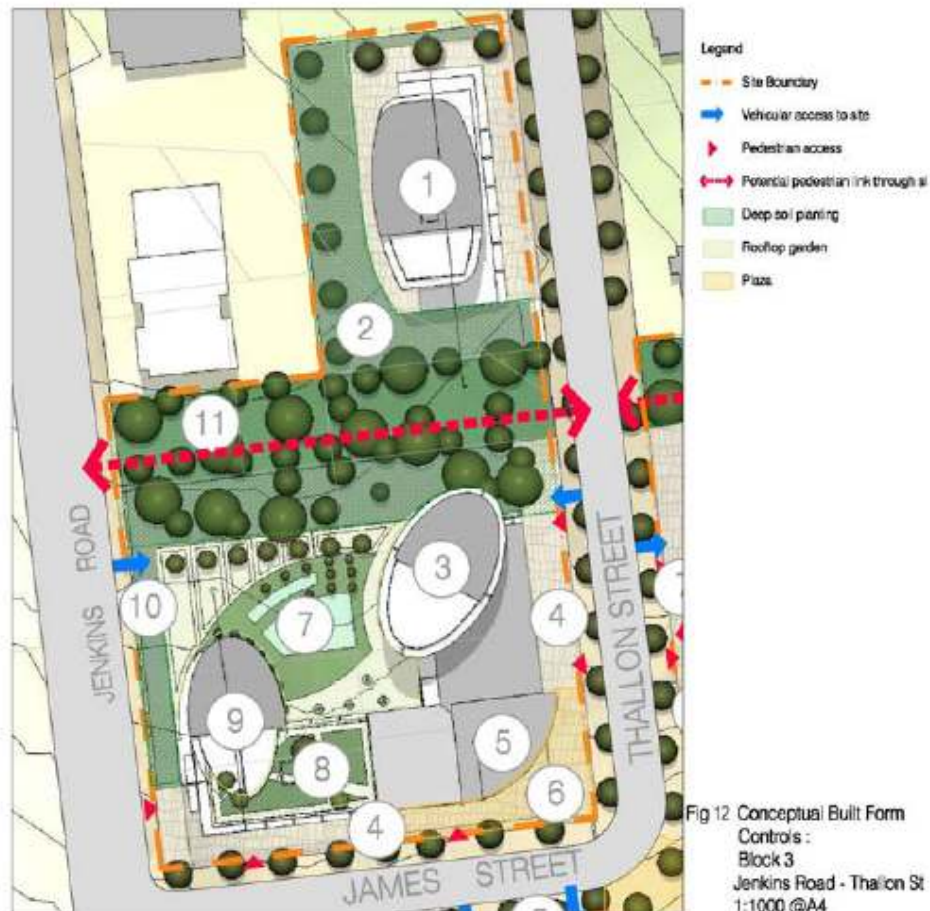
ATTACHMENT 16 – BUILDING HEIGHT MAP



ATTACHMENT 17 – FLOOR SPACE RATIO MAP



ATTACHMENT 18 – CONCEPTUAL BUILT FORM CONTROLS



- ① Residential Tower with podium including communal facilities on Ground Floor
- ② Landscape area/Communal open space
- ③ Signature tower, located to minimise solar impact to the development south of James Street
- ④ Active edges along Thallon St and James St
- ⑤ Articulated building corner
- ⑥ Forecourt to complement Civic Plaza at Station Entry
- ⑦ Landscape courtyard
- ⑧ Opportunity for communal roof garden to maximise solar access for the development south of James St
- ⑨ Articulated corner/built form addressing Jenkins St
- ⑩ Alternative vehicular entry
- ⑪ Future green link on existing powerline easement

ATTACHMENT 19 – STRUCTURE PLAN – PUBLIC DOMAIN



ATTACHMENT 20 – ILLUSTRATIVE MASTERPLAN



ATTACHMENT 21 – KEY SITES





Joint Regional Planning Panels

7 July 2010

Mr Dave Walker
General Manager
The Hills Shire Council
PO Box 75
CASTLE HILL NSW 1765

Doc. No.
BOX No.
6 - JUL 2010
THE HILLS SHIRE COUNCIL

Dear Mr Walker

Development Applications Referred to The Joint Regional Planning Panel (Sydney West Region)

I have recently carried out a review of all applications, which have been lodged with the Sydney West JRPP over the past year and have not as yet been determined. Some of these applications were lodged in 2009 and have still not been determined.

As a result of this review, I would appreciate it if you would arrange for the completion of the planning report for the following applications and submit the matter to the JRPP for determination within 6 weeks from the date of this letter:

DA No.	Project Title	DA Lodgement Date
993/2010/JP (2010SYW005)	Proposed Amended Central Residential Precinct within the Norwest Town Centre, Baulkham Hills	7 Jan 2010
582/2010/JP (2010SYW001)	4-18 storey mixed use development, Thallon Street, Carlingford	22 Dec 2009
853/2010/JP (2009SYW029)	Bulky goods warehouse, Rouse Hill	8 Dec 2009
891/2010/JP (2009SYW028)	Bulky goods retail development, Castle Hill	14 Dec 2009
318/2010/JP (2009SYW009)	Warehouse development, Rouse Hill	27 Aug 2009
280/2010/JP (2009SYW006)	Seniors living development, Glenhaven	20 Aug 2009

The planning report should be prepared on the basis of the available information which has to date been submitted for the application. If there are major matters outstanding which cannot be dealt with by way of conditions then the report should acknowledge this as part of the recommendations.

I have decided to take this action as it would appear that the specified time limits for dealing with these major applications have not been met and further, the information accompanying the applications will, in many cases, be out of date and in need of substantial revision. I have received updates from the planning staff in relation to the applications and have formed the view that a point has been reached where they should now be determined by the panel. In some cases changes required since submission are such that a new application would be appropriate. It may be, in some cases that the applicant will decide to withdraw the application rather than have it determined by the JRPP.

YANF. SECRETARAT
Level 13, 381 George Street SYDNEY NSW 2000
GPO Box 3415, SYDNEY NSW 2001
Tel: (02) 9233 2100
Fax: (02) 9293 3626
Email: jpp@jrpp.nsw.gov.au

With regard to those applications proposing mixed use development in the Carlingford Precinct as follows:

DA No.	Project Title	DA Lodgement Date
582/2010/JP (2009SYW018)	18 storey mixed use development, James St, Carlingford	12 Oct 2009
895/2010/JP (2009SYW031)	18 storey mixed use development, Thallon St & Jenkins Rd, Carlingford	14 Dec 2009
943/2010/JP (2010SYW01)	4-18 storey mixed use development, Carlingford	22 Dec 2009

I note that at the time the progress report was prepared the proposed planning control documents relevant to these proposals had yet to be adopted by Council for the purpose of public exhibition.

That applied to the draft DCP, LEP, Voluntary Planning Agreement and Contributions Plan.

As the processing of the planning documents that are to be relied on for the assessment and determination of these applications is yet to reach public exhibition stage, an unacceptably protracted delay in determining the applications will occur.

Given this delay, it is requested that these applicants be requested to withdraw the applications and make further application when consideration of the planning control instruments relating to development of the precinct is far more advanced. Should any of the applicants not agree to withdrawal it is requested that that application be submitted to the Panel for determination within 4 weeks of the date of this letter.

I would appreciate it if you could contact Ms Carol Pereira-Crouch, JRPP Secretariat and advise her of the proposed date for the submission of the reports on these matters.

Thank you for your help in dealing with these matters.

Yours sincerely



Janet Thomson
Chair, Sydney West Region



Planning

Mr Dave Walker
General Manager
The Hills Shire Council
PO Box 75
CASTLE HILL NSW 1765

DOC. No.:
BOX No.:
- 5 JUL 2010
THE HILLS SHIRE COUNCIL

Dear Mr Walker,

Re: Draft Baulkham Hills Local Environmental Plan 2005 (Carlingford Precinct).

I refer to the letter from the Hills Shire Council ("the Council") to the Department, dated 21 June 2010, requesting a Gateway Determination under section 56 of the *Environmental Planning and Assessment Act 1979* ("EP&A Act") for the draft Baulkham Hills Local Environmental Plan 2005 – Amendment (Carlingford Precinct) ("draft LEP").

I am writing to notify you that I have determined (as the delegate of the Director-General) under clause 12(2) of the *Environmental Planning and Assessment Regulation 2000* that the former LEP plan-making provisions cease to apply to the draft LEP. The current provisions of Part 3 of the EP&A Act now apply.

Furthermore I have, as the delegate for the Minister for Planning, determined under clause 122 (2) of Schedule 6 to the EP&A Act to dispense with all the conditions precedent up to section 58 of the EP&A Act for the making of this draft LEP. Given that the draft LEP has already been exhibited, the draft LEP may now be submitted to the Director-General for finalisation.

Given the time taken to date on the LEP, Council should set clear requirements for any further information required from the proponent and or public agencies and set a timeframe for receipt and consideration of any such documentation.

As part of this determination Council must ensure that the draft LEP can be published within 6 months of the week following the date of this letter. Council's request for the Department to draft and finalise the LEP should be made 6 weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Felicity Moylan of the Sydney West Office of the Department on (02) 9873 8574.

Yours sincerely,

Tom Gellibrand 30/6/10
Deputy Director General
Plan Making & Urban Renewal
(as delegate of the Minister and the Director-General)