

Report to Sydney Central City Planning Panel

SWCCP reference	2018SWC061
DA No.	DA/326/2018
Date of receipt	18-May-2018
Proposal	Construction of three (3) residential flat buildings over five (5) levels of basement
Street address	2B Hill Road Lidcombe
Property Description	Lot 5 DP 1081374
Applicant	HP Subsidiary Pty Ltd
Owner	Riveredge Investments Pty Limited
Submissions	4 submissions
All Relevant s4.15(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 No. 65 • State Environmental Planning Policy (Sydney Harbour Catchment) 2005 • State Environmental Planning Policy (BASIX) 2004 • State Environmental Planning Policy (State and Regional Development) 2011 • Auburn Local Environmental Plan 2010 • Draft amendments to Auburn Local Environmental Plan 2010 • Carter Street Precinct Development Control Plan 2016 • Carter Street Precinct Development Contributions Plan 2016
Documents submitted with report	<ul style="list-style-type: none"> • Attachment 1 – selected plans

Summary of Sec 4.15 matters	Yes
Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	

Legislative clauses requiring consent authority satisfaction	Yes
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?	

Clause 4.6 Exceptions to development standards	N/A
If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	

Special Infrastructure Contributions	Yes
Does the DA require Special Infrastructure Contributions conditions (Sec 7.24)?	

Conditions	N/A
Have draft conditions been provided to the applicant for comment?	

Recommendation	Refusal
Report by	Brad Roeleven, Executive Planner

1. Executive summary

1.1 Overview

This report considers a proposal for the demolition of existing structures and construction of three (3) residential flat buildings with five (5) levels of basement parking and associated road/civil infrastructure.

Assessment of the application against the relevant planning framework and consideration of matters by Council's technical departments has identified fundamental issues of concern. These issues are listed in Section 2 below. The application is therefore not satisfactory when evaluated against section 4.15 of the Environmental Planning and Assessment Act 1979.

Consequently, this report recommends that the Panel refuse to grant consent to this application.

1.2 Current Court Appeal

On 20 December 2018 the applicant lodged amended plans with Council and also commenced Class 1 proceedings in the Land and Environment Court (LEC) appealing against the "deemed refusal" of this application. The Panel was briefed of those circumstances on 6 February 2019.

Further amended plans were then lodged with Council on 20 March 2019, and the Court subsequently granted leave for the Appeal to be based upon those plans. That amended scheme is therefore the subject of this report, and the Statement of Facts and Contentions (SOFAC) filed with the LEC on 25 June 2019.

A conciliation conference was held on 19 August 2019, presided over by Acting Commissioner Bindon.

Notwithstanding agreements reached between the parties on certain matters, including design principles in relation to an acceptable built form, as no "in principle" agreement for resolution of the proceedings was reached, the conciliation conference was terminated. The matter is subsequently set down for a Hearing on 23 and 24 April 2020.

Nevertheless, the applicant has continued to consult with Council, and at the time of preparing this report it was understood that further revised plans would be lodged in late November.

1.3 Need for this report

Despite the appeal process this application has never been formally determined. The purpose of this report is to rectify that circumstance.

Notwithstanding that consultation between the parties through the LEC conciliation process has generally been positive, the matter overall is not resolved. Given the need to formally determine this application, this report is framed to reflect all the issues of concern nominated in the Statement of Facts and Contentions (SOFAC) already filed with the Court. This ensures that any decision to refuse this DA, and the associated Determination Notice, will be consistent with the terms of Council's assessment at the time the SOFAC was submitted for the Appeal.

2. Key issues

- The elements of the proposal which encroach into the Foreshore Building Line (road and bridge) are prohibited pursuant to clause 6.4(3) of the Auburn Local Environmental Plan 2010 (ALEP 2010).
- Satisfactory arrangements have not been made for a contribution toward the provision of State public infrastructure as required by clause 6.8 of ALEP 2010.
- The proposal is inconsistent with the desired future character of the Carter Street Precinct.
- The built form and configuration of the proposal responds poorly to its context and does not meet the design quality principles of State Environmental Planning Policy 65; is inconsistent with the draft design excellence criteria of Draft ALEP 2010, and does not comply with the requirements of CSP DCP 2016 or ADCP 2010.
- The design does not provide adequate internal amenity for occupants and does not satisfy the relevant objectives, design criteria or guidance of the Apartment Design Guide (ADG) or State Environmental Planning Policy (Basix) particularly with regard to:
 - Failure to provide an update Basix Certificate for the amended plans
 - Solar access
 - Natural ventilation
 - Size of private balconies visual privacy and separation distances
 - Common open space
 - Inadequate visual privacy as a consequence of limited separation distances
- Failure to comply with State Environmental Planning Policy (Infrastructure) 2007 regarding:
 - Impacts of road noise
 - Risks from high pressure pipelines on the site (societal risks and risk to pipeline integrity)
- Failure to provide for housing diversity and opportunities for social interaction consistent with zone objectives of ALEP 2010, and the provisions of the ADG and CSP DCP 2016
- The proposal has not been designed to minimise the flood risk to life and property or demonstrated that satisfactory arrangements have been made to manage stormwater and related matters. (ALEP 201 – clauses 6.3 and 6.5)
- The proposal has not demonstrated that suitable road access is available as required by ALEP 2010 (clause 6.5) and the design does not provide for adequate onsite parking for cars and bicycles.
- Insufficient information has been provided to enable a proper assessment of the development application in relation to:
 - Confirmation of the height and floor space
 - Adequate documentation of solar access and cross ventilation outcomes

- Confirmation of the site area
- Adequate landscape plan
- Adequate arborist report
- Adequate access to private assets (Sydney Water infrastructure, pipelines and easements) during construction
- Adequate public domain plans for the entire street corridor.

These issues are discussed in detail within **Attachment A** of this report and the full list of issues (reasons for refusal) is contained within **Attachment B** of this report.

3. Carter Street Priority Precinct

3.1 Background and context

The Carter Street Precinct comprises 52 ha of land bounded by Sydney Olympic Park, the M4 Motorway, Haslams Creek and land immediately adjacent to Birnie Avenue. Rezoning for the Precinct was finalised in November 2015. Transformation to a high density residential precinct is in its early stages with four buildings under construction or recently completed.



Aerial photo of Carter Street Priority Precinct

3.2 Strategic Review by the Department of Planning, Industry and Environment (DPIE)

In mid-2017 the DPIE commenced a review of the planning controls for the Carter Street Precinct, in conjunction with its consideration of the Sydney Olympic Park Master Plan 2030.

The purpose of that review was to ensure the controls accommodated changes to the design of a proposed off ramp from the M4 Motorway and Parramatta Light Rail (Stage 2) terminus, whilst still ensuring housing, employment and retail services within the Carter Street precinct.

The outcome was a revised Master Plan used to inform amendments to Auburn Local Environmental Plan (LEP) 2010 and Carter Street Precinct Development Control Plan (DCP) 2016. Public exhibition of the draft documents concluded on 26 October 2018, and the draft instrument has been with the Minister for approval since early 2019.

However, in October 2019 the DPIE advised that:

- It is undertaking further a post- exhibition review of the draft controls; and
- For a specific land holding (Meriton site) the draft controls were indefinitely deferred.

It is now not clear when the draft controls will be finalised.

4. Site Context and Related Applications

4.1 Site location and description

No. 2B Hill Road, Lidcombe is legally described as Lot 5 in Deposited Plan 1081374. Site area is approximately 27,490m². The allotment is of an irregular shape, and is connected to Hill Road via a 10m wide access handle. Site grades are slight and vegetation is limited to the northern boundary adjoining Haslams Creek, and along a concrete stormwater channel located just inside the eastern site boundary. The southern boundary is common with the M4 Motorway and a large industrial property adjoining to the east (4-6 Hill Road Lidcombe).

The site is located within an established industrial area with mainly large warehouse facilities offering logistics services. Existing use on the site comprises a car storage yard and a light industrial activity.



Locality plan - Site is outlined in yellow



Hill Road frontage of the site



Looking east across the site

The site is limited by physical constraints as indicated below:

Nearby land uses	<ul style="list-style-type: none"> • Sydney Olympic Park sporting facilities • Liquid Waste treatment plant • Adjoining industrial buildings • M4 corridor
Site constraints	<ul style="list-style-type: none"> • Multiple easements • 4 x high pressure pipelines • Sydney Water facilities • Flooding – 1% ARI from stormwater channel affecting the entire site (high hazard flooding associated with stormwater channel) • Site is also 3-4m below predicted PMF • Narrow access handle to Hill Road

4.2 Related applications

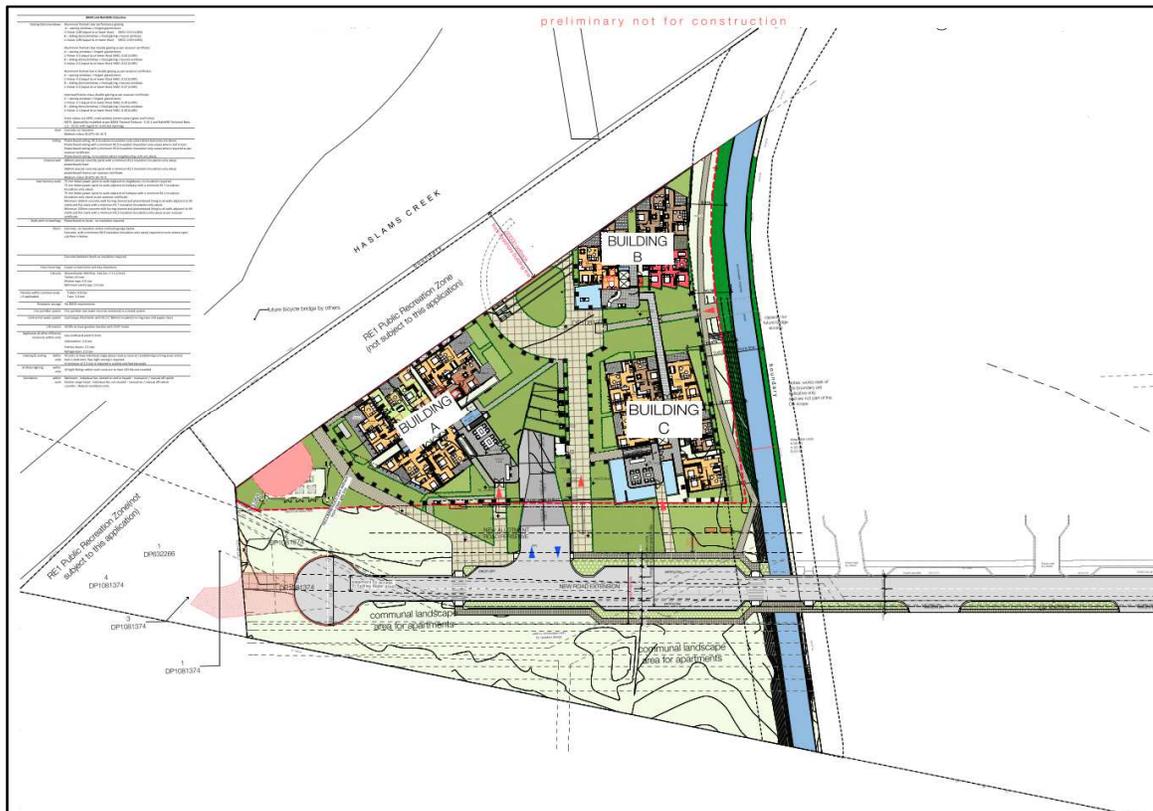
A summary of previous applications for this site is provided in the following table:

Reference number	Scope of works	Status
CD/933/2017	Demolition of 2 existing structures	Approved by Private Certifier
PL/43/2018	Construction of three residential flat buildings and five levels of basement parking and storage.	Advice provided 17-May-2018

5. The Proposal

The proposal comprises the following primary elements:

- Demolition of all structures
- Construction of residential development containing 302 apartments comprising:
 - Five basement levels (324 car parking spaces and various ancillary facilities)
 - Three residential towers
 - Building A = 15 storeys
 - Building B = 10 storeys
 - Building C = 17 storeys
 - Communal open space of 10,456m²
- Construction of a new road connecting the development to Hill Road.



Site plan – revised plans lodged 20/03/2019



Photomontage – View from across Haslams Creek (revised plans lodged 20/03/2019)

6. Public notification

The original application was exhibited between 7 June 2018 to 9 July 2018, and the amended application was exhibited between 10 April 2019 to 13 May 2019.

Four (4) individual submissions were received in total as a result of both notification periods. The issues raised within these submissions are discussed in further detail in **Attachment A**.

7. Referrals

Any matters arising from referrals not dealt with by conditions	Yes Refer to Attachment A
---	-------------------------------------

8. Environmental Planning and Assessment Act 1979

Does Section 1.7 (Significant effect on threatened species) apply ?	No
Does Section 4.10 (Designated Development) apply ?	No
Does Section 4.46 (Integrated Development) apply ?	Yes (Water Management Act 2000)
Are submission requirements within the Regulations satisfied ?	Yes

9. Consideration of SEPPs

Key issues arising from evaluation against SEPPs	Yes - a detailed assessment is provided at Attachment A .
--	--

10. Auburn Local Environmental Plan 2010

The table below presents a summary assessment against the terms of this LEP. A detailed evaluation is provided at **Attachment A**.

Matter	Comment or non-compliances
Zones	<ul style="list-style-type: none"> R4 High Density Residential RE1 Public Recreation
Definition	<ul style="list-style-type: none"> Residential flat building Roads
Part 2 Permitted or prohibited development	<ul style="list-style-type: none"> Permissible in the zone Inconsistent with zone objectives (development provides for limited housing opportunity)
Part 3 Exempt and complying development	<ul style="list-style-type: none"> Not applicable
Part 4 Principle development standards	<ul style="list-style-type: none"> Compliance with height and FSR
Part 5 Miscellaneous provisions	<ul style="list-style-type: none"> All relevant provisions satisfied
Part 6 Additional local provisions	<ul style="list-style-type: none"> Flood planning objectives not satisfied (although unmapped, the impacts of flood affectation have not been adequately addressed) Structures are proposed within the foreshore building line which are prohibited under clause 6.4 No arrangements made for contributions state public infrastructure per clause 6.8 All other relevant provisions satisfied.

Draft Auburn Local Environmental Plan 2010

The Draft ALEP 2010 proposes amendments to the planning controls to reflect the new masterplan prepared by the Department of Planning, Industry and Environment.

The scheme does not comply with the proposed maximum building heights, and does not satisfy the qualitative “design excellence provisions” nominated by this draft Plan. Consequently, the proposal would be inconsistent with the desired future character of the Carter Street Precinct. Further discussions regarding the detailed design of the development is contained within **Attachment A** of this report.

11. Carter Street Development Control Plan 2016

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

Part	Comment or non-compliance
Part 2 Vision, principles and indicative structure	Generally consistent
Part 3 Public domain	Generally consistent

Part 4 Residential/ mixed use development	Non-compliances with regard to: - Number of storeys - Floorplate size - Setback to stormwater channel - Poor built form and façade outcomes - Basement encroaches into landscape setback to stormwater channel
Part 5 Employment uses	Not applicable
Part 6 Environmental management	All relevant provisions satisfied

12. Planning Agreements and Contributions Plans

The relevant matters are:

- Designated state public infrastructure (Carter Street Priority Precinct) via clause 6.8 of Auburn LEP 2010.
- Carter Street Precinct Development Contributions Plan 2016.
- Land dedication (Carter Street Precinct Contributions Plan 2016).

A detailed assessment is provided at **Attachment A**.

13. Response to SCCPP briefing minutes

The Panel was briefed on this application on 6 February 2019. The 'Record of Briefing' provides a list of the key issues discussed. The matters that relate to the assessment of the application are addressed in the table below:

Issue	Comment
The Chair advised of the need to have consistency of Panel members for all future meetings, and to engage another state member with appropriate qualifications as Mr Mitchell has declared a conflict of interest.	Noted.
The Panel notes that the applicant has lodged a deemed refusal appeal with the Land and Environmental Court of NSW (LEC). The matter is set down for first return date on 8 February 2019.	Noted.
The Panel agrees that the additional information lodged by the applicant in December 2018 should be considered in the assessment of this application. The council advises that assessment of those details is underway, but not yet complete.	The assessment report is based upon subsequent amended plans submitted to the Court on 20 March 2019.
The Panel agrees it is appropriate for Council to seek the leave of the court to extend the required time for the Council to file and serve its Statement of Facts and Contentions, in order for an assessment of the application and determination by the Panel to take place.	Noted. Leave of the Court was granted. Amended plans were submitted and re-notified to adjoining owners and occupiers.

The Panel inspected the site and acknowledges the constraints to be assessed including vehicle access, easements, fuel/gas pipelines and flooding. With regard to access, the position of Sydney Water was noted relative to no new structures over the stormwater channel.	Noted.
The Panel was advised of the draft planning controls only recently exhibited by the Department of Planning which would impact upon site planning and built form design. The Panel noted that the Council's Design Excellence Advisory Panel will have input into the assessment of the amended plans.	Council's City Architect has reviewed the amended plans in relation to DEAP comments and has concluded that the applicant has not satisfactorily addressed the comments made by DEAP. This review is detailed within Section 2.2 of this report.
The Panel requests that it be updated on the outcomes of the assessment of the additional information/amended plans, as well as the outcomes of any meetings with the applicant.	Noted.
The Panel will request its legal advisors to attend the Court and advise of its present position.	Noted.

14. Conclusion

The application has been assessed relative to section 4.15 of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant state and local planning controls. The proposal has not demonstrated a satisfactory response to the objectives and controls of the applicable planning framework.

It is therefore recommended that this application be refused for the reasons set out in **Attachment B** of the Assessment Report. Those reasons are consistent with the matters identified in the SOFAC already filed with the LEC.

15. Recommendation

- A. That pursuant to Section 4.16 of the Environmental Planning and Assessment Act, 1979 the Sydney Central City Planning Panel **REFUSE** consent to Development Application DA/326/2018 on land at 2B Hill Road, Lidcombe (Lot 5 DP 1081374) for the reasons contained in **Attachment B** of the Assessment Report.

ATTACHMENT A - PLANNING ASSESSMENT

SWCCP reference	2018SWC061
DA No.	326/2018

1. Overview

1.1 Section 4.15 of the Environmental Planning & Assessment Act (EPA Act)

This Attachment provides an assessment of the relevant matters for consideration under this section of the Act, as noted in the table below:

Provision	Comment
Section 4.15 (1)(a)(i) - Environmental planning instruments	Refer to Section 2 below
Section 4.15 (1)(a)(ii) - Draft planning instruments	Refer to Section 3 below
Section 4.15 (1)(a)(iii) - Development control plans	Refer to Section 4 below
Section 4.15 (1)(a)(iiia) - Planning agreements	Refer to Section 5 below
Section 4.15 (1)(a)(iv) - The regulations	Refer to Section 6 below
Section 4.15 (1)(a)(v) - Coastal zone management plan	Not applicable
Section 4.15 (1)(b) - Likely impacts	Refer to Sections 2-7 below
Section 4.15 (1)(c) - Site suitability	Refer to Section 8 below
Section 4.15 (1)(d) - Submissions	Refer to Section 9 below
Section 4.15 (1)(e) - The public interest	Refer to Section 9 below

1.2 Section 4.46 of the EPA Act

This section defines “integrated development” as matters that require consent from Council, and one or more approvals under nominated legislation. In such circumstances, prior to granting consent, each relevant approval body must provide its General Terms of Approval (GTA).

The application is Integrated Development under the provisions of the EPA Act as a controlled activity approval and a Water Supply Work Approval/Water Access Licence are required under the Water Management Act 2000. Water NSW and the Department of Industry (Water) have both provided their General Terms of Approval.

1.3 Referrals

The following internal and external referrals were undertaken:

Internal Referrals	
Landscape	<p>Not satisfied</p> <p>Insufficient information provided. A revised landscape plan, details of above basement planting and communal open space, relationship to the public recreation zone and readable arborist report have not been provided.</p>
Development Engineer	<p>Not satisfied</p> <ul style="list-style-type: none"> The proposal is not been designed to minimise the flood risk to life and property associated with use of the land. Satisfactory arrangements have not been made to manage stormwater and related matters.

Traffic	Not satisfied The proposal cannot be supported on traffic and parking grounds due to the lack of an appropriate access road from Hill Road to the site. The proposed half road construction also needs to be redesigned to satisfy relevant provisions of AS2890.1 to include a minimum of 6.5m wide carriageway.
Environmental Health (Waste)	No objections – conditions provided.
Environmental Health (Contamination)	No objections – conditions provided.
Environmental Health (Acoustic)	No objections – conditions provided. (application as lodged) Notwithstanding the above referral review, a detailed analysis of the submitted acoustic report reveals the following: <ul style="list-style-type: none"> • The report is not based upon the architectural plans filed with the Class 1 Application • The report does not confirm that the criteria in clause 102(3) of the SEPP Infrastructure is able to be satisfied The reference to the proposed development being able to achieve compliance with the CSP DCP 2016 is ambiguous as it is not clear which of the two DCP criteria it refers to.
City Architect	Not satisfied The amended plans do not satisfactorily address the comments made by Council's Design Excellence Advisory Panel.
Urban Design (Public domain)	Not satisfied Inadequate information has been submitted to demonstrate that a satisfactory public domain will be provided. The applicant has not provided adequate public domain plans for the entire street corridor and revised landscape drawings for the site.
Natural Resources	No objections – conditions required for compliance with ecological report.
External Referrals	
Sydney Olympic Park Authority	No comment.
RMS	No objections – conditions provided.
Ausgrid	No objections – conditions provided.
Sydney Water	No building or permanent structure is to be constructed over the stormwater channel or within 1m from the outside wall of the stormwater asset. Permanent structures include (but are not limited to) basement car park, hanging balcony, roof eaves, hanging stairs, stormwater pits, stormwater pipes, elevated driveway, basement access or similar structures. This clearance requirement would apply for unlimited depth and height.
Water NSW	General Terms of Approval for a Water Supply Work Approval/Water Access Licence dated 25 July 2018 received.
DPI Water	General Terms of Approval for a Controlled Activity Approval dated 18 July 2018 received.

2. Environmental Planning Instruments

Compliance with these instruments is addressed below.

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

Clause 7 of SEPP 55 requires the consent authority to consider if land is contaminated and, if

so, whether it is suitable, or can be made suitable, for a proposed use.

A detailed site investigation to determine the extent of any contamination was submitted with the application (*Detailed Site Investigation - Lots 4 & 5 in DP1081374, Hill Road, Lidcombe, NSW* prepared by *EI Australia* dated 9 March 2018). This investigation found that a number of areas on the site had contaminants of concern above the adopted investigation levels and concluded that remediation would be required to make the site suitable for the proposed use.

A Remediation Action Plan (RAP) was also submitted (*Remediation Action Plan - Lots 4 & 5 in DP1081374, Hill Road, Lidcombe, NSW* prepared by *EI Australia* dated 24 May 2018). This RAP indicated that further assessment of the site would need to be conducted following demolition of the remaining structures on site. In addition, a hazardous materials survey will also need to be conducted prior to demolition. The RAP will ensure that any contaminants on the site are removed to ensure the site is suitable for its proposed use of residential land use with minimal access to soil.

Environmental Consultant Statement of Suitability

Section 10 within the RAP states the following conclusion:

In summary, EI considers that the site can be made suitable for residential use with limited accessible soils, through the implementation of the works described in this RAP.

Council's Environmental Health Officer has reviewed the application and advises that the proposal satisfies the requirements of Council's controls and can be supported, subject to standard conditions of consent.

2.2 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:

- The 9 SEPP 65 Design Quality Principles; and
- The Apartment Design Guide (ADG)
- Design Excellence Advisory Panel (DEAP) consideration.

Design Quality Principles

SEPP 65 sets 9 design quality principles. The development has not adequately addressed the 9 design quality principles, with the key issues to be resolved identified in the following table:

Design quality principle	Response
Context	<ul style="list-style-type: none">• There is a paucity of urban design analysis that should indicate the potential for integration into this emerging and future development.• It is not at all clear how the proposed development can be complementary to significant urban renewal to the east that will be

	<p>based on urban design principles more aligned with block edge typologies.</p> <ul style="list-style-type: none"> • The tower configuration and the manner in which it is projected in built form is not appropriate for this development. • The street layout has been extended slightly to the west, but maintains a cul-de-sac access into the site with driveway entry to the basement that conflicts with pedestrian movement and diminishes scope for legible entries to buildings. • While site access follows the original intended street network from CSPDCP2016, the built form frontages along both Haslams Creek and the stormwater canal have resulted in nil or minimal boundary setbacks that are quite contrary to the expectations • A 10m setback would also complement activation of the stormwater canal along the eastern edge of the site envisaged under the Draft CSPDCP2016, together with provision for deep soil zone planting to support a generous large tree canopy within the site.
<p>Built form</p>	<ul style="list-style-type: none"> • The resolution of the built form requires major changes to improve the envelope articulation and perimeter expression, more legible and accessible entry points, and setbacks to enable built edge frontages closer to those envisaged for Haslams Creek and along the stormwater channel. • The introduction of a podium element instead of the proposed free standing 'colonnade' wall/screen would be consistent with the current DCP Draft CSPDCP 2018 and Revised Master Plan 2018. This would result in an outcome with massing and articulation that would relate better to the Residential Courtyard Block Typology envisaged, with greater clarity of the separation between private, communal and public open space at ground level. • Where the perimeter screen wall has been added, it is unclear how this will relate to the building edges and what impact it may have on the various ADG compliances for ventilation and solar access. Nevertheless this element lacks cohesion with the other tower built forms, and makes the overall composition most incongruous. • Separation of Building A and Buildings B and C by the car park entry ramp creates a strong and negative intrusion into the main street address, and impacts on pedestrian amenity. • The building foyer entries are confusing and lack a coherent main address, and there is no clear line of sight for Building B from the central public open space or via the foyer entry of Building C. • A space is indicated at the acute north-east corner of the basement for a car park exhaust shaft. It is not clear how this is resolved above ground level as a landscaped structure, and it is nevertheless inappropriate so close to residential units and in a prime public domain location. • Review of the DA documentation indicates numerous inaccuracies in the ADG assessment, in relation to building depth, solar access, natural ventilation, private open space and planting on structures.
<p>Density</p>	<ul style="list-style-type: none"> • Consideration of alternative housing options and typologies that would work towards improving a social and affordable mix of accommodation. • Review of built form configuration to reduce or modify envelopes with less depth and greater articulation to achieve necessary ADG solar access and natural ventilation targets. • More definitive built form perimeter, based on a usable podium expression rather than an applied screen wall with questionable amenity.

	<ul style="list-style-type: none"> • Improved provision for appropriate communal open space that is accessible to all residents at or close to ground level, and able to enhance the potential for social interaction.
<p>Sustainability, resource, energy & water efficiency</p>	<ul style="list-style-type: none"> • There needs to be clear, coordinated description of the location, size and operation of all windows, in particular those that are intended to provide natural cross ventilation for units up to 9 storeys, but also for other units that may only have sliding doors to living areas or bedrooms. In this regard it is noted that many units which are claimed as being cross ventilated do not have a dual aspect/orientation, and it is not clear that inlet and outlet openings are approximately equal in size. • While the DA elevations are not graphically clear, it appears many windows have no or minimal shading on critical north and west elevations e.g. Building C Units _02. • The building roofs would provide ideal locations for inclusion of solar hot water and p/v panels to provide energy to communal areas of the complex, and if required screened enclosures for banks of a/c condensers. • Potential for stormwater harvesting to irrigate the extensive planted areas should be considered, particularly with on-slab landscaping.
<p>Landscape</p>	<ul style="list-style-type: none"> • There is a need for better legibility, hierarchy and accessibility for the public realm, and delineation of landscape elements to define private, communal and public open spaces. The removal of the public link through the site would assist this exercise. • The basement covers virtually the entire area within setbacks dictated by service zones and foreshore building lines. There should be a reduction in the extent of the basement to allow greater provision for deep soil around the perimeter and within communal open spaces. • It is particularly important that there is a decent deep soil zone within the site along the foreshore frontage to Haslams Creek for the benefit of residents without needing to rely on planting to the RE1 zone. • Clarification of the full extent of scope for large size trees is needed to ensure optimum shade canopies are provided, and where necessary on-basement slab details of planter sizes and soil volume • The landscape plans have not yet been updated to reflect the current architectural plans, and full coordination must be done. • Features such as communal terraced landscaping to conceal the basement driveway entry do not appear practical or attractive with poor access and amenity. • The communal open space south of the new access road may have substantial landscaping limitations due to the multiple service easements, and potential for hazardous ground conditions, and this could severely compromise the quality of intended communal open space there. This is of concern given amenity for this part of the site is already poor due to a lack of continuous noise barriers to provide relief from road traffic noise on the adjacent M4 Motorway. • Provision of more detail for a landscaped communal roof terrace on top of Building B is noted, but it is assumed would limit access only to residents of that building. Both Buildings A and C could also benefit from communal roof terraces if it is not possible to get sufficient amenable and quality landscaped open space to the south of the site.

<p>Amenity</p>	<ul style="list-style-type: none"> • Private open space for ground floor apartments, and on upper level balconies must comply with the minimum required under the ADG and depths of at least 2m to be counted. • There are several typical unit layouts with quite convoluted corridor access, bedrooms directly adjacent living areas of other units, and bedrooms with access through kitchen areas • The basis of ADG compliance for natural ventilation is of concern with questionable interpretation on how the required openings are determined. There are many units which are claimed as being cross ventilated which do not have a dual aspect/orientation, and it is not clear that inlet and outlet openings are approximately equal in size. • It is apparent that many units do not receive the minimum of 2 hrs solar access to living areas in mid-winter. • The principal communal open space at ground level on the south side of the access road receives the requisite 2 hrs solar access. However this amenity is not easily reached, and its quality may be severely compromised as noted above. • The central raised terrace adjacent Building A is poorly configured for both access and use due to its design, and although the communal open space on top of Building B can receive generous solar access, that is with limited availability to residents of the other 2 buildings.
<p>Safety & security</p>	<ul style="list-style-type: none"> • The central public access through the site needs to be reconsidered, and more secure and amenable outcomes achieved for communal and private open spaces at ground level. • Access to the basement car park and service areas needs complete reappraisal to address safety and amenity concerns. • Consideration of how the whole site perimeter can be secured without resulting in the appearance of a walled or gated estate.
<p>Social dimensions/housing affordability</p>	<ul style="list-style-type: none"> • On this size of site there should be other housing options and typologies that would work towards improving the mix of accommodation. • Investigation of more scope to provide places within the site to encourage social interaction of either casual or formal nature as per ADG Objectives • Further development of the landscape design is required to show how various activities for a resident population in the vicinity of 7-800 can be accommodated for the diverse community that is anticipated. • The site of almost 1.5Ha should be capable of offering residents a more diverse range of communal spaces to encourage a sense of community to evolve over time.
<p>Aesthetics</p>	<ul style="list-style-type: none"> • An addition to the revised DA is the introduction around the site perimeter of a precast 'colonnade' wall intended to create podium impression. This is not regarded as a successful inclusion in the project, and much more detail would be required on how this is would work and be integrated and coordinated with both landscape and architectural plans. • Removal of the 'colonnade' element and inclusion of a distinctive separation of the tower buildings above a 3 storey podium would be recommended as envisaged in the DPE amendments to the

<p>CSPDCP 2016, and scope for other housing typologies should be included.</p> <ul style="list-style-type: none"> • Alternative façade treatments that create a less visually aggressive expression, and include a hierarchy of elements related to orientation and that better express functions such as solar access, sun control and privacy screening. • If a precast system is to be incorporated, then a thorough detail description of the construction methodology and finishes will be required to ensure the façade outcome is sustainable in terms of quality and maintenance.

Apartment Design Guide (ADG)

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 table below considers the proposal against key design criteria in the ADG:

PARAMETER	DESIGN CRITERIA	PROPOSAL	COMPLIANCE
Communal Open Space	Min 25% of the site area (3681m ²)	<p>Numeric Amounts: Areas of COS are: Roof of building B = 371m²</p> <ul style="list-style-type: none"> • Elevated terrace adjacent tower A= 384m² • Area south of new road = 2,933m² <p>Totals = 3,688m² which is 25% of site</p> <p>Design of COS: The location of the open space away from the residential units across the access road and the lack of delineation to public open space is such that the identified open space does not meet the definition or function of communal open space.</p>	<p>No</p> <p>Whilst compliant in terms of area numerics, the functionality and accessibility does not comply.</p>
	Min 50% of the communal open space is to receive 2 hours direct sunlight between 9.00am and 3.00pm on June 21	<ul style="list-style-type: none"> • Roof of building B = Yes • Elevated terrace adjacent tower = yes (10am -12noon) • Area south of new road = Yes (1pm -3pm) 	Yes
Deep soil zone	Minimum dimension of 6m required – 15% desirable	<i>Deep soil outside of basement = 2,374m²</i>	Yes
	7% of the overall site area = 1031m ²	<i>Deep soil south of new road = 2,642m²</i> <i>Total = 5,016m² or 34%</i>	

Building Separation		Building Height	Habitable rooms and balconies	Non-habitable rooms	<p><u>Within the development</u></p> <p>Varies</p> <p>Majority of development complies (or is acceptable on merit given design treatment).</p> <p>A separation distance of only 16m is provided between Building B and C, to the eastern portion, on all levels, which is inadequate and will result in unacceptable visual privacy for future occupants.</p>	In part
	up to 12m (4 storeys)	12m	6m			
	up to 25m (5-8 storeys)	18m	9m			
	over 25m (9+ storeys)	24m	12m			
Solar Access	At least 70% of living rooms and private open space to receive at least 2 hours direct sunlight between 9.00am and 3.00pm on June 21				65.5% of apartments (200) receive a minimum of 2 hours solar access.	No
	A maximum of 15% of apartments are permitted to receive no direct sunlight between 9.00am and 3.00pm mid-winter.				<p>Impacts on adjoining</p> <p>The proposed development does not adjoin any residential development. Therefore there is no overshadowing of adjoining residential properties.</p> <p>Less than 15% of apartments receive no direct sunlight during mid-winter.</p>	Yes
Cross Ventilation	At least 60% of apartments are to be naturally cross ventilated.				<p>The applicant contends 121 units out of 188 units (64%) within first 9 floors are cross ventilated, consistent with ADG. For many units it is not possible to fully assess due to limited information on elevations indicating location and size of windows, or their mode of operation.</p> <p>Estimate that 35% of apartments (66) are cross ventilated.</p>	No
	Apartment depth is not to exceed 18m				<p>Building A - ground</p> <p>Central portion of floor plate exceeds 18m (27m-29m)</p> <p>Building B - ground</p> <p>Majority of the building exceeds 18m (19-25m)</p> <p>Building C - ground</p>	In part, however primarily the buildings do not comply

		Majority of the floorplate exceeds 18m (21m – 24m) Building A – Levels 2-8 Entire floor plate exceeds 18m (generally around 24m +) Building B – Levels 2-8 Mostly less than 18m Building C – Levels 2-8 Entire floor plate exceeds 18m (generally 22m-25m)	
Ceiling Heights	2.7m for habitable, 2.4m for non-habitable	Elevations indicate 3.1m floor to floor heights Floor to ceiling heights have not been indicated but are achievable.	Yes
Apartment Size	Studio – 35m ² 1 bed – 50m ² 2 bed – 70m ² 3 bed – 90m ² (note: minimum internal size increases by 5m ² for additional bathrooms, 10m ² for 4 + bedroom)	Comply	Yes
	All rooms to have a window in an external wall with a total minimum glass area not less than 10% of the floor area of the room.	Comply	Yes
	Habitable room depths to be a maximum 2.5 x the ceiling height (=6.75m)	Comply	Yes
	Maximum depth (open plan) 8m from a window.	Comply	Yes
Bedroom size	Master bedrooms – 10m ² Other bedrooms – 9m ² Bedroom dimensions – 3m min. Living rooms have a width of: - 3.6m for studio/1bed - 4m for 2 or 3 bed	Comply	Yes
Balconies	Studio – 4m ² 1bd – 8m ² / 2m 2bd - 10m ² /2m 3bd – 12m ² /2.4m	Bld A The balcony of unit 4, on levels 2-15, is 6m ² , as areas with a depth of less than 2m do not count	In part
	Ground or podium apartments to have POS of 15m ² /3m	Bld B and C All units have undersized private open space (between 8m ² -12m ²)	No
Circulation	Maximum 8 apartments per level (design criteria)	Varies Between 5-9 apartments per floor	No
Storage	1bd – 6m ³ 2bd – 8m ³ 3bd – 10m ³	There are only 226 storage cases in the basement (lower ground	No

		level) but 305 needed – shortfall of 79 cages. However expect there is sufficient room to provide further storage to ensure that each unit has required areas.	
--	--	--	--

Parramatta Design Excellence Advisory Panel (DEAP)

The application as originally lodged was considered by the DEAP on 21 June 2018. Recommendations and comments at this meeting included the following:

1. *The Panel understands that site planning is heavily impacted by the numerous existing service and infrastructure easements, and this appears to be driving much of the urban design approach. However, the Panel recommends that further consideration is needed in relation to the broader precinct context, site layout and circulation around and within the buildings and communal spaces. Liaison with Council's traffic engineers should be undertaken to explore alternative street and vehicular access options.*
2. *The current built form is based on built-to boundary edges with a central connection through the site, while not much consideration is given to access or building frontages to Haslam's Creek and the drainage easement that forms the eastern boundary to the site. The Panel recommends that the frontage to the creek could be improved and further integrated as part of a continuous foreshore feature in consultation with relevant Council officers.*
3. *The landscape, public domain and master planning of the site requires further resolution and the following comments are made:*
 - a. *The entry and lobbies to individual buildings are not immediately apparent and require better positioning and distinction in relation to their street access legibility. In particular, the bridge crossing to Buildings B and C foyer is not considered as an appropriate address.*
 - b. *Consider extending the cul-de-sac further west, allowing the entrance of the basement carpark to also be shifted west, to create a larger public open space at the eastern edge.*
 - c. *The basement carpark has a large perimeter with negative impacts on effective landscape potential, and limits the deep soil to just the southern edge. Deep soil should not be restricted to one area on the site, and it would be preferable to have basements limited mostly to the building footprints.*
 - d. *The organisation of public realm is not clear and needs further consideration with respect to legibility, hierarchy and accessibility. It is important that as the first development in this sector of the Carter Street Precinct, a high quality precedent is set for the interfaces between private, communal and public open space. The drawings need to delineate fencing and other barriers that define semi-public, private and public realm landscapes. Currently this level of detail is not apparent.*
 - e. *A large percentage of the public realm areas is overshadowed by the buildings to the North. Sun shadow diagrams are required to prove / test that adequate solar access is required as per the ADG.*
 - f. *Further information is required to prove that service vehicles to the Sydney Water Pump Station and other utilities providers that have rights of access will not further compromise the public realm in these areas.*

- g. Further information is required to demonstrate the acoustic levels in the public realm areas adjacent to the M4 motorway are acceptable based on relevant Australian Standards.*
- 4. The concept of the precast concrete for the elevations has merit but makes the elevations appear very heavy. The Panel recommends reconsideration of the facade expression to be more distinctive at the base of the building while creating a lighter top. The addition of green walls on areas of the façade could assist in lightening its expression.*
 - 5. The Panel recommends that the Applicant investigate alternate building typologies such as podium approach, with more street wall buildings, that could assist in resolving the issues raised above.*
 - 6. The Panel is concerned about the proposed building separation between building B and C. The Panel recommends that all dimensions between building pinch points be shown on plans and elevations. Given the extent of the site there would need to be compelling reasons why all ADG building separation requirements are not able to be complied with.*
 - 7. The roof of building B appears to be landscaped, however, there is no access or amenity. The Panel recommends that this space be properly designated as either a private terrace or a Communal Open Space, having both proper access and amenity.*
 - 8. Any Communal Open Space's located on the roof should provide ease of access for all residents, shade, a barbeque, seating, a universal WC and suitable landscaping. Elements extending above parapet height should be setback from the building edges so that they are not visible from the surrounding public domain.*
 - 9. The exhaust for the basement car park is located at the northern point of the site adjacent to the foreshore. The Panel considers its location to be sub-optimal and recommends that it be moved to a less trafficked pedestrian area.*
 - 10. The current proposal also has a number of internal layout issues:*
 - a. Unit access corridors are convoluted and need refinement*
 - b. A number of bedrooms and kitchens share a common wall, which will likely create noise and amenity issues for residents*
 - c. The size of rooms and depth of apartments should comply with ADG controls*
 - 11. In relation to detailed design and layout of private balconies, the Panel recommends that:*
 - a) HVAC equipment should preferably be grouped within designated screened plant areas either on typical floors or on roof-tops.*
 - b) Wall mounted equipment (e.g. instantaneous gas HW heaters) and associated pipework is concealed into wall cabinets and ducts*
 - c) If service equipment is located on private balconies, additional area above ADG minimums should be provided.*
 - d) Rainwater downpipes are thoughtfully designed and integrated into the building fabric.*
 - e) The above items should be positioned so that they are not visible from common areas or the public domain adjacent to the development.*
 - f) Balustrade design must address visual screening of large items typically stored on balconies, for example BBQ's, clothes drying devices and bicycles.*
 - 12. Active ESD provisions such as rainwater re-cycling, solar power and solar hot water were not discussed at the meeting, however it is assumed that at a minimum these measures will be included in the development.*
 - 13. The Panel requires that annotated 1:20 scale cross-sections and details of all proposed façade types and materials are included with the DA submission and form part of the consent documentation.*

Amended plans were submitted following that DEAP meeting. Planning staff considered there was little improvement and Council's City Architect Team was therefore requested to review the extent to which the amended plans responded to the DEAP recommendations. The **City Architect Team** assessed provided the following summary.

Based on our detailed review of the amended plans against DEAPs recommendations, our team is of the view that the applicant has not satisfactorily addressed DEAPs comments, and that the proposal should not be referred back to the panel in its current form. We are of the opinion that if the amended plans were referred back to the panel, the design would receive a second "red light".

A summary of our major concerns are:

- *Site planning does not prioritise the sites only street address/frontage located along the southern boundary.*
- *Site Planning results in convoluted, undefined spaces that do not clearly delineate between private, communal and public spaces. The proposed public pathway cause more negatives impacts than positive outcomes, and should be reconsidered.*
- *The proposed location of the basement car parking ramp, which is co-located with the public walkway causes conflicts and amenity issues along the sites only street frontage.*
- *The built form integration into the foreshore requires further design development.*
- *The applicant has failed to investigate different, and, possibly more appropriate building typologies for the site.*

In an effort to provide the applicant with clear recommendations and some suggested improvements to the design, our team has undertaken a preliminary assessment of the proposal against the Draft Carter Street DCP and LEP. We are of the view that the Carter Street Master Plan is a sound policy document with a range of best practice urban design objectives that should be applied to the subject site. Based on our review of the draft DCP, we believe the following guidelines should be considered for this site:

- *The requirement of 3 storey street walls/podiums*
- *Development above 12 storeys requiring a podium-tower typology*
- *The requirement of a new north-south street along the eastern boundary / canal*
- *Minimum 5 metre ground floor setbacks for residential units*
- *Building lengths above 30m requiring recesses and projections*
- *Building footprints to be less than 800sqm*
- *Basement car parking to be located within the building footprint*
- *Heights are not to breach the LEP height planes that traverse the site.*

Recommendations

The City Architect Team is of the opinion that the proposal in its current form has not satisfactorily addressed the recommendations by Council's Design Excellence Advisory Panel (DEAP).

We believe that the proposal will require quite extensive amendments and design changes to bring it up to a standard in which we would support the application being referred back to DEAP

for comment.

With this site being at the start of the river foreshore, it sets a benchmark for future development on the foreshore. Its approach to the quality of the public domain becomes essential to the design outcomes and standards that other proposal will follow.

The site also uniquely shares no boundaries with other sites. With all of its sides exposed, the application of street walls and a podium-tower typology would result in better design outcomes for both resident and the public designated public and private spaces.

We suggest the following design principles should be considered for the re-planning of the site:

- 1. A clearly defined low-rise podium to address the new access street along the southern boundary.*
- 2. A residential tower building located in the south-eastern corner of the site that is appropriately setback from the street frontage / podiums.*
- 3. Relocation of the driveway ramp further west, and reducing its visual impacts by locating it within the building form.*
- 4. Removal of the public through site link. This means that all movement through the site would be for residents and visitors, resulting in a single communal vs private open space interface to occur. All entry building entries should be clearly accessed via these revised communal movement networks.*
- 5. The distinction between private, semi-public and public space should be clear and well defined through the proper integration of great landscape design.*

Given the above, the built form and configuration of the proposal responds poorly to its context and does not meet the design quality principles of SEPP 65, is inconsistent with the draft design excellence criteria of Draft ALEP 2010, and does not comply with the requirements of CSP DCP 2016 or ADCP 2010.

2.3 State Environmental Planning Policy (Infrastructure) 2011

Clause 45 - Development likely to affect electricity transmission or distribution networks

This clause applies as the development proposes works within the vicinity of electricity infrastructure being an electrical easement with Ausgrid's Transmissions (132KV) assets and Distribution (11KV) within the proposed site.

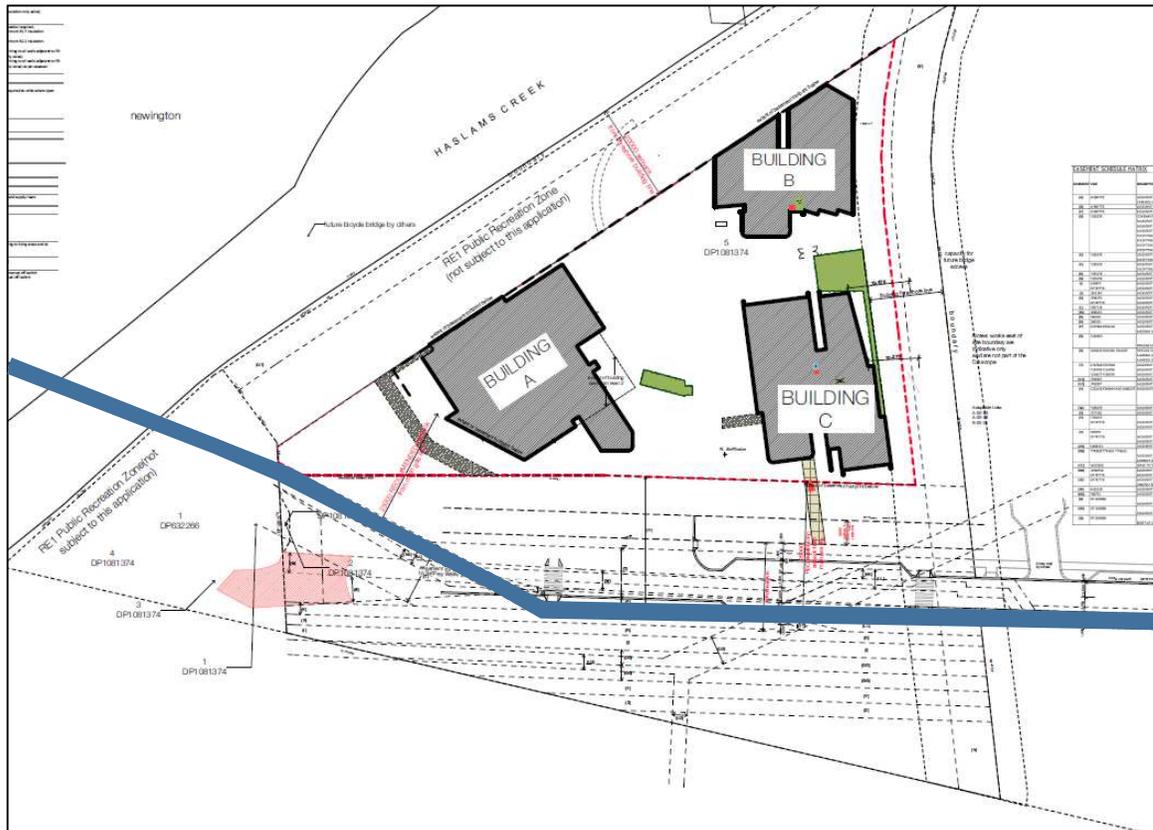
Ausgrid raised no objections to the proposal subject to conditions.

Clause 66C - Development adjacent to pipeline corridor

The site is traversed by 4 pipelines as follows:

- The Viva and Caltex pipelines transport liquid fuels.
- The Qenos and Jemena pipelines transport gaseous fuel.

Those pipelines are identified as licence numbers 4, 6 and 12 under the Pipelines Act 1967.



Approximate location of pipelines

Clause 66C(1) of the ISEPP addresses the determination of development applications for development adjacent to pipeline corridors and states:

- (1) *Before determining a development application for development adjacent to land in a pipeline corridor, the consent authority must:*
 - (a) *be satisfied that the potential safety risks or risks to the integrity of the pipeline that are associated with the development to which the application relates have been identified, and*
 - (b) *take those risks into consideration, and*
 - (c) *give written notice of the application to the pipeline operator concerned within 7 days after the application is made, and*
 - (d) *take into consideration any response to the notice that is received from the pipeline operator within 21 days after the notice is given*

The application is supported by a Pipeline Risk Assessment report which was revised following a request for further information based upon advice from Council's own independent expert, and the Hazards Branch of the Department of Planning, Industry and Environment.

Notwithstanding, that Assessment report is not satisfactory for the purposes of clause 66C of the ISEPP given:

- It does not provide a satisfactory response relative to the need to consider potential safety risks, for the following reasons:

- The efficacy of the recommended controls on reducing the risk from the pipelines should be determined.
 - The change to the population profile within the buildings in the development as a result of changes made to the distance from the foreshore needs to be taken into account in updated societal risk calculations.
 - The potential for a VCE following a delayed ignition of flammable vapours does not appear to be included. The higher pressure in the VIVA pipeline than what was included in the report may be significant in this regard.
 - Further justification as to how escalation events have been integrated into their assessment must be provided, e.g. frequency of escalation, consequences etc. It is noted that the impact of escalation events in the Pipeline Risk Assessment report QRA results appears to be very minor, contrary to the findings in the assessment underpinning the draft Carter Street Precinct DCP.
 - The impact from jets of flammable material from the high pressure fuel pipelines (Caltex and VIVA) may extend past the dimensions assumed in the Pipeline Risk Assessment report, and this should be considered. This may be through:
 - larger size pool caused by the ejected material than what is assumed, especially for the smaller hole-sizes; and
 - the heat radiation from an ignited jet.
 Both these considerations may result in larger impact zones. The higher pressure in the VIVA pipeline than what was included in the Sherpa report may be significant in this regard.
 - The report should include the consequence results for some scenarios which are missing (Appendix C7 and C8 in the report).
 - Reference number 8 in the applicant's risk assessment report is an internal reference that cannot be verified.
- It does not provide a satisfactory response relative to the need to consider risks to the integrity of the pipelines, as it does not include:
 - Assessment of existing and any further pipeline protection;
 - Requirements for monitoring and reviews of the pipeline during construction activities; and
 - An assurance that the development will not result in non-compliance of the existing pipelines with AS2885.

This work must be done in consultation with the pipeline operators to confirm whether a SMS undertaken in accordance with AS 2885 will be adequate to address potential risks to the integrity of the assets, or whether a design review of the proposed new road is required to address their concerns.

Clause 102- Impact of road noise or vibration on non-road development

This clause requires the consent authority to consider the impact of road noise or vibration on non-road development, particularly in relation to more sensitive receivers such as residential, hospitals, child care centres and places of public worship.

The site shares a common boundary with the M4 Motorway, which has an annual average daily

traffic volume of more than 20,000 vehicles, based on the traffic volume data published on the website of Roads and Maritime Services. As such clause 102 of SEPP Infrastructure applies to the proposed development. That clause nominates specific daytime and night time noise criteria that must be achieved within residential apartments.

The development application is accompanied by an acoustic report dated 8 May 2018, and an addendum report dated 21 November 2018 which concludes that, subject to the implementation of its nominated recommendations “.....*the proposed development is predicted to comply with acoustic requirements of the Carter Street DCP, Auburn Council DCP, BCA Part F5, EPA NGLG and relevant Australian standards.*”

The acoustic report provided is not satisfactory because:

- It is not based upon the amended architectural plans
- It does not confirm that the criteria in clause 102(3) of the SEPP Infrastructure is able to be satisfied; and
- The reference to the proposed development being able to achieve compliance with the CSP DCP 2016 is ambiguous as it is not clear which of the two DCP criteria it refers to.

Clause 104 - Traffic generating development

Consistent with clause 104 this Policy and Schedule 3 of this Policy (Traffic Generating Development) the application was referred to Roads and Maritime Services (RMS) for comment. The RMS have provided comment on the application and raise no objection to the proposal subject to the imposition of recommended conditions. These conditions include design compliance with the Australian Standards, restriction of access arrangements, construction requirements and signage and licence requirements.

2.4 State Environmental Planning Policy – Basix

An updated BASIX that relates to the amended plans the subject of the LEC appeal has not been provided, which is contrary to the requirements of the EP&A Regulation.

2.5 State Environmental Planning Policy (State and Regional Development) 2011

The development has a capital investment value greater than \$30 million, and therefore the Sydney Central City Planning Panel is the determining authority for this application.

2.6 Deemed State Environmental Planning Policy (Sydney Harbour Catchment) 2005

This Policy applies to all of the City of Parramatta local government area. It aims to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing principles and controls for the whole catchment.

The nature of this project and the location of the site are such that there are no specific controls which directly apply, with the exception of the objective of improved water quality.

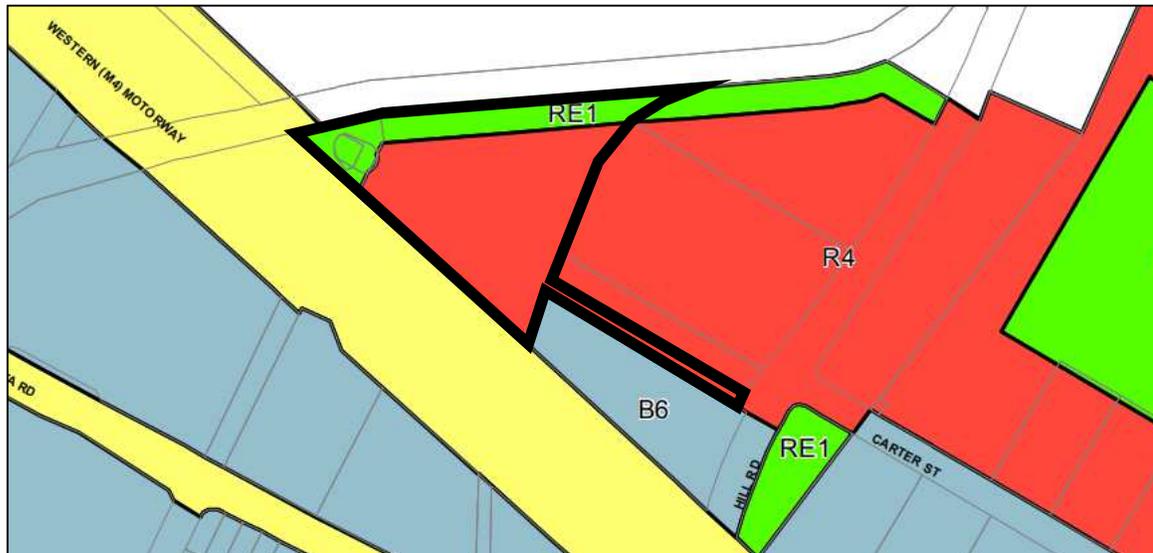
The application has not demonstrated that satisfactory arrangements have been made to

manage stormwater and stormwater related matters, and therefore the application cannot satisfy the objectives of improved water quality.

2.7 Auburn Local Environmental Plan 2010

Zoning and permissibility

The site is located within Zone R4 High Density Residential pursuant to the provisions of ALEP 2010. A portion of the site is located within Zone RE1 Public Recreation, however no development is proposed within that zone. An extract of the Land Zoning Map is provided below:



Zone Map with subject site outlined black

Development for the purpose of “residential flat buildings” and “roads” is permissible with consent.

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 close proximity to bus service nodes and railway stations.*

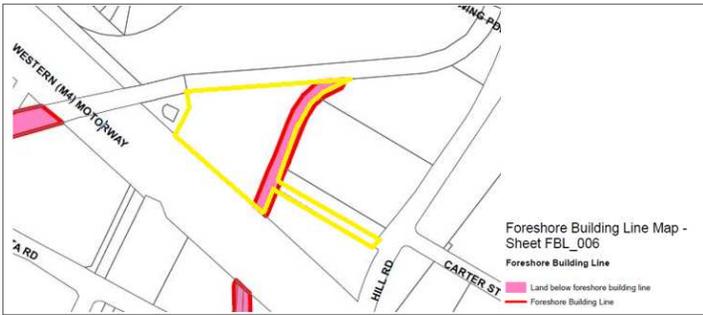
The proposed development proposes a total of 305 apartments, comprised of 130 x 1-bed, 159 x 2-bed and 16 x 3-bed. The proposed development is considered to offer limited housing diversity with the significant majority of accommodation being units 1 and 2 bedroom units, with only 5.2% being 3 bedroom units, and no other alternate forms of units provided.

Alternative housing typologies have not been proposed which is not only inconsistent with the objectives of Zone R4, but also inconsistent with the objectives of CSP DCP 2016 and Planning Priority C5 of the Central City District Plan for more housing choice).

Remaining provisions

Consideration of the remaining provisions of the Plan that are relevant to this application are addressed in the following table:

Clause	Comment	Complies
Clause 2.6 Subdivision	No subdivision proposed.	N/A
Clause 2.7 Demolition	Demolition of existing structures is permitted with consent.	Yes
Clause 4.3 Building height	The mapped control is 55m. The proposed heights for the various built elements are: <ul style="list-style-type: none"> ○ Building A - 51.15m ○ Building B - 33.76m ○ Building C - 54.88m 	Yes However improved sectional drawings required to confirm
Clause 4.4 Floor space ratio	The mapped control is 1.7:1. The application proposes a gross floor area of 24,826.04m ² , which represents a FSR of 1.63:1.	Yes
Clause 5.1 Relevant acquisition authority	The site includes land zoned RE1 Public Recreation. That land is noted on the relevant Land Reservation Acquisition Map. Clause 5.1(2) nominates Council as the authority to acquire that land. Refer to further discussion under Section 5.4 of this report.	No
Clause 5.4 Controls relating to miscellaneous permissible uses	Not applicable.	N/A
Clause 5.9 Preservation of trees	There are numerous trees to be removed as part of this application. The submitted arborist report does not show the tree location plan and does not reflect the current architectural and stormwater design. A comprehensive arborist assessment and report providing an assessment of existing trees on the site and immediately adjacent to the site is required. Design drawings must detail existing trees to be retained and existing trees to be removed as recommended in the arborist report.	No
Clause 5.10 Heritage	<ul style="list-style-type: none"> • 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 ALEP map identifies the site as comprising "Class 2" acid sulphate soils. An acid sulfate soil management plan was submitted which identifies the potential for acid sulfate soils on site and the management techniques if encountered during construction.	Yes

<p>Clause 6.2 Earthworks</p>	<p>Consideration of potential impacts upon drainage patterns, and proximity to watercourses have been considered by Council's Development Engineer, who is not satisfied the works can be managed without impact.</p>	<p>No</p>
<p>Clause 6.3 Flood Planning</p>	<p>The site is not identified on the flood planning map.</p> <p>Notwithstanding this, Council considers that the previous flood investigations completed by the former Auburn Council are incorrect, and that the whole site would be subject to flooding from both the 1% AEP (about 1m) and Probable Maximum Flood (3-4m). The Sydney Water stormwater channel is also identified as a high hazard floodway during severe storms. All access to the site is over that stormwater channel.</p> <p>As the land is at or below the flood planning level (confirmed by the Applicant's own analysis) the provisions of clause 6.3 of ALEP 2010 apply.</p> <p>The proposed development is inconsistent with the requirements of clause 6.3(3) of ALEP 2010 because:</p> <ul style="list-style-type: none"> (i) The ground floor level of Buildings A, B and C, are all set at RL4, when the Flood Planning Level (FPL) is RL 4.33; and (ii) The design of the basement will not preclude the inundation of floodwaters up to the Probable Maximum Flood (PMF) through the inclusion of passive measures such as a driveway crest up to the FPL of RL 4.33, and mechanical measures such as flood gates and doors up to the PMF of RL 4.76. 	<p>No</p>
<p>Clause 6.4 Foreshore building line</p>	<p>A portion of the site along the eastern boundary is identified on the Foreshore Building Line Map to ALEP 2010 as being located below the foreshore building line.</p>  <p>Clause 6.4(3) of ALEP 2010 restricts the purposes for which land below the foreshore building line can be used, and states:</p> <p><i>“(3) Development consent must not be granted for development on land in the foreshore area except for the following purposes:</i></p> <ul style="list-style-type: none"> (a) <i>the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area,</i> (b) <i>the erection of a building in the foreshore area, if the levels, depth or other exceptional features of the site make it appropriate to do so,</i> (c) <i>boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoor).</i> 	<p>No</p>

	The development application proposes the construction of a local road on land in the foreshore area, which is not one of purposes permitted on land in the foreshore area listed under clause 6.4(3) of the ALEP 2010. Clause 6.4(3) of the ALEP 2010 is not a development standard and cannot be contravened by way of a written request made pursuant to clause 4.6 'Exceptions to development standards' of ALEP 2010.	
Clause 6.5 Essential services	Given its current and former uses, the site is connected to all relevant utility services. These will need to be augmented to meet service provider requirements for the proposed development.	Yes
Clause 6.8 Contributions to designated State public infrastructure	Refer to comments at section 5.2 below.	No

3. Draft Planning Instruments

3.1 Draft Auburn Local Environmental Plan 2010

The Carter Street Precinct was rezoned in November 2015 for up to 5,500 dwellings, a new village centre, a site for a new primary school and new public open space.

The Department of Planning and Environment recently undertook a review of the planning controls for the precinct in order to accommodate a new westbound off-ramp from the M4 Motorway at Hill Road, the proposed Parramatta Light Rail (Stage 2) and to respond to the revised Sydney Olympic Park Master Plan 2030.

To implement the outcomes identified through a new Master Plan the DPE proposes to amend the Auburn LEP 2010 and the Carter Street Precinct Development Control Plan (DCP) 2016. Those revised controls were exhibited between 7 September 2019 and 26 October 2018. The primary premise underpinning the DPE review was that there would be no increase in GFA, but that instead the new controls would achieve better urban design and public domain outcomes.

Key measures in the draft controls are noted below:

LEP	<ul style="list-style-type: none"> Existing zoning pattern maintained Building heights adjusted to better manage built form FSR maintained Design Excellence requirements introduced (DEAP sign off) New clause requiring that consent authority must consider the Development Framework (which includes the Master Plan as an appendix) Nominates some non-residential uses along the southern edge of the new access road to assist with managing risk from the pipelines.
Carter Street Precinct Development Framework (DCP)	<ul style="list-style-type: none"> Nominates street wall height controls Introduces a new street network, which relocates the primary street access for this site north so that it aligns with Carter Street Nominates site planning criteria for land uses, and assessment criteria, to manage hazard from pipelines

The original DA was lodged in May 2018, about 4 months before the draft controls were publicly exhibited. The revised plans/additional information were lodged in December 2018, and do not respond to the exhibited draft controls.

Provision	Current	Exhibited draft	Comment
Zone	R4 + RE1	R4 + RE1	No change
Height	55m	26m, 55m, 65m	Building A - 51.15m will exceed the proposed 26m maximum height by 25.15m or 49.2% Building B - 35.8m will exceed the proposed 26m maximum height by 9.8m or 27.4%
FSR	1.7:1	1.7:1	No change
Acid Sulfate soils	Class 2	No change	No change
Flood Planning	Not mapped	No change	No change
Heritage	No	No change	No change
Land acquisition	Yes - the RE1 land	No change	No change
Foreshore building line	Yes	No change	No change

The exhibited draft LEP also contains “design excellence” provisions which:

- Requires an architectural design competition for buildings greater than 42m; and
- Nominates qualitative ‘design excellence’ criteria that must be satisfied, regardless of whether a competition is triggered. That criteria includes matter such as:
 - Standard of design, materials and detailing
 - Bulk, massing and modulation of buildings
 - Whether built form and appearance would improve the quality and amenity of the public domain
 - Impacts and relationships to adjoining sites

As the application was lodged in advance of these draft controls being exhibited, it was not reasonable to require a design competition to be undertaken.

4. Carter Street Development Control Plan 2016

4.1 Overview

The DCP nominates an “Indicative Structure Plan” (ISP) which shows how the precinct may develop over time. The ISP is intended as a guide to demonstrate how the vision, development principles and key elements for the precinct may be achieved, recognising there may be other effective options. The DCP states that Council may consent to a proposal that differs from the ISP where variations are considered to still achieve the vision, principles and key elements.

4.2 Compliance

Compliance with the relevant sections of the existing DCP are contained within the table below.

Part 2 – Vision principles and indicative structure		Complies
2.1 Vision	The proposal is not inconsistent with the vision statement.	Yes
2.2 Development principles	The proposal is not inconsistent with the vision statement.	Yes
2.3 Indicative structure plan	The proposal is generally consistent with the Structure Plan other than for landscape setback to stormwater channel The DA does not include subdivision to create lots to allow for dedication of road and public open space	Yes No
Part 3 – Public domain		Complies
3.1 Street network	The street network is broadly consistent with the DCP.	Yes
3.2 Pedestrian and cycle network	The proposal is generally consistent with the DCP	Yes
3.3 Public open space network	The DA does not include the land zoned RE1. Site planning and design does achieve a satisfactory relationship to foreshore open space.	Yes
Part 4 – Residential mixed use development		Complies
4.1 Building height and form	<ul style="list-style-type: none"> • Building heights are consistent with ALEP 2010 • Minor exceedances of 900m² maximum floorplate control • Maximum building lengths of 65m are observed, 	Yes, However SEPP 65 analysis confirm site planning and built form outcomes are poor.
4.2 Setbacks and public domain interface	<ul style="list-style-type: none"> • Generally compliant except for 10m setback to stormwater channel. 	Partial. Note that SEPP 65 analysis confirms setbacks and public domain interface are not satisfactory.
4.3 Building design and facades	<ul style="list-style-type: none"> • The outcomes of a SEPP 65 analysis and DEAP comments confirm building design and façade treatments are not satisfactory 	No
4.4 POS and landscaping	<ul style="list-style-type: none"> • The outcomes of a SEPP 65 analysis and DEAP comments confirm the design location, treatment and amenity of private open space and communal open space are not satisfactory 	No

4.5 Vehicle access and car parking	<ul style="list-style-type: none"> • The basement element extends outside the footprint of the buildings above impacting on the landscape outcomes • There is minor undersupply of car parking (3 spaces) and bicycle parking (78 spaces) 	No
4.6 Acoustic assessment	The requirements of the ISEPP prevail	N/A
4.7 Safety + security	The design adequately responds to CPTED considerations, and could be further managed via conditions if the DA was to be approved.	Yes
4.9 Adaptable housing	The required number of adaptable units are provided	Yes
Part 6 – Environmental management		Complies
6.1 Sustainability	<ul style="list-style-type: none"> • A revised Basix Certificate is required • Construction and operational waste managed via conditions if the DA was to be approved. 	Partial
6.2 Flooding	Refer to comments at section 2.7 above	No
6.3 Stormwater (WSUD)	Refer to comments at section 2.7 above	No

5. Planning Agreements or Contributions Plans

5.1 Planning Agreement

There are no voluntary planning agreements applicable to this site or development.

5.2 Auburn LEP 2010 – State Public Infrastructure Contributions

The site is identified as being located within the Carter Street Priority Precinct on the Priority Precinct Map, and as the development application seeks consent for residential accommodation, the provisions of clause 6.8 of ALEP 2010 apply.

Clause 6.8(3) of ALEP 2010 states:

“(3) Development consent must not be granted for development to which this clause applies unless the Secretary has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that development.”

The Secretary has not provided such certification. Further, the Department of Planning, Infrastructure and Environment has advised:

- (i) The is not the subject of the Carter Street Planning Agreement (Planning Agreement 2015/7197) and consequently there is no active State planning agreement applicable to the site;

- (ii) The Department has not received a letter of offer to commence the process of preparing a Voluntary Planning Agreement for the subject site.

Consequently, approval cannot be granted to this application.

5.3 Carter Street Precinct Contributions Plan 2016 - Levy

Any consent granted to this application would include a condition requiring payment of the applicable levy nominated under this plan.

5.4 Carter Street Precinct Contributions Plan 2016 – Land dedication

The portion of the site within Zone RE1 Public Recreation is identified in the Carter Street Precinct Development Contributions Plans 2016 as being land to be dedicated to the Respondent free of costs for the provision of public facilities. Schedule 4A relevantly nominates the land as follows:

Public Facilities – Local Infrastructure Facilities – Description of Works	Estimated Works \$M	Costs of	Staging Timing
Carter Street Parks – as per Carter Street DCP			
B.6 Land dedication: DCP ref: 3.3 f and 4: 20m wide landscaped foreshore reserve/ public access along Haslams Creek southern bank south of John Ian Wing Parade (estimated 9,940m2)	Nil		LT
Embellishment: DCP ref: Figure 10. Indicative cost rate \$50/m2	\$0.5M		ST

The development application does not propose dedication of the portion of the site within Zone RE1.

An acceptable alternative, and Council’s preference, would be a condition requiring a right of way to be registered over that RE1 land to allow for 24-hour public access.

6. Environmental Planning and Assessment Regulation 2000

Should this application be approved, relevant matters to be addressed as nominated in the Regulations would be addressed as part of any conditions of consent.

7. Likely impacts

The likely impacts of the proposed development have been discussed within this report.

8. Site suitability

The site is not suitable for this development given:

- The proposal is not an appropriate “fit” for the locality given the preceding analysis which has identified various unsatisfactory site planning and built form outcomes; and
- Site attributes are not conducive, as the proposal has not properly responded to physical site constraints.

9. Public submissions

In accordance with the notification procedures contained in Section 3.0 of Auburn DCP 2010 and legislative requirements, the proposal was advertised in the local paper and a sign placed on the site with owners and occupiers of surrounding properties given notice of the application for a 30 day period between 7 June to 9 July 2018.

In response, three (3) individual submissions were received, with the issues raised summarise below.

- *The proposal is out of character with the lower density housing in Newington and is an antithesis of the Newington design concept. The towers will dominate the landscape*
- *The privacy of occupants at 1-7 Owens Avenue will be affected*
- *Views will be lost from the occupants at 1 Owens Avenue*
- *The proposed development will devalue nearby properties*
- *The development will result in an increase of traffic and traffic impacts.*
- *The traffic report relies on the proposed traffic upgrades of the area which have not been implemented yet.*
- *There is insufficient infrastructure in that there are already too many demands on Newington School*
- *There is a lack of public transport available for the new residents.*
- *The proposal will result in the loss of peace and quiet within the area.*

Amended plans

As noted, amended plans were lodged in conjunction with the current LEC proceedings. The key changes on the amended plans (which are the subject of this report) include:

- Location of the buildings and basements altered so they are not located within the Foreshore Building Line along the eastern side of the side of the drainage channel.
- Total number of apartments increases from 302 to 305
 - Building A remains unchanged, with 132 units
 - Building B was previously 31 and is now 45 units (building height increases by 15m)
 - Building C was previously 139 and is now 128 units
- Parking supply increases from 380 spaces to 385 spaces
- Buildings B & C reduced in depth and building layouts modified, particularly to their eastern frontage
- Introduction of a largely continuous precast arch or colonnade wall to define a podium/building base, conceal the basement entry, and support a new elevated communal terrace between buildings A and C.
- Use of the same precast wall feature to provide definition and distinction between public domain, private communal space and private open space within the site
- Redesign of the penthouse apartments in Building A, a revised communal space at the top of Building B and introduction of 2 storey penthouse apartments to Building C
- Elevations updated to reflect revised massing resulting from FBL (Foreshore Building Line) adjustment

The amended application was exhibited between 10 April 2019 to 13 May 2019.

One (1) submission was received, which raised the following matters:

- *There is too much development within the area and insufficient infrastructure – including schools and public transport.*
- *The proposal will result in increased traffic to an already congested area.*
- *Concern is raised with the inferior quality of the development (such as that recently constructed in Sydney Olympic Park which is constructed too quickly and unsafely).*

ATTACHMENT B – REASONS FOR REFUSAL

SWCCP reference	2018SWC061
DA No.	326/2018

1. The application is not satisfactory for the purposes of the Environmental Planning and Assessment Regulation 2000, and section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as follows:
 - a. An updated BASIX that relates to the amended plans has not been provided.
2. The application is not satisfactory for the purposes of section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act relative to the requirements of State Environmental Planning Policy (Infrastructure) 2007, as follows:
 - a. It has not been demonstrated that the potential safety risks, or risks to the integrity of pipelines within the subject site have been appropriately identified and managed to satisfy clause 66C(1) of the Plan.
 - b. The impact of road noise from the M4 Motorway on the proposed development has not been adequately addressed to satisfy clause 102 of this Plan.
3. The application is not satisfactory for the purposes of section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act relative to the requirements of State Environmental Planning Policy 65 (Design Quality of Residential Apartment Development) as follows:
 - a. The built form and configuration of the proposed development responds poorly to its context and does not meet the design quality principles of SEPP 65
 - b. The proposed development does not provide adequate internal amenity for future occupants, and does not satisfy the relevant objectives, design criteria or guidance of the Apartment Design Guide (ADG).
 - c. The proposal does not provide for adequate visual privacy and is inconsistent with the minimum separation distances for buildings in Part 3F of the ADG.
 - d. The proposed communal open space and lack of delineation of public and private open space does not satisfy the relevant objectives, design criteria or design guidance of the ADG or controls of CSP DSC 2016.
 - e. Insufficient storage is provided for the apartments in accordance with the ADG.

4. The application is not satisfactory for the purposes of section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act relative to the requirements of Auburn Local Environmental Plan 2010, as follows:
 - a. The proposed development is not designed to minimise the flood risk to life and property associated with use of the land, as required by clause 6.3.
 - b. The proposed development includes built elements on land in the foreshore area, which is prohibited pursuant to clause 6.4(3).
 - c. It has not been demonstrated that suitable road access is available as required by clause 6.5.
 - d. It has not been demonstrated that satisfactory arrangements have been made for the management of stormwater as required by clause 6.5.
 - e. Satisfactory arrangements have not been made for a contribution toward the provision of State public infrastructure as required by clause 6.8.
 - f. The proposed development offers limited housing diversity and opportunities for social interaction, and in that regard is inconsistent with the objectives of the R4 Zone as set out in ALEP 2010, and with the requirements of CSP DCP 2016 and the ADG.

5. The application is not satisfactory for the purposes of section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act relative to the requirements of exhibited Draft amendments to Auburn Local environmental Plan 2010 as follows:
 - a. The proposal does not comply with the proposed maximum building height controls and is therefore inconsistent with the desired future character of the Carter Street Precinct.
 - b. The proposal is not satisfactory when considered against the draft 'design excellence' criteria and is therefore inconsistent with the desired future character of the Carter Street Precinct.

6. The application is not satisfactory for the purposes of section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act relative to the requirements of Carter Street Precinct Development Control Plan as follows:
 - a. Provision of a 10m setback to the stormwater channel at the eastern edge of the site
 - b. The proposed development does not provide adequate car parking and bicycle parking spaces, and the proposed basement car parking extends outside the building footprints, contrary to the requirements of CSP DCP 2016.

7. The application is not satisfactory for the purposes of section 4.15(1)(e) of the Environmental Planning and Assessment Act as the application is not in the public interest for the following reason:
 - a. The proposal will set an undesirable precedent for future development within the Carter Street Precinct, and is not in the public interest having regard to the non-compliances with the current and proposed planning controls and objectives.

8. Insufficient information has been provided to enable a proper assessment of the development application in terms of the following matters:
 - a. Confirmation of the height and floor space
 - b. Adequate provision of solar access and cross ventilation
 - c. Confirmation of the site area
 - d. Adequate landscape plan
 - e. Adequate arborist report
 - f. The provision of access to private assets during construction
 - g. Adequate public domain plans for the entire street corridor.