

# JRPP PLANNING REPORT

<b>JRPP NOS.:</b>	2010SYW001
<b>DA NOS.:</b>	943/2010/JP
<b>APPLICANT:</b>	STAMFORD HOUSE 88 PTY LTD
<b>PROPOSAL:</b>	CONSTRUCTION OF A 4-18 STOREY MIXED USE DEVELOPMENT CONTAINING 183 RESIDENTIAL UNITS, 407.9SQM OF RETAIL SPACE & 304 BASEMENT 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>LODGEMENT DATES:</b>	22 DECEMBER 2009
<b>REPORT BY:</b>	DEVELOPMENT ASSESSMENT CO-ORDINATOR CLARO PATAG THE HILLS SHIRE COUNCIL
<b>RECOMMENDATION:</b>	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 proposed development complies with the key site built form controls and conforms to the development pattern established in the key sites Block 6: 1-7A Thallon Street as provided in the BHDCP Part E Section 22 – Carlingford Precinct.

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 satisfactory compliance with the following items:

- a) Submission of a design contract to Council for the undergrounding of the existing 132kV double circuit powerlines;
- b) Compliance with requirements of the NSW Transport/RailCorp (outlined in correspondence dated 13 April 2011) for the owners of the site to enter into an Agreement with RailCorp to address the potential impacts of the development on the Parramatta Rail Link, and
- c) submission of a Conservation Management Plan for the adjacent heritage item (Carlingford Produce Store).

## 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. 6.

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, 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 9,902m<sup>2</sup> of open space valued at \$7,678,917 comprising:*

- 1,510m<sup>2</sup> of Key Site 3 (Nos. 8, 8A, 10 and 13 Thallon Street) for linear open space;
- 2,563m<sup>2</sup> of Key Site 6 (Nos. 5, 5A, 5B, 7A and 7 Thallon Street) for linear open space;
- 3,741m<sup>2</sup> of Key Site 17 (Nos. 253 Pennant Hills Road and 26-28 Shirley Street) for Linear open space; and
- 2,088m<sup>2</sup> 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	<b>47,406</b>
	%	24.02%	10.18%	16.34%	49.46%	<b>100%</b>
	Dwg Yield	408	183	175	453	<b>1,219</b>
	%	33.47%	15.01%	14.36%	37.16%	<b>100%</b>
<b>Works-in-Kind</b>		\$618,251	\$0	\$373,690	\$742,108	<b>\$1,734,049</b>
<b>Cash Contribution</b>		\$2,149,540	\$964,132	\$921,984	\$920,984	<b>\$4,956,640</b>
<b>Land Dedication</b>		\$785,044	\$0	\$1,332,055	\$5,561,817	<b>\$7,678,917</b>
<b>TOTAL VALUE</b>		<b>\$3,552,836</b>	<b>\$964,132</b>	<b>\$2,627,730</b>	<b>\$7,224,909</b>	<b>\$14,369,606</b>

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, and State Environmental Planning Policy (Infrastructure) 2007, 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.

2. A *'Conservation Management Plan for the Carlingford Produce Store'* is to be prepared by a suitably qualified Heritage Architect in accordance with the Heritage Branch guidelines. This is to include a detailed Management Strategy that identifies how the Conservation Management Plan will be implemented.

3. Compliance with the following requirements of the NSW Transport/Railcorp:

The owners of the site of the approved development must enter into an Agreement with RailCorp to address the potential impacts of the approved development on the Parramatta Rail Link identified in State Environmental Planning Policy (Infrastructure) 2007. The Agreement shall provide for the following:

- (i) the design, construction and maintenance of the approved development so as to satisfy the requirements in the Operational Conditions B1 to B7 (see Appendix "C" of this consent as referred to in Operative Consent Condition No. 10);
- (ii) allowances for the structural integrity of proposed rail infrastructure in the vicinity of the approved development;
- (iii) allowances in the design, construction and maintenance of the approved development for existing and future rail operations in the vicinity of the approved development, especially in relation to noise, vibration, stray currents, electromagnetic fields and fire safety;
- (iv) consultation with RailCorp;
- (v) access by representatives of RailCorp to the site of the approved development and all structures on that site;
- (vi) provision to RailCorp of drawings, reports and other information related to the design, construction and maintenance of the approved development;
- (vii) such other matters which RailCorp considers are appropriate to give effect to (i) to (vi) above; and
- (viii) such other matters as the owners and RailCorp may agree.

A2. The applicant must provide Council with written evidence demonstrating that the matters listed under Part A1 above have 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**

### **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

DWG No	Description	REV	DATE
DA03	SITE PLAN	A	01/07/2009
DA04	BASEMENT 5	E	27/01/2011
DA05	BASEMENT 4	E	27/01/2011
DA06	BASEMENT 3	E	27/01/2011
DA07	BASEMENT 2	F	23/02/2011
DA08	BASEMENT 1	E	26/01/2011
DA09	GROUND FLOOR	E	26/01/2011
DA10	LEVEL 1	B	22/07/2011
DA11	LEVEL 2-3	B	22/07/2011
DA12	LEVEL 4-5	B	22/07/2011
DA13	LEVEL 6	B	22/07/2011
DA14	LEVEL 14	B	22/07/2011
DA15	LEVEL 8-16	B	22/07/2011
DA16	LEVEL 17	B	22/07/2011
DA17	ROOF LEVEL	B	22/07/2011
DA18	Building A West Elevations	B	22/07/2011
DA19	Building A East Elevations	B	22/07/2011
DA20	Building A North & South Elevations	B	22/07/2011
DA21	Building A Section AA	B	22/07/2011
DA22	Section A Section BB	B	22/07/2011
DA23	Building B Elevations	B	22/07/2011
DA24	SHADOWS	B	22/07/2011
DA25	SHADOWS	B	22/07/2011
DA26	Waste Mgmt Plan	C	22/07/2011
DA27	Comparison of DA	B	22/07/2011
DA28	Adaptable Unit Layout	B	22/07/2011
DA29	Bulk Excavation Plan	B	22/07/2011
DA30	Civic Centre Connection	C	22/07/2011
DA31	Transmission Lines Plan	B	22/07/2011
DA32	Easement Plan	D	22/07/2011
SD-01	Shadows Impact	B	22/07/2011
SD-02	Shadows Impact	B	22/07/2011
0208.L.01	Landscaping Key Plan	B	31/08/2009
0208.L.02	Landscaping Plan Area 1	B	31/08/2009
0208.L.03	Landscaping Plan Area 2	B	31/08/2009
0208.L.04	Landscaping Plan Level 6	B	31/08/2009

No work (including excavation, land fill or earth reshaping) shall be undertaken prior to the issue of the Construction Certificate, where a Construction Certificate is required.

## **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 Stamford House 88 Pty Ltd 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 1 DP 503904, Lot 2 DP 503904, Lot 101 DP 571146, Lot 7 DP 12364, Lot 102 DP 571146, Lot 4 DP 2503588, Lot 6 DP 512634 known as Key Site 6 at the intersection of Thallon Street and James Street, Carlingford be signed under company seal and that

payment of Monetary Contributions of **\$921,984.00** 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 22 of the Voluntary Planning Agreement for Key Site 6.

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 – Open Space Embellishment – CPLOS2**

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 CPLOS2 in the Carlingford Precinct Section 94 Contributions Plan) must be lodged with and approved by Council **prior to the issue of a Strata Subdivision Certificate for Building B.**

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 – 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 Strata Subdivision Certificate for Building B.**

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

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

**g. 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 304 off-street car parking 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 23 February 2010.

## **9. Compliance with the NSW Police Requirements**

Compliance with the requirements of the NSW Police attached as Appendix "B" to this consent and dated 18 January 2010, in terms of the relevant Crime Prevention through Environmental Design (CPTED) factors such as surveillance, access control and territorial reinforcement with the exception of traffic matters outlined in the letter which are addressed separately as separate conditions in this consent.

## **10. Compliance with NSW Transport/RailCorp Requirements**

Compliance with the operational conditions (B1-B27) of the NSW Transport/RailCorp attached as Appendix "C" to this consent and dated 13 April 2011.

## **11. Conservation Management Plan**

Works to the Carlingford Produce Store shall be undertaken in accordance with the recommendations of the approved Conservation Management Plan and Management Strategy.

## **12. Tree Removal**

Approval is granted for the removal of trees numbered 1-5, 9-18a, 20-27, 29-42, 44-49, 52, 53, 55, 57-60, 67-74, 79-92, and 96 affected by the proposed development.

All other trees are to remain and are to be protected during all works. Suitable replacement trees are to be planted upon completion of construction.

## **13. 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.

## **14. Tree/s to be retained**

To maintain the treed environment of the Shire, trees numbered 6, 7, 19, 28, 43, 50, 51, 54, 56, 61-66, 75-78a, 93-95, 99-103 as per Arboricultural Impact Assessment Report prepared by "Redgum Arboriculture and Horticulture Consultants" dated 12 August 2009 are to be retained.

## **15. 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.

## **16. 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.

#### **17. Domestic Waste Management**

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

##### **Garbage Room No. 4 Basement 1 (Block A)**

8 x 240 litre garbage bins and 4 x 240 litre recycling bins

##### **Garbage Room No. 3 Basement 1 (Block A)**

12 x 240 litre garbage bins and 5 x 240 litre recycling bins

##### **Bin Holding Area No. 1 Ground Floor (Block A)**

24 x 240 litre garbage bins and 11 x 240 litre recycling bins

##### **Bin Holding Area No. 2 Ground Floor (Block B)**

8 x 240 litre garbage bins and 8 x 240 litre recycling bins

#### **18. 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.

#### **19. 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.

#### **20. 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.

#### **21. Waste Management- Commercial/Industrial**

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

The waste storage area must be:

- i). provided with a hose tap connected to the water supply;
- ii). paved with impervious floor materials;
- iii). graded and drained to a waste disposal system in accordance with the requirements of the relevant regulatory authority (Sydney Water);



- iv). adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour as defined by the Protection of the Environment Operations Act 1997;
- v). fitted with appropriate interventions to meet fire safety standards in accordance with the Building Code of Australia.

## **22. Garbage Compaction System**

A compaction ratio of no greater than 2:1 is required for the chute system in order to alleviate possible OH&S problems, mechanical damage and difficulties with servicing and emptying of bins.

## **23. Street Trees**

Street trees must be provided along the sites Thallon Street frontage complying with the Carlingford Precinct Public Domain Plan.

## **24. Separate Application for Strata Subdivision**

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

## **25. 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.

## **26. 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.

## **27. 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.

## **28. 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.

### **29. 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.

### **30. 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.

### **31. 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 driveway must be built to Council's heavy duty standard.

The driveway must be 6m wide at the boundary splayed to 7m wide at the kerb. The driveway 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 driveway 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 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 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.

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 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.

### **32. 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.

### **33. 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.

### **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. Surplus Excavated Material**

The disposal / landfill of surplus excavated material, other than to a DECC licensed facility, is not permitted without formal approval from Council prior to the commencement of works. Any unauthorized disposal of waste, which includes excavated material, is a breach of the *Protection of the Environment Operations Act 1997* and subject to substantial

penalties. Unless Council approves an alternate site, then all surplus excavated material must be disposed of at a licensed waste facility. Copies of actual weighbridge receipts verifying recycling/disposal must be kept and presented to Council when required.

### **37. Dust Control**

The following measures must be taken to control the emission of dust:

- dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the work;
- all dusty surfaces must be wet down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be allowed to enter the street or stormwater system;
- all stockpiles of materials that are likely to generate dust must be kept damp or covered.

### **38. Construction and Fit-out of Food Premises**

To ensure that adequate provision is made for the cleanliness and maintenance of all food preparation areas, all work involving construction or fitting out of the premises shall comply with the requirements of Australian Standard – Design, construction and fit-out of food premises AS 4674-2004 and the provisions of the Food Safety Standards Code (Australia).

Note: Copies of AS 4674-2004 may be obtained from Standards Australia Customer Service on telephone 1300 654 646 or by visiting the website: [www.standards.com.au](http://www.standards.com.au)

Copies of the Food Safety Standards Code (Australia) may be obtained by contacting the Food Standards Australia New Zealand Authority on Telephone: (02) 6271-2222, e-mail: [info@foodstandards.gov.au](mailto:info@foodstandards.gov.au) or by visiting the website: [www.foodstandards.gov.au](http://www.foodstandards.gov.au)

### **39. Sound Level Output**

The use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to “offensive noise” as defined under the provision of the Protection of the Environment Operation Act 1997. The sound level output shall not exceed 5 dB(A) above the ambient background level at the closest neighbour’s boundary.

### **40. Construction Noise**

Upon receipt of a justified complaint in relation to noise pollution emanating from rock breaking as part of the excavation and construction processes, rock breaking will be restricted to between the hours of 9am to 3pm, Monday to Friday.

Details of noise mitigation measures and likely duration of the activity, will also be required to be submitted to Council seven (7) days of receiving notice from Council.

### **41. Operation of Pool/Spa**

The operation of the pool/spa is to comply with the requirements of the:-

- a. Public Health Act 1991,
- b. Public Health (Swimming Pools and Spa Pools) Regulation 2000,
- c. NSW Health Department Public Swimming Pool and Spa Pool Guidelines 1996 and the Australian Standard AS 3633 – Private Swimming Pools – Water quality.

### **42. Stockpiles**

Stockpiles of topsoil, sand, aggregate, spoil or other material capable of being moved by water, to be stored clear of any drainage line, easement, natural watercourse, footpath, kerb or roadside.

### **43. Asbestos Removal**

Asbestos and asbestos containing material shall be removed by licensed asbestos removalist and all work must be in accordance with the requirements of the NSW Workcover Authority. Asbestos and asbestos containing material is to be disposed of in accordance with the requirements of the Department of Environment & Conservation and all dockets and paper work for the disposal shall be retained and made available to the Council if requested.

#### **44. Acoustic Requirements**

The recommendations of the Acoustic Assessment and Report prepared by VIPAC Engineers & Scientists Ltd, referenced as Report No. 20C-09-0174-TPR-750200-1, dated 28<sup>th</sup> August 2009 and submitted as part of the Development Application are to be implemented as part of this approval. In particular:

- The Glazing requirements of Section 5.1
- The requirements for protecting against vibration from trains in Section 5.4.

### **PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

#### **45. Internal Pavement Structural Design Certification (Waste Services)**

A Certified Practicing Engineer (CPEng) must confirm the structural adequacy of the internal pavement design to Council prior to the issue of a Construction Certificate. The proposed pavement design must be adequate to withstand the loads imposed by a loaded waste vehicle (i.e. 28 tonne axle load) from the boundary to the waste collection point including any manoeuvring areas.

#### **46. Recycling Outlet Details**

Green waste, clean excavated material and concrete must be recycled or reused, not sent to landfill. Prior to issue of the Construction Certificate the name and address details of recycling outlets for the disposal of green waste, bricks and excavated material during the demolition and construction stages of the development must be submitted to and approved by Council.

The Western Sydney Recycling Directory is available to assist the applicant in selecting appropriate contractors and facilities. The Directory may be obtained from Council's website [www.thehills.nsw.gov.au](http://www.thehills.nsw.gov.au) or by contacting Council's Waste Management Project Officer on 9762 1112.

#### **47. Dilapidation Survey**

A dilapidation survey shall be completed by an experienced and qualified Structural Engineer for the adjacent heritage item known as Carlingford Stock Feeds, with a view to identifying the current state of the structure, materials and finishes and identifying items of the above which may be prone to damage or decay during the construction period. The survey shall include recommendations for the protection of those areas and areas of the site. A copy of the survey is to be submitted both to Council and the property owner.

#### **48. Photographic Record**

A photographic record is to be made of the Carlingford Stock Feeds and is to be submitted to the satisfaction of Council's Heritage Staff prior to the commencement of works in accordance with: -

- "Photographic Recording of Heritage Items Using Film or Digital Capture" (Heritage Office, 2006); and
- "How to prepare archival records of heritage items" (Department of Planning and Heritage Council of NSW, 1998).

The record is to include as a minimum:

- i. A location plan (including place and date of photographic record);
- ii. Site plan to scale;
- iii. Floor plan to scale;
- iv. Colour, and black and white digital photographs, clearly labelled and cross referenced to base plans.

Images are to show views of all elevations, internal spaces and the surrounding setting.

#### **49. Interpretative Signage**

A permanent interpretative signage panel (or panels) is to be erected at an appropriate location on the site that is accessible to the public. The panel/s is to include historic

information and photographs and provide information on the historical evolution of the site. The content of the panels is to be prepared with assistance from a conservation architect, and the local historical society.

#### **50. Landscape Bond**

To ensure the public amenity of the streetscape a landscape bond in the amount of \$20,000 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.

#### **51. 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.

#### **52. 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, 1-7A 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 375mm diameter pipeline along the sites eastern boundary 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 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.

#### **53. 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.

#### **54. 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 ALW Design listed below is for DA purposes only and is not to be used for construction. The detailed design must reflect the approved concept plan:

<b>Drawing:</b>	<b>Ref:</b>	<b>Revision:</b>	<b>Dated:</b>
Stormwater Details	SW9127-S1	B	25 February 2011
Site Stormwater Management Layout	SW9127-S2	B	25 February 2011
Lower Basement Concept Drainage Layout	SW9127-S3	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:

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

##### **2. Water Sensitive Urban Design**

Water sensitive urban design elements, consisting in this instance of bio-retention swales, rainwater reuse tanks, gross pollutant traps 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/>.

#### **55. 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.

#### **56. 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.

#### **57. Works on Adjoining Land**

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

#### **58. 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.

#### **59. 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 \$56,430.00 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 (109m) plus an additional 50m on either side (209m) 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.

#### **60. 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.

#### **61. 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 943/2010/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.

#### **62. 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.

#### **63. 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.

#### **64. Additional Acoustic Assessment**

As recommended in the acoustic report prepared by Vipac Engineers & Scientists Ltd, referenced as Report No. 20C-09-0174-TRP-750200-1, an acoustic assessment and report shall be provided to the certifying authority on the plant and equipment which had not be chosen at the time of the initial acoustic report. The additional acoustic report shall examine noise from plant and equipment and especially the ventilation system and exhaust from the car-park.

### **PRIOR TO WORKS COMMENCING ON THE SITE**

#### **65. 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 provided to Energy Australia for consideration and approval prior to any commencement of works on site:

- 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.

#### **66. 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.

#### **67. Notification**

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

#### **68. Principal Certifying Authority**

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

#### **69. 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.

#### **70. 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).

#### **71. 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.

#### **72. 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.

#### **73. 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.

#### **74. 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.

## **75. 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.

## **76. 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.

## **77. Protection of Existing Trees**

The trees that are to be retained are to be protected during all works with 1.8m high chainwire 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.

## **78. 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.

## **79. 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.

## **80. 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.

### **81. Notification of Asbestos Removal**

Prior to the commencement of any demolition works involving asbestos or asbestos containing materials, all adjoining and adjacent neighbours and Council must be given a minimum five days written notification of the works.

## **DURING CONSTRUCTION**

### **82. 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 Nos. 263832M & 263984M be complied with.

### **83. 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.

### **84. 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.

### **85. 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.

### **86. 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.

### **87. 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.

## **PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

### **88. 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](http://www.sydneywater.com.au) and then refer to Water Servicing Co-ordinator under "Developing Your Land" or telephone 13 20 92 for assistance.

### **89. 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).

### **90. 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.

### **91. 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 BHDCP Part D, Section 3 – Landscaping.

### **92. 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.

### **93. 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.

#### **94. 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.

#### **95. 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).

#### **96. 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.

#### **97. 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.

#### **98. 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.

#### **99. 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.

#### **100. 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.

### **101. 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.

### **102. 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.

### **103. Amendment to Existing Drainage Easement**

The existing drainage easement must be amended generally as shown on the approved easement plan prepared by Architex Drawing DA07 Revision F dated 23 February 2011 before an Occupation Certificate is issued. 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.

### **104. 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:

- a) Works as executed plans prepared on a copy of the approved plans;
- b) A certificate from a suitably accredited engineer or surveyor verifying that the constructed OSD system will function hydraulically;
- c) 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.

### **105. 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.

### **106. Regulated Systems**

To ensure that adequate provision is made for ventilation of the building all mechanical and/or natural ventilation systems shall be designed, constructed and installed in accordance with the provisions of:

- a) The Building Code of Australia,
- b) AS 1668 Part 1 & 2 – 1991,
- c) The Public Health Act – 1991
- d) Public Health (Microbial Control) Regulation 2000,
- e) Work Cover Authority,

- f) AS 3666 –1989 Air Handling and water system of building microbial control  
Part 1 - Design installation and commissioning  
Part 2 - Operation and maintenance  
Part 3 - Performance based maintenance of cooling water systems.

An application to register any regulated system installed must be made to Council prior to commissioning.

**107. 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.

**108. Agreement for On-site Waste Collection**

An Indemnity Agreement is to be signed and returned to Council to enable servicing of bins from the private road by Council's waste collection vehicles. The garbage service will not commence and bins will have to be taken to the public road for collection, if the Indemnity Agreement has not been received.

**109. Owner Details for Bin Trolley**

Prior to issue of the Occupation Certificate the name, address and contact details for the ownership of the bin trolley are to be provided to Council.

**THE USE OF THE SITE**

**109. Lighting**

Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the *Australian Standard AS 4282: 1997 The Control of Obtrusive Effects of Outdoor Lighting*.

**110. Final Acoustic Report**

Within three months from the issue of an occupation certificate, an acoustical assessment is to be carried out by an appropriately qualified person, in accordance with the EPA's (DECC) Industrial Noise Policy and submitted to Council for consideration. This report should include but not be limited to, details verifying that the noise control measures as recommended in the acoustic report submitted with the application are effective in attenuating noise to an acceptable noise level and that the use of the does not give rise to "offensive noise" as defined under the provision of the Protection of the Environment Operation Act 1997.

**111. 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.

**112. 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

<b>JRPP NOS.:</b>	2009SYW018 2009SYW031 2010SYW001
<b>DA NOS.:</b>	562/2010/JP 895/2010/JP 943/2010/JP
<b>APPLICANT:</b>	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
<b>PROPOSAL:</b>	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
<b>PROPERTY:</b>	2-8 JAMES STREET, 7-13 JENKINS ROAD & 2-14 THALLON STREET and 1-7A THALLON STREET, CARLINGFORD
<b>LODGEMENT DATES:</b>	DA 562/2010/JP – 12 OCTOBER 2009 DA 895/2010/JP – 14 DECEMBER 2009 DA 943/2010/JP – 22 DECEMBER 2009
<b>REPORT BY:</b>	DEVELOPMENT ASSESSMENT CO-ORDINATOR CLARO PATAG THE HILLS SHIRE COUNCIL
<b>RECOMMENDATION:</b>	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 Government's 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

**JRPP STATUS REPORT**

<b>JRPP NO:</b>	2010SYW001
<b>DA NO:</b>	943/2010/JF
<b>PROPOSED DEVELOPMENT:</b>	CONSTRUCTION OF A MIXED USE DEVELOPMENT, FOUR (4) TO EIGHTEEN (18) STOREYS IN HEIGHT INCLUDING DEMOLITION OF ALL EXISTING STRUCTURES ON SITE.
<b>SUBJECT SITE:</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>	STANFORD HOUSE 68 PTY LTD
<b>LODGEMENT DATE:</b>	22 DECEMBER 2009
<b>REPORT BY:</b>	DEVELOPMENT ASSESSMENT CO-ORDINATOR CLARO PATAG THE HILLS SHIRE COUNCIL
<b>RECOMMENDATION:</b>	DEFERRAL

**EXECUTIVE SUMMARY**

The Development Application is for the construction of an eighteen (18) storey mixed use development comprising a total of 183 residential apartment units and a 407.9m<sup>2</sup> retail floor space at the ground floor level. Three hundred four (304) off-street car parking spaces within 5 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. As indicated in the first status report to the Joint Regional Planning Panel on 25 May 2010, the foreshadowed SEPP 1 objection was considered to be supportable as the 2.5m non-compliance (which was due to the inclusion of a plant room within the roof form within the central roof above the stair well/ lift lobby) does not result in adverse solar access or adverse privacy impacts on adjoining development. 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 54m to 57m, and as a result made the proposed development which has an overall height of 56.5m fully compliant. In this regard the SEPP 1 objection previously lodged is no longer required.

The proposed development fully complies with the key site built form controls and conforms to the development pattern established in the key sites Block 6: 1-7 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 gazetting 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 issue of RailCorp's concurrence and 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

Owner:	Stamford House 88 Pty Ltd	1.	BHLEP 2005 (Amendment No. 20) – Carlingford Precinct – Permissible with consent.
Zoning:	Stamford House 88 Pty Ltd	2.	BHDCP Part E Section 22 – Carlingford Precinct – Variation required – see Report.
Area:	Residential 2(a1)	3.	SEPP (Major Development) 2005 – Complies
Existing Development:	Dwellings and an office annexe and packing shed of Carlingford Produce Store	4.	SEPP (Infrastructure) 2007 Complies
Capital Investment Value	\$29 Million	5.	SEPP 1 Development Standards – Satisfactory.
Political Donation Disclosure	Yes	6.	SEPP No. 65 – Design Quality of Residential Flat Development – Complies
		7.	Section 94 Contribution – to be determined as part of the VPA
		8.	Section 79C (EP&A Act) – Satisfactory

#### SUBMISSIONS JRPP

#### REASONS FOR REFERRAL TO

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.	2.	Submission
3. Number Advised:	Fifty-nine (59)		

4. Received:	Submissions	One (1)		
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## HISTORY

23/09/2010	<p>The Joint Regional Planning Panel (JRPP) considered a report on the subject proposal and resolved the following:-</p> <p><i>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:-</i></p> <ul style="list-style-type: none"> <li>• <i>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</i></li> <li>• <i>A detailed assessment of all planning and design matters</i></li> </ul>
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.
01/10/2010	Geotechnical investigation report submitted by the applicant in response to RailCorp's request for additional information.
05/10/2010	Letter sent to Integral Energy Australia seeking comments regarding the proposed development in accordance with the JRPP resolution.
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	Additional information submitted by the applicant to RailCorp providing details of proposed shoring system, excavation procedure and foundation system for the proposed development.
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 the 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.
22/11/2010	Flood study submitted by the applicant.

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.
01/12/2010	Traffic noise report submitted by the applicant in response to Council's query regarding traffic noise generated by the proposed development on adjoining and nearby streets.
02/12/2010	Letter sent to Integral Energy advising that the JRPP resolution of 23/9/10 has been discussed with Energy Australia's representative. Energy Australia has advised they can provide comments on the appropriateness of the proposal in terms of its intensity and proximity to the transmission lines only, and that the other comments sought by JRPP in terms of the substation should be addressed by Integral Energy being the owner of the nearby substation.
10/12/2010	Letter sent to Energy Australia following up their comments as required in the JRPP resolution.
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.
22/12/2010	Additional engineering information received from the applicant relating to drainage easement and basement car parking. It was also advised that a plan showing the electrical transmission easement has been forwarded to Energy Australia, as requested.
24/12/2010	Revised flood study submitted by the applicant's engineering consultant.
14/01/2011	Letter sent to JRPP (via email) advising the status of Development Applications within the Carlingford Precinct including the subject proposal.
19/01/2011	Letter received from Energy Australia indicating that a response will be forwarded within the week.
19/01/2011	Additional information submitted by the applicant relating to stormwater management and drainage model (MUSIC).
24/01/2011	Letter sent to the applicant raising outstanding engineering issues in response to stormwater management and Music (drainage) model submitted.
24/01/2011	Letter received from Energy Australia providing their "in-

	principle" approval to the development subject to conditions prior to commencement of works.
31/01/2011	Additional engineering information relating to drainage easement and car parking including amended architectural drawings received.
03/02/2011	Letter received from RailCorp requesting further geotechnical information. Letter was forwarded to the applicant for their response.
07/02/2011	Additional information forwarded by the applicant to RailCorp as requested in their letter dated 03/02/2011.
08/02/2011	Additional information submitted by the applicant in response to RailCorp's issues.
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".
23/02/2011	Letter sent to the applicant advising they have not sufficiently addressed all the points raised in Council's letter dated 24/01/2011 in relation to easement, stormwater management and car parking.
23/02/2011	Amended easement plan and car parking layout submitted by the applicant.
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 74 – 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 7 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 VFAs 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 VFAs 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, an 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 54m and the proposal exceeds this height limit by 2.5m (which was due to the inclusion of a plant room within the roof form within the central roof above the stair well/lift lobby). 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 54m to 57m, and as a result made the proposed development which has an overall height of 56.5m fully compliant. In this regard the SEPP 1 objection previously addressed in the initial report to JRPP is no longer required.

The proposed development fully complies with the key site built form controls and conforms to the development pattern established in the key sites Block 6: 1-7 Thalon Street as provided in the BHDCP 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). RailCorp's concurrence pursuant to the provisions of the State Environmental Planning Policy (Infrastructure) 2007
- ii). Adoption of Carlingford Precinct Public Domain Plan and draft 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.

### **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 Government's 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 issue of RailCorp's concurrence and 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

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

- 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** 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.
- 13/08/2010**

<b>29/07/2010</b>	Further letter sent to the applicant requesting the withdrawal of the subject Development Application.
<b>06/08/2010</b>	Electromagnetic field study received from the applicant.
<b>13/08/2010</b>	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 72) 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 72). 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 5 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 BHDCP 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 JRP 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 72 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 Government's 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 F 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 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**

<b>14/02/2006</b>		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.
<b>19/05/2009</b>		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.
<b>05/06/2009</b>		Pre-lodgement meeting held with applicant to discuss concept proposa for the site together with other three apartment proposa s within the vicinity.
<b>22/12/2009</b>		Subject Development Application lodged.
<b>06/01/2010</b>		Subject Development Application referred to Joint Regional Planning Panel.
<b>08/01/2010 29/01/2010</b>	<b>to</b>	Subject Development Application notified to adjoining and surrounding properties.
<b>07/01/2010</b>		Letter to applicant requesting additional waste management information.
<b>12/01/2010 29/01/2010</b>	<b>to</b>	Subject Development Application advertised in the local paper for public comments.
<b>20/01/2010</b>		Letter to applicant requesting additional information requested by RailCorp (relating to geotechnical and structural issues) and Council's Waste Management Section.
<b>19/02/2010</b>		Letter to applicant requesting further waste management information.
<b>24/02/2010</b>		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 721 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 F 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 tens on 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 BHDCP 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 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 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:

DEVELOPMENT STANDARD (CLAUSE NO.)	BHDCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
3.1 Site Requirements	M.n. lot size 4000m <sup>2</sup> M.n. 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 nogeline	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 desired 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> (67% 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>&gt; Lift provided if greater than 2 storeys</p> <p>Accessible housing: &gt; 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 10 objection to the building height prescription under Clause 6D(4)(b) of the draft Local Environmental Plan accompanied the proposal.

Clause 6 of SEPP 10 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 standards 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 gazetta of the draft LEP.

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

No objection is raised subject to conditions. Council's Traffic Section has noted RIA'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, 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 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 BHDCP 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





**THALLON STREET**

**GROUND FLOOR**

**LEGEND**

THALLON STREET	Asphalt
THALLON STREET	Concrete
THALLON STREET	Grass
THALLON STREET	Gravel
THALLON STREET	Shrub
THALLON STREET	Tree
THALLON STREET	Water
THALLON STREET	Path
THALLON STREET	Wall
THALLON STREET	Roof
THALLON STREET	Window
THALLON STREET	Door
THALLON STREET	Stair
THALLON STREET	Elevator
THALLON STREET	Garage
THALLON STREET	Storage
THALLON STREET	Office
THALLON STREET	Shop
THALLON STREET	Restaurant
THALLON STREET	Hotel
THALLON STREET	Apartment
THALLON STREET	Condo
THALLON STREET	Townhouse
THALLON STREET	Single House
THALLON STREET	Detached House
THALLON STREET	Semi-detached House
THALLON STREET	Row House
THALLON STREET	Terraced House
THALLON STREET	Standalone House
THALLON STREET	Commercial Building
THALLON STREET	Industrial Building
THALLON STREET	Warehouse
THALLON STREET	Factory
THALLON STREET	Power Plant
THALLON STREET	Water Treatment Plant
THALLON STREET	Landfill
THALLON STREET	Highway
THALLON STREET	Bridge
THALLON STREET	Tunnel
THALLON STREET	Canal
THALLON STREET	River
THALLON STREET	Lake
THALLON STREET	Ocean
THALLON STREET	Mountain
THALLON STREET	Hill
THALLON STREET	Valley
THALLON STREET	Plateau
THALLON STREET	Desert
THALLON STREET	Forest
THALLON STREET	Field
THALLON STREET	Pasture
THALLON STREET	Woods
THALLON STREET	Swamp
THALLON STREET	Marsh
THALLON STREET	Wetland
THALLON STREET	Barren Land
THALLON STREET	Unimproved Land
THALLON STREET	Open Space
THALLON STREET	Park
THALLON STREET	Recreation Area
THALLON STREET	Sports Field
THALLON STREET	Golf Course
THALLON STREET	Beach
THALLON STREET	Boardwalk
THALLON STREET	Pier
THALLON STREET	Dock
THALLON STREET	Harbor
THALLON STREET	Port
THALLON STREET	Shipyard
THALLON STREET	Marina
THALLON STREET	Yacht Club
THALLON STREET	Boat Ramp
THALLON STREET	Fishing Pier
THALLON STREET	Swimming Beach
THALLON STREET	Public Beach
THALLON STREET	Private Beach
THALLON STREET	Beach House
THALLON STREET	Beachfront Property
THALLON STREET	Beachfront Development
THALLON STREET	Beachfront Hotel
THALLON STREET	Beachfront Restaurant
THALLON STREET	Beachfront Shop
THALLON STREET	Beachfront Office
THALLON STREET	Beachfront Warehouse
THALLON STREET	Beachfront Factory
THALLON STREET	Beachfront Power Plant
THALLON STREET	Beachfront Water Treatment Plant
THALLON STREET	Beachfront Landfill
THALLON STREET	Beachfront Highway
THALLON STREET	Beachfront Bridge
THALLON STREET	Beachfront Tunnel
THALLON STREET	Beachfront Canal
THALLON STREET	Beachfront River
THALLON STREET	Beachfront Lake
THALLON STREET	Beachfront Ocean
THALLON STREET	Beachfront Mountain
THALLON STREET	Beachfront Hill
THALLON STREET	Beachfront Valley
THALLON STREET	Beachfront Plateau
THALLON STREET	Beachfront Desert
THALLON STREET	Beachfront Forest
THALLON STREET	Beachfront Field
THALLON STREET	Beachfront Pasture
THALLON STREET	Beachfront Woods
THALLON STREET	Beachfront Swamp
THALLON STREET	Beachfront Marsh
THALLON STREET	Beachfront Wetland
THALLON STREET	Beachfront Barren Land
THALLON STREET	Beachfront Unimproved Land
THALLON STREET	Beachfront Open Space
THALLON STREET	Beachfront Park
THALLON STREET	Beachfront Recreation Area
THALLON STREET	Beachfront Sports Field
THALLON STREET	Beachfront Golf Course
THALLON STREET	Beachfront Beach
THALLON STREET	Beachfront Boardwalk
THALLON STREET	Beachfront Pier
THALLON STREET	Beachfront Dock
THALLON STREET	Beachfront Harbor
THALLON STREET	Beachfront Port
THALLON STREET	Beachfront Shipyard
THALLON STREET	Beachfront Marina
THALLON STREET	Beachfront Yacht Club
THALLON STREET	Beachfront Boat Ramp
THALLON STREET	Beachfront Fishing Pier
THALLON STREET	Beachfront Swimming Beach
THALLON STREET	Beachfront Public Beach
THALLON STREET	Beachfront Private Beach
THALLON STREET	Beachfront Beach House
THALLON STREET	Beachfront Beachfront Property
THALLON STREET	Beachfront Beachfront Development
THALLON STREET	Beachfront Beachfront Hotel
THALLON STREET	Beachfront Beachfront Restaurant
THALLON STREET	Beachfront Beachfront Shop
THALLON STREET	Beachfront Beachfront Office
THALLON STREET	Beachfront Beachfront Warehouse
THALLON STREET	Beachfront Beachfront Factory
THALLON STREET	Beachfront Beachfront Power Plant
THALLON STREET	Beachfront Beachfront Water Treatment Plant
THALLON STREET	Beachfront Beachfront Landfill
THALLON STREET	Beachfront Beachfront Highway
THALLON STREET	Beachfront Beachfront Bridge
THALLON STREET	Beachfront Beachfront Tunnel
THALLON STREET	Beachfront Beachfront Canal
THALLON STREET	Beachfront Beachfront River
THALLON STREET	Beachfront Beachfront Lake
THALLON STREET	Beachfront Beachfront Ocean
THALLON STREET	Beachfront Beachfront Mountain
THALLON STREET	Beachfront Beachfront Hill
THALLON STREET	Beachfront Beachfront Valley
THALLON STREET	



#### ATTACHMENT 4 – ELEVATIONS



BLOCK A - SOUTH ELEVATION



BLOCK A - NORTH ELEVATION



BLOCK A - WEST ELEVATION - HALLON STREET FRONTAGE

Figure 1 – Non compliance area

ATTACHMENT 6 – SHADOW DIAGRAMS (9AM-12PM)



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

07 3:00 pm  
shadow diagram 12 noon 21st June



08 1:00 pm



09 2:00 pm

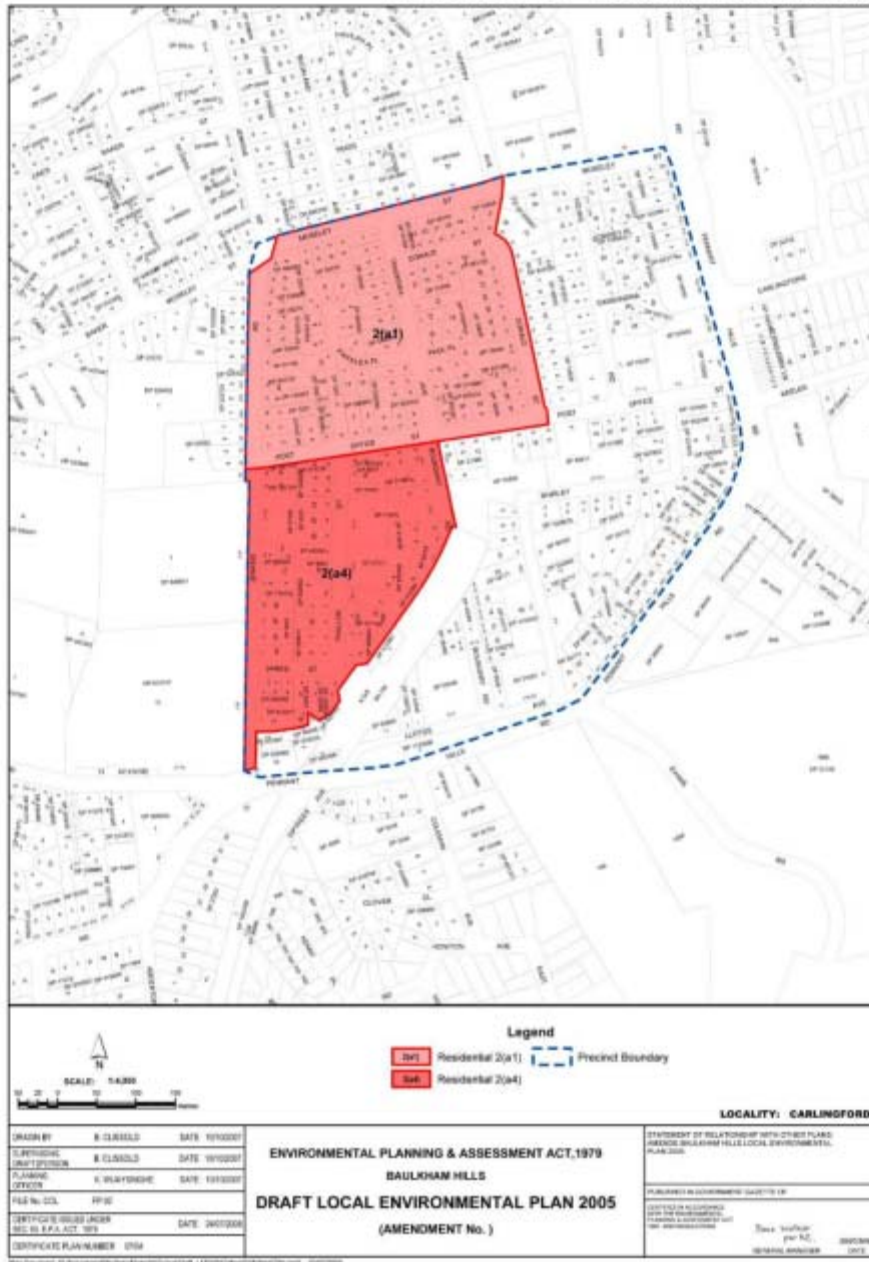




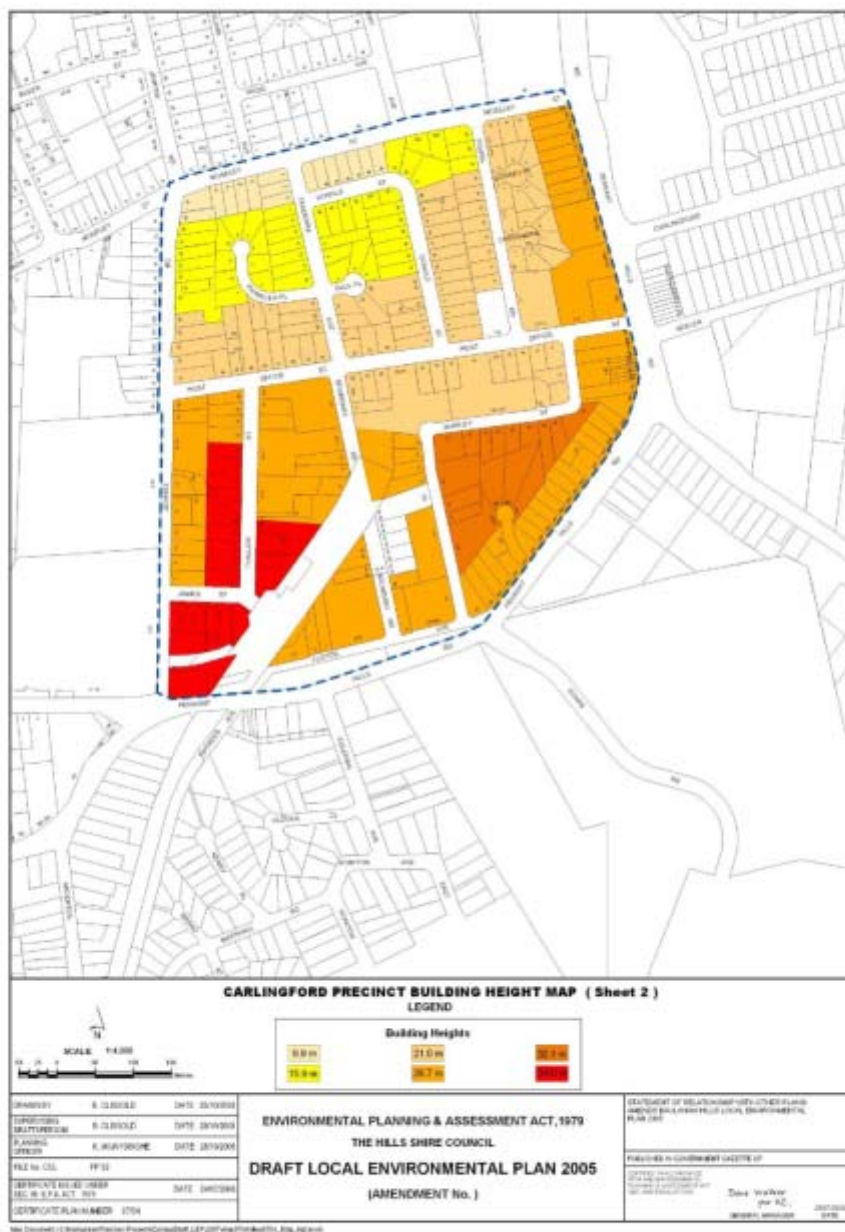
**ATTACHMENT 8 – PERSPECTIVES**



# ATTACHMENT 9 – PROPOSED REZONING MAP

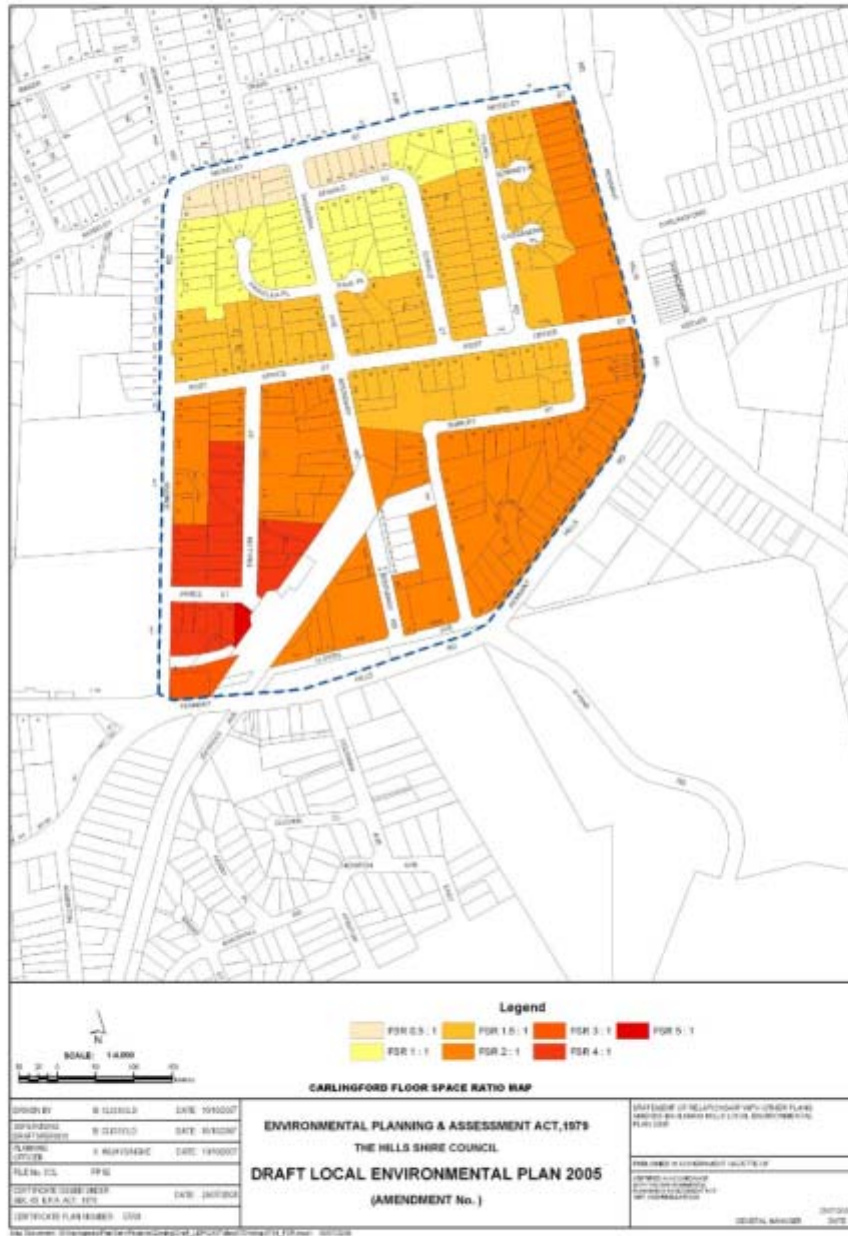


**ATTACHMENT 10 – BUILDING HEIGHT MAP**



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**ATTACHMENT 11 – FLOOR SPACE RATIO MAP**



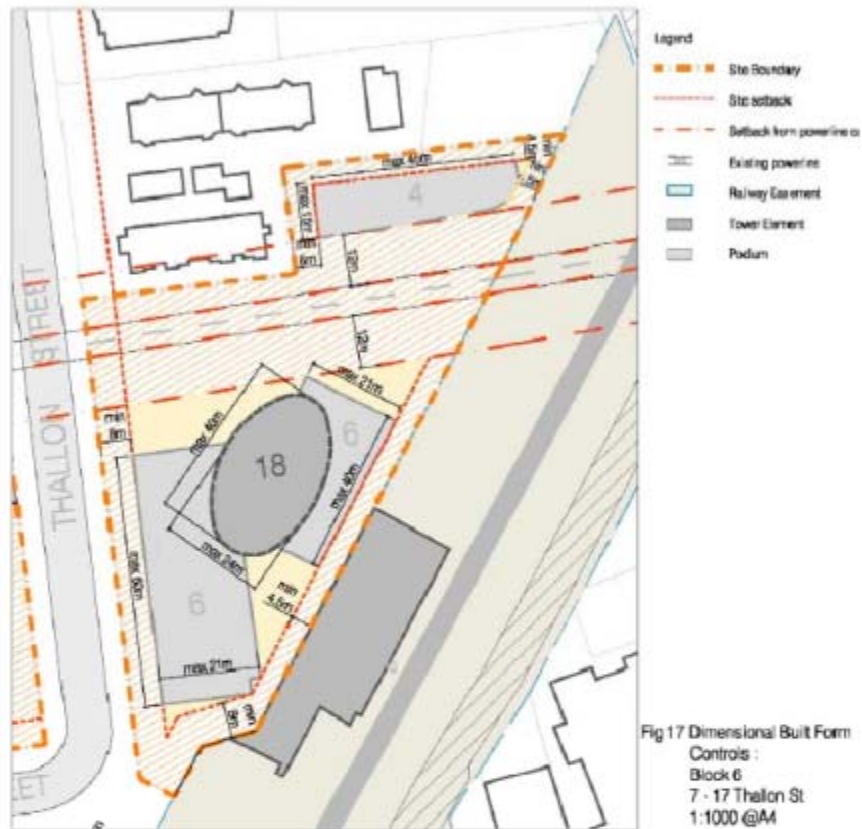
c:\DATAWRKS\TEMP\78803985\Document2.docx



## ATTACHMENT 12 – DIMENSIONAL BUILT FORM CONTROLS

BHDCP Part E Section 22

Carlingford Precinct



**ATTACHMENT 13 – STRUCTURE PLAN – PUBLIC DOMAIN**



**ATTACHMENT 14 – ILLUSTRATIVE MASTERPLAN**



**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

DOE. 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.

PANEL SECRETARAT  
Level 13, 301 George Street SYDNEY, NSW 2000  
GPO Box 3415, SYDNEY NSW 2001  
Tel: (02) 9393 2121  
Fax: (02) 9293 9635  
Email: jrp@jrp.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

ATTACHMENT A3 – COPY OF DEPARTMENT OF  
PLANNING'S LETTER DATED 30 JUNE 2010



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)