



Report to Sydney Central City Planning Panel

SWCCP reference	2017SWC101
DA No.	729/2017
Date of receipt	23 August 2017
Proposal	Residential flat building
Street address	2-6 Paul Place, Carlingford NSW 2118 4 Tanderra Avenue, Carlingford NSW 2118
Property Description	Lot 21, Lot 22, Lot 23 and Lot 24 in DP 216984
Applicant	A1 Green Garden Pty Ltd
Owner	Qun Lin – A1 Green Garden Pty Ltd. XiaoShi Dai Yu Chen Jim Arvanitis Xiao Qing Wang
Submissions	One
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none">• Environmental Planning and Assessment Act and Regulations• State Environmental Planning Policy No. 55• State Environmental Planning Policy (Vegetation in non-rural areas) 2017• State Environmental Planning Policy (Affordable Rental Housing) 2009• State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Development)• State Environmental Planning Policy (Sydney Harbour Catchment) 2005• State Environmental Planning Policy (Building Sustainability Index: BASIX)• State Environmental Planning Policy (State and Regional Development) 2011• The Hills Local Environmental Plan 2012
Recommendation	Refusal

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report ?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?

Yes

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard has been received, has it been attached to the assessment report ?

Yes

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

N/A – Not supported

Conditions

Have draft conditions been provided to the applicant for comment ?

N/A – Not supported

1. Executive summary

This report considers the demolition of existing structures and construction of a 5 storey residential flat building development with affordable housing over basement car parking

Assessment of the application against the relevant planning framework and consideration of matters by Council's technical departments has identified fundamental issues of concerns. The application is therefore not satisfactory when evaluated against section 79C of the Environmental Planning and Assessment Act 1979.

The Panel should note that a Class 1 Appeal has been submitted to the NSW Land and Environment Court at the writing of this report.

This report recommends that the Panel:

- Refuse the application subject to the reasons for refusal in Schedule 1 of Attachment-B.

2. Key issues

- a. Building height;
- b. Floor Space Ratio;
- c. Site Isolation;
- d. Solar Access;
- e. Inconsistent with character;
- f. Variations to DCP controls;
- g. Significant variations to the ADG; and
- h. Insufficient information;

3. Site context

Carlingford previously straddled three different local government areas, being The Hills Shire Council, Parramatta City Council, and Hornsby Shire Council. Following the Council reform of 12 May 2016, the large majority of Carlingford is now under the control of the new City of Parramatta Council.



Figure 1: Aerial View of Site Context. Sites outlined in Yellow. Source: Geocortex



Figure 2: Aerial View of the Site. Site outlines in Yellow. Source: Geocortex

The Site comprises four properties located at the north-eastern corner of the Tanderra Avenue/Paul Place intersection known at No. 2, No. 4 and No. 6 Paul Place, and No. 4 Tanderra Avenue, Carlingford. The Site contains four detached dwelling houses.

The Site has a combined area of 3,130m² and is irregular in shape with a frontage of 42.672 metres to Tanderra Avenue, and 36.18 metres to Paul Place. The Site has a slope of approximately 4% (4 in 10) from the north-eastern corner to the south-western corner of the site.

The Site is located approximately 520 metres walking distance from Carlingford Station and 650 metres from Carlingford Court Shopping Centre. See Figure 1.

The Site is within an existing residential area with approved residential flat buildings to the north and south. See Figure 2 above. The development would have the effect of isolating the site immediately adjoining to the north.

Nos. 19-23 Post Office Street, 2-8A Donald Street, 6-10 Tanderra Avenue, and 10 Paul Place, Carlingford (DA 20/2016/JP former Hills Shire Council) to the south of the Site were the subject of a recent development consent by the JRPP on 17 March 2016 for three, five storey residential flat buildings containing 120 units. Construction of this development had not commenced at the time of this report.

Nos. 28-34 Donald Street, Carlingford (DA/1018/2016) to the north was the subject of a recent development consent by the JRPP on 29 October 2016 for the construction of a four storey residential flat building with in-fill affordable housing containing 48 units. A modification (DA/1018/2016/A) is currently before the Sydney Central City Planning Panel for determination.

The proposal comprises the following primary elements:

- 5 storey Residential Flat Building comprising 53 units;
- 67 car spaces within 1.5 levels of basement;
- Amalgamation of four existing lots;
- Tree removal.

The proposed dwelling mix is as follows:

- 8 x 1 bedroom units;
- 38 x 2 bedroom units;
- 7 x 3 bedroom units

Twenty-seven (27) units are identified as being affordable housing under SEPP (Affordable Rental Housing).

The basements would include the following:

- 56 residential car spaces including 4 accessible spaces;
- 11 residential visitor car parking spaces including 1 accessible space;
- 1 motorcycle parking spaces;

6. Public notification

The notification period was 7 September 2017 to 21 September 2017. One submission was received raising the following issues:

- Oversupply of dwellings;
- Privacy to the adjoining dwellings;
- Overshadowing;
- Wind tunnel effect;
- Security; and
- Traffic and Parking.

7. Referrals

Any matters arising from internal/external referrals not dealt with by conditions	No
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8. Environmental Planning and Assessment Act 1979

Does Section 5A (Significant effect on threatened species) apply ?	No
Does Section 77A (Designated Development) apply ?	No
Does Section 91 (Integrated Development) apply ?	Yes

9. Consideration of SEPPs

Key issues arising from evaluation against SEPPs Non-compliances with the Apartment Design Guide - A detailed assessment is provided at **Attachment A**.
Exceedances with SEPP (Affordable Rental Housing) 2009 – A detailed assessment is provided at **Attachment A**.

10. The Hills Local Environmental Plan 2012

The following table is a summary assessment against the LEP. A detailed evaluation is provided at **Attachment A**.

Table 1: LEP compliance

	<i>Comment or non-compliances</i>
Zones	<ul style="list-style-type: none"> R4 High Density Residential
Definition	<ul style="list-style-type: none"> Residential flat building
Part 2 Permitted or prohibited development	<ul style="list-style-type: none"> Permissible in the zone Inconsistent with the zone objectives
Part 4 Principal development standards	<ul style="list-style-type: none"> Non-compliance - Building height The development standard is 16 metres. The maximum height of the building is 21.39 metres (non-compliance is 5.39 metres or 33.6%) A submission under clause 4.6 has been provided. The variation is not supported. Non-compliance – Minimum Lot size for RFB The development standard is 4000m². The site area is 3,130m² (non-compliance is 870m² or 2175%) The variation is not supported due to of the isolation of the adjoining site.

Part 5

Miscellaneous provisions

All relevant provisions satisfied

Part 7

Additional local provisions

All relevant provisions satisfied

11. The Hills Development Control Plan 2012

The following table is a summary assessment against this DCP. A detailed evaluation is provided at **Attachment A**.

Table 2: DCP compliance

<i>Comment or non- compliance</i>	
Part B Section 5 – Residential Flat Building	Not consistent including: <ul style="list-style-type: none">- Site isolation
Part D Section 12 – Carlingford Precinct	Not consistent including: <ul style="list-style-type: none">- Future Desired Character;- Floor Space Ratio;- Building Height;- Site Coverage;- Open Space;- Building Entry;- Access, Safety and Security

12. Response to SCCPP briefing minutes

The matter has not been briefed to the SCCPP previously.

Conclusion

The proposal fails to respond appropriately to the objectives and controls of the applicable planning framework, in particular, the proposal does not meet the desired future character of the Carlingford Precinct, is an overdevelopment of the site given the environmental constraints, and inequitably restricts the redevelopment of adjoining sites.

RECOMMENDATION

- A. That the Sydney Central City Planning Panel refuse DA/729/2017 for the Demolition of existing structures lot consolidation and construction of a five (5) storey residential apartment building with affordable housing in accordance with State Environmental Planning Policy (Affordable Rental Housing) 2009 comprising of 53 units and associated landscaping on land at 2-6 Paul Place and 4 Tanderra Avenue, CARLINGFORD for the following reasons:
1. In accordance with Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, the proposal exceeds the maximum floor space ratio permitted

- for the site as per Clause 13(2)(a)(ii) of State Environmental Planning Policy (Affordable Rental Housing) 2009;
2. In accordance with Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, the proposal does not achieve the solar access requirements in Clause 14(1)(e) of State Environmental Planning Policy (Affordable Rental Housing) 2009;
 3. In accordance with Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, the proposal fails to achieve the design quality principles in Schedule 1 of State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development;
 4. In accordance with Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, the proposal does not comply with the Apartment Design Guide with respect to building separation, apartment size and layout, and private open space;
 5. Insufficient information was provided to undertake a full and proper assessment in accordance with Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, the proposal does not comply with the Apartment Design Guide with respect to solar access, and storage space.
 6. In accordance with Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, the proposal does not comply with Clause 4.3 Height of Building and Clause 4.4 Floor Space Ratio of The Hills Local Environmental Plan 2012;
 7. In accordance with Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, the proposal fails to provide sufficient justification to vary the development standards pursuant to Clause 4.6 of The Hills Local Environmental Plan 2012;
 8. In accordance with Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act, the proposal fails to comply with The Hills Development Control Plan 2012 with respect to site requirements, future desired character, floor space ratio, building height, site coverage, open space, building entry, and access, safety and security.
 9. In accordance with Section 79C(1)(b) of the Environmental Planning and Assessment Act, the proposal would have unacceptable impacts with respect to natural hazards, context and setting, amenity, and safety, security, and crime prevention.
 10. In accordance with Section 79C(1)(c) of the Environmental Planning and Assessment Act, the site is not considered suitable for the proposed development;
 11. In accordance with Section 79C(1)(e) of the Environmental Planning and Assessment Act, the proposal is not in the public interest.



ATTACHMENT A- PLANNING ASSESSMENT

SWCCP reference 2016SYW149

DA No. 529/2017

1. Overview

This Attachment assesses the relevant matters for consideration under section 79C of the Environmental Planning and Assessment Act, as noted in the table below:

Table 1 : Matters for Consideration

<i>Provision</i>	<i>Comment</i>
Section 79(1)(a)(i) - Environmental planning instruments	Refer to section 2 below
Section 79C(1)(a)(ii) - Draft planning instruments	Not applicable
Section 79C(1)(a)(iii) - Development control plans	Refer to section 3 below
Section 79C(1)(a)(iiia) - Planning agreements	Refer to section 4 below
Section 79C(1)(a)(iv) - The Regulations	Refer to section 5 below
Section 79C(1)(a)(v) - Coastal zone management plan	Not applicable.
Section 79C(1)(b) - Likely impacts	Refer to section 6 below
Section 79C(1)(c) - Site suitability	Refer to section 7 below
Section 79C(1)(d) – Submissions	None received
Section 79C(1)(e) - The public interest	Refer to section 8

The following internal and external referrals were undertaken:

Table 2: Referrals

Landscape	No objections
Development Engineer	No objections
Traffic	No objections
Environmental Health (Waste)	No objections

Design Excellence Advisory Panel	Not supported.
Urban Design	Concurrence with DEAP comments. Not supported.

2. Environmental planning instruments

Compliance with these instruments is addressed below.

2.1 State Environmental Planning Policy No. 55 – Remediation of land

The site is not identified in Council's records as being contaminated. A Site inspection reveals the site does not have an obvious history of a previous land use that may have caused contamination and there is no specific evidence that indicates the site is contaminated.

The site does not require a Phase 1 site analysis under the SEPP.

2.2 State Environmental Planning Policy – BASIX

The requirements outlined in the BASIX certificate have been satisfied in the design of the proposal. A condition will be imposed to ensure such commitments are fulfilled during the construction of the development.

2.3 State Environmental Planning Policy (Vegetation in non-rural areas) 2017

The application has been assessed against the requirements of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017. This Policy seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The application proposes the removal of both native and non-native vegetation as follows:

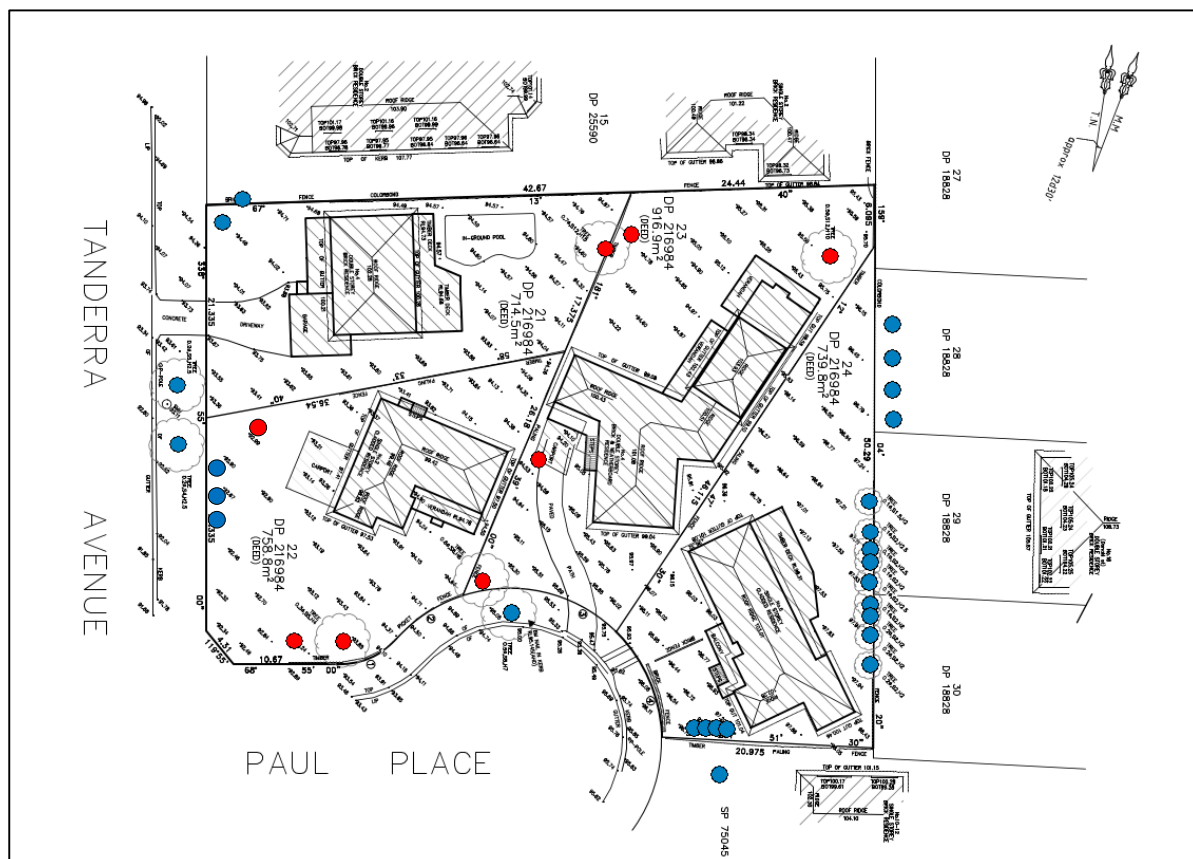


Figure 4: Identification of Trees to be removed using data from Arborist Report. Red trees to be removed. Blue trees to be retained.

Table 3: Table of Vegetation to be removed from the site.

Tree No. / Species	Common Name	Number of Trees
8. <i>Jacaranda mimosifolia</i>	Jacaranda	1
9. <i>Tibouchina lepidota</i> 'Alstonville'	Alstonville tibouchina	1
10. <i>Lophostemon confertus</i>	Brushbox	1
11. <i>Ceratopetalum gummiferum</i>	NSW Christmas bush	1
12. <i>Magnolia x soulangeana</i>	Saucer Magnolia	1
14. <i>Mangifera indica</i>	Mango	1
15. <i>Archontophoenix cunninghamiana</i>	Bangalow Palm	1
19. <i>Cupresses macrocarpa</i>	Monterey Cypress	1

The Aboricultural Impact Assessment submitted provides the following assessment of the trees to be removed:

- Tree 8, 9, and 19 failed a visual tree assessment and are not considered suitable for retention.
- Tree 10, 11, 12, 14, and 15 are suitable to be considered for retention but are impacted by the proposed plans.

Council's Tree and Landscape Officer concurs with the above conclusion and supports the removal of these trees.

Subject to conditions for replanting and the protection of the remaining trees on site, and replanting of street trees, the application meets the aims of the SEPP.

2.4 State Environmental Planning Policy (Sydney Harbour Catchment) 2005 (Deemed SEPP)

The application has been assessed against the requirements of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. This Policy provides general planning considerations and strategies to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained.

Council's Development Engineer has reviewed the submitted documentation relating to stormwater quality and management and raise no objection to the development.

Subject to the implementation of installation of sediment and erosion control measures and stormwater management to protect water quality, the proposal would have minimal potential to impact on the Sydney Harbour Catchment.

2.5 State Environmental Planning Policy (Affordable Rental Housing) 2009

Accessible Area

SEPP (Affordable Rental Housing) 2009 applies to sites located within an **accessible area** defined as:

- a) 800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or
- b) 400 metres walking distance of a public entrance to a light rail station or, in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or
- c) 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the [Passenger Transport Act 1990](#)) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.

The site is located approximately 530 metre walking distance from Carlingford Station.

At the time of lodgement, this site is considered to be an accessible area. Following the commencement of Stage 1 of Parramatta Light Rail project, the site will no longer be in an accessible area as defined by the SEPP (465 metre walking distance) as Carlingford Station will be converted into a Light Rail Station. However, the Parramatta Light Rail Project is not in a finalised form and therefore the site is considered to be accessible.

Table 4: SEPP (Affordable Rental Housing) compliance

SEPP (Affordable Rental Housing) 2009			
Subject	Control	Proposal	Compliance
Floor Space Ratio	If the maximum floor space ratio is 2.5:1 or less: (i) 0.5:1—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or	The applicant proposes to allocate 50% of the development to Affordable Rental Housing which would result in a maximum FSR of 1.5:1. However, the application	No See further comment

	<p>higher, or</p> <p>(ii) Y:1—if the percentage of the gross floor area of the development that is used for affordable housing is less than 50 per cent, where:</p> <p>AH is the percentage of the gross floor area of the development that is used for affordable housing.</p> <p>$Y = AH \div 100$</p>	<p>indicates that the common property hallways are included in the allocation of affordable housing thereby artificially inflating the amount of affordable housing provided.</p> <p>The proposal indicates an FSR of 1.5:1.</p>	
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The application proposes the use of common property in the calculation of affordable housing. See Figure 5 below:



Figure 5: Extract of Affordable Housing allocation plan.

The area of common property included as affordable housing is equal to 181m².

Therefore, the calculated area provided for affordable housing is 2370m² – 181m² = 2189m².

As a proportion of the proposed FSR, the amount of affordable housing provided is 46.7%.

The proposed FSR for the site is 1.498:1 which is in excess of the permitted FSR.

No SEPP 1 was submitted as the applicant disagreed that the common property should be included in the calculation of affordable housing.

Site Area	Minimum 450m ²	Site Area 3130m ²	Yes
Landscaped Area	Minimum 30% (939m ²)	33.6% (1051m ²)	Yes
Deep Soil Zones	Minimum 15% (469.5m ²) Min Dimension 3m 2/3 located at rear (310m ²)	33.6% (1051m ²) Min Dimension 3m 356m ² provided at rear	Yes
Solar Access	70% receive 3 hours	47% receive 3 hours of sunlight	No

Clause 14(1)(e) of SEPP (ARH) provides a standard that cannot be used to refuse consent if

met:

(e) solar access

if living rooms and private open spaces for a minimum of 70 per cent of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.

In this instance, the application indicates that 47% (25/53) of units would receive 3 hours of direct sunlight during mid-winter.

It is acknowledged that the development achieves the minimum requirements of the Apartment Design Guide, being 70% of units receiving 2 hours of sunlight during mid-winter.

This notwithstanding, given the suburban context of the site, the separation between the proposal and surrounding lots, and that there are obvious options available to resolve this issue, including the reorientation of the building, Council is unable to support the reduced solar access to the development below the minimum requirements of the SEPP.

It is noted that this is based upon the applicant's assertion as insufficient information has been provided to allow for a detailed assessment by Council.

Car Parking	0.5 / 1 bedroom	67 spaces provided	Yes
	1 / 2 bedroom		
	1.5 / 3+ bedrooms		
	Total: 53 spaces		

It is noted that The Hills DCP requires the provision of 118 car spaces for a development of this scale.

Dwelling Size	50m ² / 1 Bedroom	1 Bedroom min 50m ²	Yes
	70m ² / 2 Bedroom	2 Bedroom min 75m ²	
	95m ² / 3+ Bedrooms	3 Bedroom min 96m ²	

Clause 16A – Character of local area

Clause 16A of SEPP (ARH) states “A consent authority must not consent to development to which this Division applied unless it has taken into consideration whether the design of the development is compatible with the character of the area”.

In considering the character of the local area, the Land and Environment Court planning principle, *Project Venture Developments Pty. Ltd. V Pittwater Council [2005] NSWLEC 191* is used to define the local character.

1. Identifying the local area

This assessment identifies the local area as primarily the visual catchment of the site (as viewed from within the site and directly adjacent to the site on the street) which is shown in Figure 6 below:

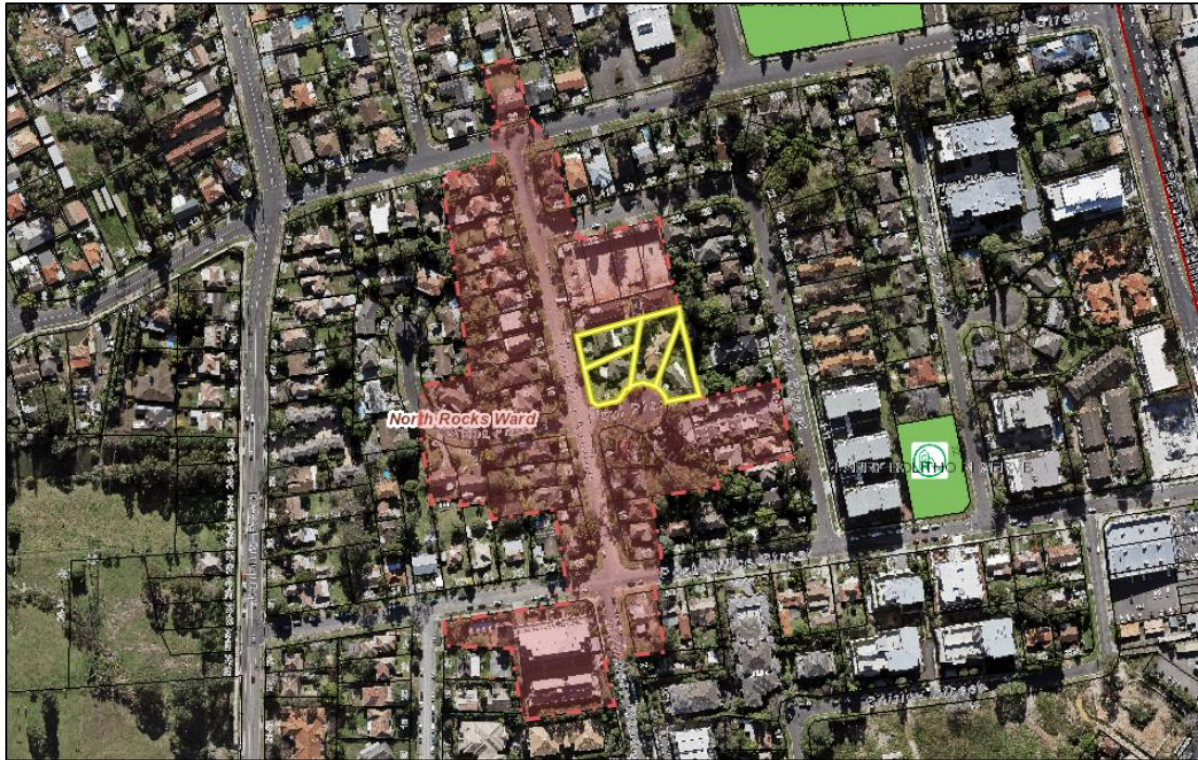


Figure 6: Visual catchment when standing at the intersection of Paul Place and Tanderra Avenue

2. Determine the character (present and future) of the local area

Present Character of the area

The area of Carlingford has historically been in the form of detached dwelling houses on large allotments (of 600-900m²) each on its own parcel of land.

At the adoption of The Hills Local Environmental Plan 2012, the area of Paul Place/Tanderra Avenue was zoned R4 High Density Development. Since that time, a number of development applications have been lodged and determined for residential flat buildings, and a number remain under assessment

In detail, the remaining detached dwelling house stock interspersed with multi-dwelling housing developments in the surrounding area retains its general character. The existing dwelling houses are generally setback between 8-10 metres with some variation depending on the orientation of the site with large, landscaped rear yards.

In terms of approved residential flat buildings in the area surrounding the site, the front setback, in particular to Tanderra Avenue, is 10 metres with minor variations with landscaping within the setback with the exception of driveways, access paths and substations.

The setbacks provided by the existing developments within the area and approved residential flat buildings is generous with these buildings generally sitting in a landscaped setting.

Future Character of the area

The future character of the area is best determined by consideration of the planning framework that applied to the site under Environmental Planning Instruments and Development Control Plans that are presently in force. In this area, the relevant controls are SEPP 65 (and the ADG), SEPP (ARH), The Hills LEP 2012, and The Hills DCP 2012. In terms of building envelope, The Hills LEP 2012 defines the permitted building types, permitted uses, building heights, and maximum floor space ratio, while The Hills DCP 2012 defined building setbacks and desired site design.

The Hills DCP 2012 states the future desired character as “*The northern end of the Precinct will comprise lower scale residential flat buildings interspersed with existing multi-unit developments.*”

The building form of development will reflect a transition of scale between the larger residential flat buildings concentrated around the train station in the south of the Precinct and the smaller scale residential flat buildings proposed in the land north of Post Office Street.

Street setbacks are to complement the proposed garden setting in contrast the strong street edge, activated urban village character of development closer to the train station.

Additional streets are proposed to complement this relationship of buildings to the public domain and establish a finer grained street hierarchy and built forms. Private and communal open space within developments is encourages to visually complement the public realm and where feasible, allow some public access.”

It is noted that SEPP (ARH) provides bonus gross floor area if the development includes a portion of affordable housing.

In terms of assessing the desired future character of an areas, zoning maximum height, floor space, and setbacks are the most deterministic controls with respect to likely planning outcomes. Zoning defines the likely building typology, whereas height, floor space, and setbacks define the size and setting of buildings.

Zoning

Part 2 of The Hills LEP 2012 defines the zoning that applies to any given precinct or site. As shown in the figure below, the zoning of sites and around the affected property is R4 High Density Residential under The Hills LEP 2012.

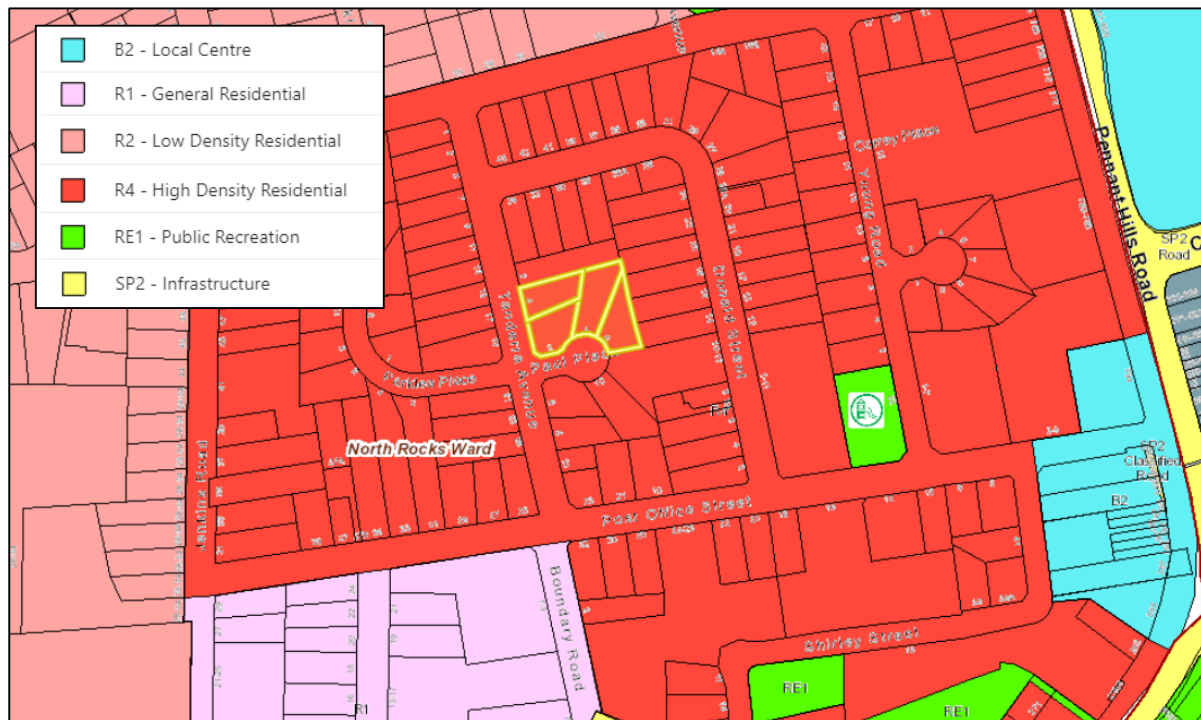


Figure 7: Extract of Zoning Map showing the extent of the R4 High Density Residential zone

The zoning indicates that in the future, development within the Carlingford Precinct will continue to transition towards residential flat development.

Maximum Height and Maximum Gross Floor Area controls

The key controls defining the permitted size of a building are the height of buildings and floor space ratio controls contained in Clause 4.3 and 4.4 of The Hills LEP 2012. The sites in the R4 zones area have a maximum building height of 16 metres (which equates to 4 storeys in the high density residential context and limited by The Hills DCP 2012).

The sites in the character area therefore share a consistent height limit.

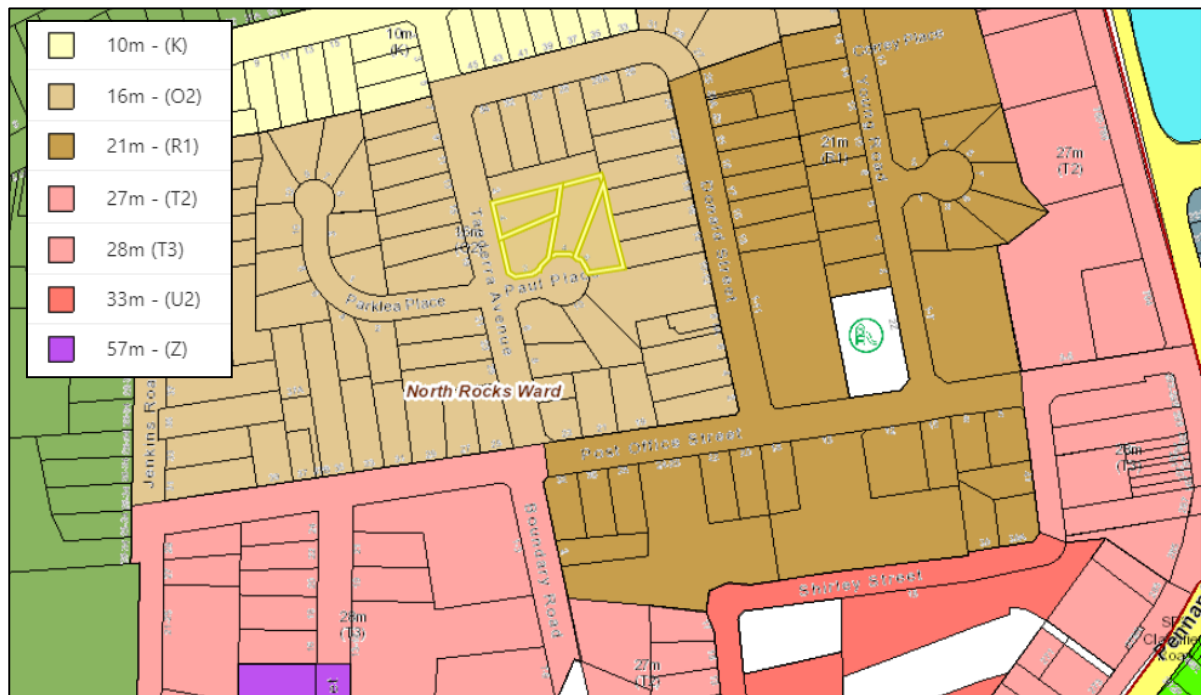


Figure 8: Extract of Height of Buildings Map showing the changing building height throughout the Carlingford Precinct.

However, as show in Figure 9 below, the maximum floor space ratio of the Carlingford Precinct varies significantly and increases with the proximity to Carlingford Station location to the south of the subject site.



Figure 9: Extract of Floor Space Ratio map showing the changing FSR throughout the Carlingford Precinct.

The subject site has a maximum floor space ratio of 1:1 with 1.49:1 FSR immediately to the south of the site, and 0.5:1 FSR on the northern side of Donald Street.

This control, along with the zoning and height controls, shows the subject site is likely to have development of a similar nature to the sites around it, being a residential flat building forming a transition from the higher densities to the south and lower densities to the north.

Setbacks and other building envelope controls

In terms of setbacks and the general building envelope controls applying to the site, these are defined principally by Section 4 in Part D Section 12 *Carlingford Precinct* of The Hills DCP 2012. For the sites in the R4 zoned area, given that residential flat buildings would be the most likely development type in the future, the following control would apply:

- a maximum height of 4 storeys;
- a setback of 10 metres to Tanderra Avenue, and 6 metres to Paul Place;
- side setbacks of 4.5 metres to walls and 6m to windows;
- rear setback of 8 metres.

The development form expected from the above is in the form of a residential flat building in a landscape setting. Presently, development on the site is in the form of dwelling houses in a landscape setting.

3. Determine if the development is compatible with the character of the local area.

The Land and Environment Court planning principle on “compatibility with context” as established in *Project Venture Developments v Pittwater Council* provides the following test to determine whether a proposal is compatible with its context:

- *Are the proposal’s physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.*

The above question is relatively objective. Physical impacts generally include privacy, overshadowing, visual bulk and compatibility in the streetscape.

As advised in this assessment report, the proposal is likely to encumber development on the sites to the east (14-20 Donald Street) and the isolated site to the north (2 Tanderra Avenue) due to inadequate setback provided to the common boundaries to balconies. Although a reasonable attempt has been made to mitigate this impact by way of planter boxes on the balconies, in particular when addressing No. 2 Tanderra Avenue, this approach assumes that future development on the site would be limited to 4 storeys and therefore the separation distances are not applicable to the fifth storey of the proposal.

It is noted that the inability to provide further separation results partly from the provision of additional floor space on the site under SEPP (Affordable Rental Housing) 2009. As addressed in this report, the application exceeds the maximum floor space ratio for the site

as a result of including common property hallways in their calculations for affordable housing.

It is not considered that the outcome is appropriate and is not considered that the documentation submitted regarding the attempts to acquire No. 2 Tanderra Avenue is sufficient.

- *Is the proposal's appearance in harmony with the buildings around it and the character of the street?*

The above question is relatively subjective. To be compatible, a development should contain or at least respond to the essential elements that make up the character of the surrounding area. Historic and recent development in the precinct, and the planning controls applying to the precinct, seek a form of development where the buildings are not visually dominating and are set in the landscape. In this, building height is particularly important in ensuring appropriate compliance is achieved.

The form proposed is not consistent with the character. The proposal significantly exceeds the maximum building height allowable for the site.

An assessment of the nearby developments, indicates that portions of these developments exceed the maximum building height, however these exceedances are generally limited to lift overruns and rooftop communal open space structures. In this instance, the exceedance in building height for the proposal also includes a significant portion of the top floor of the development. The portion of the building which exceeds building height is primarily within Building A located closest to the intersection of Paul Place and Tanderra Avenue, further accentuating the scale of the proposal inconsistent with the general tone and form of development within the Carlingford Precinct.

Additionally, the form of the development is inconsistent with the intent of The Hills DCP 2012, in that the building dominates its surroundings and does not appropriately reflect the existing landforms of the neighbourhood, including drainage depressions.

In conclusion, the height of the building, combined with the exceedance in FSR, will result in a building that will visually dominate the surrounding street and area, and that will constrain the development options on adjoining sites, in particular to the isolated property to the immediate north. The proposal is not consistent with the desired or future character of the precinct for these reasons, and therefore it is concluded that the proposal is not consistent or compatible with the character of the area, and should not be supported for this reason.

2.6 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

This Policy aims to improve the design quality of residential flat development. This proposal has been assessed against the following matters relevant to SEPP 65 for consideration:

- Design Excellence Advisory Panel;
- The 9 SEPP 65 Design Quality Principles; and

- The Apartment Design Guide (ADG).

Design Excellence Advisory Panel (DEAP)

The proposal was considered by DEAP at pre-lodgement stage, and again as a formal development application at its meeting of 28 September 2017. In summary DEAP noted the following matters:

1. *This is a sloping corner site within an R4 – High Density Residential Zone, comprising 4 irregularly shaped cul-de-sac lots. While the context is in transition, adjacent townhouses (reflecting the former B2 zoning) may be more permanent than adjacent single detached dwellings and will therefore require specific consideration in this submission. It is clear that the proposal will isolate the single site to its north. Whilst evidence of negotiation to purchase the site has been provided, the indicative plans of a possible proposal for that site provided does NOT demonstrate compliance, due to the minimal setbacks proposed.*
2. *The cul-de-sac is located at the midpoint of a large block, which is within an evolving high density residential context. The Panel point out that the cul-de-sac is better suited to low-density development, which is clearly outmoded by the current proposal. The proponent is therefore encouraged to investigate the rationalisation of the street and the provision of a new link through to Donald Street, which would increase the permeability of the context generally and enhance walkability and access to transport. Excess frontage may be able to be purchased by the proponent to improve the amenity and yield of the subject site.*
3. *While the height of the proposal exceeds the 16m limit by as much as 5.3m, the major part of this additional height is due to the lift overrun, resulting from the provision of a universally accessible communal roof terrace on the western side of the development only, which the Panel supports.*

Planners comment:

The extent of the non-compliance is beyond only the lift-overrun. The non-compliance extends passed the ceiling of the top floor and includes a portion of the windows to the top floor apartments.

4. *The built form comprises a U shaped layout, which opens the court to the cul-de-sac. While this strategy minimises apparent scale to the street, it produces an overshadowed courtyard and increases impacts to the isolated site to its north. It is therefore recommended, that the proposed layout is amended to face the courtyard to the north. This would also increase the amenity of the courtyard as a communal open space, which is currently little more than an entry court.*
5. *The street frontage and the amenity of street facing units would be substantially improved if the street could be rationalized as described above (Comment 2). As proposed, street facing units A1.05 and B1.06 (and above) are compromised by the*

existing radial street geometry, which creates non-compliant bedrooms and poorly planned living spaces.

- 6. The proposal includes a 0.5:1 density bonus through the provision of affordable rental housing. However, to gain this bonus, the SEPP requires three-hour mid-winter solar access compliance to 70% of the units, which the proposal does not achieve. As the proposal currently demonstrate that the total GFA submitted cannot be comfortably housed on the site and does not demonstrate an improvement to the streetscape, the additional density cannot be supported as currently proposed.*
- 7. As pointed out above, while the proposal achieves two-hour mid-winter solar compliance, it fails to meet the SEPP's (Affordable Rental Housing) three-hour solar access requirements. The proposal achieves ADG natural ventilation and deep soil compliance. See comments above regarding the poor amenity of the communal courtyard. A comprehensive water management plan has been provided and Basix compliance is achieved.*
- 8. The Panel has reviewed the Landscape Plans prepared by Site Image dated 6.7.17 and recommends the following:*
 - a. Entry Courtyard: The south facing entry courtyard is in shade for most of the year. The courtyard design and plant selection should reflect a welcoming entrance and incorporate open form native and deciduous trees that allow solar access into this space. The placement of the three Waterhousia floribunda (Weeping Lilli Pilli) across the front is likely to further exacerbate the shade. Colourful groundcovers should be used as the proposed turf areas are unlikely to thrive. Larger canopy trees to be planted in the deep soil zones at either end of the building to screen and soften the facades.*
 - b. Public domain interface, Pauls Place: Integrate the entry landscape with the future streetscape and public domain at Pauls Place. This should be undertaken in conjunction with Council and should take into consideration a new footpath, new street trees, and the reshaping of Pauls Place cul-de-sac to create a potential pedestrian link to Donald Street (refer comments 1 and 2).*
 - c. The design of the Tanderra Street frontage should be similarly integrated with any planned future streetscape improvements, and be complemented by a high quality landscape setting and more canopy trees to soften the building.*
 - d. The narrow linear space on the eastern boundary labelled as 'communal open space' does not provide much amenity and would be more appropriately allocated and landscaped as private courtyards for the adjacent units (B0.02 to B0.05).*
 - e. In view of the above, the roof terrace above Building A should be enlarged to include the roof of Building B and landscaped as contiguous community open space, directly accessible also from the Building B lift.*
 - f. Almost half of the ground area is dedicated to overland flow drainage and planted with macrophytes. Whilst the use of WSUD is supported, the current solution is unacceptable. Apart from the maintenance burden and compromised functional amenity of these otherwise accessible spaces (especially for Units A0.01, A0.02, B0.01, B0.02) the visual impact on the street frontages is considerable. The WSUD solution should be redressed in discussion with the engineering team to achieve a more sensitive option that will be more functional for the residents and more presentable along the building frontage.*

- g. There are generally insufficient trees planted in the deep soil areas for a development of this size and scale. The planting of additional native canopy trees around the perimeter of the site is recommended to improve the streetscape, the privacy and environmental amenity of the residents and neighbours, and to enhance the habitat values of the neighbourhood.*
- 9. See comment above regarding the rationalization of cul-de-sac and the provision of a new pedestrian link to Donald Street (Comment 2). The link would be partially delivered on the subject site with number 14 completing the link when it is developed. To achieve this objective, it would need to be coordinated by Council as a master plan, incorporating paving, lighting and width requirements. To make this objective possible, the proposed substation needs to be relocated. See comments above regarding the Courtyard's poor amenity and the Panel's recommendation to face the courtyard to the north (Comment 4)*
- 10. Other amenity issues include:*
- a. some bedrooms appear to be accessed from kitchens (units A1.01 and B1.01 and above)*
 - b. many units lack entry spaces (units B1.06, B1.03, A1.02 and above)*
 - c. street facing units A0.05, B0.06, A1.05 and B1.06 (and above) are compromised by the existing radial street geometry, which creates non-compliant bedrooms and poorly planned living spaces.*
 - d. No WC is provided at roof level terrace*
 - e. Roof level terrace is only accessible by one lift core*
 - f. Narrow communal open space to the east should revert to private open space for adjacent ground floor units*
- 11. Lift doors of core B open very close to the carriageway at both basement levels, requiring bollards to be placed within the 5800mm wide carriageway.*
- 12. The principal of breaking up the façade into numerous elements is supported. It will need to be substantially amended however to meet built form recommendations.*

The plans have not been amended.

Planners Comments:

The City of Parramatta DEAP raised concerns generally with regard to the orientation of the development within the site, the internal amenity of apartments, and the quality of landscaping.

The comments, when read together, illustrate an overdevelopment of the site resulting in poor internal amenity, poor accessibility and useability of communal open space, and undue restrictions on adjoining development sites.

Design Quality Principles

Part 4 of the Policy introduces 9 design quality principles. These principles do not generate design solutions, but provide a guide to achieving good design and the means of evaluating

the merits of proposed solutions. As required by the Environmental Planning and Assessment Regulation, the application is accompanied by a response to those design principles, as prepared by the project architect.

The following table provides an assessment of the proposal against those principles having regard to the comments of DEAP and assessment by Council's officers:

Table 5: Response to SEPP 65 design principles (Architect's comments italicised)

Principle
<p>Context and neighbourhood character</p> <p><i>The neighbourhood context is one of predominantly low density detached dwellings set in modest curtilages yet to realise the development potential of the R4 High Density Residential Zone of the Hills Local Environmental Plan 2012. The context is not aligned with the prevailing LEP town planning controls that encourage higher density development with greater heights.</i></p> <p><i>It is also noted that nearby developments are similarly for affordable housing with five storey elements. The proposed development is similar to the other future built form in this regard.</i></p> <p><i>The development proposed includes a thorough consideration of the site context including the adoption of ADG prescribed setbacks to the adjoining neighbouring sites and considerably vegetated setbacks plus tree plantings to complement the existing suburban character of Carlingford but also capturing a high amenity, high density future character. The development introduces a high-density development that is desirable aesthetically with a complementary pallet of materials and finishes. The proposed courtyard form allows for a balanced relationship between built form and landscape. The design is sited to ensure neighbouring sites maintain good amenity in terms of privacy and solar access.</i></p> <p><i>The proposed development seeks to response to its immediate context by:</i></p> <ul style="list-style-type: none"> <i>• Extending the public domain from Paul Place into the site.</i> <i>• Enhancing the landscape interface between the building and the public domain.</i> <i>• Maximising the number of units which benefit from direct solar access in mid-winter.</i> <i>• Maximising the extent of habitable areas which can capture desirable breezes.</i> <p>It is noted that a residential flat building development with an appropriate scale and appropriate design could meet the context and neighbourhood character of the precinct. The proposed development, being a residential flat building, meets this principle, however fails to meet the objectives and controls of the Apartment Design Guide and The Hills DCP as discussed later in this report and is not supported.</p>
<p>Built form and scale</p> <p><i>The residential flat building form of the development is consistent with that encouraged by the high-density vision for the Carlingford Town Centre Precinct North and in this regard, is considered appropriate. A courtyard building typology is proposed which responds to the particular orientation, size and dimensions of the site. The design of the building incorporates features that include varied setbacks and articulation to create an interesting design and mitigate the impact of bulk and scale. The courtyard form allows a large portion of the proposed landscape on the site to form an extension of the public domain Acceptable noting its consistency with the LEP and DCP controls.</i></p> <p><i>The building is set back by 10 metres from Tanderra Avenue defining the street alignment in accordance with the DCP to create a continuity in street alignments for new buildings along Tanderra Avenue. A landscaped swale providing a stormwater solution but also a landscaped frontage. Each façade is well articulated encompassing walls with a render that is painted an off white or grey. The use of timber for the balcony, balcony screens and areas of façade cladding is</i></p>

integral in enhancing the aesthetic of the building best reflected in the photomontages included within the Architecturals.

The opening of the courtyard form to the cul-de-sac is an appropriate streetscape response, creating an visual extension of the public domain. The building steps with topography and sufficient landscape is proposed in setbacks and above the basement slab to achieve a building set within landscape which softens the impact of bulk and scale. The top level is setback from each street frontage, creating a clear base, middle and top to the building and creating a bulk and scale compatible with the area.

The proposed southerly courtyard has a ratio of horizontal to vertical which achieves a human scale at a ratio of 1:1 – 1.3:1. This creates an inviting and high-quality extension of the public domain.

Site planning, building volume/ mass presentation and detailing are satisfactory noting the conclusion of the DEAP.

The proposal is a consolidation of four residential blocks. The consolidation will reduce the number of driveway crossings from four to one providing a more consolidated landscaped setting surrounding the building.

However, the proposal will result in the isolation of the adjoining property No. 2 Tanderra Avenue, Carlingford. This is discussed in detail later in this report.

The proposed scale, bulk and height is not considered appropriate for the area. The proposal does not comply with the maximum floor space ratio or maximum building height allowable under The Hills LEP and SEPP (Affordable Rental Housing) or the maximum height of buildings under the LEP.

Although the proposed 'U-shaped' layout of the building minimises apparent scale to the street, as a direct result of this footprint, the courtyard is overshadowed and impacts to the isolated site to the north. The provisions of SEPP (Affordable Rental Housing) requires a minimum 3-hour mid-winter solar access to 70% of the units. The development does not achieve this.

The proposal does not appropriately address the orientation of the site and is beyond the scale envisioned for the area.

Density

The development maximises density encouraged by the planning controls in this well-located site in terms of existing and planned infrastructure and public transport. The proposed also adds a significant contribution of affordable housing which is in the public interest. Maximising density in this location will allow occupants to take advantage of the convenient access to transport and facilities and is consistent with good strategic planning principles.

The proposal does not demonstrate that the total Gross Floor Area can be comfortably housed on the site while achieving a high level of amenity for residents within each apartment. The application also fails to demonstrate how the proposed density is appropriate to the site and context given the extent of the non-compliance with building height and nearby developments. The proposed dwelling density is not supported and does not meet the Density Principle.

Sustainability

The design addresses the elements of good sustainable design contained in the Apartment Design Guide with high levels of solar access and natural ventilation. 42 out of 53 Units (79%) achieve a minimum 2 hours solar access and 37 out of 53 Units (70%) achieve Cross Ventilation. Unit depth are minimised

In accordance with State and Local Government requirements, a BASIX assessment and report has been prepared as part of the DA. The BASIX report found that the proposal will satisfy the

requirements of BASIX if the recommendations made within the report are adopted.

Overall, the proposal meets the ADG 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. Water cycling and management plans are provided as part of the DA.

Energy and water efficiency targets under SEPP (BASIX) 2004 are achieved.

The design is consistent with best practice design criteria for cross ventilation and solar access under the ADG however fails to achieve the minimum solar access requirements of SEPP (Affordable Rental Housing).

Landscape

The design seeks to create passive recreation spaces with informal seating for ground floor common open spaces and a more formal seating and entertaining area on the roof top. The placement of different common open spaces and the provision of a roof garden allows for a high quality accessible open space on a sloping site. The proposed landscaping is to be resource and energy efficient, low maintenance and the primary communal open spaces in the eastern setback and on the roof will have good solar access, while the south facing courtyard creates a high quality entry response and acts as an extension of the public domain with areas of shade and sunlight depending on the time of year.

Deep soil planting will be provided around the perimeter of the site to support additional tree planting and maximising vegetative planting creating a pleasant communal open space environment. The existing tree-lined streetscape will be complemented by the proposed planting within the setbacks of the site. The landscape design has been undertaken by landscape architects Site Image and their plans include a plant schedule, ground floor landscape plan, rooftop landscape plan and landscape details.

The roof top has been designed to be highly enticing with an array of formal and informal seating areas, a combination of paving tiles to lead the resident around the roof top but ensuring the roof top is imaginative aesthetically. A large turfed rectangular portion comprises part of the roof top softening the roof top. The use of significant ground cover, grasses and shrubs are to be planted on the roof top continuing the attention to detail for a highly green development. The roof top would comprise trees to add shelter and shadow from the sun but also providing a green appearance of the development when viewed from the street scene. Cooking facilities are provided to enhance the usability of the open space.

There are generally insufficient trees planting in the deep soil areas for a development of this size and scale. The development requires additional native canopy trees around the perimeter of the site. The choice of vegetation within the centre courtyard area has not adequately considered the year-round overshadowing from the development.

The application does not adequately meet the requirements of the Landscaping Principle.

The landscape treatment is generally satisfactory. The application proposed the removal of a number of trees from the site including a large Blackbutt, however has indicated that retaining the tree would not be practical.

Amenity

The architectural design provides for a high level of privacy, cross-ventilation and access to sunlight ensuring good amenity for the apartments as per the objectives of the Apartment Design Guide. The design caters for large useable communal open space areas to complement other facilities such as a large BBQ and seating area on the roof top to provide a high level of amenity to future occupants. The rooftop garden provides an important high quality and level common open

space which is fully accessible on a sloping site. The sloping of the site makes any ground level common open space difficult to make fully accessible without significant manipulation of the ground plane.

The development proposes a landscaped common open space of 1,240 m² (40% of site area) and deep soil of 750 m² (24% of site area) which is above and beyond the ADG criteria and represents a biophilic development. A reasonable variation in proposed landscape species also contribute to the proposed landscape quality.

37 out of 53 units are cross ventilated (70%) which is 10% greater than the requirement outlined in design criteria 1 of Objective 4B-3. The cross ventilation achieved is made possible due to the courtyard design, minimisation of building depths, separation of the building with two cores, and a strong emphasis on corner units and cross through units.

Only two apartments in the entire development receive no direct solar access in midwinter. Forty-two (42) out of 53 Units (79%) achieve a minimum 2 hours solar access in mid-winter. Units are mostly shallow which facilitates natural ventilation and daylighting.

The building design, using a courtyard form, splits the buildings into two cores, resulting in reduced building depth and a maximum of 6 units per core. Individual apartment layouts are efficient with appropriate room sizes and dimension. Balconies and terraces mostly far exceed minimum requirements prescribed by the ADG. Privacy impacts are mitigated through appropriate setbacks, building separation, planting, screening and fencing for ground floor terraces.

The proposal fails to achieve the minimum requirements of SEPP (Affordable Rental Housing) requiring 70% of units to receive 3 hours of mid-winter sun.

The DEAP raised a number of issues relating to the design of the building with respect to the amenity of future residents, including apartment layouts, access to communal open space on the roof, and location and shape of communal open space at ground level.

Notwithstanding compliance with a number of the design criteria in the ADG, the development does not achieve the Amenity Principle.

Safety

The development benefits from two street frontages therefore vehicular access is focused on the most prominent Tanderra Avenue and Paul Place cul de sac acts as an ideal access and egress point for pedestrians.

Furthermore, the courtyard setting combined with its function as a communal open space area ensures good visibility and opportunities for surveillance of key entrances to both lobbies. Units also face inwards overseeing the courtyard and main pedestrian entrances. Although the entries are integrated into the courtyard design, a courtyard which is designed as an extension of the public domain, each lobby entry maintains a direct sightline to the street. Furthermore, there are design features such as windows to corridors that provide light but also an outlook outwards increasing surveillance of the courtyard.

The proposed development ensures casual surveillance of public domain while maintaining internal privacy, avoiding dark and non-visual areas, promoting activity on the street, and providing clear, safe access points.

The proximity of proposed units to the main courtyard and communal open space fronting Paul Place will inevitably spill light towards to the semi-public location ensuring a sense of security. The residential entries from Paul Place are located centrally on each wing of the development and the residential lobbies are wide not serving more than 6 units per floor.

The ground level façade design is such that it does not allow climbing and opportunities for trespassing are minimised. Opportunities for graffiti are minimised through both façade material selection and landscape planting.

Territorial reinforcement will be focused on the common area through shared ownership which is encouraged by minimising the number of units off a single corridor and creating a high-quality roof garden and ground level gardens. It is proposed to have a site manager as part of the strata agreement.

Windows are generally facing the central courtyard to provide a level of passive surveillance to the common open space with balconies fronting Tanderra Avenue to provide passive surveillance to the public domain.

Housing Diversity and Social Interaction

The proposal has a mix of unit types and includes a proportion of adaptable dwellings units. Within each unit type there is a range of unit sizes. This housing diversity contributes to housing choice. The facilities on site including a large roof top area, a BBQ area and a formal and informal seating areas for a broad cross-section of future users and allow for social interaction.

The proposal provides for an appropriate mix of unit sizes each with internal and external amenity that increases housing stock and choice in this key highly accessible locality. The required number of adaptable units will be achieved under the proposal as will the suggested number of liveable units (silver level) set out in the ADG.

The proposal contributes 50% of the development for affordable housing further expanding the housing choice for differing demographics and household budgets. The development serves an integral necessity recognised by Government for the supply of housing on low or moderate incomes.

Ground floor terrace units will allow for the proposal to address the street frontage, provide for soft landscape along the building edge, and provide passive surveillance opportunities of the public domain. Generous terrace areas will encourage residents of these units to use the outdoor area, thereby providing public/private interaction. The primary communal open space is amalgamated at the roof level so that maximum opportunities for appropriate landscaping, passive and active uses, and seating for all residents to enjoy. Locating the open space on the roof also maximises use and variety of options for amenity for residents and ensures that the primary open space is fully accessible on a sloping site.

The proposed development also provides individual unit entries from courtyard to either the public domain or the common open space where permitted by site levels. This provides opportunities for social interaction.

The application provides a suitable level of housing mix. However, the proposal does not comply with the maximum floor space ratio or maximum building height allowable under The Hills LEP and SEPP (Affordable Rental Housing) or the maximum height of buildings under the LEP.

Aesthetics

The proposed development has a modern modular form. The aesthetic uses balcony and window groupings and an alternating colour scheme to create visual interest along with textured building materials to add a sense of materiality and softness to the development.

The proposed building achieves a built form with a balance of materials and finishes to ensure strong visual interest from the streetscape and neighbouring sites. The composition of materials helps reduce any impression of a bulky development by breaking up the massing of the building.

There are three identifiable materials and finishes used throughout the development which complement each other. The render walls are to be either painted with a grey or off-white finish and timber balconies, cladding and screens are integral in adding a natural more earthy element in tune with the significant planting proposed throughout the site.

Level 4 which is the highest level has been set back further from the boundaries and streetscape compared to the lower levels reinforcing ADG separation criteria and creating a clear base, middle

and top to the built form. To further ensure Level 4 is sympathetic to the context of the locality the materials and finishes contrast with the remainder of the development. A dark striated colorbond clad elevation is proposed with matching matt black framed windows. The upper level is tied into the lower levels through the window frame and timber elements which on the upper level are in the form of horizontal pergolas.

The roof top common open space would have significant shrubs planted along the borders and in total 22 small trees in planters are proposed to ensure the lift overrun and fire stairs are not a prominent feature and that vegetation is only evident when viewed from Ground Level. Below is a photomontage encapsulating the comments regarding the complementing variety of materials and finishes plus the heavily vegetated roof top. The green roof is not an afterthought but an integral part of the overall aesthetic of the building which seeks to set built form within landscape.

The elevated ground floor level, the exceedance in building height and floor space ratio of the development, and massing of the development to the street elevations results in a building out of proportion within the nearby developments (being developments, although also exceed building height, is primarily limited to communal open space areas and lift overruns).



Figure 10: Extract of Artists Impression on the development when viewed from the intersection of Tanderra Avenue and Paul Place.

Despite the use of varied finishes and materials within the development, the overall aesthetic of a poorly proportioned building does not achieve this principle.

Apartment Design Guide

The SEPP requires consideration of the ADG which supports the 9 design quality principles by giving greater detail as to how those principles might be achieved.

The application is supported by a detailed table demonstrating consistency with the design criteria in the ADG. The table below considers the proposal against key matters:

Table 6: Response to ADG

Apartment Design Code			
Subject	Control	Proposal	Compliance
Communal	25% (782.5m ²) of site	926.5m ² Communal Open	Yes

Open Space (COS)	Developments achieve a min. of 50% direct sunlight to the principal useable part of the COS for a min. 2 hours between 9am and 3pm, mid-winter.	<p>Space provided.</p> <p>311m² (33.6%) located adjacent to the eastern boundary.</p> <p>221.5m² (23.9%) located within the 'U' of the building;</p> <p>394m² (42.5%) located on the roof.</p> <p>The COS on the roof will receive more than 3 hours of solar access.</p>	See discussion below
<p>The objectives of Part 3D of the ADG seeks to encourage “An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping”, “Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting”, and “communal open space is designed to maximise safety”.</p> <p>Although the application provides a numerically compliant amount of communal open space, the space is either isolated from the development, overshadowed throughout most of the day, or inaccessible to a large portion of residents.</p> <p>The communal open space adjacent to the eastern boundary is narrow with poor amenity. The DEAP recommended that this space would be more suitably used as landscaped, private open space for the ground floor apartments.</p> <p>The communal open space located within the 'U' of the building would be entirely overshadowed during the winter solstice.</p> <p>The communal open space on the roof is a useable area however it is isolated from the residents within Building B. The DEAP recommended that this space should be expanded to include the roof of Building B and landscaped as contiguous open space.</p> <p>The DEAP also noted that there are generally insufficient trees planted in the deep soil areas for a development of this size and scale.</p> <p>Notwithstanding the numerical compliance with the ADG with respect to the amount of communal open space provided on site, the space does not enhance residential amenity, provide adequate landscaping, and does not respond appropriately to site conditions.</p>			
Deep Soil Zones	<p>7% (219.1m²) of site Min. dimensions of 6m</p> <p>15% (469.5m²) deep soil encouraged given the size of the site and context.</p>	<p>Plans indicate deep soil areas to the periphery of the development.</p> <p>Total provided: 17.38% (544m²)</p> <p>233m² provided at front of site</p> <p>311m² provided at eastern boundary</p>	Yes
Visual Privacy/ Building Separation		<u>North</u>	No

Building Height	Habitable to Habitable	Non-habitable to Habitable	Non-habitable to Non-habitable	Level 4 – Balcony 7.2 metre distance to boundary	
up to 12m (4 storeys)	12m	9m	6m	<u>East</u> Level 4 – Balcony 7.9 metre distance to boundary	
up to 25m (5-8 storeys)	18m	12m	9m	<u>South</u> Level 4 – Balcony 8.6 metre distance to boundary.	

The objectives of Part 3F of the ADG seek to encourage “adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy”, and “site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space”.

In this instance, in order to share the separation distances equitably between neighbouring sites, the development would need to provide a minimum northern, eastern, and southern setback of 9 metres to the balconies to allow the adjoining sites to be developed without additional restrictions.

The reduced setbacks to the balconies results in the adjoining sites being burdened with the additional separation distance.

It is noted that the planter boxes used are not appropriately located to allow for maintenance. In particular, the planter boxes located in the north-eastern and south western corner of the development are located in spaces with no access with the exception of windows to bedrooms or the kitchen. See Figure 11 below:

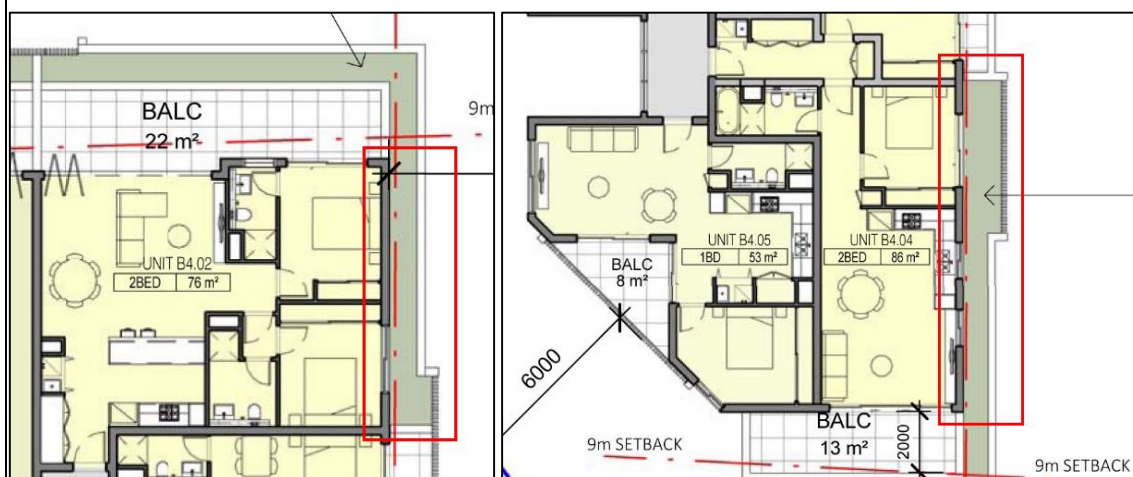
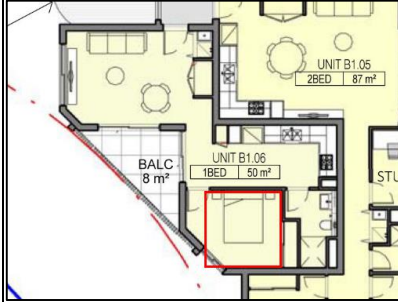


Figure 11: Extract of Level 4 floor plan showing inaccessible planter boxes indicated in red.

Notwithstanding the use of planter boxes as a means of providing additional separation, the edge of the accessible balcony should be setback 9 metres from the northern, eastern and southern boundaries to provide equitable separation distances without burdening adjoining developments.

Parking	The site is within 800m walking distance to Carlingford railway station. The RMS parking	56 residential spaces and 11 visitor spaces provided over 2 basement levels	Yes
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	<p>requirements apply:</p> <ul style="list-style-type: none"> ➤ 0.6 space per 1 bedroom unit x 8 units = 4.8 spaces ➤ 0.9 spaces per 2 bedroom unit x 38 units = 34.2 spaces ➤ 1.4 spaces per 3 bedroom unit x 7 units = 9.8 spaces ➤ 1 visitor spaces per 5 units = 10.6 (11) spaces <p>Total: 49 residential spaces + 11 visitor spaces</p>		
Solar Access	<p>Living rooms and private open space of at least 70% of apartments in a building receive a min. 2 hours of direct sunlight between 9am and 3pm on 21 June</p> <p>A max. of 15% of apartments in the building receive no sunlight between 9am and 3pm at mid-winter</p>	<p>No solar analysis diagrams were provided to allow for Council's assessment. SEE indicates:</p> <p>42/53 apartments receive 2 hours of sunlight (79%) according to SEE</p> <p>No indication of number of units that receive no sunlight</p>	<p>Yes</p> <p>But information is insufficient to allow for verification</p>
<p>The Statement of Environmental Effects indicates that 79% (42/53) of units receive 2 hours of direct sunlight during the winter solstice.</p> <p>No solar access diagrams have been provided to be able to verify the accuracy of this statement or to determine the proportion of units which would receive no sunlight during the winter solstice.</p>			
Natural Ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building	35/53 apartments (66% of the development) are naturally cross ventilated.	Yes
Ceiling Heights	Habitable rooms 2.7m Non-habitable 2.4m	Plans only indicate floor to floor at 3.05 metres. The development may potentially accommodate a 2.7 metre floor to ceiling height depending on how services are installed.	Yes
Apartment Size & Layout	1 bedroom 50m ² 2 bedroom 70m ² 3 bedroom 90m ²	1 bedroom 50m ² 2 bedroom 75m ² (min.) 3 bedroom 96m ² (min.)	Yes
	Master bedrooms have a min. size of 10m ² & other bedrooms 9m ² (excluding wardrobe space) Min dimension 3m	Units B0.06, B1.06, B2.06, B3.06, and B4.05 do not achieve min. dimension required for master bedroom.	No

		 <p>Figure 12: Extract of Floor Plan showing Unit B1.06. Red box is scaled at 3m x 3m.</p>	
	<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> - 3.6m for studio and 1 bedroom apartments. - 4m for 2 and 3 bedroom apartments. 	All min. dimensions provided	Yes
<p>The objectives of Part 4D of the ADG seek to encourage “<i>the layout of rooms within an apartment is function, well organised and provides a high standard of amenity</i>”, “<i>environmental performance of the apartment is maximised</i>”, and “<i>apartment layouts are designed to accommodate a variety of household activities and needs</i>”.</p> <p>A number of apartments do not present as functional, and well organised, and therefore do not have an adequate level of amenity. In particular, Units B0.06, B1.06, B2.06, B3.06, B4.05 (see Figure 6 above) are designed as two distinct ‘pods’ with a 1-metre wide dog-leg connecting the kitchen to the living/dining space. Unit B0.06 also lacks an entry space as referenced by the DEAP.</p> <p>The development also includes a number of dual-key apartments which do not achieve appropriate amenity for future residents, including the sharing of laundry facilities and entries directly into kitchen spaces and would result in poor amenity for future residents.</p> <p>As a result of the abovementioned units, the development fails to provide apartments would room layouts that are functional, well organises and provide a high standard of amenity.</p>			
Noise and Pollution	Rooms with similar noise requirements are group together	Bedrooms are located to the living rooms of adjoining apartments.	No
Private open space and balconies	<p>All apartments are to have primary balconies as follows:</p> <p>1 bedroom: 8m², min. 2m depth</p> <p>2 bedroom: 10m², min. 2m depth</p> <p>3 bedroom: 12m², min. 2.4m depth</p>	<p>1 Bedroom units B1.06 and above do not achieve min depth.</p> <p><i>Dual-key apartments do not provide sufficient POS for each side of the apartment.</i></p>	No
	Ground floor units are to have private open space as follows: 15m ² , min 3m depth	A0.04 and A0.05 do not achieve min depth.	No

Common Circulation	Max. number of apartments off a circulation core on a single level is 8.	Max. 6 apartments accessed from either stair core.	Yes
Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is required: Studio: 4m ³ 1 bedroom: 6m ³ 2 bedroom: 8m ³ 3 bedroom: 10m ³	No additional storage areas annotated on plans with volume calculations. Insufficient information provided to verify accuracy of plans.	No Insufficient information supplied for assessment.

2.5 The Hills Local Environmental Plan 2012

Zoning and permissibility

The Site is zoned R4 'High Density Residential'.

The proposed use meets the definitions of '*residential flat building*' and is permissible with consent in that zone.

Zone objectives

Clause 2.3(2) requires the consent authority to have regard to the zone objectives when determining a development application. The objectives for the R4 zone are:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage high density residential development in locations that are close to population centres and public transport routes.*

The proposal, being for a residential flat building, provides a range of dwelling types including a portion of affordable housing under SEPP (ARH). The site is located in an accessible area approximately 530 metres to Carlingford Station or 465 metres from the future Light Rail station.

Therefore, the proposal meets the objectives of the R4 – High Density Residential zone.



Figure 13: Extract of LEP Zone Map. Source: Geocortex

Remaining provisions

Consideration of other relevant provision of the Plan is addressed in the following table:

Table 7: HLEP 2013 compliance table

Clause	Comment	Complies
Clause 2.7 Demolition	The application includes the demolition of all existing improvements on the site.	Yes
Clause 4.3 Building height	The mapped control is 16m. The building would have a maximum height of 21.3 metres.	No
Clause 4.4 Floor space ratio	Maximum FSR 1:1. Application proposes additional GFA under SEPP ARH. As a result of the incorrect allocation of affordable housing, the development exceeds the additional GFA granted under SEPP ARH. SEPP ARH permits a maximum FSR of 1.5:1 if 50% of GFA is allocated to affordable housing. In this instance, 46.7% of the development has been allocated to affordable housing.	No
Clause 4.6 Exceptions to	The application relies upon this clause to allow the exceedance of the height standard as noted above.	Yes

standard	See assessment following at the end of this table.	
Clause 5.1 Relevant acquisition authority	No land acquisition applies to the land.	N/A
Clause 5.9 Preservation of trees	Repealed. See Part 2.3 SEPP (Vegetation in non-rural areas) above.	N/A
Clause 5.10 Heritage	The site is not a listed heritage item, nor is it within a conservation area. No heritage items in the immediate locality.	N/A
Clause 6.1 Acid sulphate soils	The site is not affected by Acid Sulphate Soils.	N/A
Clause 6.2 Earthworks	Consideration of potential impacts upon drainage patterns have been considered by Council's Development Engineer, who is satisfied the works can be managed without adverse impact. Site works will not prejudice the future development of any adjoining land, or the amenity of that land. Issues relating to soil quality are addressed via considerations of SEPP 55 No circumstances identified to indicate potential for disturbing relics.	Yes
Clause 6.3 Flood Planning	The site is not identified on flood planning map	N/A
Clause 6.5 Essential services	The site is connected to all relevant utility services. To be augmented to meet service provider requirements.	Yes

Clause 4.3 Height of Buildings

Clause 4.3 of The Hills LEP provides that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 16m. The application proposes a maximum height of 21.3m. The applicant was accompanied by a Clause 4.6 Statement which is discussed below.

Clause 4.6 Exceptions to development standards

Clause 4.3(2) of The Hills LEP 2012 identifies a site on which a building is to be erected shall not exceed 16 metres in height. The application proposes a maximum building height of 21.3 metres, which is a variation of 5.3 metres or 33.1%. See Figure 14, 15, 16, and 17 below:

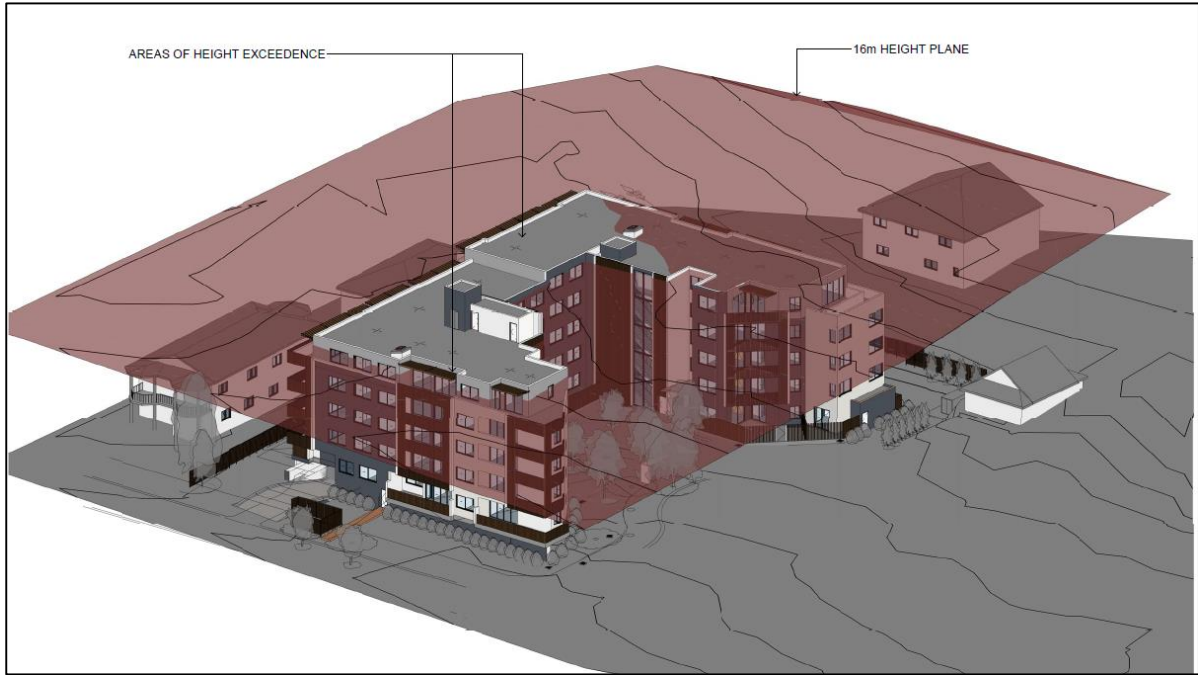


Figure 14: Extract of Height Plane showing areas of non-compliance



Figure 15: Enlarged extract of Height Plane. Where the height plane crosses through the building has been indicated by the red line.



Figure 16: Extract of Section AA showing exceedance in building height.

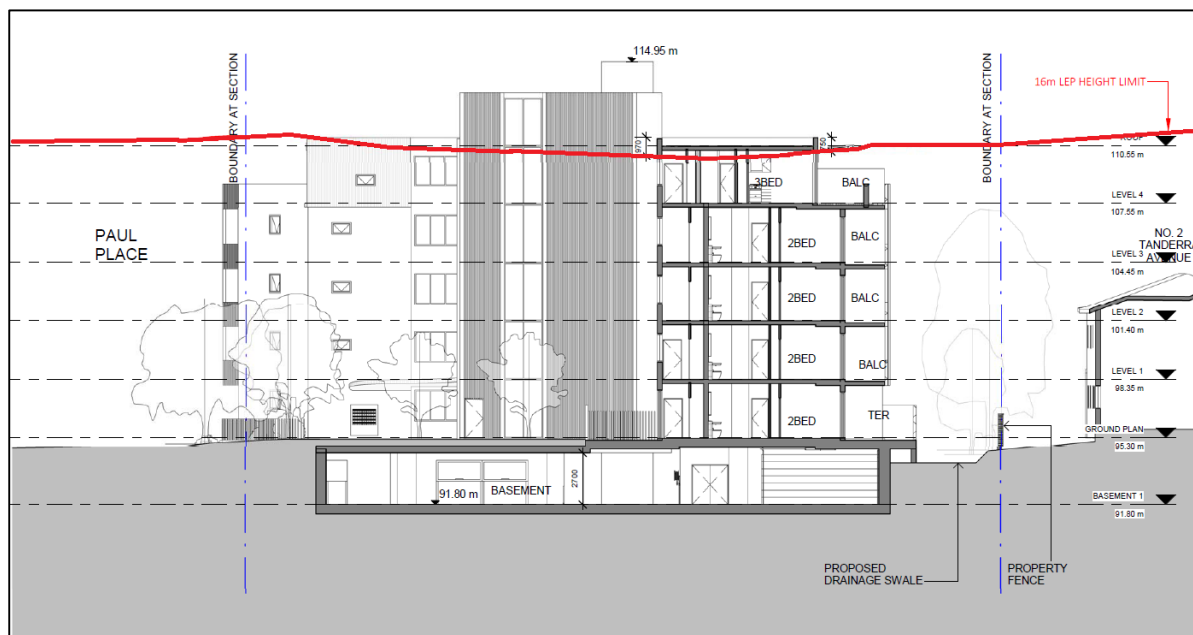


Figure 17: Extract of Section CC showing exceedance in building height.

The applicant has submitted a written request seeking variation to the maximum building height prescribed by Clause 4.3, as required by Clause 4.6 of The Hills LEP 2012. Clause 4.6(2) provides that in certain circumstances, consent *...may be granted for development even though the development would contravene a development standards imposed by this or any other environmental planning instrument.*

The objectives of Clause 4.6 are as follows:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Clause 4.6(3) prescribes

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

The departure from the maximum building height development standard is supported by a written request from the applicant under Clause 4.6 of The Hills LEP 2012 as follows:

- *To realise a built form which achieves a high level of amenity, a courtyard building is proposed with building depths in accordance with the ADG of on average 15 m. This 15 m building depth promotes high levels of natural ventilation and daylighting to the*

development. The proposed height non-compliance thus allows for building volume to be placed at the fifth storey instead of making the building bulkier at lower levels to accommodate for the additional GFA sought under the SEPP.

- *The additional height is directly related to ensuring the building maintains a high level of amenity consistent with SEPP 65 and the Apartment Design Guide. The additional height allows for meeting the separation distances as outlined in 3F Visual privacy of the ADG. Consideration should be given to the site constraints particularly the extent of deep soil provided on site and the 10 metre swale along the Western boundary to manage potentially flooding in a 100 year flood event. A taller slimmer built form is preferable to a lower, squatter and bulkier building.*
- *The flood planning levels which apply to the site require Building A to be raised on average 1.1 m above the existing ground level at the entry to Building A and 0.5 m above the existing ground level at the entry to Building B.*
- *The site is relatively unique with an overland flow path significantly impacting the site as the existing municipal stormwater management system does not handle the total volume of water during storm events. Consideration should be given to the site constraints particularly the extent of deep soil provided on site and the 10-metre swale along the Western boundary to manage potentially flooding in a 100-year flood event. Without the stormwater and flood prevention proposed such as a significant grassed diversion swale for the Northern and Western setbacks there would be greater opportunity for integrating a development with a lesser height.*
- *Due to sloping topography and overland flow path diversion, it is difficult to achieve a level common open space on the site which would be fully accessible to persons with a mobility impairment. Therefore, it is proposed to augment ground level common open spaces (one being in the eastern setback where the site slopes and the other being in the south facing courtyard, which does not achieve direct solar access in mid-winter) with a fully accessible and high amenity rooftop common open space.*
- *The benefits of the non-compliance outweigh compliance by facilitating a high amenity space for residents that is fully accessible. The high amenity roof top common open space is to be heavily vegetated to ensure amenity but also help screen the lift over run and stairs that serve the roof top.*

In summary:

- *The strict application of the development standard is considered unreasonable in that it would inhibit the achievement of a high density residential flat building in an area set to significant change. The variation in height are in response to terms of:*
 - *Providing an optimal amount of FSR to provide a substantial form of affordable rental housing,*
 - *Provide a development with an appropriate ground level to meet flood planning level requirements that inherently has implications on the resulting height, and*
 - *Address the sloping topography of the site which increases the proposed height above the existing ground level; and*

- *Provision of an accessible roof top open space.*
- *The strict application of the development standard is considered unreasonable or unnecessary where the objectives of the standard and the zone are met and development is therefore in the public interest.*
- *There is sufficient planning grounds to support the variation where the variation would:*
 - *Not result in any adverse visual impact*
 - *Not result in any adverse amenity impact (including overshadowing and overlooking)*
 - *Assist in providing affordable housing which is identified as a key requirement by the NSW Government.*
 - *Assist in providing the development of high density housing in an area that is highly accessible and therefore in accordance with the principles of good land use and transport planning.*
- *The variation does not give rise to any matter of State or regional significance.*
- *Where the objectives of the standard and the zone are maintained and the extent of variation is minor, an exception can be reasonably made there can be no public benefit to maintaining the development standard in this instance*

In consideration of the variation to Clause 4.3 of the HLEP 2013, the following is noted:

- The Finished Floor Level of the development is required to be raised by approximately 1.1 metres to achieve the flood planning level of the site. This results in a larger portion of the development exceeding the maximum building height. It is considered that if the development was not required to achieve the flood planning level, the extent of the non-compliance would be significantly reduced.
- The flood planning level is a site constraint that must be accommodated within the design of the development.
- Despite the flood planning level of the site, the Height Plane (Figure 8 above) illustrates that the exceedance is not only the rooftop communal open space and lift overrun, however also includes a significant portion of the roof, ceiling, and external walls of the top floor.
- It is acknowledged that the City of Parramatta's Design Excellence Advisory Panel raised no objections to the rooftop terrace and exceedance in building height however the exceedance was considered as necessary for rooftop communal open space. If the exceedance were only within the lift overrun and rooftop structures directly related to the use of the communal open space, the non-compliance would be acceptable.
- The exceedance in building height would result in an extension of the shadows cast by the proposal.

The Clause 4.6 statement and justification was considered against the following recent cases:

1. *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 9*

Four2Five established that the applicant must demonstrate that compliance with the development standard is unreasonable and unnecessary is separate from the consistency with the objectives of the standard.

Unreasonable and Unnecessary

In consideration of whether the development standard is unreasonable and unnecessary, a review of the developments immediately adjacent to the site was undertaken:

Nos. 19-23 Post Office Street, 2-8A Donald Street, 6-10 Tanderra Avenue, and 10 Paul Place, Carlingford (DA 20/2016/JP former Hills Shire Council) to the south of the Site was the subject of a development consent issued by the JRPP on 17 March 2016. The development was approved with a maximum building height of 17.542 metres consisting of lift overruns and portions of the roof. See Figure 18 below.



Figure 18: Extract of Height Plane from DA 20/2016/JP from the former Hills Shire Council showing extent of non-compliance with 16 metre building height.

Nos. 28-34 Donald Street, Carlingford (DA/1018/2016) to the north was the subject of a recent development consent by the JRPP on 29 October 2016. The development was approved with a maximum building height of 15.8 metres. The development did not include a roof-top communal open space area. See Figure 19 below:

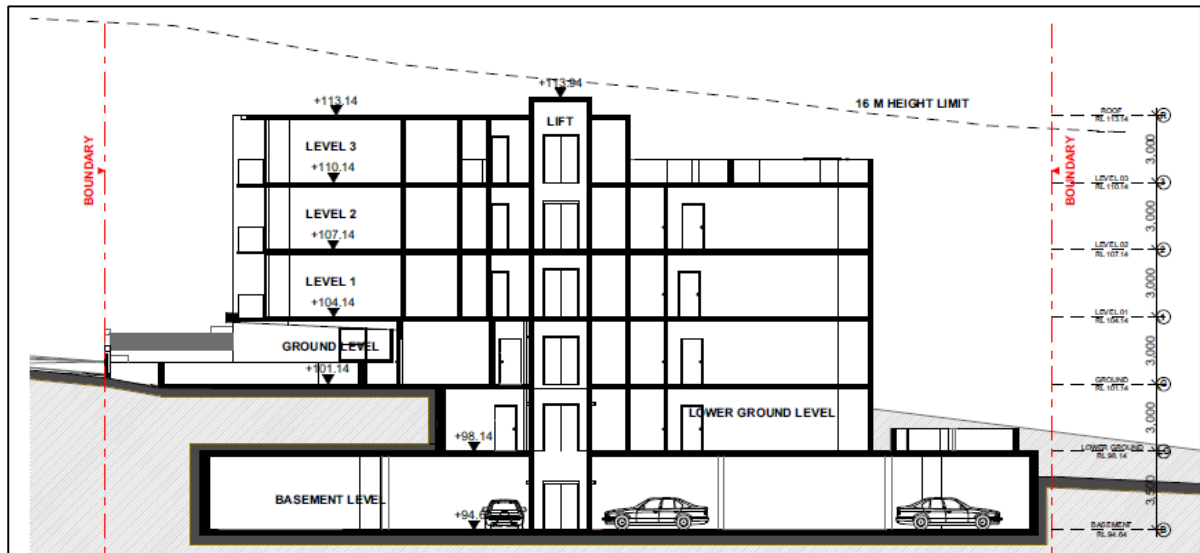


Figure 19: Extract of Section Plan showing height of approved development at Nos. 28-34 Donald Street, Carlingford

Nos. 10-12 Donald Street, Carlingford (DA/468/2017) to the south-east is the subject of an assessment with the City of Parramatta. The development proposes a maximum building height of 18.7 metres consisting of the roof of the top floor unit, lift overrun, and communal open space shade structures. See Figure 120 below:

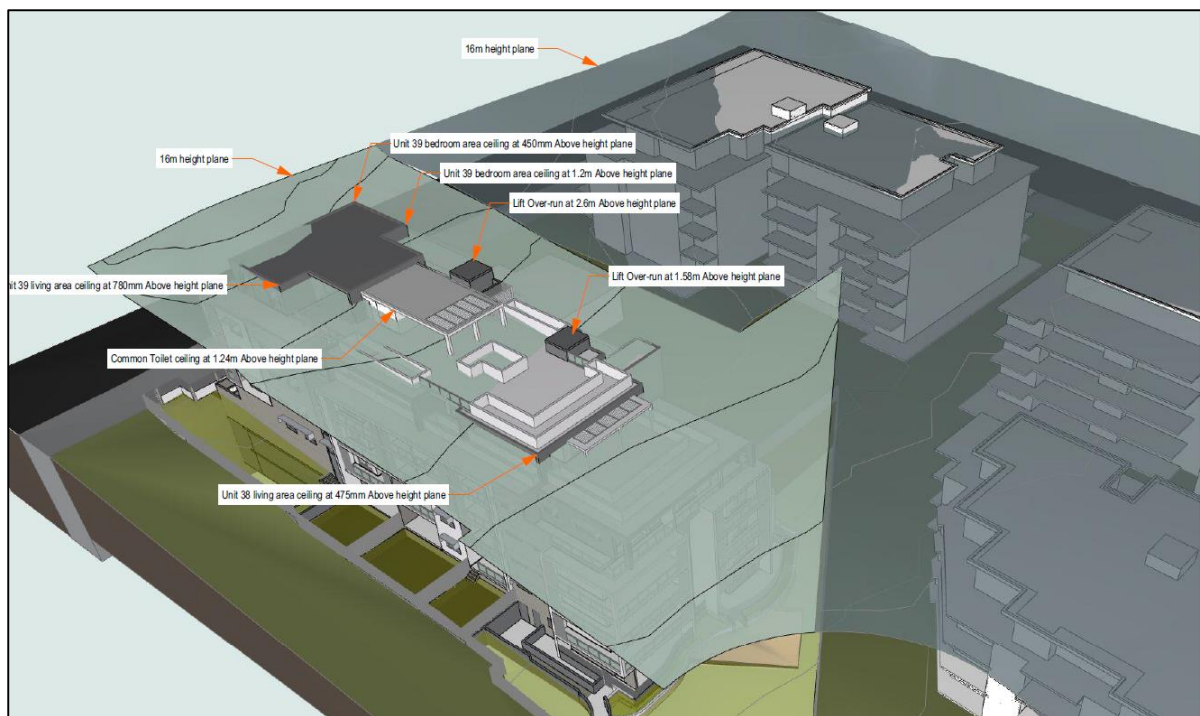


Figure 20: Extract of Height Plane from DA/468/2017 showing extent of non-compliance with 16 metre building height.

In comparison to the nearby developments, the exceedance of the proposed development would be within the roof structure of the top floor units, lift overrun and communal facilities on the western 'arm' of the development. The location of the non-compliance is within the street frontage to Tanderra Avenue and would result in an increase in the shadows cast by the development.

In consideration of the above, the standard is reasonable and necessary in this instance when taking into account extent of the non-compliances approved for nearby developments.

Objective of the Standard

The objective of Clause 4.3 Height of Buildings is “*to permit a height of buildings that is appropriate for the site constraints, development potential and infrastructure capacity of the locality*”.

The proposed development generally responds to the 3-metre cross-fall of the site with the use of a 1 metre step within the building, separating Building A and Building B. However, the finished floor level of the development remains approximately 1.1 metres above natural ground level as a result of the Flood Planning Level of the site. The Flood Planning Level is considered to be a site constraint which provides a limit on the development potential of the site which the development has not appropriately accommodated within the design.

In consideration of the development potential of the site, the maximum FSR for the site is 1.5:1 depending on the proportion of affordable housing provided under SEPP (ARH). As discussed above, the development exceeds the maximum FSR for the site as a result of the misallocation of affordable housing. It is also noted that although the maximum FSR for the site is 1.5:1, when site constraints and residential amenity are taken into consideration, the development may not necessary achieve the maximum FSR.

The development does not achieve many of the objectives or design criteria of the ADG or The Hills DCP and is considered to be an overdevelopment of the site.

The development is not in keeping with the objective of Clause 4.3 as it fails to achieve a building height appropriate for the site constraints or development potential.

2. *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7*

Micaul requires that the consent authority must be satisfied that the applicant’s written request has adequately addressed the matter in Clause 4.6(3)(a) that compliance with each development standard was unreasonable or unnecessary.

In this instance, the applicant’s justification for the contravention of Clause 4.3 relies heavily on the Flood Planning Level of the site, the provision of additional GFA permitted under SEPP (ARH), and the site topography and provision of communal open space.

As discussed above, the Flood Planning Level and additional permitted GFA under SEPP (ARH) are not acceptable justification for the non-compliance with Clause 4.3.

The provision of rooftop communal open space is encouraged to provide an accessible area with minimal risk of being overshadowed by nearby developments. In this instance however, the non-compliance with the maximum building height is not wholly as a result of the rooftop communal open space, but also include a significant portion of the roof and ceiling of the top floor residences.

In this instance, Council is satisfied that applicant's Clause 4.6 Statement does not adequately address the matter in Clause 4.6(3)(a) of The Hills LEP and has not provided a suitable argument as why the standard is unreasonable and unnecessary in this case.

3. *Seaside Property v Wyong Shire Council [2004] NSWLEC 600*

Seaside Property v Wyong Shire Council [2004] NSWLEC 600 states "where a planning instrument, policy or guideline requires the provision of communal open space or landscaped area, that space should be provided principally on ground level, unless the instrument, policy or guidelines states otherwise or the proposal is in high-density urban context where buildings are built to the boundary, for example the CBD". In this instance, The Hills DCP 2012 states "Provision of roof top communal open space will be considered when calculating the area of communal open space for mixed use developments with retail and commercial uses where it is not possible to provide 30 percent of the site area in communal open space at ground level."

In consideration of the above, the surrounding developments have not yet been fully constructed however a number of approvals exist in the immediate vicinity.

To minimise overlooking to the adjoining sites, the development includes 900mm high, 1.8-metre-wide planter boxes around the exterior of the communal open space. It is considered that this height and width is sufficient to minimise the potential for overlooking to the adjoining properties.

The proposed rooftop communal open space alone does not add unreasonable bulk and scale to the appearance of the building within the streetscape, however the additional height within the top floor apartments results in the communal open space being elevated further above the 16m height limit.

Generally, the use of the rooftop for communal open space is considered appropriate as a means to achieve useable communal open space which receives adequate sunlight throughout the year with a limited risk of being overshadowed by nearby developments.

In this instance, the rooftop communal open space is supported however the overall exceedance of building height is not supported.

3. The Hills Development Control Plan 2012

Overview

Part B Section 5 of the DCP provides controls for the development of residential flat buildings.

Part D Section 12 of the DCP provides controls specifically for the redevelopment of the Carlingford Precinct.

Clause 6A of SEPP 65 allows for the following issues to be dictated by the Apartment Design Guide rather than a Development Control Plan:

- (a) *visual privacy*
- (b) *solar and daylight access,*
- (c) *common circulation and spaces,*
- (d) *apartment size and layout,*
- (e) *ceiling heights,*
- (f) *private open space and balconies,*
- (g) *natural ventilation,*
- (h) *storage.*

Compliance

Table 8: Part B Section 5 The Hills DCP 2012 compliance table

Part 3 – Objectives and Development Controls		Complies
3.1 Site Requirements	<i>A residential flat building development shall not isolate adjoining lots so that they are incapable of multi dwelling housing development, meaning there will be insufficient area to meet the minimum site area requirement in Clause 4.1A Minimum lot sizes for dual occupancy, multi dwelling housing and residential flat buildings on the LEP 2012.</i>	No
<p>The development on the subject site would result in the isolation of No. 2 Tanderra Avenue highlighted in Figure 2:</p> <p>The isolation of the adjoining site has been considered in respect to numerical requirements of The Hills DCP and <i>Karavellas v Sutherland Shire Council [2004] NSWLEC 251</i>.</p> <p>The Hills DCP requires that an adjoining site must have sufficient space for multi-dwelling housing. In this instance, the adjoining site area must be 1,800m² or greater. No. 2 Tanderra Avenue has a site area of 1023m².</p> <p>The objectives of Part 3.1 of The Hills DCP are “to ensure development sites have sufficient areas to provide adequate access, parking, landscaping and building separation”, and “to provide for the orderly development of residential land through the consolidation of lots”.</p> <p>The application was accompanied by a series of sketches showing the potential redevelopment of No. 2 Tanderra Avenue as an isolated site to a residential flat building comprising 15 units. The DEAP noted that the design of the adjoining development does not demonstrate compliance due to the minimal setbacks proposed.</p> <p>The development on the subject site would limit the capability of the adjoining site to redevelop in an orderly way while achieving adequate access, landscaping and building separation.</p> <p>In <i>Karavellas v Sutherland Shire Council [2004]</i> consideration was given to the following questions:</p> <ol style="list-style-type: none"> 1. <i>is the amalgamation of the sites feasible?</i> 2. <i>Can orderly and economic use and development of the separate sites be achieved if amalgamation is not feasible.</i> <p>The applicant has provided a statement from <i>Asus 888 Group Pty Ltd</i> stating that three</p>		

valuation reports were prepared:

1. 7 March 2016 – \$2.3 million
2. 1 April 2016 - \$2.1 million
3. 10 November 2016 - \$2.4 million.

The statement from *Asus* indicates that the adjoining owner had set a sales price of \$3.2 million. However, the adjoining owner “*has chosen not to provide written communications relating to his non acceptable of our offers or his own counter officers during the negotiation*”.

The submitted information did not include any additional documentary proof (with the exception of the statement from *Asus*) that the adjoining owner received and rejected the offers.

Without documentary evidence that the adjoining owner has rejected and/or refused to respond to the offers to purchase, Council must consider that reasonable attempts have not been made to purchase the adjoining site.

If Council were to only consider the statement from *Asus*, the offers made to the adjoining landowner are reasonable based on the three valuations.

The development does not achieve the objectives or prescriptive measures of Part 3.1 of The Hills DCP and would result in the isolation of the adjoining property, No. 2 Tanderra Avenue, preventing the economic and orderly development of the site.

Further, the options for that site put forward show a four-storey residential flat building comprising 15 units with blank walls on the side elevations and an open corridor from the lift to each unit. This redevelopment option relies on significantly reduced separations to both the subject site and the development to the north, and a reduced height and scale not in keeping with the proposed building:



Figure 21: Extract of Streetscape Elevation plan for isolated site showing isolated site (middle) and subject site (left).

Table 9: Part D Section 12 The Hills DCP 2012 compliance table

Part 3 – Structure Plan and Masterplan		Complies
3.3 Future Desired Character Statements	The built form of development will reflect a transition of scale between the larger residential flat buildings concentrated around the train station in the south of the Precinct and the smaller scale residential flat buildings proposed in the land north of Post Office	No See discussion below

Street.

Street setbacks are to complement the proposed garden setting in contrast to the strong street edge, activated urban village character of development closer to the train station.

Additional streets are proposed to complement this relationship of buildings to the public domain and establish a finer grained street hierarchy and built forms. Private and communal open space within developments is encouraged to visually compliment the public realm and where feasible, allow some public access.

The development is in a high density zone which is intended to provide a transition from the higher density developments to the south and the lower density developments to the north. See Figure 22 below which illustrates the transition in building heights:

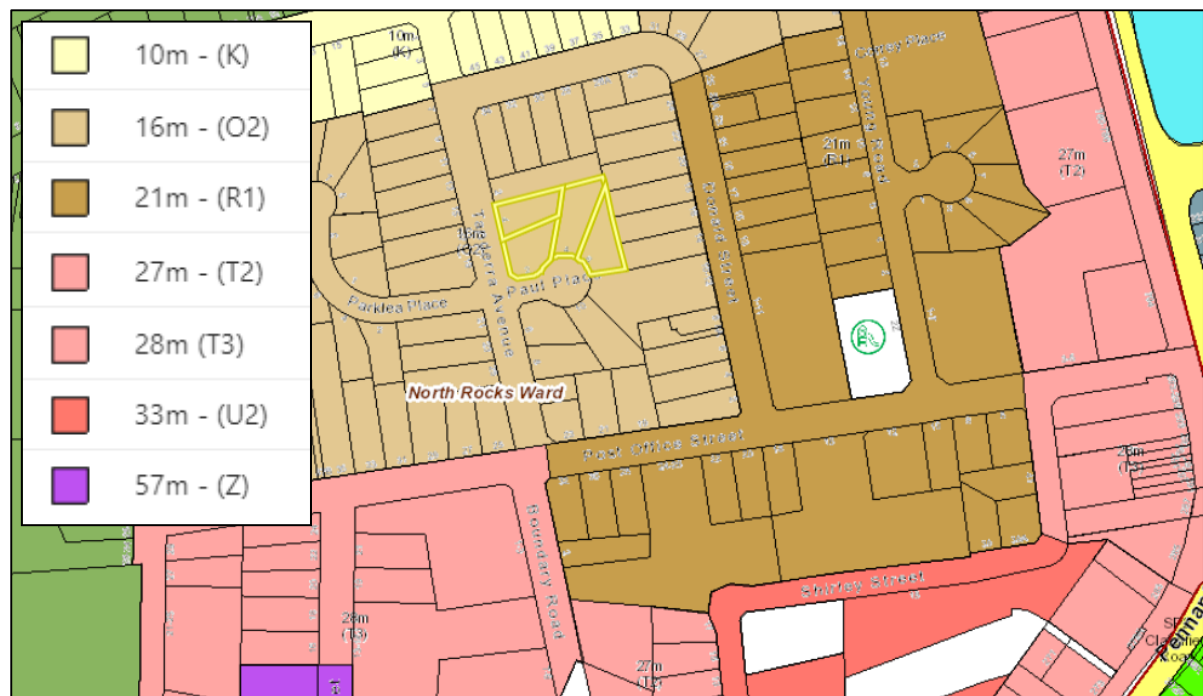


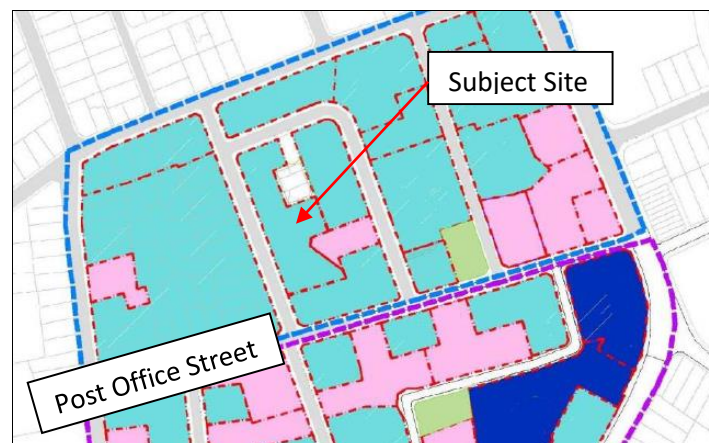
Figure 22: Extract of Height of Buildings Map showing subject site and transition from higher density to the south and lower density to the north.

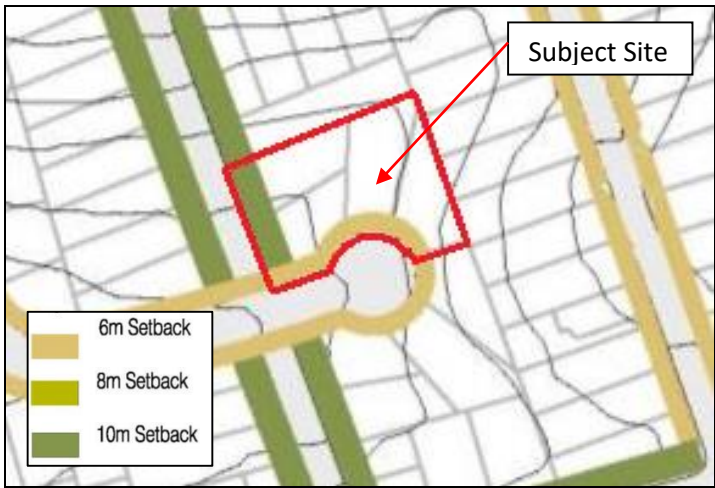
The proposed development exceeds the maximum building height and FSR for the site. In this regard, the proposal fails to achieve a scale envisioned by the development controls

Part 4 – Precinct-Wide Built Form Controls		Complies
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4.1 Floor Space Ratio	The development exceeds the maximum permissible FSR for the site.	No
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4.2 Building Height	<i>For the purpose of this part of The Hills DCP building heights as specified in the Building Height Map in The Hills LEP 2012 equal to number of storeys depicted in the following table:</i>	No
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	<table><tr><th>Building Height</th><th>Equivalent Storeys</th></tr><tr><td>16m</td><td>4 storeys</td></tr></table>	Building Height	Equivalent Storeys	16m	4 storeys	
Building Height	Equivalent Storeys					
16m	4 storeys					
<p>The development is 5 storeys in height including a raised ground floor to accommodate the flood planning level.</p> <p>In this instance, the development exceeds Clause 4.3 of The Hills LEP and is not acceptable.</p>						
4.3 Site Coverage	<p>Max 35%.</p> <p>Proposed 36%</p> <p>The variation is minor however is a result of the overdevelopment of the site.</p>	No				
<p>The objectives of Pat 4.3 of The Hills DCP are “to ensure an appropriate balance of open space surrounding buildings within their site area, reflecting the different scales of development appropriate in the north and south of the Precinct”, “to provide solar access”, and “to control building bulk by working in conjunction with the FSR and height limits that help differentiate the desired future character appropriate to the north and south of the Precinct”.</p> <p>The proposed development does not comply with the maximum building height or maximum FSR allowable for the site.</p> <p>It is noted that the variation to the Site Coverage prescriptive measure is minor, equating to approximately 35m² of additional footprint.</p>						
4.4 Site Requirements	<p>The Hills DCP recommends the amalgamation of sites as per the following diagram:</p> <div></div> <p>Figure 23: Extract of Potential Site Amalgamation Guide Plan from The Hills DCP 2012.</p> <p>The site is located centrally within a recommended site amalgamation area.</p> <p>Surrounding approved and constructed developments do no conform to the above amalgamation plan.</p>	<p>No</p> <p>But acceptable</p>				

	Conformity to the amalgamation plan is not deemed necessary.	
4.5 Deep Soil Zones	Min 25% of unbuilt area OR 15% of total site area, whichever is greater = 469.5m ² Proposed: 720m ²	Yes
4.6 Residential Flat Building – Apartment Size	Note: Clause 6A(1)(d) in SEPP 65 The application complies with the requirements of the ADG with respect to apartment size and layout.	N/A
4.7 Setbacks	<p>The Hills DCP prescribes the following setbacks as per the following diagram:</p>  <p>Figure 24: Extract of Setbacks Controls plan in The Hills DCP 2012. Setbacks to Tanderra Avenue: 10m. Setback to Paul Place 6m.</p> <p>The development generally achieves the minimum front setbacks as per The Hills DCP with minor encroachments for ground floor private open space.</p> <p>The development achieves the minimum side (northern) and rear (eastern) setbacks.</p>	Yes
4.8 Building Separation and Treatment	Note: Clause 6A(1)(a) in SEPP 65 The application does not achieve the minimum separation distances as per the ADG. See discussion above.	N/A
4.9 Building Depth	<p>Maximum Depth 18m Maximum Length 50m</p> <p>Proposed Depth 13.2m Proposed Length 49m</p>	Yes
4.10 Landscape Design	Council's Tree and Landscape Officer supported the removal of the trees from the site. The DEAP noted that there are generally insufficient	Yes

	<p>trees planted within the deep soil area for a development of this size and scale and recommended additional native canopy trees around the perimeter of the site.</p>	
4.11 Open Space	<p>Communal Open Space Min: 30% of site area = 1033m². Provided: 926.5m²</p>	No
<p>The objectives of Part 4.11 of The Hills DCP are “to provide residents with passive and active recreational opportunities”, “to provide an area on site that enables soft landscaping and deep soil planting”, “to ensure that communal open space is consolidated, configured and designed to be useable and attractive”, and “to provide a pleasant outlook”.</p> <p>As discussed under the Apartment Design Guide section of this report, the development provides 926.5m² of communal open space located on both ground level and the rooftop.</p> <p>The communal open space located at ground level is considered to have poor amenity and not configured to be useable being a narrow strip of space along the eastern boundary or overshadowed through mid-winter.</p> <p>The rooftop communal open space is identified as the most useable space, however is not readily accessible by the residents within Building B.</p> <p>Therefore, the proposal fails to achieve the objective of Part 4.11 of The Hills DCP being consolidated, configured, useable and attractive communal open space.</p>		
4.12 Balconies	<p>Note: Clause 6A(1)(f) in SEPP 65</p> <p>A number of apartments do not achieve the minimum balcony depths as per the ADG. See discussion above.</p>	See ADG Section
4.13 Solar Access	<p>Note: Clause 6A(1)(b) in SEPP 65</p> <p>The application achieves a minimum of 70% of units receiving 2 hours of direct sunlight during the winter solstice. Solar Access diagrams have not been submitted to verify this claim in the Statement of Environmental Effects.</p>	Inadequate information for assessment
4.14 Car Parking Provision	<p>DCP Rate:</p> <p>1 space per 1 bedroom 2 spaces per 2/3 bedrooms 2 visitor spaces per 5 units Total: 102 residential + 20 visitor</p> <p>Provided: 56 residential + 11 visitor</p> <p>The application does not achieve the minimum requirements in The Hills DCP however achieves the minimum requirements under SEPP (ARH).</p>	<p>No</p> <p>But acceptable</p> <p>Achieves SEPP (ARH) minimums</p>
4.15	<p>Council Traffic Engineer has reviewed the submitted plans and supports the vehicle access design to the</p>	Yes

Vehicle Access	basement including car space widths and manoeuvring.	
4.16 Fences and Walls	No front fence proposed.	N/A
4.17 Orientation	The development is orientated to the northern aspect. However the 'U' shape of the building results in the central courtyard being overshadowed throughout mid-winter.	Yes
4.18 Planting on Structures	Council's Tree and Landscape Officer and DEAP has reviewed the submitted landscape plans and support the landscaping proposed for the rooftop communal open space.	Yes
4.19 Stormwater Management	Council's stormwater engineer has raised no objection to the stormwater proposal in its current form.	Yes
4.20 Building Entry	<p>The common property hallways are simple with clear lines of sight.</p> <p>As a result of the raised finished floor level of the ground floor, separate entries for each ground floor unit would not be feasible.</p> <p>The pedestrian entrance to Building B is obscured.</p>	No
<p>The objectives of Part 4.20 of The Hills DCP are <i>"To create entrances which provide a desirable residential identity for the development"</i>, <i>"To orient the visitor"</i>, <i>"To contribute positively to the streetscape and building facade design"</i>, and <i>"To provide entrances that are legible, safe, accessible and well lit"</i>.</p> <p>The pedestrian entry to Building A is clear within the Paul Place elevation, however the pedestrian entry to Building B is obscured and recessed within the façade. As a result of the recessed entrance, the location of mailboxes is also obscured by the building and landscaping. The development therefore fails to meet the prescriptive measure requiring a <i>"sheltered, well lit and highly visible space to enter the building, meet and collect mail"</i>.</p> <p>It is noted that the pathway between the pedestrian entrances to Building A and Building B varies in level and is obscured by landscaping.</p> <p>The development does not meet the objectives or prescriptive measures of Part 4.20 of The Hills DCP and is not supported.</p>		
4.21 Ceiling Height	<p>Note: Clause 6A(1)(e) in SEPP 65</p> <p>The development is capable of achieving the minimum require ceiling heights in the ADG.</p>	See ADG Section
4.22 Flexibility	The building does not include a commercial/retail aspect however the layout does not present as overly complex or requiring the use of excessive structural	Yes

	walls.	
4.23 Ground Floor Apartments	<p>The DEAP recommended that the communal open space located adjacent to the eastern boundary should be reallocated as private open space for the ground floor units within Building B.</p> <p>However the development provides terraces for each ground floor unit however do not include garden space.</p>	Yes
4.24 Internal Circulation	<p>Note: Clause 6A(1)(c) in SEPP 65</p> <p>Maximum number of units from a single circulator corridor is 6.</p>	See ADG Section
4.25 Mixed Use Developments	Proposal is not for a mixed-use development	N/A
4.26 Storage	<p>Note: Clause 6A(1)(h) in SEPP 65</p> <p>The application does not include details of the storage volume provided for each unit.</p>	See ADG Section
4.27 Natural Ventilation	<p>Note: Clause 6A(1)(g) in SEPP 65</p> <p>The development achieves 66% of units being cross-ventilated.</p>	See ADG Section
4.28 Awnings	Awning proposed over entrances.	Yes
4.29 Facades	The DEAP are generally supportive of the principal of breaking up the façade into numerous elements.	Yes
4.30 Roof Design	<p>A flat roof is proposed with protruding elements for the communal open space and lift shafts.</p> <p>Opportunities exist for utilise a portion of the roof for photovoltaic applications.</p>	Yes
4.31 Adaptable Housing	<p>Min required: 5% (3/53) of units must be adaptable.</p> <p>Provided: 7.5% (4/53) units are identified as adaptable.</p>	Yes
4.32 Site Facilities	<p>The application provides appropriate waste storage space on each floor and within the basement.</p> <p>The application proposes the collection of waste on a bi-weekly basis thereby reducing the number of bins required within the basement to 24. (10 recycling, 14 residual).</p>	Yes
4.33 Ecologically Sustainable Development	<p>The development achieves the requirements of ESD.</p> <ul style="list-style-type: none"> - Adequate water quality treatment devices proposed. - The site is nearby to Carlingford Station; - The application was publicly notified and the submissions are addressed; - Waste Management Plans were submitted which 	Yes

	addresses the handling of waste during works and ongoing waste management.	
4.34 BASIX	The application achieved the requirements of SEPP (BASIX)	Yes
4.35 Access, Safety and Security	The development does not include unnecessary barrier such as stairs/steps. It is noted that the communal open space on the rooftop is not readily accessible by the residents on Building B. Private spaces are distinct from the communal and public domain.	No
4.36 Visual and Acoustic Privacy	Note: Clause 6A(1)(a) in SEPP 65 The development provides separation between the common areas and bedrooms.	Yes
4.37 Geotechnical	The application did not include a Geotechnical Report. A full and proper assessment could not be undertaken regarding the suitability of the site for the required earthworks.	Inadequate information for assessment.
4.38 Undergrounding of existing power lines	If the application were to be supported, this would be dealt with by way of condition	Yes
4.39 Developer Contributions	If the application is approved, developer contributions would apply	Yes
4.40 Development near Rail Corridors	The site is not within 100m of the rail corridor	N/A

4. Planning agreements

No applicable planning agreements apply to the site or development.

5. Environmental Planning and Assessment Regulation 2000

This application satisfies relevant clauses of the Regulation as follows:

Table 10: Relevant EPA Regulations

Clause 50(1)(a)	The nominated documentation is provided being <ul style="list-style-type: none"> ○ A design verification statement; ○ An explanation of the design in terms of the principles in SEPP 65 ○ Relevant drawings and montages
Clause 92	Any demolition work will be undertaken in accordance with AS 2601 -

1991: The Demolition of Structures	
Clause 98	All building work will be carried out in accordance with the provisions of the Building Code of Australia.

6. Likely impacts

6.1 Context and setting

As addressed in the SEPP (Affordable Rental Housing) 2009 section of this report, the Land and Environment Court planning principle on “compatibility with context” as established in *Project Venture Developments v Pittwater Council* provides the following test to determine whether a proposal is compatible with its context:

1. *Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.*

The development would have adverse physical impacts as followings:

- The development would restrict the redevelopment of No. 2 Tanderra Avenue by isolating the site within the precinct. If the sites to the north, Nos. 28-34 Donald Street did not have development approved, it would be possible that the site could amalgamate with those sites. The current situation results in an isolated site. The concept plans submitted with the application do not show a reasonable outcome on the site as discussed earlier in this report;
 - The development would result in a poor amenity for the identified communal open space in the centre of the site. This space would be overshadowed throughout mid-winter with generally poor amenity; and
 - The proposed building separations do not meet the requirements of the ADG and would result in additional separation being required by the adjoining sites to redevelop in accordance with the ADG.
2. *Is the proposal's appearance in harmony with the buildings around it and the character of the street?*
- The development is excessive in bulk and scale. The massing of the building exacerbates the bulk within the street by designing the exceedance in building height within the western portion of the building.
 - The form of the development is inconsistent with the intent of The Hills DCP 2012, in that the building dominates its surroundings and does not appropriately reflect the existing landforms of the neighbourhood, including drainage depressions.

6.2 Site works

Excavation

The development includes the excavation of two levels of basement for car parking. No geotechnical report was submitted with the application.

Tree removal

The application proposes the removal of a number of trees from the site. The scheme makes satisfactory adequate arrangements for the re-landscaping of the private elements of the proposal however fails to propose additional landscaping within the public domain.

Utility services

All utility services are available to the site by virtue of the existing development. Those services will be decommissioned / diverted as necessary to enable construction, and would be augmented as nominated by the relevant service providers to satisfy the demands generated by this proposal.

6.3 Natural and technological hazards

Overland Flow Path

The site is affected by an overland flow path. The development proposes to divert the overland flow to the northern and western boundaries through the use of a swale. Generally, the overland flow path should not be modified however in this instance the diversion is supported.

Geotechnical

The proposal requires the excavation of two levels of basement for parking. No geotechnical report was submitted with the application. Council is unable to assess the suitability of the site for the proposed works and if any additional works are required on the site to ensure the stability of the site and surrounding site.

6.4 Site design

Setbacks

There are several instances where the design does not comply with the ADG setbacks and building separations and is unsatisfactory. In summary:

- Northern boundary to isolated site:

The ADG nominates a varied setback, namely 9 metres for the fifth level where habitable rooms and/or balconies face the boundary.

The building is proposed to be setback 7.2 metres from the northern boundary which will inequitably burden the adjoining site, No. 2 Tanderra Avenue, Carlingford.

- Eastern Boundary

The ADG nominates a varied setback, namely 9 metres for the fifth level where habitable rooms and/or balconies face the boundary.

The building is proposed to be setback 7.9 metres from the northern boundary which will inequitably burden the adjoining sites.

- Southern boundary

The ADG nominates a varied setback, namely 9 metres for the fifth level where habitable rooms and/or balconies face the boundary.

The nearest balcony would be setback 8.6 metres to the southern boundary. In this instance, the adjoining site, No. 10-12 Donald Street, Carlingford, is the subject of a development application for a five storey residential flat building. The reduced setback of the proposed building has not reduced the capacity of the adjoining site to redevelop.

Height, bulk and scale

The height of the building is not supported as previously discussed. The bulk and scale of the proposal is no consistent with the outcomes contemplated by the precinct planning controls and is not satisfactory on merit.

Presentation to Both Tanderra Avenue and Paul Place

Council's DEAP supported the principal of breaking up the façade into numerous elements although acknowledged the overall design should be substantially amended to meet built form recommendations.

External materials

The schedule of external materials and finishes is satisfactory.

Accessibility

The application is supported by a technical report which concludes the proposal is able to achieve compliance with the requirements of the BCA and AS 4299, subject to resolution of nominated design matters.

Landscaping

Council's Tree Management and Landscape Officer is generally satisfied with the landscape treatment, and has provided conditions for inclusion if the application were to be approved.

6.5 Amenity considerations

Internal amenity

Generally, the internal amenity for the development is satisfactory with the exception of Unit B0.06, B1.06, B2.06, B3.06 and B4.05 noting the following:

- 66% of apartments benefit from cross ventilation;
- 79% of apartments receive more than 2 hours direct solar access between 9am and 3pm at midwinter (although no solar access diagrams have been provided);
- Ceiling heights to habitable rooms are capable of achieving 2.7m; and
- A minimum width of 2m is achieved for the purposes of meeting requirements for usable balcony sizes.

Units B0.06 and above do not achieve appropriate internal amenity noting the following:

- The bedrooms do not achieve the minimum 3 metre dimension;
- The balconies do not achieve the minimum 2 metre dimension for 8m²;
- Living spaces are poorly planned as a result of a radial street geometry;
- The units lack entry spaces; and
- Bedrooms are accessed from the kitchen.

Common open space

The primary common open space is located on the roof. Overall the development achieves the numerical requirements of the ADG for size (minimum 25% of the site area) and solar access (50% receiving 2 hours of solar access at midwinter).

6.6 Public domain

Built form relationship to public domain

The development would have an unsatisfactory relationship with the public domain:

- The pedestrian entrance to Building B is obscured from the public domain. This results in the appearance of 'dead zones' within the central courtyard and limited pedestrian movements in the space.
- The elevated ground floor level, the exceedance in building height and floor space ratio of the development, and massing of the development to the street elevations results in a building out of proportion within the nearby developments

Public domain works

No additional public domain works are proposed as part of this application.

6.7 Relationship to adjacent sites

Overlooking

The proposal does not achieve the minimum separation distances required by the ADG to the northern and eastern boundaries.

The development is separated by nearby developments to the south and west by Paul Place and Tanderra Avenue, respectively.

Overshadowing

Midwinter shadows from the towers will principally fall over Tanderra Avenue and Paul Place to the west and south.

As a result of the orientation of the building and central courtyard, the entirety of the central courtyard would be overshadowed throughout the entire day during midwinter.

Operational noise

The operational noise from the development would not be unreasonable within a high density residential environment.

Lighting

Adequate lighting of street frontages will be necessary for pedestrian amenity and safety.

6.8 Access, transport and traffic

Parking supply

The parking provided complies with the requirements of SEPP (ARH) and the ADG although does not achieve the numerical requirements of The Hills DCP.

Parking access and design

The geometry and design of parking areas and associated elements, including service areas, is satisfactory.

Construction Traffic

No Construction Traffic Management Plan was provided with the application. A preliminary CTMP is required to consider, at a high level, the management of traffic during demolition, excavation, and construction including the parking of vehicles within the site.

6.9 Water management

Stormwater collection and disposal

Council's Engineer is satisfied with the approach to stormwater management, including arrangements for WSUD.

Water quality during construction

This matter is can be addressed by way of condition if required.

6.10 Waste management

Construction phase

A Waste Management Plan detailing the management of waste during construction was provided.

Operation phase

A dedicated bin storage area is located on Tanderra Avenue.

Council's environmental Health Officer has reviewed the Waste Management Plan which supports the application, and is satisfied with arrangements for the storage and collection of waste from the development.

Council's Traffic Engineer is satisfied the design of the service areas is satisfactory for the type and size of waste vehicles required to attend the site.

6.11 Construction Management

A Construction Management Plan would typically be required to be prepared prior to the issue of a construction certificate addressing the following matters:

- Dilapidation reports;
- Demolition and removal of hazardous materials;
- Sediment and erosion control and water quality during construction;
- Construction traffic management plan;
- Hours of works;
- Construction noise and vibration;
- Material delivery and storage;
- Safety fencing;
- Traffic and pedestrian safety;
- Dust control; and
- Tree protection.

6.12 Safety, security and crime prevention

Crime Prevention Through Environmental Design (CPTED) is a recognised model which provides that if development is appropriately designed it is anticipated to assist in minimising the incidence of crime and contribute to perceptions of increased public safety.

Evaluation of the application with consideration of the principles which underpin CPTED (surveillance; access control; territorial reinforcement and space management) indicates the design has given due regard to many issues, however the design has not fully considered the location of the entrance to Building B being recessed within the elevation. By recessing both the entrance and letter boxes, passive surveillance of this space is limited by both residents and within the streetscape.

To ensure a suitable outcome is achieved, the following additional measures would be required:

- Internal and external lighting to Australian Standards;
- Installation of CCTV to the basement entry;
- Way finding measures within the parking level;
- The roller door to the basement /service entry to be closed;
- Pedestrian entry doors to be accessed by residents or visitors.

The matters listed above could be addressed by conditions.

6.13 Social and economic impacts

No adverse impacts have been identified.

6.14 Site Isolation

As discussed above in The Hills Development Control Plan section of the report, the development on the subject site would result in the isolation of No. 2 Tanderra Avenue.

The application was accompanied by a statement by *Asus 888 Group Pty Ltd.* however when considered with respect to the Land and Environment Court planning principle in *Karavellas v Sutherland Shire Council [2004] NSWLEC 251*, the application has not supplied sufficient information as proof of the adjoining property owner rejecting the offers made to purchase the property.

The concept designs for the isolated site are no appropriate and do not respond to the site constraints or meet the design criteria of the ADG or prescriptive measures of The Hills DCP 2012.

6.15 Inadequate Information

The application did not include sufficient information for Council to make a full and proper assessment of a number of issues.

- The application did not include solar access diagrams to demonstrate that the claim made in the Statement of Environmental Effects regarding compliance with the solar access requirements of the ADG is accurate;
- The application did not include a Geotechnical Assessment to assess the suitability of the site for the proposed development and make recommendations with respect to any additional works required to ensure the stability of the site.
- The application did not include any details regarding the amount of storage available to each unit within the development.
- The application did not include a SEPP 1 Objection to justify the variation to Clause 13 of SEPP (Affordable Rental Housing) 2009;

7. Site suitability

As addressed above, Although suitable for residential flat buildings, the site is not suitable for this development given the following:

- The site is affected by an overland flow path and results in a finished floor level of the ground floor is raised by 1.1 metres above natural ground level;

- The orientation of the building on the site results in the central courtyard being overshadowed throughout midwinter;
- The development of the site would isolate the adjoining property No. 2 Tanderra Avenue, Carlingford; and
- The radial street geometry results in apartments with unacceptable internal amenity.

The site is capable of development to a residential flat building. The proposed development is considered to be an overdevelopment of the site given the site constraints.

8. Public interest

The application was notified in accordance with The Hills DCP 2012 from 7 September 2017 to 21 September 2017. In response, one submission was received raising the following concerns:

1. Oversupply of dwellings

The submission raises concern with respect to the oversupply of dwellings within the area.

Comment: The zoning of the site and surrounding area envisioned the area to be redeveloped into residential flat buildings. In this instance, the proposed residential flat building is assessed to be an overdevelopment of the site when consideration is given to the site constraints.

2. Privacy to adjoining dwellings

The submission raises concern with respect to the overlooking from the development to the adjoining sites.

Comment: The site and surrounding area is zoned for high density residential developments. It is inevitable that as an area transitions from low density developments to residential flat buildings, that there will be some loss of privacy to the adjoining properties.

In this instance however, significant concerns are raised with respect to the separation of the balconies to the northern and eastern properties on the top floor. The reduced separation results in the adjoining properties being inequitably burdened by additional setbacks.

3. Overshadowing

The submission raises concern with respect to overshadowing of adjoining sites.

Comment: The shadow diagrams submitted indicate that the shadows cast by the development would not unreasonably overshadow any adjoining site with the majority of the shadows being cast over the subject site and public domain.

4. Wind Tunnel Effect

The submission raises concern with respect to a wind tunnel effect being created within the precinct.

Comment: The Hills DCP 2012 is silent with respect to the requirement for wind reports or the like. It is considered that as the area redevelops, the additional buildings would minimise any wind tunnelling effect as a result of the high density developments.

5. Security

The submission raises concern with respect to security of the development.

Comment: Evaluation of the application with consideration of the principles which underpin CPTED (surveillance; access control; territorial reinforcement and space management) indicates the design has given due regard to many issues, however the design has not fully considered the location of the entrance to Building B being recessed within the elevation. By recessing both the entrance and letter boxes, passive surveillance of this space is limited by both residents and within the streetscape.

If the application were to be approved, a number of additional security measures could be implemented by way of conditions.

6. Parking

The submission raises concern with respect to parking.

Comment: The application meets the minimum required parking spaces as required by SEPP (Affordable Rental Housing). The site is also located in walking distance (<800m) of Carlingford Station. Council's traffic engineer has assessed the proposed parking arrangement on site and the traffic impacts of the development and raises no concerns with respect to the development in terms of traffic and parking.

9. Public interest

8.1 Draft Greater Sydney Regional Plan and (Revised) Draft Central City District Plan

The *Greater Sydney Regional Plan* has been prepared by the Greater Sydney Commission to manage growth and change and guide infrastructure delivery over the next 40 years. The Plan sets a strategy for accommodating Sydney's future population growth and identified the need to deliver 817,000 new jobs and 725,000 new homes by 2036. The Plan identified the need for new housing within walking distance of a local or strategic centre and open space.

The Greater Sydney Commission will use the District Plans to inform Council's plans, guide assessment of local planning proposals, and information the delivery of infrastructure within the district. The City of Parramatta has been grouped with Blacktown, Cumberland, and The Hills Councils. The *Revised Draft Central City District Plan* will be reviewed with the on-going monitoring of housing supply to ensure planning controls are in place to stimulate housing development.

The proposed development is consistent with the *Greater Sydney Regional Plan* as it would provide 49 additional dwellings and would contribute to housing choice in the locality.