

JRPP PLANNING REPORT

JRPP NOS.:	2009SYW031
DA NOS.:	895/2010/JP
APPLICANT:	CARLING DEVELOPMENTS PTY LTD
PROPOSAL:	DA 895/2010/JP - CONSTRUCTION OF 18-STOREY MIXED USE DEVELOPMENT CONTAINING 408 RESIDENTIAL UNITS, 799 SQM OF RETAIL SPACE & 735 BASEMANT PARKING SPACES
PROPERTY:	LOTS 26, 28, 30, 33-36 DP 8001, LOTS 1-2 DP 209917, LOTS 1-2 DP 530832, LOTS 1-2 SP 43088, NOS. 7-13 JENKINS ROAD & 2-14 THALLON STREET, CARLINGFORD
LODGEMENT DATE:	14 DECEMBER 2009
REPORT BY:	DEVELOPMENT ASSESSMENT CO-ORDINATOR CLARO PATAG THE HILLS SHIRE COUNCIL
RECOMMENDATION:	DEFERRED COMMENCEMENT APPROVAL

EXECUTIVE SUMMARY

On 8 June 2011, a status report on three (3) Development Applications including this application was considered by the Joint Regional Planning Panel (JRPP) (refer Attachment AAAA1) with a recommendation to defer the determination of the subject Development Application pending the adoption by Council of the Key Sites Voluntary Planning Agreements.

On 12 July 2011, Council considered a report on the Key Sites Voluntary Planning Agreements (VPAs) which were publicly exhibited between 10 May 2011 and 10 June 2011. It was resolved that the VPAs be adopted. The finalisation of the Voluntary Planning Agreements for the four key sites, namely Key Sites 3 (subject site), 4, 6 and 17) within the Carlingford Precinct represent the next major step to implement Council's urban renewal strategy for the Precinct. It also provides certainty for Council and the developer as to the timing of payment, works and land to be provided within the Precinct. It should be noted that the provision related to the undergrounding of the 132kV double circuit powerlines has been deleted from the draft VPAs and is recommended as a condition of deferred commencement, both agreed by Council and the developer. The deferred commencement condition applies to Key Sites 3, 6 and 17 only.

The Development Application was accompanied by a SEPP 1 Objection to the building height limit prescribed in the Carlingford Precinct LEP which has been addressed in the previous report to JRPP on 23 September 2010 (refer Attachment AA1). Building East breaches the 57m height limit by 0.16m, which is considered supportable as the variation is due to the additional 1m required in floor to ceiling height for the retail/commercial floor and due to the slope of the land down to the north along Thallon Street. With the exception of the building height limit, the proposed development complies with the key site built form controls and conforms to the development pattern established in the key sites Block 3: Jenkins and Thallon Street as provided in the BHDGP Part E Section 22 –

Carlingford Precinct. Refer to Attachments AA1 and A1 for the previous assessment reports submitted to JRPP on 23 September 2010 and 25 May 2010 respectively.

It is recommended that the Development Application be approved as a Deferred Commencement Consent pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979 requiring the submission of a design contract to Council for the undergrounding of the existing 132kV double circuit powerlines.

ISSUES FOR CONSIDERATION

1. Voluntary Planning Agreements

As noted in the Executive Summary, Council resolved at its meeting on 12 July 2011 to adopt the Voluntary Planning Agreements (VPAs) for the four (4) key sites in the Carlingford Precinct, known as Key Site Nos. 3, 4, 6 and 17. The subject development site is identified as Key Site No. 3.

To support the proposed developments within the 4 key sites, the developer has offered a package of land dedication for local open space, traffic facilities and embellishment of open space as works-in-kind and monetary contributions towards the upgrade of open space, traffic, water management, community and library facilities.

It should be noted that the provisions related to the undergrounding of the 132kV double circuit powerlines have been deleted from the draft VPAs and will be addressed as a condition of deferred commencement, which has been both agreed by Council and the developer.

The VPAs, in their totality, specifies contributions by the Developer of \$14,369,606 for the following:

a. Dedication of 9,902m² of open space valued at \$7,678,917 comprising:

- 1,510m² of Key Site 3 (Nos. 8, 8A, 10 and 13 Thallon Street) for linear open space;
- 2,563m² of Key Site 6 (Nos. 5, 5A, 5B, 7A and 7 Thallon Street) for linear open space;
- 3,741m² of Key Site 17 (Nos. 253 Pennant Hills Road and 26-28 Shirley Street) for Linear open space; and
- 2,088m² of Key Site 17 (Nos. 14-16 Shirley Street) for passive open space.

The open space will be dedicated prior to the issue of any Strata Subdivision Certificate.

b. Infrastructure items to be provided as works-in-kind to the value of \$1,734,049 comprising:

- Roundabout at the intersection of Boundary Road and Post Office Street;
- Roundabout at the intersection of Young Road and Post Office Street; and
- Open space embellishment of CPLOS1, CPLOS2, and CPLOS3, as identified in the Carlingford Precinct Contribution Plan.

Prior to the issue of any Construction Certificate, the Developer will provide Council with security to the value of the works-in-kind. Completion of the works-in-kind is to be provided prior to the issue of any Strata Subdivision Certificate.

c. Payment of \$4,956,640 in monetary contributions to contribute to:

- Signalisation of the Jenkins Road and Post Office Street intersection;
- Upgrade of the Jenkins Road and Pennant Hills Road intersection;
- Upgrade to stormwater management facilities;
- Open space embellishment of CPOS1; and
- Expansion of Carlingford Library and new Community Centre.

The payment of monetary contributions will occur on a pro rata basis prior to each respective Construction Certificate for each development.

The above works and obligations of each Key Site are outlined in the table below.

Item		Key Site 3 (Jenkins/Thallon)	Key Site 4 (James)	Key Site 6 (Thallon)	Key Site 17 (Shirley)	Totals
	Site Area	11,386	4,827	7,747	23,446	47,406
	%	24.02%	10.18%	16.34%	49.46%	100%
	Dwg Yield	408	183	175	453	1,219
	%	33.47%	15.01%	14.36%	37.16%	100%
Works-in-Kind		\$618,251	\$0	\$373,690	\$742,108	\$1,734,049
Cash Contribution		\$2,149,540	\$964,132	\$921,984	\$920,984	\$4,956,640
Land Dedication		\$785,044	\$0	\$1,332,055	\$5,561,817	\$7,678,917
TOTAL VALUE		\$3,552,836	\$964,132	\$2,627,730	\$7,224,909	\$14,369,606

As a result of the adoption of the VPAs, the requirements specified in the VPA for the subject site will be incorporated as conditions of consent including works identified in the Carlingford Precinct Public Domain Plan reported to and adopted by Council on 12 April 2011.

CONCLUSION

The subject 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, 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.

It is recommended that the subject Development Application be approved subject to conditions.

IMPACTS:

Financial

The Voluntary Planning Agreements (VPAs) for the major key sites have been publicly exhibited and were reported to and adopted by Council on 12 July 2011. Works identified in the VPAs will be conditioned in any consent including works identified in the Carlingford Precinct Public Domain Plan, in lieu of the Section 94 contribution requirements.

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 the subject Development Application be approved subject to the following conditions:

DEFERRED COMMENCEMENT

A1. Pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979 deferred commencement consent is granted subject to the following:

1. Energy Australia shall submit to Council a design contract for the undergrounding of the existing 132KV double circuit powerlines. In this regard the contract is to be signed prior to the consent becoming operative.

A2. The applicant must provide Council with written evidence demonstrating that the matter listed under part A1 above has been satisfactorily addressed no later than four weeks before the notice of expiry date.

B. Upon compliance with the requirements of part A1, a full consent will be issued subject to the following conditions:

GENERAL MATTERS & ADVICE

1. Development in Accordance with Submitted Plans

The development being carried out in accordance with the following approved plans and details, stamped and returned with this consent except where amended by other conditions of consent.

REFERENCED PLANS AND DOCUMENTS

DRAWING NO.	DESCRIPTION	REVISION	DATE
DA02	Site/Roof Plan	A	16/10/2009
DA03	Part A – Basement 03	B	17/05/2010
DA04	Part A – Basement 02	B	17/05/2010
DA05	Part A – Basement 01	D	09/02/2011
DA06	Part A – Level 01 + Easement Plan	E	09/02/2011
DA07	Part A – Level 02	A	16/10/2009
DA08	Part A – Level 03	A	16/10/2009
DA09	Part A – Level 04-07	A	16/10/2009
DA10	Part A – Level 08	A	16/10/2009
DA11	Part A – Level 09	A	16/10/2009
DA12	Part A – Level 10-14	A	16/10/2009
DA13	Part A – Level 15-18	A	16/10/2009
DA14	Part B – Basement 04	D	09/02/2011
DA15	Part B – Basement 02 + 03	D	09/02/2011
DA16	Part B – Basement 01	D	09/02/2011
DA17	Part B – Level 01 + Easement Plan	E	09/02/2011
DA18	Part B – Level 02-08	A	16/10/2009
DA19	Part B – Level 09-18	A	16/10/2009
DA20	Jenkins St. Elevation	C	18/11/2010
DA21	James St. Elevation	A	16/10/2009
DA22	Part A – Thallon St. Elevation	C	18/11/2010
DA23	Part B – Thallon St. Elevation	C	18/11/2010
DA24	Site Section A: Buildings West and East Elevation	A	16/10/2009
DA25	Part A – Site Section B	C	17/12/2010
DA26	Part B – Site Section B	C	17/12/2010

DA27	Site Section C – Buildings South and North Elevation	A	16/10/2009
DA28	Site Section D + E	A	16/10/2009
DA29	Site Section F – Building East + West + North Elevation	C	18/11/2010
DA30	Building North – North Elevation + Site Section H	D	17/12/2010
DA31	Building North: North Elevation	A	16/10/2009
DA32	Shadow Diagram Winter 0900 + 1200	A	16/10/2009
DA33	Shadow Diagram Winter 1500	A	16/10/2009
DA34	Shadow Diagrams 2-8 James St. Elevations Winter	B	30/04/2010
DA35	Shadow Diagrams Elevations Winter East Building	B	30/04/2010
DA36	Finishes Schedule – North Building	A	16/10/2009
DA37	Finishes Schedule – South building	A	16/10/2009
DA38	Finishes Schedule – East Building	A	16/10/2009
DA39	Finishes Schedule – West Building	A	16/10/2009
LS01-DA Sheet 1 of 4	Landscape Plan – Block B and Public Open Space	C	20/09/2010
LS02-DA Sheet 2 of 4	Landscape Plan – Block A	C	20/09/2010
LS03-DA Sheet 3 of 4	Landscape Plan – Block A Level 8 & 10 Roof Garden	C	20/09/2010
LS04-DA Sheet 4 of 4	Landscape Schedules	A	12/11/2009

Prior to construction of the approved development, it is necessary to obtain a Construction Certificate. A Construction Certificate may be issued by Council or an Accredited Certifier. Plans submitted with the Construction Certificate are to be amended to incorporate the conditions of the Development Consent.

2. Compliance with the Voluntary Planning Agreement

a. Voluntary Planning Agreement

Pursuant to Section 80A (1) of the Environmental Planning and Assessment Act 1979, the Planning Agreement offered by Carling Developments Pty Ltd and Merc Projects Pty Ltd in connection with this development application (a copy of which is attached) **must be executed within 14 days after the date of this determination.**

b. Monetary Contributions

Pursuant to the offer by the applicant to enter into a Voluntary Planning Agreement as governed by Subdivision 2 Division 6 of Part 4 of the Act, that the Voluntary Planning Agreement applying to 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, known as Key Site 3 at the corner of Jenkins Road, James Street and Thallon Street, Carlingford be signed under company seal and that payment of Monetary Contributions of **\$2,149,540.00** be made **prior to the issue of a Construction Certificate.**

c. Land Dedication

The applicant shall submit a land survey that clearly identifies each parcel of land to be dedicated to Council **prior to the issue of a Construction Certificate.**

The survey should be prepared by a suitably qualified and practising surveyor and should clearly demonstrate that land sizes for each dedicated land parcel are consistent with requirements of Schedule 1 on page 21 of the Voluntary Planning Agreement for Key Site 3.

The survey shall be drawn to Australian Height Datum and must include a working scale (preferably 1:100 or 1:200) and north point.

d. Works-in-Kind – Roundabout at Boundary Rd and Post Office Street

A detailed plan prepared by a suitably qualified and practising professional for the design of the roundabout at the intersection of Boundary Road and Post Office Street (item code CPR1 in the Carlingford Precinct Section 94 contributions Plan) must be lodged with and approved by Council **prior to the issue of a Construction Certificate.**

Plans shall be drawn to Australian Height Datum and must include a working scale (preferably 1:100 or 1:200) and north point.

e. Works-in-Kind – Open Space Embellishment

A detailed plan prepared by a suitably qualified and practising professional for the design of the Open Space Embellishment (item code CPLOS3 in the Carlingford Precinct Section 94 Contributions Plan) must be lodged with and approved by Council **prior to the issue of a Construction Certificate.**

Plans shall be drawn to Australian Height Datum and must include a working scale (preferably 1:100 or 1:200) and north point.

f. Works-in-Kind – Cycleway/Pedestrian Path

A detailed plan prepared by a suitably qualified and practising professional for the design of the cycleway/pedestrian path in the transmission easement (item code CPCW1 in the Carlingford Precinct contributions Plan) must be lodged with and approved by Council **prior to the issue of a Construction Certificate.**

Plans shall be drawn to Australian Height Datum and must include a working scale (preferably 1:100 or 1:200) and north point.

g. Energy Australia shall submit a construction contract to be signed by Council **prior to the issuing of a Construction Certificate.**

h. The 132kV double circuit powerlines shall be installed underground **prior to the approval of the Strata Subdivision Certificate or Occupation Certificate whichever occurs first.**

3. Compliance with Carlingford Public Domain Plan

A detailed Public Domain Plan must be prepared by an a suitable qualified professional in accordance with the Carlingford Precinct Public Domain Plan and must be lodged with and approved by Council **prior to a Construction Certificate** being issued for any new building work (including internal refurbishments).

4. Construction Certificate

Prior to construction of the approved development, it is necessary to obtain a Construction Certificate. A Construction Certificate may be issued by Council or an Accredited Certifier. Plans submitted with the Construction Certificate are to be amended to incorporate the conditions of the Development Consent.

5. Provision of Parking Spaces

The provision and maintenance thereafter of 735 off-street car parking spaces and 12 motorcycle spaces.

6. External Finishes & Materials

External finishes and materials shall be in accordance with the details submitted with the development application and approved with this consent.

7. Building Work to be in Accordance with BCA

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

8. Compliance with the NSW RTA Requirements

Compliance with the requirements of the NSW Roads and Traffic Authority attached as Appendix "A" to this consent and dated 11 February 2010 with the exception of recommended works-in-kind not covered in the Voluntary Planning Agreement.

9. Compliance with the NSW Police Requirements

Compliance with the requirements of the NSW Police attached as Appendix "B" to this consent and dated 11 March 2010, in terms of the relevant Crime Prevention through Environmental Design (CPTED) factors such as surveillance, access control and territorial reinforcement.

10. Compliance with NSW Transport/RailCorp Requirements

Compliance with the requirements of the NSW Transport/RailCorp attached as Appendix "C" to this consent and dated 25 March 2011.

11. Street Trees

Street trees must be provided along the sites Thallon Street, James Street and Jenkins Road frontage complying with the Carlingford Precinct Public Domain Plan.

12. Separate Application for Strata Subdivision

A separate application must be submitted for any proposed strata titled subdivision of the approved development.

13. Protection of Public Infrastructure

Council must be notified of any damage to public infrastructure caused by the development. Adequate protection must be provided prior to work commencing and maintained during building operations. Any damage caused must be made good, to the satisfaction of Council, before an Occupation Certificate can be issued. Public infrastructure includes the road pavement, kerb and gutter, concrete footpaths, drainage structures, utilities and landscaping fronting the site.

14. Structures Adjacent to Piped Drainage Easements

Buildings and structures, including footings and brick fences, adjacent to existing or proposed drainage easements must be located wholly outside the easement. A design must be provided by a structural engineer certifying that the structure will not impart a load on the pipe in the easement.

15. Requirements for Council Drainage Easements

No works are permitted within existing or proposed public drainage easements unless approved by Council. Where works are permitted, the following requirements must be adhered to:

Provision for overland flow and access for earthmoving equipment must be maintained.

The existing ground levels must not be altered. No overland flow is to be diverted out of the easement.

No fill, stockpiles, building materials or sheds can be placed within the easement.

New or replacement fencing must be approved by Council. Open style fencing must be used.

16. Vehicular Access and Parking

The formation, surfacing and drainage of all driveways, parking modules, circulation roadways and ramps is required, with their design and construction complying with:

- a) AS/ NZS 2890.1:2004
- b) AS/ NZS 2890.6:2009
- c) AS 2890.2:2002

- d) DCP Part D Section 1 – Parking
- e) Council's Driveway Specifications

Where conflict exists the Australian Standard must be used.

The following must be provided:

- i. All driveways and car parking areas must be prominently and permanently line marked, signposted and maintained to ensure entry and exit is in a forward direction at all times and that parking and traffic circulation is appropriately controlled.
- ii. All driveways and car parking areas must be separated from landscaped areas by a low level concrete kerb or wall.
- iii. All driveways and car parking areas must be concrete or bitumen. The pavement design must consider the largest design service vehicle expected to enter the site.
- iv. All driveways and car parking areas must be graded, collected and drained by pits and pipes to a suitable point of legal discharge.

17. Gutter and Footpath Crossing Application

Each driveway requires the lodgement of a separate gutter and footpath crossing application, accompanied by the current fee as prescribed by Council's Schedule of Fees and Charges.

18. Engineering Works – Design and Construction Approval Process

The design certification and construction approval of the engineering works nominated in this consent require separate approval prior to the commencement of any works.

Works on existing public roads or any other land under the care and control of Council require an Engineering Construction Certificate (ECC) in accordance with the Roads Act 1993 or the Local Government Act 1993. This includes the construction of new roads which are to be dedicated as public road. An ECC can only be issued by Council.

All other engineering works must be approved by either Council or an accredited certifier. This certification must be included with the documentation approved as part of any Construction Certificate. The designer of the engineering works must be qualified, experienced and have speciality knowledge in the relevant field of work.

For Council to issue an ECC the following must be provided:

- a) A completed application form.
- b) Four copies of the design plans and specifications.
- c) Payment of the applicable application and inspection fees.
- d) Payment of any required security bonds.

19. Minor Engineering Works

The design and construction of the engineering works listed below must be provided for in accordance with the following documents and requirements:

- a) Council's Design Guidelines Subdivisions/ Developments
- b) Council's Works Specifications Subdivisions/ Developments

Any variance from these documents requires separate approval from Council.

Works on existing public roads or any other land under the care and control of Council must be approved and inspected by Council in accordance with the Roads Act 1993 or the Local Government Act 1993.

i. Driveway Requirements

The design, finish, gradient and location of all driveway crossings must comply with the above documents and Council's driveway specifications which can be found on Council's website:

<http://www.thehills.nsw.gov.au/>

The proposed driveways must be built to Council's heavy duty standard.

The driveways must be 6m wide at the boundary splayed to 7m wide at the kerb. The driveways must be a minimum of 6m wide for the first 6m into the site, measured from the boundary. On high level sites a grated drain must be provided on the driveways at the property boundary.

A separate driveway application fee is payable as per Council's Schedule of Fees and Charges.

ii. Disused Layback/ Driveway Removal

All disused laybacks and driveways in Thallon Street, Jenkins Road and James Street must be removed and replaced with full kerb and gutter together with the restoration and turfing of the adjoining footpath verge area.

iii. Concrete Footpath Paving/ Cycleway

A concrete footpath paving/ cycleway, including access ramps at all intersections, must be provided across the Thallon Street and James Street frontage of the development site transitioning into the existing footpath adjacent in accordance with Council's standard footpath detail and the above documents.

A separate minor engineering works application and inspection fee is payable as per Council's Schedule of Fees and Charges.

Where required by Council, the existing concrete footpath paving in Jenkins Street fronting the development site must be repaired or replaced.

The width and alignment of the concrete footpath paving/ cycleway is at the discretion of Council and must comply with the Carlingford DCP.

iv. Footpath Verge Formation

The grading, trimming, topsoiling and turfing of the Thallon Street, James Street and Jenkins Road footpath verge fronting the development site is required to ensure a gradient between 2% and 4% falling from the boundary to the top of kerb is provided. This work must include the construction of any retaining walls necessary to ensure complying grades within the footpath verge area. All retaining walls and associated footings must be contained wholly within the subject site. Any necessary adjustment or relocation of services is also required, to the requirements of the relevant service authority. All service pits and lids must match the finished surface level.

20. Supervision of Works

All work in the road reserve must be supervised by a suitably qualified and experienced person. The supervisors name, address and contact phone number must be submitted to Council prior to works commencing in the road reserve. A construction programme and anticipated duration of works must be submitted to Council prior to works commencing in the road reserve.

21. Public Liability Insurance

All contractors working in the road reserve must have a current public liability insurance policy with an indemnity limit of not less than \$10,000,000.00. A copy of this insurance must be submitted to Council prior to works commencing in the road reserve.

22. Dedication of Splay Corner/ Road Widening

An Occupation Certificate must not be issued until a 4m by 4m splay corner has been created and dedicated at the corner of James Street/ Jenkins Road and James Street/ Thallon Street, at no cost to Council. This will require the submission of a separate development application or Subdivision Certificate application to Council based on the exempt development provisions of the Codes SEPP.

23. Adherence to Waste Management Plan

The Waste Management Plan submitted to Council must be adhered to at all stages in the demolition/construction/design of facilities and on-going use phases. All waste material

nominated for recycling must be reused or recycled. Any material moved offsite is to be transported in accordance with the requirements of the Protection of the Environment Operations Act (1997) and only to a place that can lawfully be used as a waste facility. Dockets/receipts verifying recycling/disposal must be kept and presented to Council when required.

24. Waste Storage and Separation – Construction and Demolition

The reuse and recycling of waste materials must be maximised during construction and demolition. The separation and recycling of the following waste materials is required:

- a) Masonry products (bricks, concrete, concrete roof tiles) to be sent for crushing/recycling;
- b) Timber waste to be separated and sent for recycling;
- c) Metals to be separated and sent for recycling;
- d) Clean waste plasterboard to be returned to the supplier for recycling (excluding plasterboard from demolition); and
- e) Mixed waste (plastic wrapping, cardboard etc) to be sent to a licensed recycling or disposal facility.

This can be achieved by constructing a minimum of five trade waste compounds on-site. Each waste compound must be adequately sized to enclose the waste. Alternatively, mixed waste may be stored in one or more adequately sized waste compounds and sent to a waste contractor/waste facility that will sort the waste on their site for recycling. Waste must be adequately secured and contained within designated waste areas and must not leave the site onto neighbouring public or private properties. Personal waste must not litter the site. Copies of actual weighbridge receipts verifying recycling/disposal must be kept and presented to Council when required.

25. Imported 'Waste Derived' Fill Material

The only waste derived fill material that may be received at the development site is:

- virgin excavated natural material (within the meaning of the *Protection of the Environment Operations Act 1997*); or
- any other waste-derived material the subject of a resource recovery exemption under clause 51A of the *Protection of the Environment Operations (Waste) Regulation 2005* that is permitted to be used as fill material.

Any waste-derived material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority on request.

NOTE: The application of waste-derived material to land is an activity that may require a licence under the *Protection of the Environment Operations Act 1997* (POEO Act). However, a licence is not required by the occupier of the land if the only material applied to land is virgin excavated natural material or waste-derived material that is the subject of a **resource recovery exemption** under clause 51A of the *Protection of the Environment Operations (Waste) Regulation 2005*.

Resource recovery exemptions are available on Department of Environment and Climate Change's website at: <http://www.environment.nsw.gov.au/waste/>

Definition of 'virgin excavated natural material' within the meaning of the POEO Act:

Natural material (such as clay, gravel, sand, soil or rock fines) that has been excavated or quarried from areas that are not contaminated with manufactured chemicals, or with process residues (as a result of industrial, commercial, mining or agricultural activities), and that does not contain any sulfidic ores or any other waste.

Definition of 'waste' within the meaning of the POEO (Waste) Regulation:

In relation to substances that are applied to land, the application to land by:

- (a) spraying, spreading or depositing on the land, or
 - (i) ploughing, injecting or mixing into the land, or
 - (ii) filling, raising, reclaiming or contouring the land,
- (b) in relation to substances that are used as fuel, all circumstances.

See Clause 3B of the Regulation for exemptions.

26. Domestic Waste Management

Construction of the garbage and recycling bin storage areas are to be in accordance with the "Bin Storage Facility Design Specifications" as attached to this consent. Storage facility is to be provided as follows:

Basement Garbage Room (Jenkins Road) Part A (Drawing No: DA05 Issue C dated 18/11/2010) 16 x 1100 litre bulk garbage bins and 47 x 240 litre recycling bins.

Basement Garbage Room (Thallon Street) Part A (Drawing No: DA05 Issue C dated 18/11/2010) 14 x 1100 litre bulk garbage bins and 43 x 240 litre recycling bins.

Basement Garbage Room – Part B (Drawing No: DA16 Issue C dated 18/11/2010) 16 x 1100 litre bulk garbage bins and 47 x 240 litre recycling bins.

27. Garbage Collection – Commercial/Industrial

Collection of waste and recycling material, generated by the premises, must not cause nuisance or interference with the amenity of the surrounding area.

28. Odour Control

To ensure that adequate provision is made for the treatment of odours, the mechanical exhaust system shall be fitted with sufficient control equipment to prevent the emission of all offensive odours from the premises.

29. Garbage Storage – Odour Control

A waste contractor shall be engaged to remove all waste from the garbage storage area on a regular basis so that no overflow of rubbish will occur. Practical measures are also to be taken to ensure that odour emission from the garbage storage area does not cause offensive odour as defined by the Protection of the Environment Operations Act, 1997.

30. Placement of bins for servicing

An appointed caretaker/manager is to be responsible for taking bins from the bin storage rooms in the basements to the ground floor temporary bin storage areas and returning the bins to the basement bin storage rooms after servicing by Council's waste contractor.

31. Food and Health premises

The use of any of the retail areas as a food premises or premises regulated under the Public Health (Skin Penetration) Regulation 2000, shall require a separate development application for fitout.

32. Tree Removal

Approval is granted for the removal of trees numbered 1-80 as indicated in Arboricultural Impact Assessment Stages A, B & C prepared by Redgum Horticultural Consultants dated 16th April 2009 and trees numbered 1-42 as indicated in Arboricultural Impact Assessment Stage D prepared by Redgum Horticultural Consultants dated 16th April 2009 as they will be affected by the proposed development.

All other trees are to remain and are to be protected during all works.

33. Planting Requirements

All trees planted as part of the approved landscape plan are to be minimum 75 litre pot size. All shrubs planted as part of the approved landscape plan are to be minimum 200mm

pot size. All ground covers as part of the approved landscape plan are to be minimum 150mm pot size and planted 5/m².

34. Numbering

The responsibility for house/unit/tenancy numbering is vested solely in Council in order to provide a consistent and accurate system of street numbering throughout the Shire. In this regard you are required to contact Council's Land Information Section on 9843 0474 to confirm the street number. The street numbers as issued are to be displayed on all buildings resulting from this approval.

35. Australia Post Mail Box Requirements

Australia post requires there be one (1) single group of cluster mail boxes. Should more than one (1) cluster be required, contact Australia Post for their approval. The number of mail boxes be provided is to be equal to the number of flats/units/townhouses/villas etc. plus one (1) for the proprietors. Mail boxes are to have a minimum internal dimension of 230mm wide x 160mm High x 330mm long and are to be provided with an opening of 230mm x 30mm for the reception of mail.

36. Property Numbering for Integrated Housing, Multi Unit Housing, Commercial Developments and Industrial Developments

The responsibility for property numbering is vested solely in Council.

The property address and unit numbers for this development are-

- North Building – Units 101-240 / 4 Thallon Street, Carlingford
- East Building – Units 301-429 / 2 Thallon Street, Carlingford
- East Building Retail Spaces 1-3 / 2 Thallon Street, Carlingford
- South Building – Units 501-543 / 2 Thallon Street **OR** 1 James Street Carlingford (location of letterboxes to reflect street address)
- South Building Retail Spaces 4-8 / 2 Thallon Street **OR** 1 James Street Carlingford (location of letterboxes to reflect street address)
- West Building – Units 601-696 / 7 Jenkins Road, Carlingford

Please refer to approved numbering correspondence and plan. These unit numbers, as issued, are to be displayed clearly on all unit door entrances.

Clear and accurate external directional signage is to be erected on site at driveway entry points and on buildings. Unit numbering signage is also required on stairway access doors and lobby entry doors. It is essential that all numbering signage throughout the complex is clear to assist emergency service providers locate a destination with ease and speed, in the event of an emergency.

Please note that amendments to any plans MUST be referred to Council's Land Information section for reassessment of the approved numbers.

NOTE: Any amendments to these plans that may affect the approved numbering MUST be referred to the Council's Land Information Section for additional assessment.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

37. Concept Engineering Design Approval

The submitted concept engineering design plans are for DA purposes only and must not be used for construction. A detailed design must be submitted to Council for approval before a Construction Certificate is issued. Council may require amendments to the concept design.

38. Engineering Works and Design

The design and construction of the engineering works outlined below must be provided for in accordance with the following documents and requirements:

- a) Council's Design Guidelines Subdivisions/ Developments
- b) Council's Works Specifications Subdivisions/ Developments

Any variance from these documents requires separate approval from Council.

The works listed below require an Engineering Construction Certificate (ECC) as outlined earlier in this consent. The following engineering works are required:

i. Stormwater Drainage/ Flooding

The upgrading of the existing public drainage infrastructure shown in Figure 6 from the Local Flood Study prepared by Cardno Ref YN210061 Revision 4 dated 23 December 2010 is required. This includes all works within the subject site, 7-13 Jenkins Road and 2-14 Thallon Street, as well as all other upstream and downstream properties and public roads also affected by these works to ensure compliance with the requirements/ conclusions of the above report in full. The works within 2-26 Jenkins Road opposite, 19A Jenkins Road adjacent and Jenkins Road itself must be included. Where the scope of works necessary extends beyond the site boundary, owner's consent must be provided for all other affected properties as part of the Construction Certificate documentation.

The design must consider both the piped and overland flow component of the flooding affectation burdening the site and include sufficient detail demonstrating that compliance with the above requirements has been met. The design must comply with the above documents.

The twin 900mm diameter pipelines proposed on the western side of Jenkins Road shown in Figure 6 from the Local Flood Study prepared by Cardno Ref YN210061 Revision 4 dated 23 December 2010 must be replaced with a single, larger pipeline aligned under the kerb in accordance with the above documents.

The final location, width, batter and surface treatment of the overland flow path through the site extending into 19A Jenkins Road adjacent is subject to separate approval from Council at the detailed design stage.

The design and construction approval for these works can only be issued by Council as outlined earlier in this consent.

ii. Stormwater Drainage – Temporary Management

Grassed swale drains or temporary piped drainage must be installed to intercept, control and redirect surface stormwater runoff from upstream undeveloped properties.

39. Detailed Geotechnical Report

Before a Construction Certificate is issued, a detailed geotechnical report must be prepared and submitted in order to satisfy Clause 4.37 of the Carlingford DCP. The report must consider the geotechnical report submitted with the application along with the additional advice submitted later regarding the same. This report must outline all construction stage requirements relating to the proposed excavation works along with any remedial actions necessary post construction. The report must specifically address the impacts, if any, of these works on adjoining properties, including the need for owner's consent where these works encroach beyond the property boundary.

40. Onsite Stormwater Detention – Upper Parramatta River Catchment Area/ Water Sensitive Urban Design

1. Onsite Stormwater Detention

Onsite Stormwater Detention (OSD) is required in accordance with Council's adopted policy for the Upper Parramatta River catchment area, the Upper Parramatta River Catchment Trust OSD Handbook.

The stormwater concept plan prepared by ABC Consultants listed below is for DA purposes only and is not to be used for construction. The detailed design must reflect the approved concept plan and the following necessary changes:

- a) The design must be amended so as to accommodate the localised road widening necessary at the intersection of James Street/ Jenkins Road and James Street/ Thallon Street referred to elsewhere in this consent.

Drawing:	Ref:	Revision:	Dated:
General Notes	C02.01	B	25 February 2011
Sediment and Erosion Control Plan	C02.02	B	25 February 2011
Roof/ Level 1/ Catchment Plan	C02.03	B	2 March 2011
Level 2/ Level 18 Stormwater Plan	C02.04	B	25 February 2011
Basement 1/ Basement 4 Stormwater Plan	C02.05	B	2 March 2011
Stormwater Drainage Details	C02.06	B	25 February 2011

Comprehensive design plans showing full construction details must be prepared by an accredited OSD designer and submitted with:

- A completed OSD Drainage Design Summary Sheet;
- Drainage calculations and details, including those for all weirs, overland flow paths and diversion (catch) drains, catchment areas, times of concentration and estimated peak run-off volumes;
- A completed OSD Detailed Design Checklist;
- A maintenance schedule.

The design and construction of the OSD system must be approved by either Council or an accredited certifier. This certification must be included with the documentation approved as part of any Construction Certificate.

A Design Compliance Certificate (DCC) certifying the detailed design of the OSD system can be issued by Council subject to the following being provided:

- i. A completed application form;
- ii. Four copies of the design plans and specifications;
- iii. Payment of the applicable application and inspection fees.

2. Water Sensitive Urban Design

Water sensitive urban design elements, consisting in this instance of a landscaped roof terrace, bio-retention swales, rainwater reuse tank, proprietary gross pollutant trap devices and enviropods in surface inlet pits, are to be located generally in accordance with the plans and information submitted with the application and listed above.

Detailed plans for the water sensitive urban design elements must be submitted for approval. The detailed plans must be suitable for construction, and include detailed and representative longitudinal and cross sections of the proposed infrastructure. The design must be accompanied, informed and supported by detailed water quality and quantity modelling. The modelling must demonstrate a reduction in annual average pollution export loads from the development site in line with the following NSW Department of Environment, Climate Change and Water environmental targets:

- 90% reduction in the annual average load of gross pollutants.
- 85% reduction in the annual average load of total suspended solids.
- 65% reduction in the annual average load of total phosphorous.
- 45% reduction in the annual average load of total nitrogen.

All model parameters and data outputs are to be provided with the design.

These elements must be designed and constructed in accordance with best practice water sensitive urban design techniques and guidelines. Such guidelines include, but are not limited to, the following:

- Water Sensitive Urban Design – Technical Guidelines for Western Sydney, 2004, <http://www.wsud.org/tech.htm>; and
- Australian Runoff Quality – A Guide to Water Sensitive Urban Design, 2005, <http://www.ncwe.org.au/arq/>.

41. Basement Car Park and Subsurface Drainage

The stormwater pump-out system must provide for the following:

- a) A holding tank sized to store the run-off from a 12 hour 1 in 100 year ARI storm event;
- b) A alternating two pump system capable of emptying the holding tank at either the Permissible Site Discharge rate or the rate of inflow for a 5 hour 1 in 5 year ARI storm event, whichever is lower;
- c) An alarm system to alert a pump failure;
- d) 100mm freeboard to all nearby parking spaces;
- e) The system must be connected to the Onsite Stormwater Detention system before being discharged to the street, under gravity.

All relevant plans, calculations, hydraulic details and manufacturer specifications for the pump must be submitted with certification from the designer confirming the design complies with the above requirements.

42. Works in Existing Easement

All adjoining properties either benefited or burdened by the existing easement must be notified of the proposed works within the easement in writing, including commencement and completion dates, before a Construction Certificate is issued.

43. Works on Adjoining Land

Where the engineering works included in the scope of this approval extend into adjoining land, even if these works are contained within an existing easement, written consent from all affected adjoining property owners must be obtained and submitted to Council before a Construction Certificate is issued.

44. Draft Legal Documents

Where an encumbrance on title is required to be created as part of this consent, draft copies of all legal documents must be submitted to Council for checking before a Construction Certificate is issued.

45. Security Bond – Pavement and Public Asset Protection

In accordance with Section 80A(6)(a) of the Environmental Planning and Assessment Act 1979, a security bond of \$125,280.00 is required to be submitted to Council to guarantee the protection of the adjacent road pavement and public assets during construction works. The above amount is calculated at the rate of \$30.00 per square metre based on the public road frontage of the subject site (364m) plus an additional 50m on either side (464m) and the width of the road measured from face of kerb on both sides (9m), or \$10,000.00, whichever is the greater.

The bond must be lodged with Council prior to the issue of a Construction Certificate.

The value of this bond shall be confirmed with Council prior to submission and may be in the form of cash or an unconditional bank guarantee. The bond is refundable upon written application to Council along with payment of the applicable bond release fee, and is subject to all work being restored to Council's satisfaction. Should the cost of restoring any damage exceed the value of the bond, Council will undertake the works and issue an invoice for the recovery of these remaining costs.

46. Security Bond – External Works

In accordance with Section 80A(6)(b) of the Environmental Planning and Assessment Act 1979, a security bond is required to be submitted to Council to guarantee the construction, completion and performance of all works external to the site. The bonded amount must be based on 150% of the tendered value of providing all such works, or \$10,000.00, whichever is the greater.

The bond must be lodged with Council prior to the issue of any Construction Certificate.

The value of this bond shall be confirmed with Council prior to submission and may be in the form of cash or an unconditional bank guarantee. The bond is refundable upon written application to Council along with payment of the applicable bond release fee, and is subject to all work being completed to Council's satisfaction.

47. Bank Guarantee Requirements

Should a bank guarantee be the proposed method of submitting a security bond it must:

- a) Have no expiry date;
- b) Be forwarded direct from the issuing bank with a cover letter that refers to Development Consent DA 895/2010/JP;
- c) Specifically reference the items and amounts being guaranteed. If a single bank guarantee is submitted for multiple items it must be itemised.

Should it become necessary for Council to uplift the bank guarantee, notice in writing will be forwarded to the applicant fourteen days prior to such action being taken. No bank guarantee will be accepted that has been issued directly by the applicant.

48. Separate Approval for WIK/ MPB Agreement

Separate approval is required where a works in kind (WIK) or material public benefit (MPB) is proposed in lieu of the part or full payment of either a monetary contribution or the dedication of land. Any WIK or MPB application must be made in writing. Contact Council to ascertain the information required to accompany any such application.

The WIK or MPB agreement must be finalised before a Construction Certificate is issued.

Once the WIK or MPB agreement has been finalised an application must be submitted to modify the Section 94 Contribution amount identified in this consent, unless it is agreed that the difference can be reimbursed after payment is made.

49. Flood Emergency Response

The detailed design for the upgrading of the existing public drainage infrastructure shown in Figure 6 from the Local Flood Study prepared by Cardno Ref YN210061 Revision 4 dated 23 December 2010 must include a separate report that considers the proposals compliance with the provisions of the Upper Parramatta River Catchment Floodplain Risk Management Plan adopted by Council on 14 December 2004. The documentation submitted should include an Emergency Response Flood Plan to enable the safe evacuation of residents and visitors in the event of a significant flood event.

50. Erosion & Sediment Control Plan

Submission of an Erosion and Sediment Control Plan to the Principal Certifying Authority, including details of:

- a) Allotment boundaries
- b) Location of the adjoining roads
- c) Contours
- d) Existing vegetation
- e) Existing site drainage
- f) Critical natural areas
- g) Location of stockpiles
- h) Erosion control practices
- i) Sediment control practices
- j) Outline of a maintenance program for the erosion and sediment controls

(NOTE: For guidance on the preparation of the Plan refer to 'Managing Urban Stormwater Soils & Construction' produced by the NSW Department of Housing).

51. Glazing, doors and window seal requirements

The recommendations contained within section 4, *Control of External Noise – Window Glazing (Renzo Tonin & Associates report TE369-01F02 (Rev 1) Acoustic report for DA, dated 12 October 2009)*, shall be implemented and demonstrated on plans submitted for the Construction Certificate.

52. Landscape Bond

A landscape bond in the amount \$50,000 is to be lodged with Council prior to the issue of the Construction Certificate. It shall be refunded 6 months following the issue of the Occupation Certificate and the submission to Council of certification from a qualified Landscape Architect or Council's Tree Management Team, that the works have been carried out in accordance with the approved landscape plan.

PRIOR TO ANY WORK COMMENCING ON SITE

53. Compliance with Energy Australia's Requirements

As the presence of the in-service power lines pose a possible safety risk for construction workers and construction activity has the potential to place the security of the electrical network at risk, the following information shall be submitted to Energy Australia for consideration and approval prior to any commencement of works on site as outlined in their letter dated 21 January 2011:

- Restrictions on the use of cranes and other such moveable construction plant near power lines;
- The erection of structures within the existing easements and other activities which are prohibited within the easement or near in-service power lines; and
- Safe work method statements for review by Energy Australia prior to site works commencing. Such safety procedures should be included in the Construction Safety and Environmental Management Plan.

54. Management of Building Sites – Builder's Details

The erection of suitable fencing or other measures to restrict public access to the site and building works, materials or equipment when the building work is not in progress or the site is otherwise unoccupied.

The erection of a sign, in a prominent position, stating that unauthorised entry to the site is not permitted and giving an after hours contact name and telephone number. In the case of a privately certified development, the name and contact number of the Principal Certifying Authority.

55. Notification

Two days before work commences, Council shall be notified of the Principal Certifying Authority in accordance with Form 7 of the Regulation.

56. Principal Certifying Authority

A sign is to be erected in accordance with Clause 98 A (2) of the Environmental Planning and Assessment Regulations 2000.

57. Approved Temporary Closet

An approved temporary closet connected to the sewers of Sydney Water, or alternatively an approved chemical closet is to be provided on the land, prior to building operations being commenced.

58. Erosion and Sedimentation Controls

Erosion and sedimentation controls shall be in place prior to the commencement of site works; and maintained throughout construction activities until the site is landscaped and/or suitably revegetated. The controls shall be in accordance with the details approved by Council and/or as directed by Council Officers. These requirements shall be in accordance with Managing Urban Stormwater – Soils and Construction produced by the NSW Department of Housing (Blue Book).

59. Stabilised Access Point

A stabilised all weather access point is to be provided prior to commencement of site works, and maintained throughout construction activities until the site is stabilised. The controls shall be in accordance with the requirements with the details approved by Council and/or as directed by Council Officers. These requirements shall be in accordance with Managing Urban Stormwater – Soils and Construction produced by the NSW Department of Housing (Blue Book).

60. Builder and PCA Details Required

Notification in writing of the builder's name, address, telephone and fax numbers to be submitted to the Principal Certifying Authority prior to work commencing.

Two days before work commences, Council shall be notified of the Principal Certifying Authority in accordance with the Regulations.

61. Erosion and Sedimentation Controls – Major Works

Erosion and sedimentation control devices are to be provided in accordance with Council's "Works Specification - Subdivisions/Developments" (August 1997). All devices are to be established prior to the commencement of engineering works and maintained for a minimum period of six (6) months after the completion of all works. Periodic maintenance of the erosion and sedimentation control devices is to be undertaken to ensure their effectiveness.

On completion of works all land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover.

62. Site Water Management Plan

A Site Water Management Plan is to be submitted to Council for approval. The plan is required to be site specific and be in accordance with "Managing Urban Stormwater - Soils and Construction" (The Blue Book) produced by the NSW Department of Housing.

63. Erosion & Sediment Control Plan Kept on Site

A copy of the Erosion and Sediment Control Plan must be kept on site at all times during construction and made available to Council officers on request.

64. Traffic Control Plan

A Traffic Control Plan is required to be prepared in strict compliance with the requirements of AS 1742.3 and the current RTA Traffic Control and Work Sites Manual and submitted to Council for approval. The person preparing the plan must have the relevant RTA accreditation to do so. Where amendments to the approved plan are required, they must be submitted to Council for approval prior to being implemented.

65. Separate OSD Detailed Design Approval

No work is to commence until a detailed design for the OSD system has been approved by either Council or an accredited certifier.

66. Pre-Construction Public Infrastructure Dilapidation Report

A public infrastructure inventory report must be prepared and submitted to Council recording the condition of all public assets in the direct vicinity of the development site. The report shall include:

- a) Designated construction access and delivery routes; and
- b) Photographic evidence of the condition of all public assets. The report shall clearly identify the date of recording.

67. Demolition Works & Asbestos Removal/Disposal

The demolition of any existing structure is to be carried out in accordance with the *Occupational Health & Safety Regulations 2001 Part 8* and the *Australian Standard AS 2601-1991: The Demolition of Structures*. All vehicles leaving the site carrying demolition materials are to have loads covered and are not to track any soil or waste materials on the road. Should the demolition works obstruct or inconvenience pedestrian or vehicular traffic on adjoining public road or reserve, a separate application is to be made to Council to enclose the public place with a hoarding or fence. All demolition waste is to be removed from the site according to the Council's approved waste management plan. –

Demolition Waste Section. All asbestos, hazardous and/or intractable wastes are to be disposed of in accordance with the Workcover Authority Guidelines and requirements. The asbestos must be removed by a bonded asbestos licensed operator. Supporting documentation (dockets/Receipts), verifying recycling and disposal must be kept, to be checked by Council if required.

68. Discontinuation of Domestic Waste Service(s)

Prior to commencement of any demolition works, Council must be notified to collect any garbage or recycling bins from any dwelling/building that is to be demolished and to discontinue the waste service (where the site ceases to be occupied during works). Construction or demolition workers must not use Council's domestic and garbage and recycling service for the disposal of waste. Please contact Council's Domestic Waste Hotline on 1800 623 895 for the discontinuation of waste services.

69. Protection of Existing Trees

The trees that are on neighbouring properties are to be protected during all works with 1.8m high chain wire fencing which is to be erected at least three (3) metres from the base of each tree and is to be in place prior to works commencing to restrict the following occurring:

- Stockpiling of materials within the root protection zone,
- Placement of fill within the root protection zone,
- Parking of vehicles within the root protection zone,
- Compaction of soil within the root protection zone.

All areas within the root protection zone are to be mulched with composted leaf mulch to a depth of not less than 100mm.

The installation of services within the root protection zone is not to be undertaken without consultation with Council's Tree Management Officer.

DURING CONSTRUCTION

70. Compliance with BASIX Certificate

Under clause 97A of the Environmental Planning and Assessment Regulation 2000 it is a condition of this development consent that all commitments listed in BASIX Certificate No. 273472M_03 dated 22 October 2009 be complied with.

71. Hours of Work

Work on the project to be limited to the following hours: -

Monday to Saturday - 7.00am to 5.00pm;

No work to be carried out on Sunday or Public Holidays.

The builder/contractor shall be responsible to instruct and control sub-contractors regarding the hours of work. Council will exercise its powers under the Protection of the Environment Operations Act, in the event that the building operations cause noise to emanate from the property on Sunday or Public Holidays or otherwise than between the hours detailed above.

72. Survey Report

Survey Certificate to be submitted to the Principal Certifying Authority at footings and/or formwork stage. The certificate shall indicate the location of the building in relation to all boundaries, and shall confirm the floor level prior to any work proceeding on the building.

73. Compliance with Critical Stage Inspections and Other Inspections Nominated by the Principal Certifying Authority

Section 109E(d) of the Act requires certain specific inspections (prescribed by Clause 162A of the Regulations) and known as "Critical Stage Inspections" to be carried out for building work. Prior to permitting commencement of the work, your Principal Certifying Authority is required to give notice of these inspections pursuant to Clause 103A of the Regulations.

N.B. An Occupation Certificate cannot be issued and the building may not be able to be used or occupied where any mandatory critical stage inspections or other inspections required by the Principal Certifying Authority are not carried out.

Where Council is nominated as Principal Certifying Authority, notification of all inspections required is provided with the Construction Certificate approval.

NOTE: You are advised that inspections may only be carried out by the PCA unless by prior agreement of the PCA and subject to that person being an accredited certifier.

74. Standard of Works

All work must be completed in accordance with this consent and Council's Works Specification Subdivisions/ Developments and must include any necessary works required to make the construction effective. All works and public utility relocation must incur no cost to Council.

75. Engineering Construction Inspections

Construction inspections are required for the engineering works included in this consent at the completion of the following inspection stages:

- a) Prior to commencement of work;
- b) Traffic control to AS 1742-3;
- c) Bedding of pipes in trenches;
- d) Trench backfill within roads;
- e) Formwork for concrete structures;
- f) Sub-grade proof roller test;
- g) Proof roller test for kerb;
- h) Sub-base course proof roller test;
- i) Base course proof roller test;
- j) Prior to placing of fill;
- k) Road crossing;
- l) Final inspection; and
- m) Asphaltic concrete surfacing.

The inspection of works approved by Council can only be carried out by Council. An initial site inspection is required prior to commencement of works. 24 hours notice must be given for all inspections.

76. Construction Noise

The emission of noise from the construction of the development shall comply with the *Interim Construction Noise Guideline* published by the Department of Environment and Climate Change (July 2009).

PRIOR TO THE ISSUE OF OCCUPATION OR SUBDIVISION CERTIFICATE

77. Section 73 Certificate

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Development and Plumbing section of the web site www.sydneywater.com.au and then refer to Water Servicing Co-ordinator under "Developing Your Land" or telephone 13 20 92 for assistance.

78. Provision of Electricity Services

Submission of a compliance certificate from the relevant provider confirming satisfactory arrangements have been made for the provision of electricity services (including undergrounding of services where appropriate).

79. Provision of Telecommunications Services

The submission of a compliance certificate from the relevant telecommunications provider, authorised under the Telecommunications Act confirming satisfactory arrangements have been made for the provision of, or relocation of, telecommunication services including telecommunications cables and associated infrastructure. This includes undergrounding of aerial telecommunications lines and cables where required by the relevant telecommunications carrier.

80. Works as Executed Plans

Works as Executed (WAE) plans prepared by a suitably qualified engineer or registered surveyor must be submitted to Council when the engineering works are complete. The WAE plans must be prepared in accordance with Council's Design Guidelines Subdivisions/ Developments on a copy of the approved engineering plans. An electronic copy of the WAE plans, in ".dwg" format, must also be submitted.

Where applicable, the plans must be accompanied by pavement density results, pavement certification, concrete core test results and site fill results.

81. Performance/ Maintenance Security Bond

A performance/ maintenance bond of 5% of the total cost of the engineering works is required to be submitted to Council. The bond will be held for a minimum defect liability period of one year and may be extended to allow for the completion of necessary maintenance or in the case of outstanding works. The minimum bond amount is \$5,000.00. The bond is refundable upon written application to Council along with payment of the applicable bond release fee, and is subject to a final inspection.

82. Confirmation of Pipe Locations

A letter from a registered surveyor must be provided certifying that all pipes and drainage structures are located within the proposed drainage easements.

83. Stormwater CCTV Recording

All piped stormwater drainage systems and ancillary structures which will become Council assets must be inspected by a CCTV and a report prepared. A hard copy of the report must be submitted along with a copy of the CCTV inspection on either VHS or DVD (in WMA format).

84. Public Asset Creation Summary

A completed public asset creation summary form must be submitted with the WAE plans. A blank form can be found on Council's website.

85. Flooding Extent Plan

A plan of survey prepared by a registered surveyor must be provided that shows the Probable Maximum Flood (PMF) and 1 in 100 year ARI storm event flood levels associated with the adjacent drainage system. The plan must reflect the WAE plans and clearly indicate the extent of inundation.

86. Completion of Engineering Works

An Occupation Certificate must not be issued prior to the completion of all engineering works covered by this consent, in accordance with this consent.

87. Post Construction Public Infrastructure Dilapidation Report

Before an Occupation Certificate is issued, an updated public infrastructure inventory report must be prepared and submitted to Council. The updated report must identify any damage to public assets in the direct vicinity of the development site and the means of rectification for the approval of Council.

88. Creation and Registration of Restrictions and Positive Covenants

a) Creation of Restrictions and Positive Covenants

The submission to Council of all necessary documentation together with payment of the endorsement fee prescribed in Council's Schedule of Fees and Charges to create the following over the title of the property. The wording must nominate The Hills Shire Council as the authority to release, vary or modify each restriction or positive covenant.

i. Restricting Development – OSD Modification

A restriction as to user restricting development over or the varying of any finished levels and layout of the constructed onsite stormwater detention system.

ii. Positive Covenant – OSD Maintenance

A positive covenant must be created to ensure the ongoing maintenance of the constructed onsite stormwater detention system.

iii. Restricting Development – WSUD Modification

A restriction as to user restricting development over or varying of the finished levels and layout of the constructed rain gardens, swales, vegetated buffers, pit inserts and rainwater pods and associated components.

iv. Positive Covenant – WSUD Maintenance

A positive covenant must be created to ensure the ongoing maintenance of the constructed rain gardens, swales, vegetated buffers, pit inserts and rainwater pods and associated components.

v. Positive Covenant – Stormwater Pump Maintenance

A positive covenant must be created to ensure the ongoing maintenance of the constructed stormwater pump-out system at the expense of the property owner.

b) Registration of Request Documents

The request documents endorsed by Council must be registered and a copy of the registered documents submitted to Council before an Occupation Certificate is issued.

89. Consolidation of Allotments

All allotments included in this consent must be consolidated into a single allotment before an Occupation Certificate is issued. A copy of the registered plan must be submitted to Council.

90. Pump System Certification

Certification that the stormwater pump system has been constructed in accordance with the approved design and the conditions of this approval must be provided by a suitably qualified hydraulic engineer.

91. Amendment to Existing Drainage Easements

The existing drainage easements within the site must be amended generally as shown on the approved easement plans prepared by Aleksandar Design Group Pty Ltd and the following necessary changes:

- a) The final location, extent and width of the overland flow path that traverses the site, and by consequence the easement associated with the same, is subject to a detailed design and feedback from Council at the Construction Certificate stage as outlined earlier in this consent.
- b) The existing inter-allotment drainage easement shown (A) on the plans within the subject site must be deleted.
- c) The existing drainage easement marked (C) shown on the plans must be widened to 3m (minimum) for the section of this easement that is being retained.

- d) The plan must be amended so as to accommodate the localised road widening necessary at the intersection of James Street/ Jenkins Road and James Street/ Thallon Street referred to elsewhere in this consent.

Drawing:	Ref:	Revision:	Dated:
Level 1 and Easement Plan	DA06	E	9 February 2011
Level 1 and Easement Plan Part B	DA17	E	9 February 2011

Where Council is listed as the benefiting authority, the relevant release or amendment documentation must be submitted along with payment of the applicable fee as per Council's Schedule of Fees and Charges.

The location and width of all drainage easements must comply with Council's Design Guidelines Subdivisions/ Developments and reflect/ encompass the drainage works required to be carried out as shown on Figure 6 from the Local Flood Study prepared by Cardno Ref YN210061 Revision 4 dated 23 December 2010.

92. OSD System Certification

The Onsite Stormwater Detention (OSD) system must be completed to the satisfaction of the Principal Certifying Authority (PCA) prior to the issuing of an Occupation Certificate. The following documentation is required to be submitted upon completion of the OSD system and prior to a final inspection:

- Works as executed plans prepared on a copy of the approved plans;
- A certificate from a suitably accredited engineer or surveyor verifying that the constructed OSD system will function hydraulically;
- A certificate of structural adequacy from a suitably accredited structural engineer verifying that the structures associated with the constructed OSD system are structurally adequate and capable of withstanding all loads likely to be imposed on them during their lifetime.

Where Council is not the PCA a copy of the above documentation must be submitted to Council.

93. Water Sensitive Urban Design Certification

The water sensitive urban design elements present on site must be included with the OSD certification. Additionally, a data sheet that includes WAE detail, design costs, construction costs, initial maintenance costs per element and a maintenance schedule must be included.

For the purposes of complying with the above a WSUD treatment system is considered to include all functional elements of the system as well as any landscaped areas directly surrounding the system.

94. Inspection of Bin Bay Storage Area(s)

Inspection of the bin bay storage area(s) is to be undertaken by Council's Waste Management Project Officer to ensure compliance with Council's design specifications.

95. Landscaping Prior to Issue of Occupation Certificate

The landscaping of the site being carried out prior to issue of the Occupation Certificate (within each stage if applicable) in accordance with the approved plan. All landscaping is to be maintained at all times in accordance with BHDGP Part D, Section 3 – Landscaping.

USE OF THE SITE

96. Waste Storage and Collection – Commercial/Industrial

To ensure the adequate storage and collection of waste from the occupation or use of the premises, all garbage and recyclables emanating from the premises must be stored in the designated waste storage area. Arrangement must be in place in all areas of the development for the separation of recyclable materials from general waste.

97. Servicing of Bins

Council contracted or private garbage/recycling collection vehicles servicing the development are not permitted to reverse in or out of the site. Collection vehicles must be travelling in a forward direction at all times to service bins.

ATTACHMENTS

AAAA1. Copy of Previous Report to JRPP Meeting of 8 June 2011

**ATTACHMENT AAAA1 – COPY OF PREVIOUS REPORTS TO JRPP MEETING OF 8
JUNE 2011**

JRPP STATUS REPORT

JRPP NOS.:	2009SYW018 2009SYW031 2010SYW001
DA NOS.:	562/2010/JP 895/2010/JP 943/2010/JP
APPLICANT:	DA 562/2010/JP – ATM & CPA PROJECTS PTY LTD DA 895/2010/JP - CARLING DEVELOPMENTS PTY LTD DA 943/2010/JP – STAMFORD HOUSE 88 PTY LTD
PROPOSAL:	DA 562/2010/JP – CONSTRUCTION OF A STAGED 18 STOREY MIXED USE DEVELOPMENT CONTAINING 105 RESIDENTIAL UNITS, 148 SQM OF RETAIL SPACE & 173 BASEMENT PARKING SPACES DA 895/2010/JP - CONSTRUCTION OF 18-STOREY MIXED USE DEVELOPMENT CONTAINING 408 RESIDENTIAL UNITS, 799 SQM OF RETAIL SPACE & 735 BASEMENT PARKING SPACES DA 943/2010/JP - CONSTRUCTION OF A 4-18 STOREY MIXED USE DEVELOPMENT CONTAINING 183 RESIDENTIAL UNITS, 407.9SQM OF RETAIL SPACE & 304 BASEMENT PARKING SPACES
PROPERTY:	2-8 JAMES STREET, 7-13 JENKINS ROAD & 2-14 THALLON STREET and 1-7A THALLON STREET, CARLINGFORD
LODGEMENT DATES:	DA 562/2010/JP – 12 OCTOBER 2009 DA 895/2010/JP – 14 DECEMBER 2009 DA 943/2010/JP – 22 DECEMBER 2009
REPORT BY:	DEVELOPMENT ASSESSMENT CO-ORDINATOR CLARO PATAG THE HILLS SHIRE COUNCIL
RECOMMENDATION:	DEFERRAL

EXECUTIVE SUMMARY

On 24 March 2011, a status report on each of the subject Development Applications was considered by the Joint Regional Planning Panel (JRPP) (refer Attachment AAA1) with a recommendation to defer the determination of the subject Development Application

pending the adoption by Council of the Carlingford Precinct Public Domain Plan and Key Sites Voluntary Planning Agreements.

Council considered a report on the draft Carlingford Precinct Public Domain Plan on 12 April 2011 and it was resolved that the plan be adopted.

The Key Sites Voluntary Planning Agreements (VPAs) are currently on public exhibition (between 10 May 2011 and 10 June 2011) and a report on the outcome of the exhibited VPAs is likely to be considered by Council in late June.

It is recommended that the determination of the subject Development Applications be further deferred pending the adoption of the Key Sites Voluntary Planning Agreements.

ISSUES FOR CONSIDERATION

1. Status of the Carlingford Precinct Public Domain Plan and Voluntary Planning Agreement

As noted in the Executive Summary, the Carlingford Precinct Public Domain Plan which is referred to in Section 3.6 (Structure Plan – Public Domain) of the Carlingford Precinct DCP was publicly exhibited from 15 February 2011 to 18 March 2011. Council considered a report on the draft plan on 12 April 2011 and it was resolved that the plan be adopted. The plan represents the long term vision for the upgrade of the public realm in the Carlingford Precinct and will be implemented via conditions of consent for future development.

On 22 February 2011, Council resolved at its meeting to exhibit four separate draft Voluntary Planning Agreements (VPAs). The draft VPAs relate to five (5) development applications lodged on (4) separate sites in the Carlingford Precinct, known as Key Site Nos. 3, 4, 6 and 17.

The Voluntary Planning Agreements (VPAs) are currently on exhibition (exhibition period between 10 May 2011 and 10 June 2011) and is likely to be reported to Council in late June 2011. The VPA will need to be determined prior to the determination of the subject Development Applications.

CONCLUSION

The Development Applications have been assessed against the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, Baulkham Hills Local Environmental Plan 2005, 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 are considered satisfactory.

It is recommended that determination of the subject Development Applications be further deferred pending adoption of the Key Site Voluntary Planning Agreements.

A report to Council on the adoption of the VPAs is likely to occur in late June.

IMPACTS:

Financial

The draft VPAs for the major key sites are currently on exhibition at the time of writing this report (between 10 May 2011 and 10 June 2011) and upon adoption of the draft VPAs by Council, the Development Applications may be determined.

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 Applications be deferred pending the adoption by Council of the Key Sites Voluntary Planning Agreements.

ATTACHMENTS

AAA1. Copy of Previous Report to JRPP Meeting of 24 March 2011

ATTACHMENT AAA1 – PREVIOUS REPORTS TO JRPP MEETING OF 24/03/11

JRPP STATUS REPORT

JRPP NO:	2009SYW031
DA NO:	895/2010/JP
APPLICANT:	CARLING DEVELOPMENTS PTY LTD
PROPOSAL:	CONSTRUCTION OF 18-STOREY MIXED USE DEVELOPMENT.
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:	DEVELOPMENT ASSESSMENT CO-ORDINATOR CLARO PATAG THE HILLS SHIRE COUNCIL
RECOMMENDATION:	DEFERRAL

EXECUTIVE SUMMARY

The Development Application is for the construction of an eighteen (18) storey mixed use development in four stages comprising a total of 408 residential apartment units and a 799m² retail floor space at the ground floor level. Seven hundred and thirty five (735) off-street car parking spaces within 3 basement levels are proposed.

Initially, the proposal was accompanied by a SEPP 1 objection to the required 54m building height limit in the then draft Local Environmental Plan for the Carlingford Precinct. Amendments were subsequently made to the adopted draft LEP which included an increase in the building height on the key sites including the subject site from 26.7m (block facing Jenkins Road) and 54m (block facing Jenkins Road) to 57m. The SEPP 1 objection previously lodged for Building West (block facing Jenkins Road), which breaches the previous height limit of 26.7m by 17m is no longer required as the proposed height of 43.7m for this building is now fully compliant with the 57m height limit. Building North is also now fully compliant as the proposed overall height of 56.94m is under the 57m height limit. On the other hand, the SEPP 1 objection lodged for Building East is still applicable as the proposed height of 57.16m still breaches the 57m height limit, and which is considered supportable as the non-compliance is due to the additional 1m required in floor to ceiling height for the retail/commercial floor and by the variation in the slope of the land down to the north along Thallon Street.

With the exception of the building height limit, the proposed development complies with the key site built form controls and conforms to the development pattern established in the key sites Block 3: Jenkins and Thallon Street as provided in the BHDCP Part E Section 22 – Carlingford Precinct.

On 23 September 2010, a second status report on the subject Development Application was considered by the Joint Regional Planning Panel (JRPP) (refer Attachment AA1). A previous report was submitted to the JRPP on 25 May 2010 which included an assessment against the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, SEPP 65, BHLEP 2005, Draft Local Environmental Plan – Carlingford Precinct, BHDCP Part C Section 7 – Apartment Buildings and draft BHDCP Part E Section 22 – Carlingford Precinct. In the previous status report to JRPP, it was recommended that the determination of the subject Development Application be deferred pending the gazettal of the draft LEP and enforcement of the adopted Development Control Plan for the Carlingford Precinct.

The draft BHLEP 2005 (Amendment No. 20) – Carlingford Precinct was gazetted on 3 March 2011 and the associated draft Development Control Plan and draft Contributions Plan came into force on 15 March 2011.

It is recommended that the determination of the subject Development Application be deferred pending the adoption by Council of the Carlingford Precinct Public Domain Plan and Key Sites Voluntary Planning Agreements.

A report to Council recommending that the draft Carlingford Precinct Public Domain Plan be adopted is scheduled on 12 April 2011 and a report on the adoption of the VPAs is likely to occur in late May.

BACKGROUND

MANDATORY REQUIREMENTS

Applicant:	Carling Developments Pty Ltd	1.	<u>BHLEP 2005 (Amendment No. 20) – Carlingford Precinct</u> – Permissible with consent
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 E Section 22 – Carlingford Precinct</u> – Variation, refer Attachment AA1 – Previous Report.
Political Donation Disclosure	Yes	7.	<u>Section 79C (EP&A Act)</u> – Satisfactory

		8.	<u>Section 94 Contribution</u> – 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 period.		
3. Number Advised:	One hundred and sixty-five (165)		
4. Submissions Received:	Seven (7)		

HISTORY

23/09/2010

The Joint Regional Planning Panel (JRPP) considered a status report on the subject proposal and resolved the following:-

The Development Application be deferred to the date of the first Joint Regional Planning Panel meeting in 2011. The next report is to address the following:-

- *Provide advice from Energy Australia on the appropriateness of the proposed development giving consideration to its intensity and proximity to the substation and transmission lines; and*
- *A detailed assessment of all planning and design matters*

29/09/2010

Minutes of the JRPP Meeting held on 23/9/10 received by Council.

30/09/2010

Letter prepared and sent to Integral Energy Australia seeking comments regarding the proposed development in accordance with the JRPP resolution.

05/10/2010

Letter sent to Integral Energy Australia seeking comments regarding the proposed development in accordance with the JRPP resolution.

12/10/2010

Letter sent to the applicant requesting further waste management information in relation to garbage collection access.

09/11/2010

A report on the outcomes of the exhibition of the draft Local Environmental Plan, draft Baulkham Hills Development Control Plan Part E Section 22 – Carlingford Precinct and draft Section 94 Contributions Plan No. 14 – Carlingford Precinct was considered by Council. See details of the Council Resolution below under the heading "Status of the Draft Planning Control Instruments and Voluntary Planning Agreements".

17/11/2010	Council wrote to the Department of Planning's Regional Director, Sydney West Region pursuant to section 58 of the Environmental Planning and Assessment Act 1979, advising that Council considered a further report on the planning proposal for the Carlingford Precinct and response to issues raised as a result of the public exhibition process. A copy of the planning proposal was attached in the letter which according to the Department of Planning's letter dated 30 June 2010 will be finalised by the end of December 2010.
29/11/2010	Council wrote to the Director General Department of Planning advising that Baulkham Hills Development Control Plan Part E Section 22 – Carlingford Precinct was adopted by Council at its meeting of 9 November 2010 and noted that the plan will come into force after the Local Environmental Plan for the Carlingford Precinct is published on the NSW Legislation website.
10/12/2010	Letter sent to the applicant raising outstanding engineering issues in response to the flood study submitted by the applicant's consultant dated 16/11/2010.
14/12/2010	Council considered a report on the draft Voluntary Planning Agreements (VPAs) providing the payment of monetary contributions works in kind and land dedication for key sites within the Carlingford Precinct.
14/12/2010	Council considered a report on the draft Carlingford Precinct Public Domain Plan and resolved that the plan be publicly exhibited for a period of 28 days.
23/12/2010	Additional engineering and waste management information submitted by the applicant.
24/01/2011	Letter received from Energy Australia in response to JRPP resolution of 23/9/10.
22/02/2011	Council considered a further report on the draft Voluntary Planning Agreements (VPAs) providing the payment of monetary contributions works in kind and land dedication for key sites within the Carlingford Precinct. See details below under the heading "Status of the Draft Planning Control Instruments and Voluntary Planning Agreements".
24/02/2011	Letter sent to the applicant requesting further engineering information to address outstanding drainage and car parking issues.
01/03/2011	Additional engineering information received, which at the time of writing this report was still under assessment.
01/03/2011	Letter received from the Director General, NSW Planning dated 27/02/2011 advising that as a delegate of the Minister for Planning he has made the amendments to Baulkham Hills Local Environmental Plan (LEP) 2005 regarding the Carlingford Precinct.

- 03/03/2011** Baulkham Hills Local Environmental Plan 2005 (Amendment No.20) in respect to the Carlingford Precinct gazetted.
- 10/03/2011** Letter received from Integral Energy advising that the electromagnetic field (EMF) report for the Carlingford Transmission Substation located on the corner of Jenkins Road and Pennant Hills Road has indicated that the magnetic field levels are well below the allowable limit for continuous public exposure of 1000 milligauss.

ISSUES FOR CONSIDERATION

2. Status of the Draft Planning Control Instruments and Voluntary Planning Agreement

As noted in the above History table, a report on the outcomes of the exhibition of the draft Local Environmental Plan, draft Baulkham Hills Development Control Plan Part E Section 22 – Carlingford Precinct and draft Section 94 Contributions Plan No. 14 – Carlingford Precinct was considered by Council on 9 November 2010. Council resolved the following:

- 1. The draft Local Environmental Plan, draft Baulkham Hills Development Control Plan Part E Section 22 – Carlingford Precinct and draft Section 94 Contributions Plan No. 14 – Carlingford Precinct be adopted. Commencement of the draft DCP and draft Contributions Plan shall occur following notification of the draft Local Environmental Plan, and*
- 2. The planning proposal for the Carlingford Precinct be forwarded to the Department of Planning for finalisation.*

Pursuant to Section 58 of the Environmental Planning and Assessment Act 1979, Council wrote to the Department of Planning's Regional Director, Sydney West Region advising that Council considered a further report on the planning proposal for the Carlingford Precinct in response to issues raised as a result of the public exhibition process. A copy of the planning proposal was enclosed which satisfied the deadline set by the Department of Planning in accordance with their letter dated 30 June 2010.

It was also noted in the Council's letter that this Development Application including the other three (3) development applications within the Precinct (895/2010/JP, 943/2010/JP and 1286/2010/JP) have been scheduled for determination at the Joint Regional Planning Panel's first meeting this year.

On 14 December 2010, Council considered a further report on the draft Voluntary Planning Agreements providing the payment of monetary contributions works in kind and land dedication for key sites within the Carlingford Precinct. The report also dealt with matters arising from the Section 58 submission of the draft LEP to the Department of Planning in relation to satisfactory arrangements for the undergrounding of the 132Kv double circuit powerlines. Notwithstanding Council's resolution to adopt the recommendation as put, a further report dated 22 February 2011 was considered to address concerns raised by the applicant. Council resolved the following:

Council rescind the resolution of the Ordinary Meeting of Council on 14 December 2010 in relation to Item 24 – Key Sites Voluntary Planning Agreements – Carlingford and replace instead the recommendations 1, 2 and 3 as printed in tonight's Business Paper on Pages 234 & 235, which reads:

1. Council delegate to the General Manager authority to authorise the exhibition of the Draft Voluntary Planning Agreements and Explanatory Notes as provided in Attachment 2 for 28 days in accordance with the EP&A Act 1979 subject to the following amendments as recommended by Council's Lawyer being agreed to and made by the applicant:
 - a) Costs associated with the operation of the draft VPAs be drafted to provide for the payment of legal costs on an indemnity basis.
 - b) Legal and other costs for the preparation of the planning agreements be fixed as a lump sum and the draft VPAs provide for payment of this as a monetary contribution on the date of the planning agreement.
 - c) Provisions related to security for monetary contributions may be addressed as a condition of development consent for each stage prior to the issuing of a Construction Certificate.
 - d) Council agree to defer provision of a bank guarantee for works in kind until the issue of the Construction Certificate for each site.
 - e) Council may consider agreeing to easements that have little impact on the land being used as open space.
 - f) In respect to land to be dedicated to Council that the draft VPAs provide:
 - a requirement for the developer to provide a survey plan for the caveats as required by the Office of Land & Property Information; and
 - an ability of Council to lodge a caveat over the entire property prior to registration of the planning agreements.
 - g) The limitation of the use of payments to the works specified in Schedule 2 only be rejected.
 - h) The original drafting of Clause 8 be reinstated to resolve concerns regarding amendments that that confuse the date for completion of works-in-kind.
 - i) Provisions related to the undergrounding of the 132kV double circuit powerlines be deleted and instead addressed as a condition of deferred commencement.
2. The Developer be advised that in the opinion of Council, adequate arrangements for the undergrounding of the existing 132kV double circuit powerlines may be addressed as conditions of development consent with the following parts:
 - a) Deferred commencement condition requiring the Energy Australia design contract to be signed prior to the consent becoming active;
 - b) A condition of consent that requires the Energy Australia Construction Contract to be signed prior to the issuing of a Construction Certificate; and
 - c) A condition of consent requiring the 132kV double circuit powerlines to be undergrounded prior to the approval of the Strata Subdivision Certificate or Occupation Certificate, whichever occurs first.

3. Council advise the JRPP that it has no objection to the issuing of an Operational Consent for key site (4) (James Street), subject to Gazettal of the Carlingford LEP.

On 3 March 2011, Baulkham Hills Local Environmental Plan 2005 (Amendment No.20) in respect to the Carlingford Precinct was published on the NSW legislation website. The associated draft Development Control Plan and draft Contributions Plan came into force on 15 March 2011. Importantly, the LEP Amendment introduces Clause 63(2) which requires that:

In determining whether to grant development consent to development on the land shown distinctively edged on the map marked "Baulkham Hills Local Environmental Plan 2005 (Amendment No 20)—Sheet 4", the consent authority must consider whether provision has been made for the undergrounding of 132kv double circuit power lines in relation to that development.

Exhibition of the draft Key Site VPAs will occur upon receipt of an updated set of Agreements from the applicant and confirmation to the satisfaction of the General Manager that the terms of Council's resolution have been complied with. As the subject site is responsible for the undergrounding of the of the 132Kv double circuit powerlines pursuant to Clause 63(2) of BHLEP 2005, a deferred commencement consent as per Council's resolution of 22 February 2011 may be issued upon adoption of the VPAs by Council.

The draft Carlingford Precinct Public Domain Plan which is referred to in Section 3.6 (Structure Plan – Public Domain) of the Carlingford Precinct DCP was publicly exhibited from 15 February 2011 to 18 March 2011. The draft plan represents the long term vision for the upgrade of the public realm in the Carlingford Precinct and will be implemented via conditions of consent for future development. A report to Council recommending that the plan be adopted is scheduled on 12 April 2011.

2. JRPP Resolution

On 23 September 2010, the Joint Regional Planning Panel (JRPP) considered a report on the subject proposal and resolved the following:-

The Development Application be deferred to the date of the first Joint Regional Planning Panel meeting in 2011. The next report is to address the following:-

- *Provide advice from Energy Australia on the appropriateness of the proposed development giving consideration to its intensity and proximity to the substation and transmission lines; and*
- *A detailed assessment of all planning and design matters*

In compliance with point 1 of the above resolution, the proposal was referred to Integral Energy, being the responsible agency for the substation and to Energy Australia being responsible for the transmission lines.

Energy Australia in its letter dated 21 January 2011 provided its strong support and approval 'in principle' to the proposal subject to further information being provided by the applicant for its consideration, to address safety risk for construction workers and security risk of any construction activity on the electrical network. The timeframe for submitting this requirement has been clarified with Energy Australia and it was advised that this can be addressed as a condition of consent prior to commencement of works.

Integral Energy have advised on 10 March 2011 that a report prepared on the electromagnetic field (EMF) impact of the Carlingford Transmission Substation located on

the corner of Jenkins Road and Pennant Hills Road has indicated that the magnetic field levels are well below the allowable limit for continuous public exposure of 1000 milligauss.

With regards to point 2 of the resolution, a detailed assessment of all planning and design matters has already been undertaken and can be found in the first status report submitted to JRPP on 25 May 2010 (refer to Attachment AA1). It should be noted that a SEPP 1 objection with regards to the proposal's non-compliance with the building height control in the then draft LEP was addressed in the initial report to JRPP. The draft LEP initially restricted the building height on the subject site to 26.7m (block facing Jenkins Road) and 54m (block facing Thallon Street). The SEPP 1 objection is no longer required as the proposed height of 43.7m on the northern component of Building West (block facing Jenkins Road) is now fully compliant with the 57m height limit. Building North (block facing Thallon Street) is also now fully compliant as the proposed overall height of 56.94m is under the 57m height limit. On the other hand, the SEPP 1 objection lodged for Building East is still applicable as the proposed height of 57.16m still breaches the 57m height limit, and which is considered supportable as the non-compliance is due to the additional 1m required in floor to ceiling height for the retail/commercial floor and by the variation in the slope of the land down to the north along Thallon Street.

With the exception of the building height limit, the proposed development complies with the key site built form controls and conforms to the development pattern established in the key sites Block 3: Jenkins and Thallon Street as provided in the BHDGP Part E Section 22 – Carlingford Precinct.

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.

It is recommended that determination of the subject Development Application be deferred pending the resolution of the following matters:

- i). Adoption of Carlingford Precinct Public Domain Plan
- ii). Adoption of the Key Site Voluntary Planning Agreements.

A report to Council recommending that the draft Carlingford Precinct Public Domain Plan be adopted is scheduled on 12 April 2011 and a report on the adoption of the VPAs is likely to occur in late May.

IMPACTS:

Financial

Exhibition of the draft VPAs for the major key sites will occur from the 22 March 2011 to 22 April 2011. Upon adoption of the draft Carlingford Precinct Public Domain Plan and draft VPAs by Council, the development application may be determined.

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 adoption by Council of the Carlingford Precinct Public Domain Plan and Key Sites Voluntary Planning Agreements.

ATTACHMENTS

AA1. Copy of Previous Report to JRPP Meeting of 23 September 2010

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, 7 JENKINS ROAD, 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

			Section 94 Contribution – to be determined as part of the VPA.
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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** **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.
- 13/08/2010**
- 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 BHDCL 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 29/01/2010	to Subject Development Application notified to adjoining and 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 BHDCP 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>	
The surrounding streets are not designed to cater for the amount of traffic that the proposed development will generate.	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.	Issue addressed.
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.	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.	Issue addressed.
There are not enough medical practitioners in the area to serve the current population and will only be	The proposal includes ground floor commercial and retail spaces which could accommodate this type of practice/ development.	Issue addressed.

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 is 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.

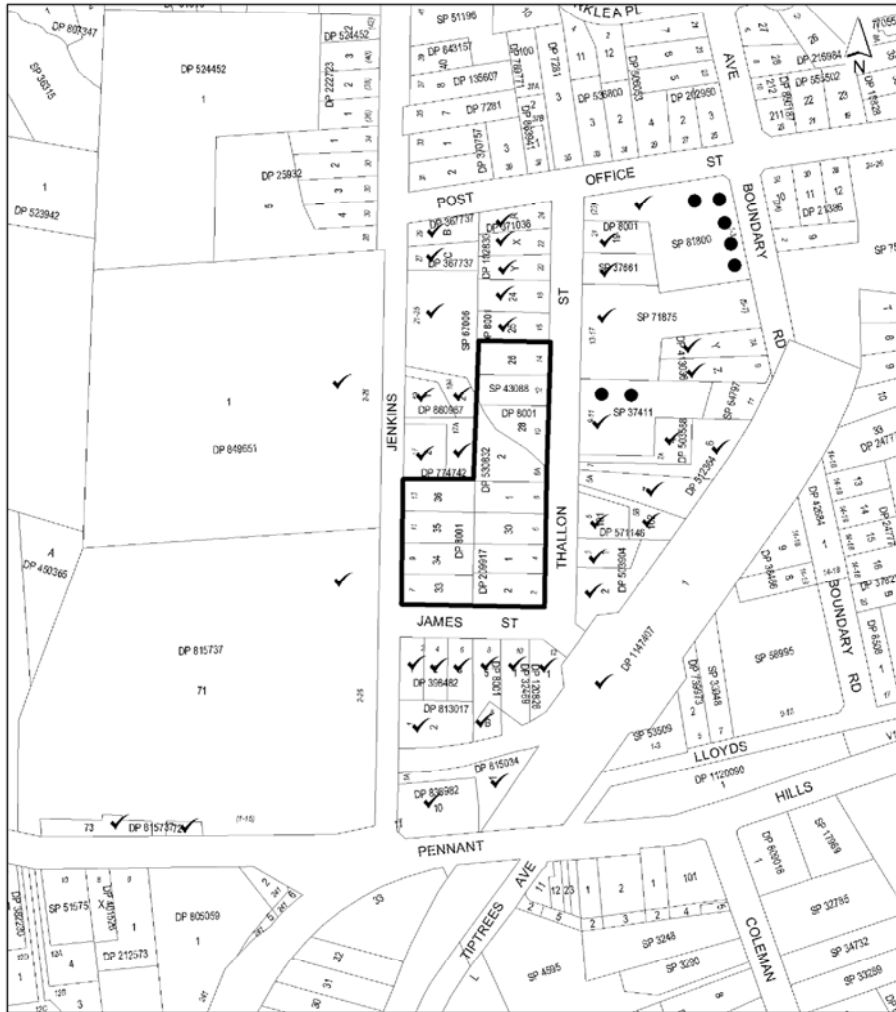
RECOMMENDATION

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 BHDCP 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



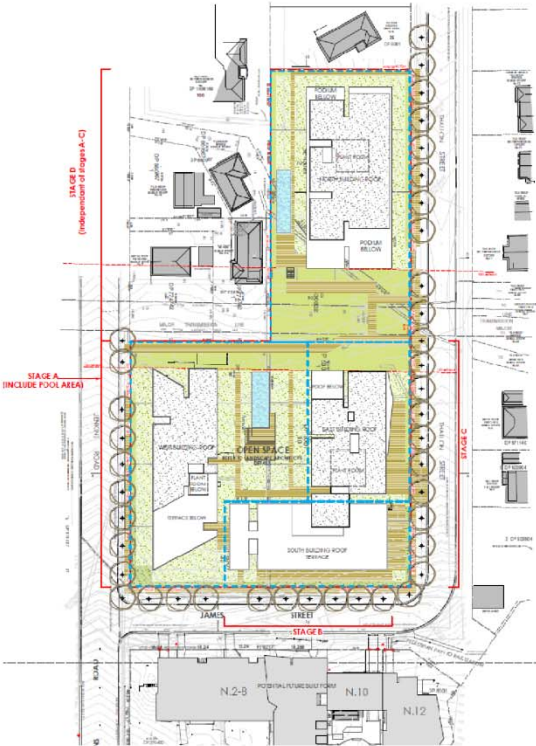
- ☐ SUBJECT SITE
- ✓ PROPERTIES NOTIFIED
- SUBMISSIONS RECEIVED

NOTE: PARRAMATTA CITY COUNCIL,
RTA AND INTEGRAL ENERGY ALSO
NOTIFIED

ATTACHMENT 2 – AERIAL PHOTO



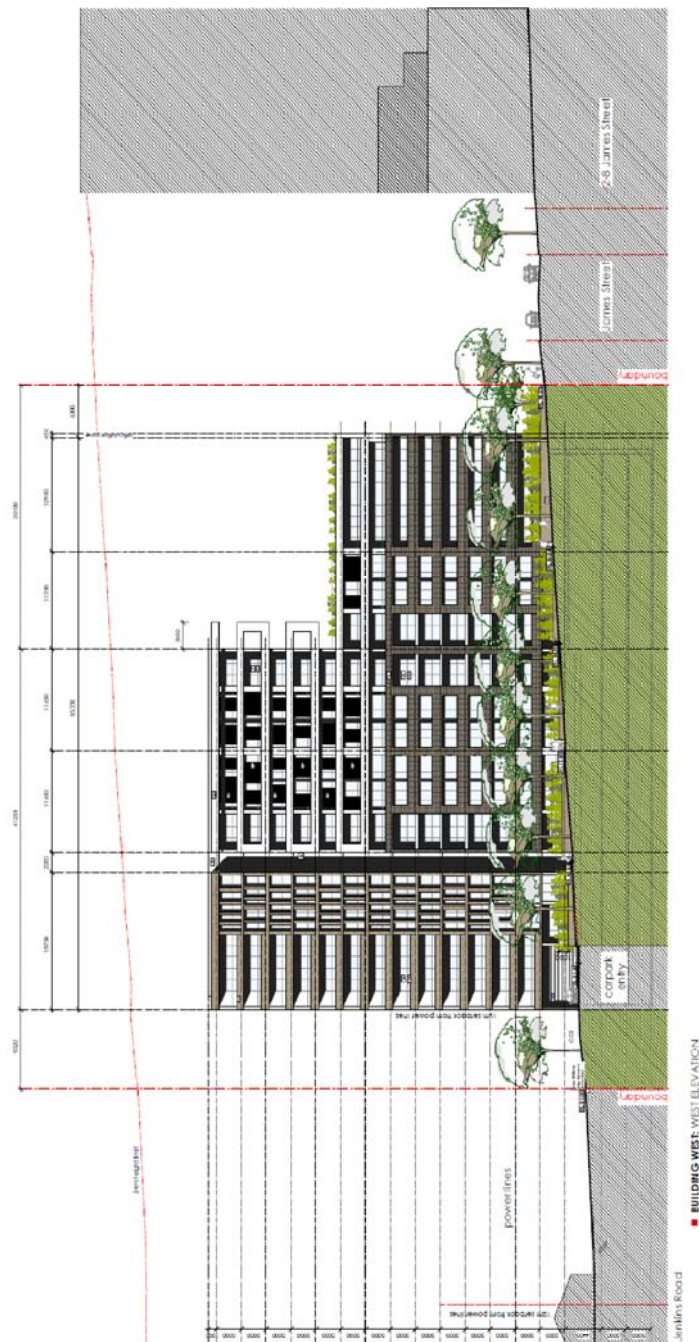
ATTACHMENT 3 – SITE PLAN



▲ PART - B

▲ PART - A

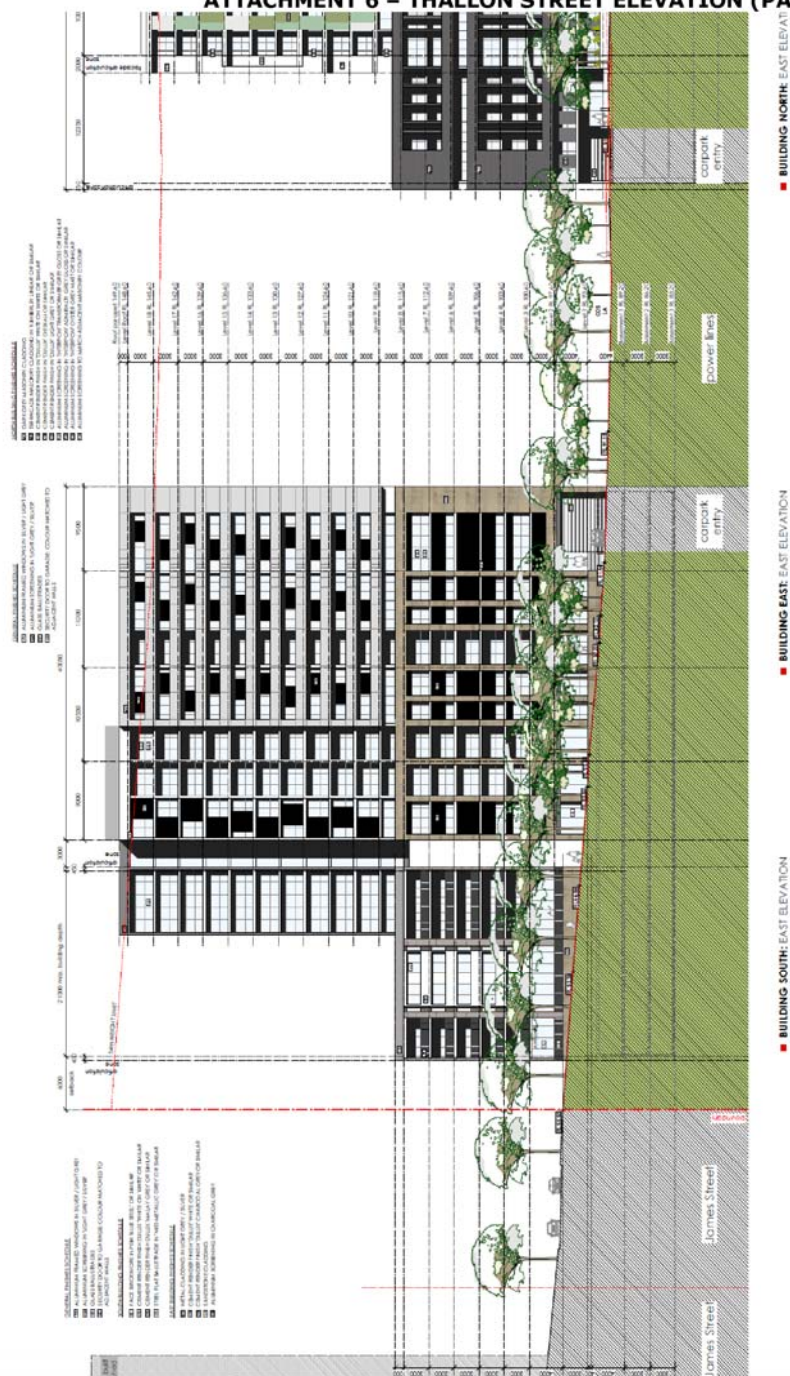
ATTACHMENT 4 – JENKINS ROAD ELEVATION



ATTACHMENT 5 – JAMES STREET ELEVATION



ATTACHMENT 6 – THALLON STREET ELEVATION (PART A)



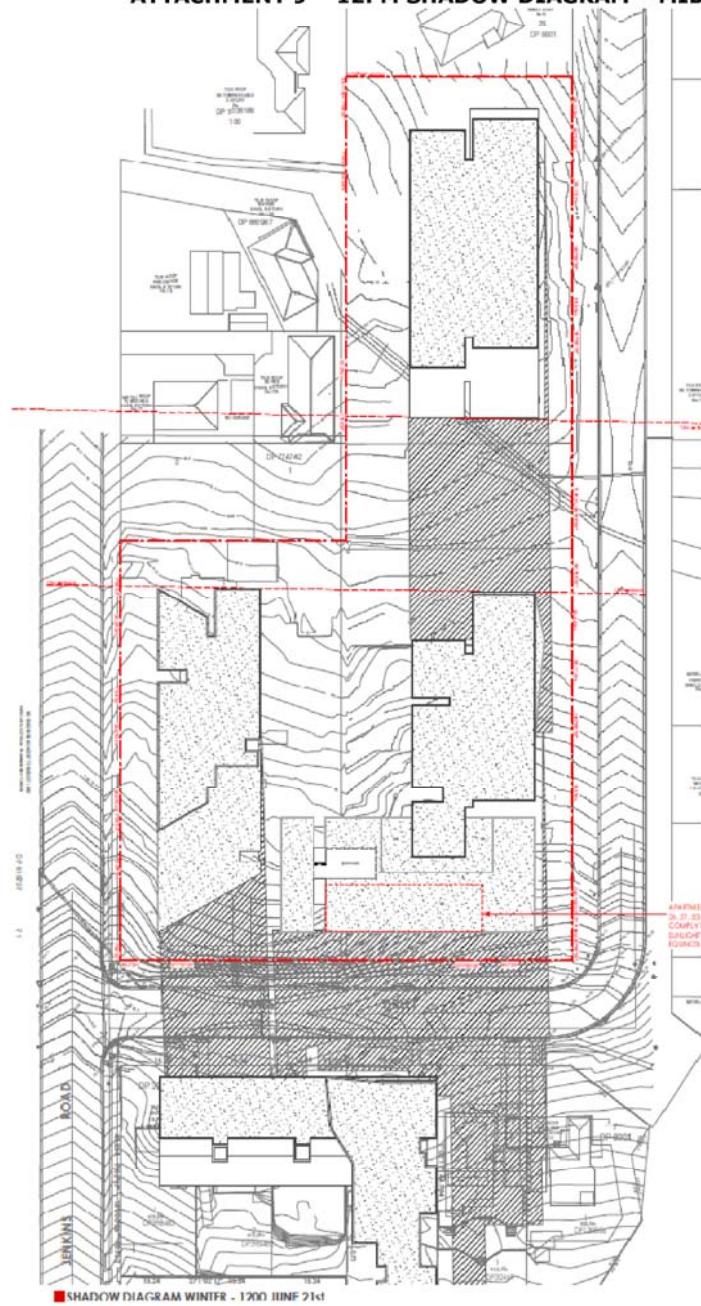
ATTACHMENT 7 – THALLON STREET ELEVATION (PART B)



ATTACHMENT 8 – SHADOW DIAGRAM 9AM MID-WINTER

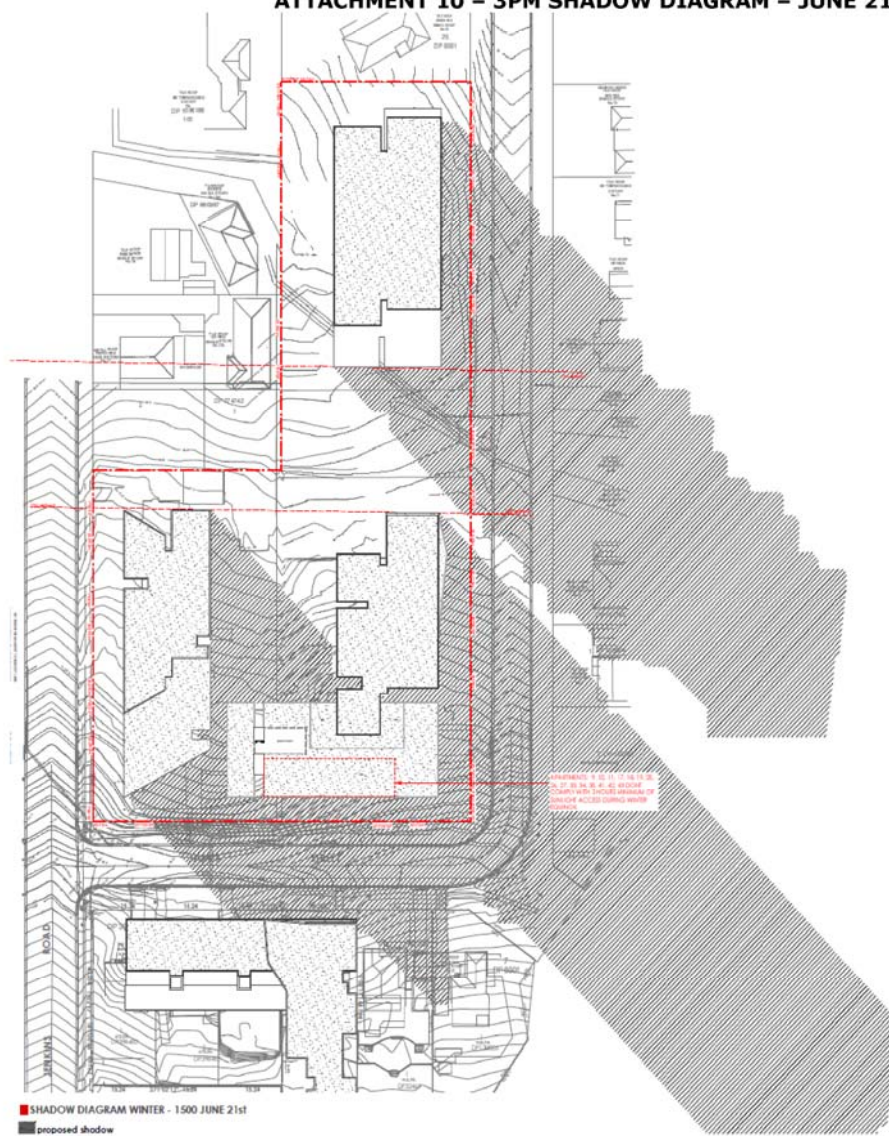


ATTACHMENT 9 – 12PM SHADOW DIAGRAM – MID-WINTER



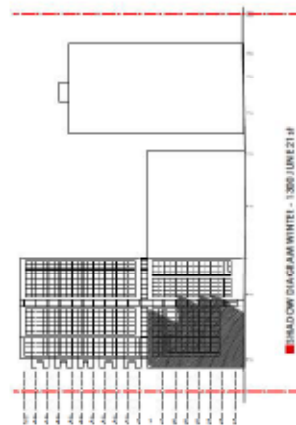
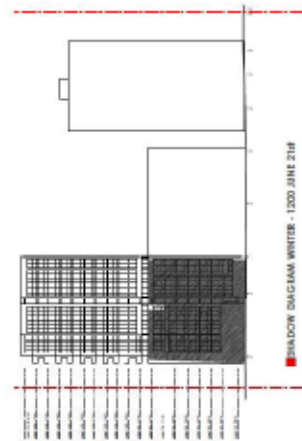
SHADOW DIAGRAM WINTER - 1200 HINE 2141

ATTACHMENT 10 – 3PM SHADOW DIAGRAM – JUNE 21ST



ALL APARTMENTS AT OVERBROOKSIDE: ELEVATION AT ADJACENT PROPERTY 2-8 JAMES ST. RECENT AT LEAST 3 HOURS OF SUN LIGHT DURING WINTER.

ATTACHMENT 12 – SHADOW IMPACT ON NO. 12 JAMES STREET



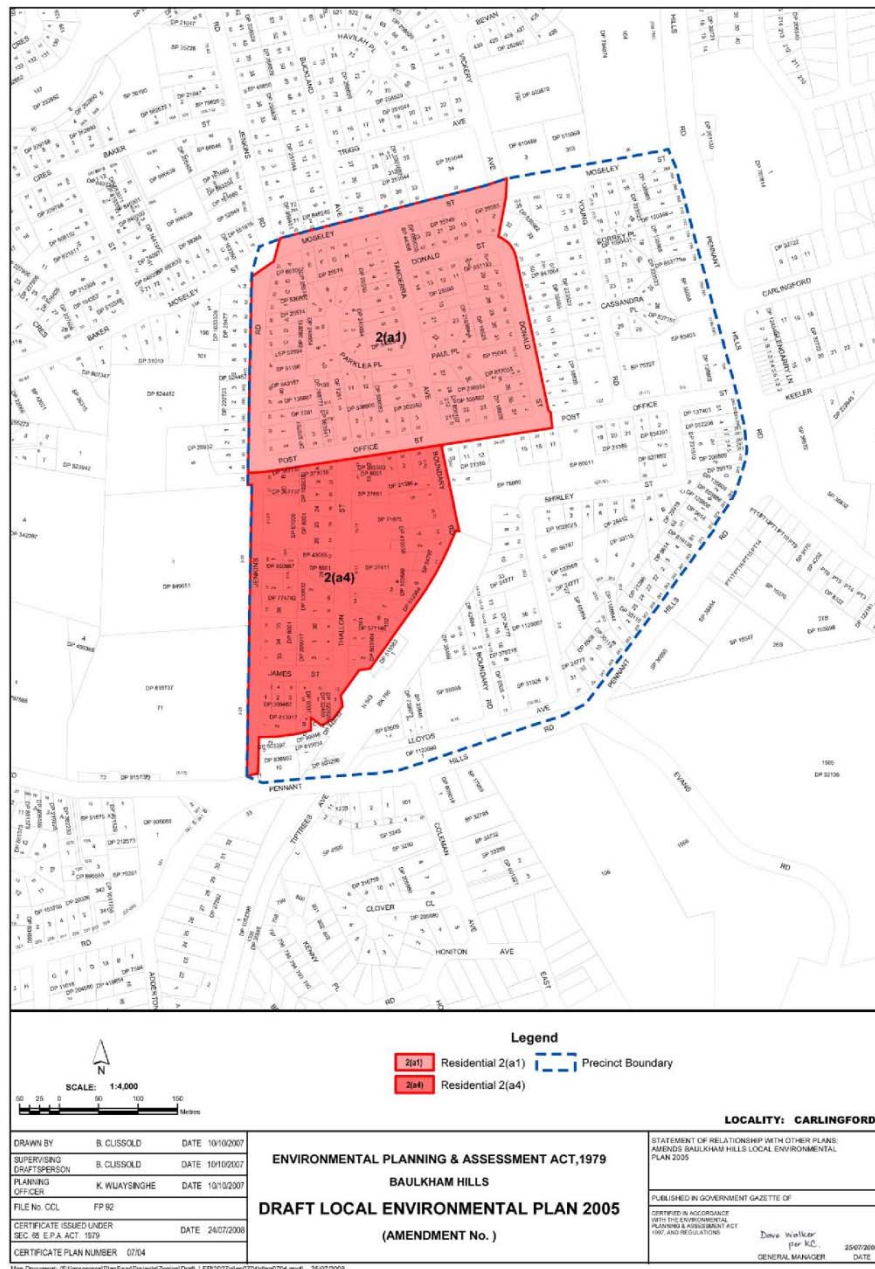
ATTACHMENT 13 – PERSPECTIVE AS VIEWED FROM JENKINS RD



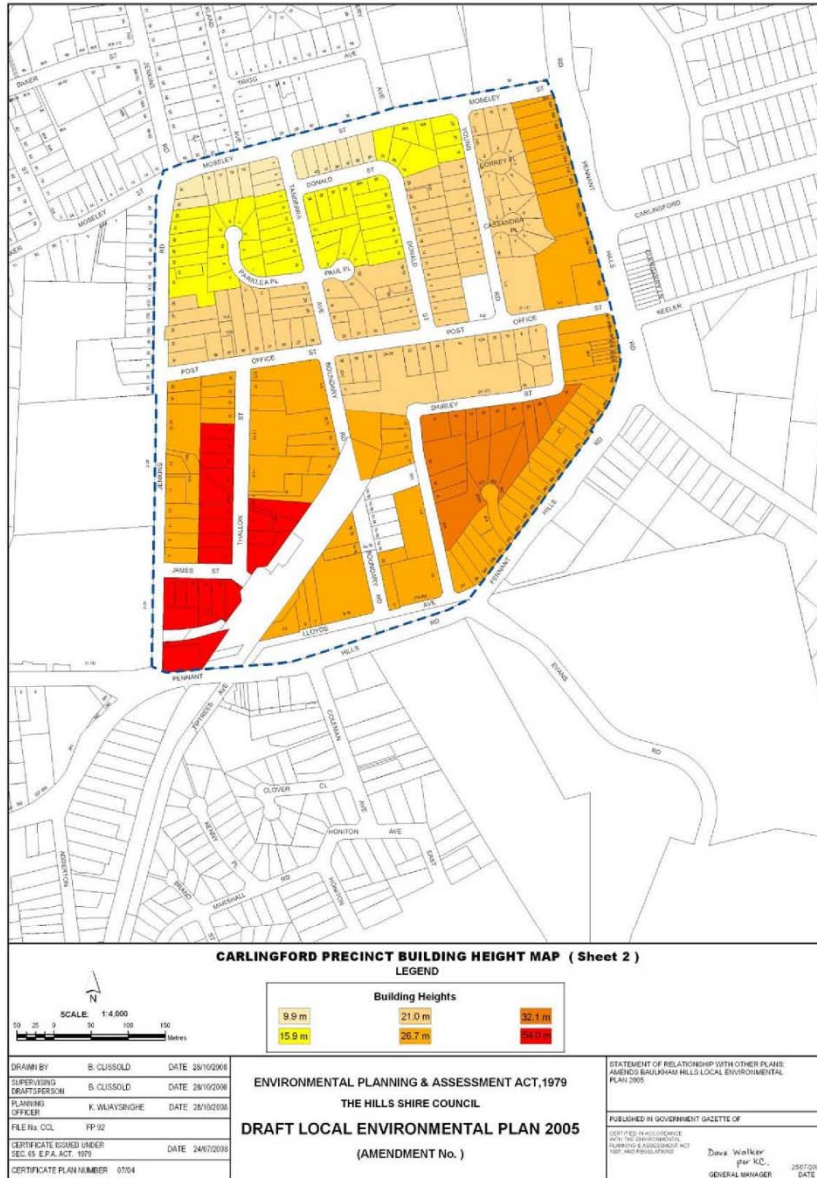
ATTACHMENT 14—PERSPECTIVE VIEWED FROM CNR. JAMES AND THALLON STS.



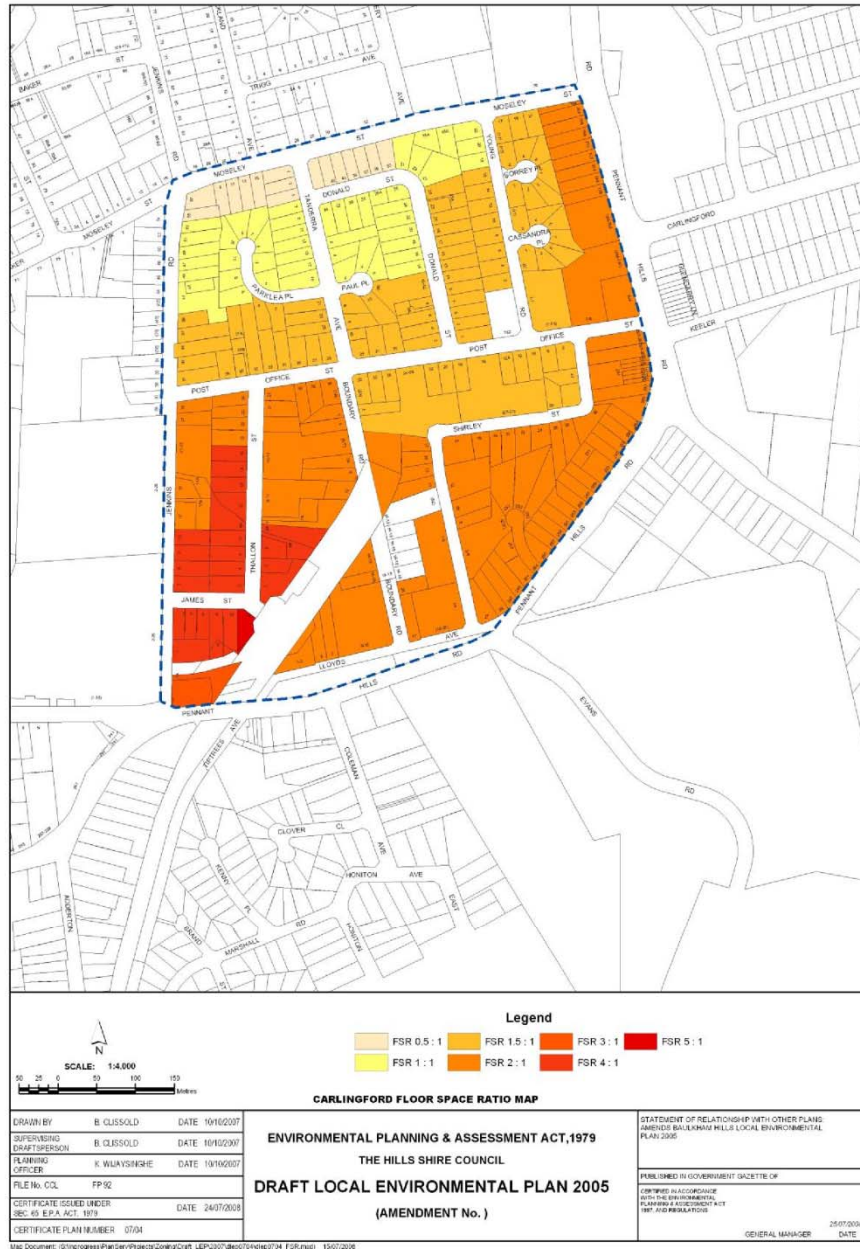
ATTACHMENT 15 – PROPOSED REZONING MAP



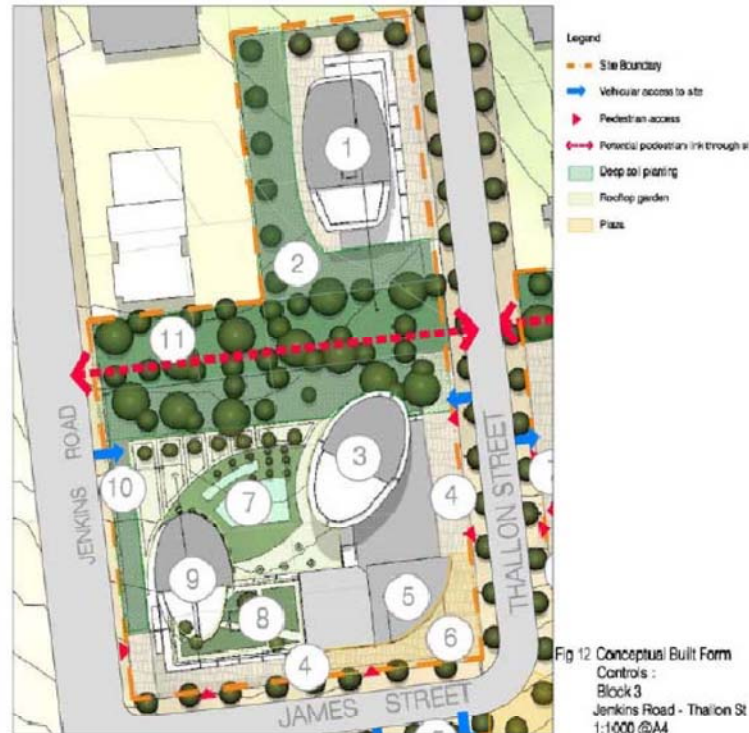
ATTACHMENT 16 – BUILDING HEIGHT MAP



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



**ATTACHMENT A2 – COPY OF CORRESPONDENCE
FROM JRPP DATED 7 JULY 2010**



**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/JF (2010SYW005)	Proposed Amended Central Residential Precinct within the Norwest Town Centre, Baulkham Hills	7 Jan 2010
562/2010/JF (2010SYW001)	4-18 storey mixed use development, Thallon Street, Carlingford	22 Dec 2009
853/2010/JF (2009SYW029)	Bulky goods warehouse, Rouse Hill	8 Dec 2009
891/2010/JF (2009SYW028)	Bulky goods retail development, Castle Hill	14 Dec 2009
318/2010/JF (2009SYW009)	Warehouse development, Rouse Hill	27 Aug 2009
280/2010/JF (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.

PANEL SECRETARAT
Level 13, 301 George Street SYDNEY NSW 2000
GPO Box 3415, SYDNEY NSW 2001
Tel: 02 9003 2121
Fax: 02 9280 9635
Email: jpp@pp.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
562/2010/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,

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