

# JRPP PLANNING REPORT

<b>JRPP NO:</b>	2010SYW001
<b>DA NO:</b>	DA 943/2010/JP
<b>APPLICANT:</b>	STAMFORD HOUSE 88 PTY LTD
<b>PROPOSAL:</b>	FOUR (4) TO EIGHTEEN (18) STOREY MIXED USE DEVELOPMENT COMPRISING 183 RESIDENTIAL UNITS, 407M2 OF RETAIL SPACE & 304 BASEMENT CAR PARKING SPACES
<b>PROPERTY:</b>	Lot 2 DP 503904, Lot 1 DP 503904, Lot 101 DP 571146, Lot 7 DP 512364, Lot 102 DP 571146, Lot 6 DP 512364, Lot 4 DP 503588 – Nos. 1-7A Thallon Street, Carlingford
<b>APPLICANT:</b>	STAMFORD HOUSE 88 PTY LTD
<b>LODGEMENT DATE:</b>	22 DECEMBER 2009
<b>REPORT BY:</b>	CLARO PATAG DEVELOPMENT ASSESSMENT CO-ORDINATOR THE HILLS SHIRE COUNCIL
<b>RECOMMENDATION:</b>	DEFERRAL

## BACKGROUND

## MANDATORY REQUIREMENTS

Owner:	Stamford House 88 Pty Ltd	1.	<u>LEP 2005 - Prohibited (Permissible in the Draft LEP)</u>
Zoning:	Residential 2(a1)	2.	<u>SEPP (Major Development) 2005 - Complies</u>
Area:	7,801.4m <sup>2</sup>	3.	<u>SEPP (Infrastructure) 2007 - Complies</u>
Existing Development:	Dwelling houses and an office annexe and packing shed of Carlingford Produce Store	4.	<u>SEPP 65 - Design Quality of Residential Flat Development - Complies</u>
Capital Investment Value	\$29 Million	5.	<u>SEPP 1 Development Standards - Satisfactory</u>
		6.	<u>BHDCP Part C Section 7 Apartment Buildings- Variation, refer Attachment A1 - Previous Report.</u>
		7.	<u>Draft BHDCP Part E Section 22 - Carlingford Precinct - Variation, refer Attachment A1 - Previous Report.</u>
		8.	<u>Section 79C (EP&amp;A Act) - Satisfactory</u>
		9.	<u>Section 94 Contribution - to be determined as part of the VPA.</u>

**SUBMISSIONS****REASONS FOR REFERRAL TO JRPP**

1. Exhibition:	Yes, 21 days.	1.	Capital Investment Value is in excess of \$10 million pursuant to SEPP (Major Development) 2005.
2. Notice Adj Owners:	Yes, 21 days.		
3. Number Advised:	Fifty-nine (59)		
4. Submissions Received:	One (1)		

**HISTORY****25/05/2010**

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

**22/06/2010**

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

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

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

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

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

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

**07/07/2010**

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

**13/07/2010****13/08/2010**

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

Publication / Gazettal.

- 29/07/2010** Further letter sent to the applicant requesting the withdrawal of the subject Development Application.
- 06/08/2010** 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 dated 30 June 2010 (see Attachment A3) to Council 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.

A SEPP 1 objection was foreshadowed by the applicant and submitted with the Development Application. As highlighted in the previous report to the Panel (refer Attachment A1), the proposal exceeds the 54m height limit prescribed in the draft LEP by a maximum of 2.5m centrally on the site. The breach is due to the inclusion of a plant room within the roof form within the central roof above the stair well/lift lobby. All habitable floors are located well below the height limit plane and the floor level of the plant room is also located below the 54m height limit. The SEPP 1 objection is considered supportable as it does not result in adverse solar access or adverse privacy impacts on adjoining development, and therefore it satisfactorily demonstrates that compliance with the height development standard is unreasonable or unnecessary in the circumstances of the case.

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 to make a further application when consideration of the planning instruments relating to development of the precinct is far more advanced, otherwise it was requested that a report on the subject Development Application be submitted to JRPP for determination within four weeks. Subsequently, Council sent a letter to the applicant to this effect.

### **Applicant's Response**

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

### **Status of the Draft Planning Control Instruments and Voluntary Planning Agreement**

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

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

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

### **CONCLUSION**

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

It was previously recommended to the Joint Regional Planning Panel that determination of the subject Development Application be deferred pending the resolution of outstanding matters and notification of the making of draft BHLEP – Carlingford Precinct and commencement of the draft BHDGP Part E Section 22 – Carlingford Precinct. Due to the uncertainty of the finalisation of the relevant planning instruments that are to be relied

upon for the determination of this matter, the JRPP has instructed Council in writing to request the applicant to withdraw the Development Application, otherwise it was requested that a report on the matter be submitted to JRPP for determination.

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

*Nothing in this Act prevents:*

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

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

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

## **IMPACTS:**

### **Financial**

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

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

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

### **Hills 2026**

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

## **RECOMMENDATION**

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

## **ATTACHMENTS**

- A1. Copy of 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

<b>JRPP NO:</b>	2010SYW001
<b>DA NO:</b>	943/2010/JP
<b>APPLICANT:</b>	Stamford House 88 Pty Ltd
<b>PROPOSED DEVELOPMENT:</b>	Demolition of Existing Buildings and Structures on the site and Construction of a Mixed Use Development, Four (4) to Eighteen (18) storeys in height
<b>PROPERTY:</b>	Lot 2 DP 503904, Lot 1 DP 503904, Lot 101 DP 571146, Lot 7 DP 512364, Lot 102 DP 571146, Lot 6 DP 512364, Lot 4 DP 503588 – Nos. 1-7A Thallon Street, Carlingford
<b>LODGEMENT DATE:</b>	22 December 2009
<b>REPORT BY:</b>	Claro Patag - Development Assessment Coordinator The Hills Shire Council
<b>RECOMMENDATION:</b>	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:	Stamford House 88 Pty Ltd	1.	<u>LEP 2005</u> - Prohibited (Permissible in the Draft LEP)
Owner:	Stamford House 88 Pty Ltd	2.	<u>BHDCP Part C Section 7 Apartment Buildings</u> - Does not comply – see Report.
Zoning:	Residential 2(a1)	3.	<u>Draft BHDCP Part E Section 22 – Carlingford Precinct</u> – Variation required – see Report.
Area:	7,801.4m <sup>2</sup>	4.	<u>SEPP (Major Development) 2005</u> - Complies
Existing Development:	Dwelling houses and an office annexe and packing shed of Carlingford Produce Store	5.	<u>SEPP (Infrastructure) 2007</u> - Complies
Capital Investment Value	\$29 Million	6.	<u>SEPP 1 Development Standards</u> – Satisfactory.
Political Donation Disclosure	Yes	7.	<u>Section 79C (EP&amp;A Act)</u> – Satisfactory
		8.	<u>Section 94 Contribution</u> - to be determined as part of the VPA.

**SUBMISSIONS****REASONS FOR REFERRAL TO JRPP**

1. Exhibition:	Yes, 21 days.	1.	Capital Investment Value is in excess of \$10 million pursuant to SEPP (Major Development) 2005.
2. Notice Adj Owners:	Yes, 21 days.		
3. Number Advised:	Fifty-nine (59)		
4. Submissions Received:	One (1)		

**HISTORY****14/02/2006**

Deferred commencement consent granted to DA 1625/2004/HB for the construction an apartment development containing 74 units (47 x 2 bedroom & 27 x 1 bedroom) with associated basement car parking. The deferred commencement requirements relate to drainage design, drainage easement and State Rails requirement for a geotechnical investigation as to the structural integrity of the adjoining railway embankment should the upslope face or embankment core material be subjected to any extended period of saturation.

**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 other three apartment proposals within the vicinity.

**22/12/2009**

Subject Development Application lodged.

**06/01/2010**

Subject Development Application referred to Joint Regional Planning Panel.

**08/01/2010  
29/01/2010**

**to** Subject Development Application notified to adjoining and surrounding properties.

**07/01/2010**

Letter to applicant requesting additional waste management information.

**12/01/2010  
29/01/2010**

**to** Subject Development Application advertised in the local paper for public comments.

**20/01/2010**

Letter to applicant requesting additional information requested by RailCorp (relating to geotechnical and structural issues) and Council's Waste Management Section.

**19/02/2010**

Letter to applicant requesting further waste management information.

**24/02/2010**

Letter to applicant advising of the outcome of the briefing held with the Joint Regional Planning Panel on 26 November 2009 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.

The applicant was also advised of Integral Energy's requirement for the installation of a padmount / indoor substation to secure the supply of electricity to the proposed development and the NSW Police comments to address a number of Crime Prevention Through Environmental Design (CPTED) factors such as surveillance, access control and territorial reinforcement that should be considered in this development.

- 03/03/2010** Letter sent to the applicant requesting the withdrawal of the subject Development Application due to the 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, vehicular access, parking and geotechnical 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 the 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 gazettal 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 for 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. 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 is triangular in shape and consists of seven residential allotments identified as Lots 101 & 102 DP 571146, Lots 6 & 7 DP 512364, Lots 1 & 2 DP 503904 and Lot 4 DP 2503588, known as Nos. 1-7A Thallon Street, Carlingford. The combined total site area is 7,801.4m<sup>2</sup>.

The subject site is burdened by a transmission line easement through the middle of the site. The high tension electricity cables cross the site and a tower is located within No 5 Thallon Street. The high tension cables will be relocated underground and the applicant must make satisfactory arrangements with Energy Australia for completion of this work.

The subject site generally slopes from the north down to the south. The highest point on the site (RL 98.88) is located at the northern extent of No. 7A Thallon Street. The lowest point on the site is approximately RL 90.78 at the north western boundary at the street access to 7 Thallon Street adjacent to the transmission lines.

To the rear of No.1 Thallon Street contains the office annexe and packing shed of Carlingford Produce Store which is located within the rail corridor. Carlingford Produce Store is identified as a heritage item under Baulkham Hills LEP 2005. The development of the site does not enable the retention of the office annexe and packing shed, however the store building will not be affected. A Heritage Impact Assessment was submitted with the Development Application.

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 9). The proposal is permissible in the draft LEP subject to compliance with floor space ratio and building height controls (see Attachments 10 & 11). 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 Building, which is the current DCP for apartment buildings within the Shire: setback, building height, building length, density, unit size and parking.

The applicant has lodged a SEPP 1 objection to the building height standard as prescribed in the draft LEP. The proposal exceeds the 54m height limit by a maximum of 2.5m centrally on the site generated by the inclusion of a plant room within the roof form within the central roof above the stair well/lift lobby. All habitable floors are located well below the height limit plane and the floor level of the plant room is also located below the 54m height limit. See Attachment 5 which shows the extent of the breach of the 54m height limit.

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

Directly opposite the subject site is a vacant site known as No. 2-8 James Street which is part of a development site the subject of a separate Development Application for a similar mixed use development (DA 895/2010/JP).

At the southern end of Thallon Street at the intersection of James Street, public access is available through to Carlingford Railway Station. This access is via a footpath through a public landscaped area. This access directly adjoins the subject site.

To the north of the subject site, in Thallon Street is an existing two storey town house development. Jenkins Road, James Street and Thallon Street are located within the Southern Carlingford Precinct which is identified for high density residential development as envisaged by the Draft BHDGP Part E Section 22 – Carlingford Precinct. This development is amongst the first proposals in the Precinct and as such, represents the transition from detached one and two storey dwelling houses to high density residential units.

### **PROPOSAL**

The proposal is to demolish the existing buildings on site and construct a mixed use development 18 storeys in height which consists of the following components:

- 20 x 1 bedroom units
- 142 x 2 bedroom units
- 21 x 3 bedroom units
- 22 of the units are adaptable
- Retail space at ground level of 407.9m<sup>2</sup>
- 5 basement parking levels providing 304 parking spaces

It is proposed to provide two vehicular access points. The first is the main driveway to the 5 basement levels, where all parking spaces are proposed for residents, commercial tenants and visitors. A second service road is proposed within the area of the transmission line easement providing vehicular access to the smaller unit development proposed to the north of the transmission line and to enable access to the bin storage areas and to provide loading access to the commercial retail uses.

The proposal includes 22 adaptable Class B units, which can be accessed from the basement and street level without negotiating stairs. Each of the accessible units is provided with an accessible car parking space.

The transmission lines will be relocated underground via a separate agreement with Energy Australia who have issued an in-principal agreement to the work subject to the acceptance of a formal contract by the applicant.

This development proposal retains the heritage listed Carlingford Produce store with the exception of the office annexe and packing shed located on Lot 2 DP 503904. As such the existing shop can continue to operate in its current form with vehicular access from Jenkins Road being retained.

### **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 which proposed the land to be rezoned 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 floor space ratio and building height controls (see Attachments 10 & 11). The proposal has been designed in accordance with draft BHDGP 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 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 (Council's current DCP for apartment buildings) and the table below shows the extent of the proposal's performance against the current development standards:

<b>DEVELOPMENT STANDARD (CLAUSE NO.)</b>	<b>BHDCP REQUIREMENTS</b>	<b>PROPOSED DEVELOPMENT</b>	<b>COMPLIANCE</b>
3.1 Site Requirements	Min. lot size 4000m <sup>2</sup> Min. frontage – 30m	7,801.4m <sup>2</sup> Thallon Street – 108.795	Yes. Yes.
3.3 Setbacks – Building Zone	Front – 10m (Thallon Street)  Side – 6m  Rear – 8m	8m  4.5m to northern boundary  4.5m to south eastern boundary	No.  No.  No.
3.4 Building Heights (per storey)	13 metres eaves 16 metres ridgeline	Max. 56.5m to ridgeline	No.
3.5 Building Separation and Treatment	12 metre building separation	37m between Building A (southern building) and Building B (northern building)	Yes.
3.6 Landscaped Area	50% of site area = 1,496.4m <sup>2</sup>	Deep soil landscaping – 4,900m <sup>2</sup> or 63% of site area	Yes.
3.7 Building Length	max. 50 metres	Building A - approx. 76m Building B – 49.4m	No. Yes
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	488.25 persons per hectare	No.
3.11 Unit Layout and Design	1 bedroom – 75m <sup>2</sup> 2 bedroom – 110m <sup>2</sup> 3 bedroom – 135m <sup>2</sup>	63m <sup>2</sup> - 81m <sup>2</sup> 76m <sup>2</sup> – 109m <sup>2</sup> 117m <sup>2</sup> – 151m <sup>2</sup>	No. No. No.

3.13 Open Space	<p>Private: Ground level – 4m x 3m (min)</p> <p>Above ground – min. 10m<sup>2</sup> with min. depth 2.5m</p> <p>Common: 20m<sup>2</sup> per dwelling @183 dwellings = 3,660m<sup>2</sup></p>	<p>&gt;min. provided (&gt;25m<sup>2</sup>)</p> <p>&gt;min. provided</p> <p>Total common area = 4,836.9m<sup>2</sup> (62% of the site) or 26.4m<sup>2</sup> per dwelling</p>	<p>Yes.</p> <p>Yes.</p> <p>Yes.</p>
3.14 Solar Access	<p>Adjoining buildings &amp; / open space areas – four hours between 9am &amp; 3pm on 21 June</p> <p>Common open space – four hours between 9am &amp; 3pm on 21 June</p>	<p>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 &amp; 33). The applicant has been requested to submit a cumulative shadow impact study to confirm it.</p>	<p>Yes.</p>

3.19 Car parking	<p>Rate per unit &amp; visitor parking:</p> <p>1 space per 1 BR @20 x 1 bedroom = 20 spaces 2 spaces per 2/3 BR @142 x 2 bedroom = 284 spaces @21 x 3 bedroom = 42 spaces Total = 346 spaces</p> <p>Visitor – 2 spaces per 5 dwellings @183 dwellings = 73.2 spaces</p> <p>1 space per 18.5m<sup>2</sup> retail floor area (per BHDGP Part D Section 1 – Parking) @407.9m<sup>2</sup> = 22.05 spaces</p> <p>Total requirement = 441.24 or 442 parking spaces</p>	<p>191 resident spaces</p> <p>74 visitor spaces</p> <p>8 retail spaces</p> <p>Total provision = 273 parking spaces</p>	<p>No.</p> <p>Yes.</p> <p>No.</p> <p>No.</p>
3.20 Storage	10m <sup>3</sup> with an area 5m <sup>2</sup> and dimension 2 metres	A total of 4,251m <sup>3</sup> of central storage areas provided within the basement car park levels, i.e. 10.42m <sup>3</sup> 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 &gt;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 length, density, unit size and parking. It has been designed in accordance with the draft LEP and draft DCP for Carlingford Precinct and lodged on the basis that the assessment of the application can be made against the provisions of these draft instruments and that its determination be held in abeyance until the draft LEP is gazetted.

#### 4. Compliance with Draft BHDGP 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 6 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.

#### Clause 3.3 Desired Future Character Statements

The proposed development is considered to be consistent with the desired future character for the Southern Precinct as the development forms a transition in height from Jenkins Road up to that part of the site that is closest to the railway station. The tower element is at the eastern part of the site, which is closest to the railway station and accords with Figure 17 Dimensional Built Form Controls under Section 5.3 Block 6: 1 – 7 Thallon Street. See Attachment 12.

The 407.9m<sup>2</sup> of retail/commercial floor space located on the ground floor directly addressing Thallon Street will assist in creating a 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, the open space provided on the ground level will enhance the quality of the setting of the development as it provides a private landscaped area that is accessible to all units and contains a swimming pool. The open space is located within the transmission line easement and takes advantage from the northerly aspect. Furthermore, a gym is located adjacent to the rear retail commercial space. As such, the communal open space provides opportunities for both passive and active recreation. Due to its northerly aspect solar access is available throughout the year.

The podium at Building A provides a private communal open space area accessible to all residents. The landscaping features along the front boundary to Thallon Street provides a significant amount of site landscaping visible to the public domain which softens the built edge of the development.

#### Clause 3.6 Structure Plan (Public Domain)

Figure 6 Structure Plan – Public Domain (Attachment 13) indicates that in the vicinity of the intersection of Thallon Street and James Street a town square/civic plaza should be provided. The proposed development provides 407.9m<sup>2</sup> of retail/commercial space at the southern end of the subject site which is closest to the intersection of Thallon Street and James Street.

#### Clause 3.7 Structure Plan (Indicative Building Height and FSR)

The principle states that heights should increase the closer a site is to the Carlingford Railway Station. The development complies with the floor space ratio requirement of 4:1 applicable to Block 6: 1- 7 Thallon Street. The proposal is a maximum of 56.5m in height, and this variation to the height limit is discussed within the SEPP 1 objection below. The proposed development is consistent with the principle that building heights and density should increase at locations close to Carlingford Railway Station.

#### Clause 3.8 Illustrative Masterplan

The proposal is consistent with Figure 8 Illustrative Masterplan (Attachment 14) for the following reasons:

- It is consistent with the intention that high rise development is to be concentrated in the low ground close to the train station.
- The proposed development provides 407.9m<sup>2</sup> of commercial/retail space on the ground floor which is located on a pedestrian route to Carlingford Railway Station.
- The tower component of the development is elliptical in form and is orientated north/south so as to minimise overshadowing to the south.
- The tower is considered to be an iconic building in terms of the DCP and is 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 6 being 1-7 Thallon Street, which is listed as a key site and therefore Section 4 of the DCP does not apply.

#### Clause 5 Key Site Built Form Controls

The subject site is located within Block 6: 1-7 Thallon Street. Clause 5.3.1 Development Controls provides the following design criteria.

<b>Development Parameter</b>	<b>Development Controls</b>	<b>Proposal</b>	<b>Compliance</b>
Building Height	54m	Max. 56.5m	No, see SEPP 1 Objection.
FSR	4:1	2.72:1	Yes.
Building Site Coverage	40% max.	32%	Yes.
Vehicular Access and Circulation	Refer to DCP – Key Development Site 6. The vehicular access to the basement is provided in the location identified in the draft DCP.	A further service road is proposed within the transmission line easement to provide direct vehicular access to Building B and to allow for service vehicles including waste removal from the site.	Yes.
Car parking requirements	0.8 spaces per 1 bedroom unit @20 x 1 bedroom = 16 spaces  1 space per 2 bedroom unit @142 x 2 bedroom = 142 spaces  1.3 spaces per 3 bedroom unit	Total number of spaces provided = 304 spaces	Yes.

	<p>@21 x 3 bedroom = 27.3 spaces</p> <p>2 visitor spaces per 5 units @183 units = 73.2 spaces</p> <p>1 space per 18.5m<sup>2</sup> of retail floor space @407.9m<sup>2</sup> = 22.04 spaces</p> <p>Total number of parking spaces required = 280.54 or 281 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 407.9m <sup>2</sup> .	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.	4,900m <sup>2</sup> or 63% of site area	Yes.

## 5. SEPP 10 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 proposal exceeds the 54m height limit by a maximum of 2.5m centrally on the site. Attachment 5 shows the extent of the breach of the 54m height limit, which is due to the inclusion of a plant room within the roof form within the central roof above the stair well/lift lobby. All habitable floors are located well below the height limit plane and the floor level of the plant room is also located below the 54m height limit.

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

*1 The proposal is consistent with the objectives of the height development standard for the reasons discussed above.*

*2 The exceedance of the 54 metres height limit by 2.5m represents a 4.6 percent non compliance and as can be seen from Attachment 5 the extent of this exceedance is very small when compared to the site area of the total development proposal.*

*3 The extent of the non compliance will not be visually discernable from street level or from surrounding properties and the mixed use development proposal will be consistent with the desired future character of the area provided for in clause 60 of the Baulkham Hills LEP 2005 and the Baulkham Hills DCP – Carlingford precinct.*

*4 The exceedance of the 54 metres by 2.5m will not result in any adverse overshadowing impacts on surrounding properties or the public domain. As discussed, the shadow diagrams (see Attachment 6) indicate that all adjoining properties will receive a minimum of 3 hours direct sun at the winter solstice.*

*5 The exceedance of the height limit does not interfere with any views from neighbouring properties.*

*6 The development proposal does not result in any adverse visual or acoustic privacy impacts to neighbouring properties.*

*7 The development proposal is considered to demonstrate good urban design; it is not excessive in terms of bulk and scale and provides a positive contribution to the desired future streetscape of the Carlingford Precinct. This has been achieved by the compliance with the specific development controls development for the site in the DCP Carlingford Precinct which allows 18 storey development.*

**Comment:**

The SEPP 1 objection is considered supportable in that it satisfactorily demonstrates that compliance with the height development standard is unreasonable or unnecessary in the circumstances of the case.

It would be unreasonable to require the deletion of the whole storey on the upper floor of the apartment tower in order to prevent a 2.5m non compliance with the building height control for the extent of the development. As justified by the applicant the non compliance is generated by the inclusion of a plant room within the roof form within the central roof above the stair well/lift lobby. The encroachment to the 54m height limit by 2.5m does not result in adverse solar access or adverse privacy impacts on adjoining development. It is therefore considered appropriate for the building height limit to be varied in the circumstances of this case and in this regard the SEPP 1 Objection is considered to be well founded.

## 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 895/2010/JP for 2-14 Thallon Street and 7-13 Jenkins Road) which are also mixed use developments, i.e. apartment buildings with retail uses at ground floor level in buildings to a maximum 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 895/2010/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 development controls for the subject site allow a four to six storey podium height and allow a tower of 54 metres to the south of the transmission line easement. This proposal is consistent with the development form provided in the draft DCP. The visual impact is reduced by the use of horizontal features, glass balustrades and wide balconies. The development has been divided into compartments to visually read as separate building components, these being compartments along the podium levels and the slender elliptical apartment tower.
- The proposal has been compartmentalised to reduce the perception of bulk and scale by use of colours and finishes and the compartmentalisation of the mixed use development proposal. The 18 storey tower is elliptical in shape and it will be a visual focal point. The draft DCP – Carlingford Precinct indicates Nos.1-7 Thallon Street by virtue of its location close to the train station has the ability to provide development of substantial height to contribute a landmark to denote the village centre. The eighteen (18) storey height limit for the elliptical shaped tower on this site achieves this objective. As such, the proposed built form along Thallon Street has been predetermined by the Carlingford Precinct DCP.
- The proposal provides an appropriate residential density when considered against the provisions of the Carlingford Precinct DCP. All units are provided with balconies and all have access to the ground level communal open space which includes a swimming pool, gym and landscaped open space.
- 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 proposed units are considered to have a high degree of amenity given that the 96% of units are cross-ventilated and 66% 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 10m<sup>2</sup> in area, the majority of units have private open space areas well in excess of this minimum requirement. The development has been designed to maximise the number of units that have a northern orientation. All units have access to ground level communal open space which includes 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 Development Application was notified to adjoining and surrounding properties (59 in total) between 9 to 22 January 2010 and one (1) submission was 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 submission are summarised as follows:

ISSUE/OBJECTION	COMMENT	OUTCOME
<p>The Hills Shire prides itself as the Garden Shire and as such this application is abhorrent to the residents of this ward of the Shire.</p> <p>This is a residential area of the Shire of trees and not a concrete jungle that would present major headaches for the existing residents of this area.</p>	<p>The proposed development responds to the desired future character of the area as envisaged in the draft DCP for Carlingford Precinct.</p> <p>The draft LEP and DCP for the Carlingford Precinct address the future housing needs of Sydney, it is important that Council build a rapport with developers of high quality built forms. Council also acknowledges that its renewal strategy should be economically feasible to enable its development and infrastructure vision to be achieved. Notwithstanding these outcomes, the planning process undertaken has involved significant public involvement which in part have contributed to a comprehensive planning strategy that seeks to integrate all spheres of living – education, home, work, nature, recreation, religion, culture and health.</p>	Issue addressed.
18 storey eyesores are completely out of character	The site is one of the key sites in the southern part of the Precinct adjacent	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
for the Garden Shire.	<p>to the railway station that has been targeted for 18 storey (54m) development due to their location close to the station, existing shops and facilities. The topography in this location provides opportunities for regional views from buildings, as well as reducing the impact of overshadowing on neighbouring properties.</p> <p>The proposed development responds to the desired future character of the area as envisaged in the draft DCP for Carlingford Precinct.</p>	
Considering the location of the proposed development and considering the possibility of 273 additional motor vehicles trying to access the already congested locality in peak hours the whole area would become a mobile parking lot.	The draft DCP requires that all car parking including visitor parking demands generated by the future development should be provided on site. This is to ensure that the proposed strategy will not adversely affect existing on street parking arrangements within the Precinct.	Issue addressed.
The proposal is out-of-character and only a money making fiasco. These developers have no affinity with the Shire other than profit, they come in, construct these ridiculous buildings, leave and residents are left with the residue.	As noted above, the proposed development responds to the desired future character of the area as envisaged in the draft DCP for Carlingford Precinct.	Issue addressed.
There is a similar proposal before Council on land adjacent to this development, therefore the combined aggregate would be 328 units, and a minimum 516 motor vehicles in this confined area, which will result in over-population of a confined semi cul-de-sac and therefore are unsustainable.	<p>The proposed development together with the other three proposals within the vicinity have been designed in accordance with the draft LEP for Carlingford Precinct and complies with the required maximum floor space ratio.</p> <p>The draft LEP, DCP and Contributions Plan will facilitate sustainable development of the precinct by ensuring that appropriate infrastructure is provided for the future population.</p>	Issue addressed.
Will the elected members of Council be prepared to approve a high-rise building next to their leafy residence elsewhere in the Shire and	Determination of this matter will be by the Joint Regional Planning Panel created by the NSW State Government.	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
surely no one will agree to that application.		

The above issues will be addressed and assessed in a further report to the Panel.

#### **SUBDIVISION ENGINEERING COMMENTS**

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

#### **TRAFFIC MANAGEMENT COMMENTS**

The proposal is currently under assessment.

#### **WASTE MANAGEMENT COMMENTS**

Additional waste management information has been requested from the applicant which is still outstanding.

#### **HERITAGE COMMENTS**

The proposal is currently being assessed by Council's Heritage staff in relation to the heritage listed item on site.

#### **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.

#### **ROADS & TRAFFIC AUTHORITY COMMENTS**

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

#### **NSW POLICE COMMENTS**

The NSW Police have 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, BHDGP Part C Section 7 – Apartment Buildings and BHDGP 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 building height limit and is considered acceptable as the proposal overall satisfies the objectives of the height development standards contained within Clause 60 of the draft LEP 2005. It would be appropriate for the building height limit to be varied in the circumstances of this case and in this regard the foreshadowed SEPP 1 Objection is considered well founded.

The proposed staged mixed use development generally follows the development pattern established in the key sites Block 6 – 1-7 Thallon Street as provided in the draft BHDGP – Carlingford Precinct.



Overall, the proposal is considered supportable as it will not pose any detrimental impacts on the natural and built environment and in terms of social or economic impacts. In this regard, 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 consequent commencement of the draft Carlingford Precinct DCP.

## **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 ("the 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. Ground Floor/Site Plan
4. Elevations
5. Extent of Variation to 54m Building Height Control
6. Shadow Diagrams (9am-12pm)
7. Shadow Diagrams (1pm-3pm)
8. Perspectives
9. Proposed Rezoning Map
10. Building Height Map
11. Floor Space Ratio Map
12. Fig. 17 Dimensional Built Form Controls
13. Structure Plan – Public Domain
14. Illustrative Masterplan

## ATTACHMENT 1 – LOCALITY PLAN



**SUBJECT SITE**



**PROPERTIES NOTIFIED INCLUDING  
RTA, INTEGRAL ENERGY &  
PARRAMATTA CITY COUNCIL**



**SUBMISSION RECEIVED  
OUTSIDE THE SCOPE OF  
THIS MAP**



**THE HILLS SHIRE COUNCIL**

ATTACHMENT 2 – AERIAL PHOTO



# ATTACHMENT 3 – GROUND FLOOR/SITE PLAN



## ATTACHMENT 4 – ELEVATIONS



BLOCK A - SOUTH ELEVATION

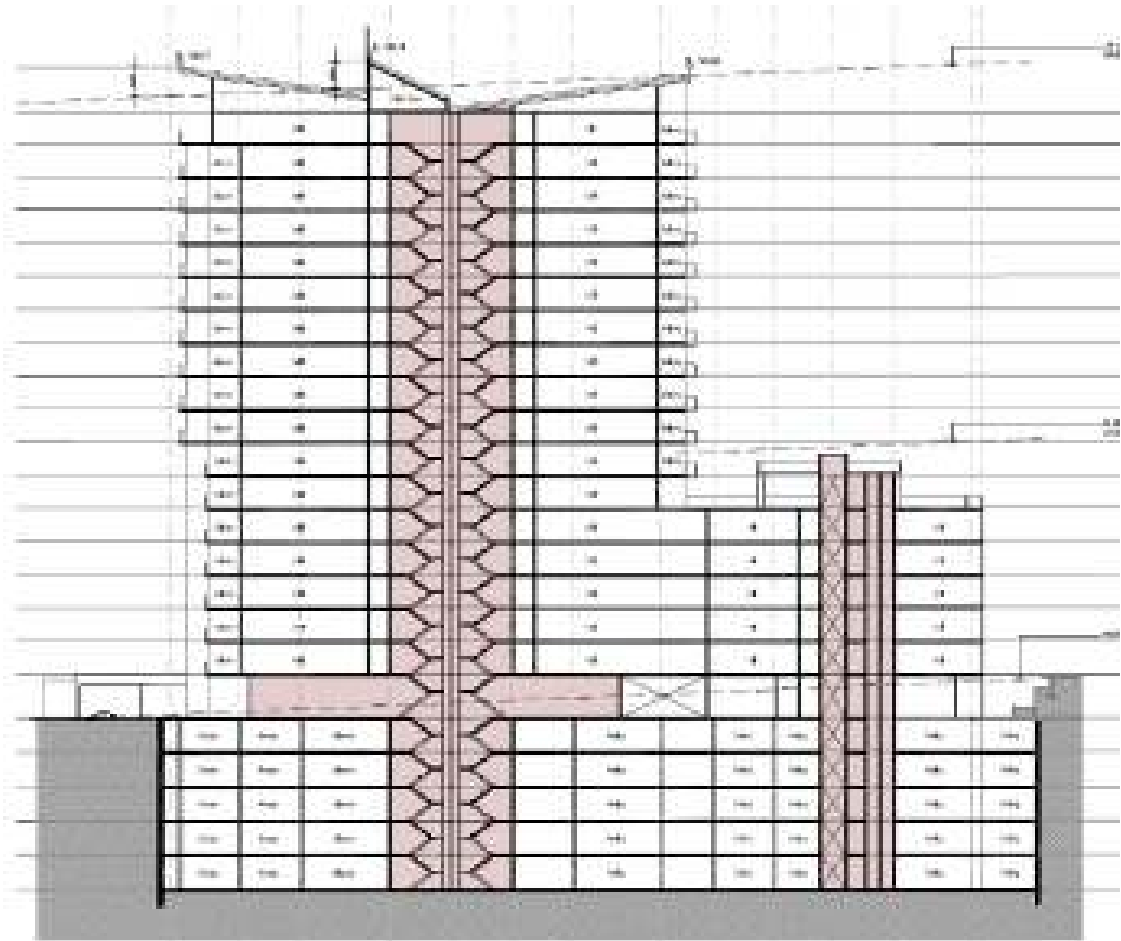


BLOCK A - NORTH ELEVATION



BLOCK A - WEST ELEVATION - BALLISTIC STREET PERSPECTIVE

ATTACHMENT 5 – EXTENT OF VARIATION TO 54M BUILDING HEIGHT LIMIT



BLOCK A - SECTION

Figure 1 – Non compliance area

The figure consists of four aerial photographs arranged in a 2x2 grid, showing a residential area. The central focus is a large, dark-colored house with a prominent swimming pool. The house is surrounded by trees and landscaping. To the right of the house, there is a large, open area that appears to be a lawn or a field. The surrounding area includes other houses, streets, and greenery. The images are labeled with '1000' and '1000' in the top left corner of each panel, indicating a zoom level or scale. The top-left panel shows a wider view, while the top-right panel is a closer view of the house and pool. The bottom-left panel is a closer view of the house and pool, and the bottom-right panel is a closer view of the house and pool.



## ATTACHMENT 7 – SHADOW DIAGRAMS (1PM-3PM)

10. 1:00 PM  
Shadow diagram 1:00 PM 21st June



10. 1:00 PM



10. 1:00 PM

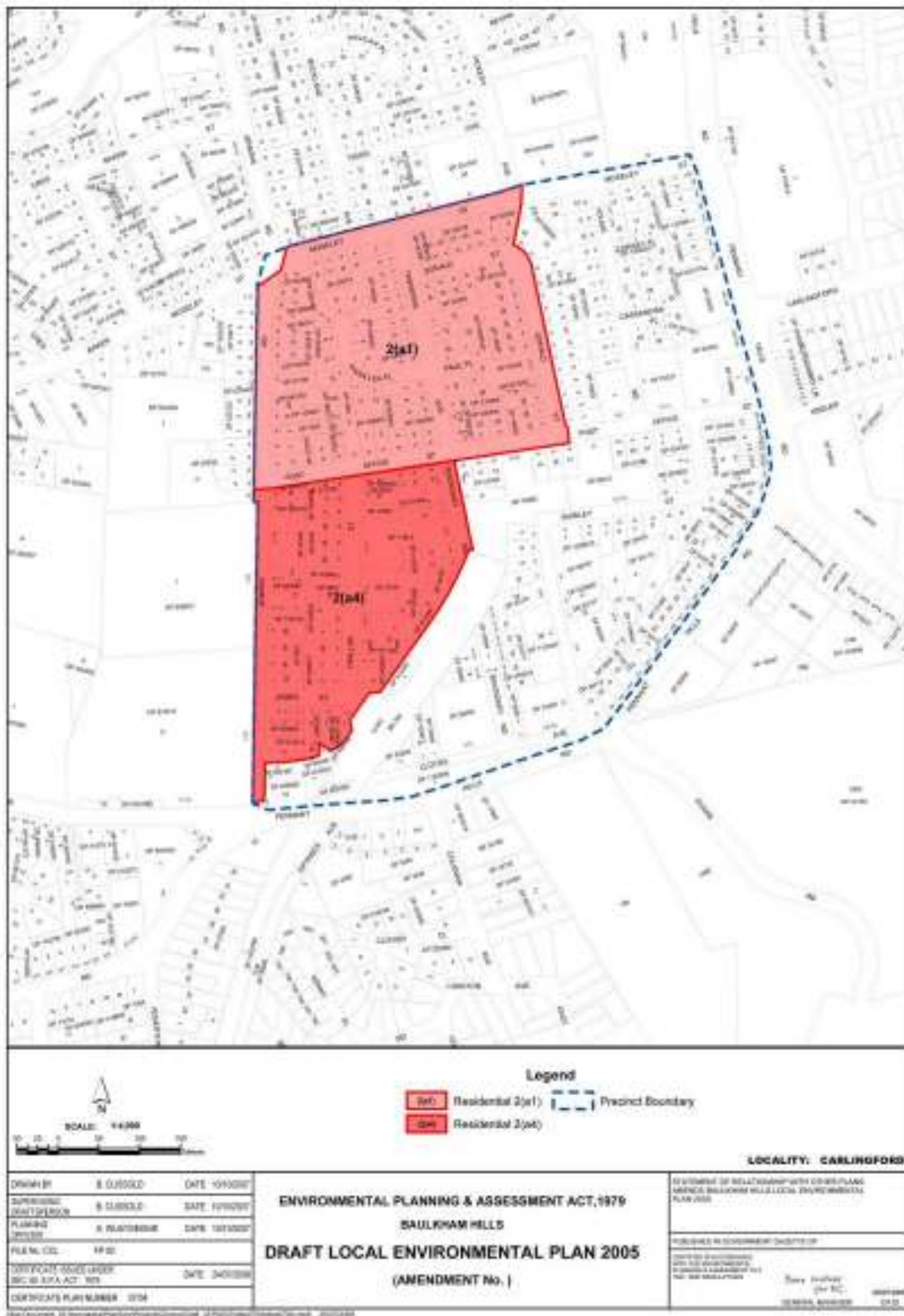




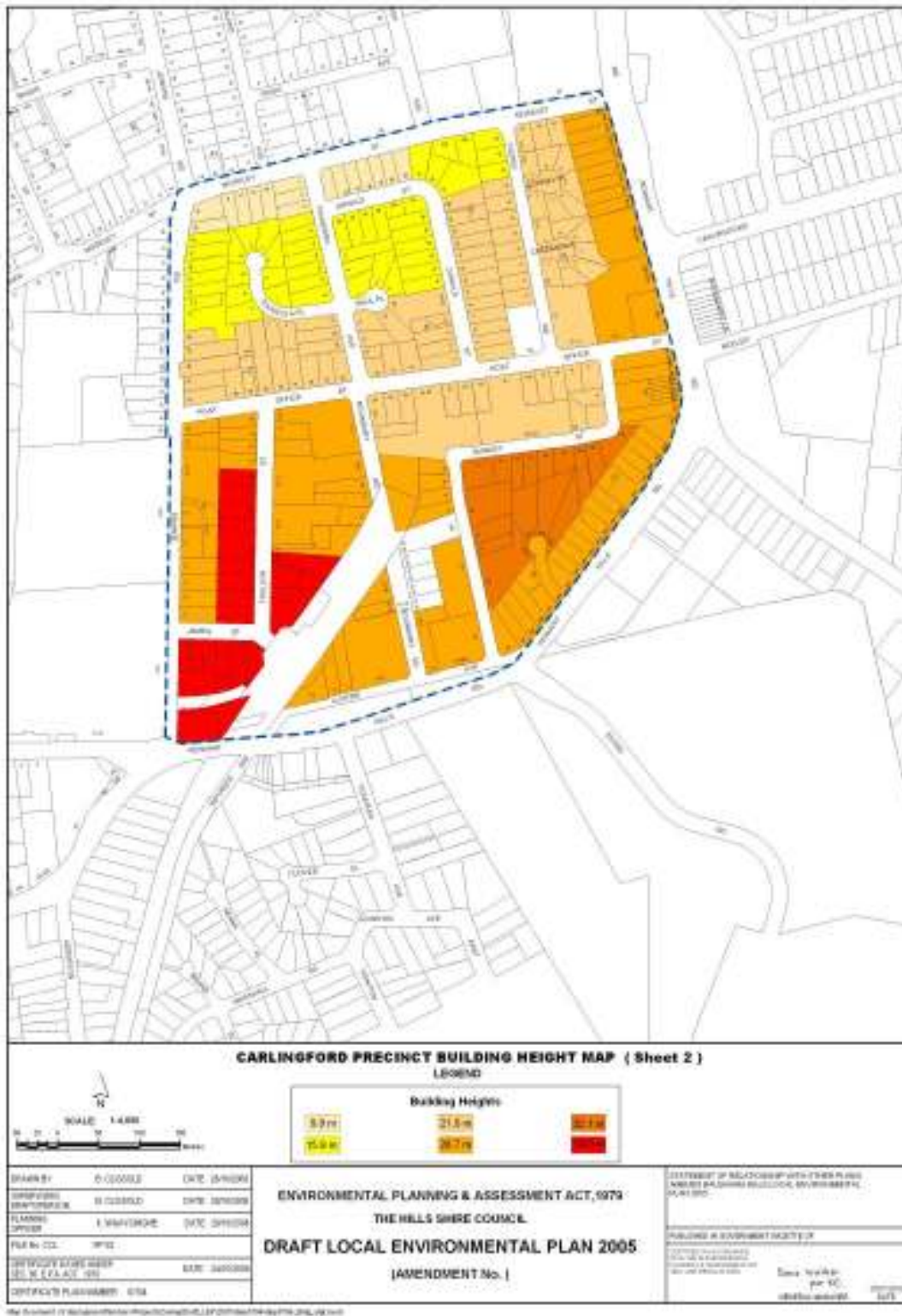
## ATTACHMENT 8 – PERSPECTIVES



## ATTACHMENT 9 – PROPOSED REZONING MAP

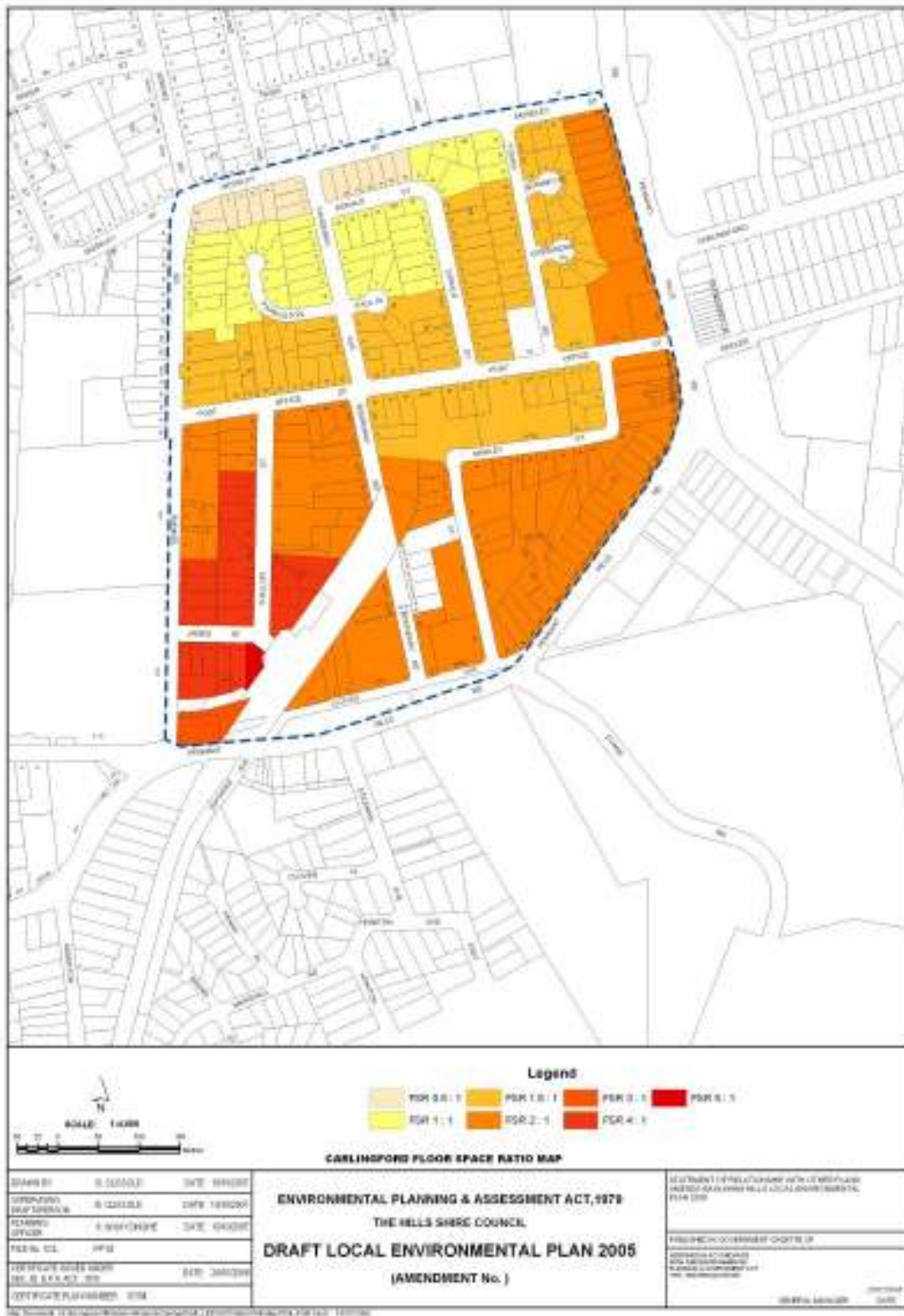


## ATTACHMENT 10 – BUILDING HEIGHT MAP





## ATTACHMENT 11 – FLOOR SPACE RATIO MAP



## ATTACHMENT 12 – DIMENSIONAL BUILT FORM CONTROLS



## ATTACHMENT 13 – STRUCTURE PLAN – PUBLIC DOMAIN





## ATTACHMENT 14 – ILLUSTRATIVE MASTERPLAN





## Joint Regional Planning Panels

7 July 2010

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

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

PAUL SECRETARAT  
Level 13, 501 George Street SYDNEY NSW 2000  
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With regard to those applications proposing mixed use development in the Carlingford Precinct as follows:

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

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

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

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

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

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

Thank you for your help in dealing with these matters.

Yours sincerely



Janet Thomson  
Chair, Sydney West Region



## Planning

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

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

Dear Mr Walker,

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

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

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

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

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

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

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

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

Yours sincerely,

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