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Ms Elizabeth Kimbell
Acting Place Manager- The Hills
Department of Planning Industry & Environment
Via email: Elizabeth.Kimbell@planning.nsw.gov.au

Dear Elizabeth,

PLANNING PROPOSAL - VIVIEN PLACE, CASTLE HILL (06/2020/PLP) RESPONSE TO COUNCIL RESOLUTION

1. INTRODUCTION

We write on behalf of Castle 7 Pty Ltd, the proponent for the above planning proposal (the **PP**).

This letter provides a response to The Hills Council resolution at its ordinary meeting of 9 June 2020 where it was resolved not to support the PP for gateway determination.

The purpose of this letter is to respond to the reasons by The Hills Council for not supporting the proposal and in doing so, clarify items of ambiguity from the officer report and identify inconsistencies of decision making from Council.

This letter should be read in conjunction with the Rezoning Review letter by Urbis, dated 20 May 2020, and the accompanying PP documentation that provided a succinct summary of the PP history and its strategic merits.

2. RESPONSE TO COUNCIL RESOLUTION

Council's resolution not to support the PP to gateway determination was based on four reasons. The reasons for council's resolution are provided below followed by our response.

Reason 1:

a) It is inconsistent with key objectives and priorities of the Greater Sydney Region Plan, Central City District Plan, Section 9.1 Ministerial Directions and Council's Hills Future 2036 Local Strategic Planning Statement, particularly as they relate to a place-based and collaborative approach to planning, the delivery of great places, ensuring residential development is of high quality design and balancing growth with suitable levels of infrastructure;

Response:

The response to Reason 1 is provided in Table 1 on the following page.

For the ease of reading, the table includes the relevant extracts from the Council officer report (of 9 June 2020), which includes the specific *Objectives* and *Priorities* identified in the report to support Council's position. The table also incorporates a corresponding reply from the proponent.

Table 1 Summary of Strategic Policy Consistency – Proponent Response

Policy Item	Council Position – in Summary	Proponent Response
Greater Sydney Region Plan (Objectives) + Central City District Plan (Planning Priority)		
Objective 6 – Services and Infrastructure to meet communities' changing needs Planning Priority C3 – providing services and social infrastructure to meet peoples changing needs	<i>The Proposal relies on the site's proximity to the Castle Hill Metro Station as the primary justification for uplift. However, it is critical to note that a level of appropriate uplift has already been established through the Castle Hill North Precinct Plan and planning proposal, in recognition of State Government's investment in public transport and opportunities for increased development yields and transit-oriented development.</i> <i>The uplift and development yields permitted through the Castle Hill North planning proposal have been carefully planned to ensure that adequate local infrastructure can also be provided to service the growth, culminating in the draft Castle Hill North Contributions Plan.</i> <i>The subject planning proposal seeks a yield over and beyond that which is planned and catered for under this Plan.</i> <i>The proposal, and potential precedent it would create, would lead to decreases in infrastructure levels of services for all current and future residents within the Precinct.</i> <i>With respect to the proposed new road, this was not identified as part of the Castle Hill North Precinct Plan and cannot wholly be delivered on the subject site. It</i>	The Castle Hill North PP (CNH PP) assumes 3,575 new dwellings. This is less than the original DPIE's conservative target of 4,400 dwellings as part of its Structure Plan. More recently, Council has made decisions on other sites that clearly shows no apparent sensitivity to varying the density from that stated within the CHN PP: ▪ Pennant St (Topplace) PP & DA – Council supported its rezoning of former Council land to an FSR of 5.5:1 and 23 storeys building height, and then a subsequent 42% variation to building height as part of the Development application. The subsequent DA for this site is for 923 dwellings. Furthermore, if open space was a major concern to Council, this 1.4hectare site should have been retained by Council for the purposes of a public park. ▪ Garthowen Crescent PP – Council has supported a planning proposal for an FSR of 3:1, notwithstanding the max allowable FSR in the current CHN PP of 1.85:1, a 62% increase from Councils current maximum under the CHN PP. Given the above, the proposal could in no way create an undesired 'precedent' by supporting the density of this proposal. The previous PP was developed with Council's collaboration and in parallel with the

Policy Item	Council Position – in Summary	Proponent Response
	<i>relies on either Council or the developer of adjoining covering the remaining cost of land and capital works to deliver the majority of the proposed road link.</i>	development of the CHN plan. This is evidenced by it being acknowledged positively in the CHN post exhibition report to Council. The proposal was accepted previously to be a stand-alone PP because it is an amalgamated proposal which wasn't contemplated in the CHN PP and the same conditions still apply to this current PP. Furthermore, our Tipping Point Economic Analysis from Hill PDA and Charter Keck Cramer, that accompanied our Planning Proposal, provides an economic feasibility review of the CHN PP controls, which unequivocally illustrates the anticipated density in the centre is not likely to occur given the proposed controls fail to provide sufficient incentive for property sales, site consolidation and developer investment. The proposed yield of approximately 220 dwellings, results in approximately 88 additional dwellings beyond a theoretical development at 1.54:1. When assessed in traffic terms, this would generate 1 extra traffic movement every 3-4minutes during the morning period (8am to 9am) and afternoon peak (3pm and 4pm) – which is inconsequential in traffic impact terms. In terms of social infrastructure, the proposal will contribute financially to social infrastructure facilities via S7.11 contributions and the VPA offer. The CNN Precinct Plan did propose a north-south link however a north-south link was proposed on the adjacent school site, because amalgamation of the subject site was not assumed or guaranteed at the time of the Council Plan. Without site amalgamation this

Policy Item	Council Position – in Summary	Proponent Response
		opportunity (together with the open space and pedestrian connection plan) will be lost. In considering the merits of the proposed VPA offer of the local road dedication and construction on-site, in its original assessment report, Council officer report stated the following: <i>It is considered that the proposed local road (when fully connected to Les Shore Place) would allow for greater permeability through this part of the Precinct and would promote a positive development outcome in terms of the local road network. (page 331, report of 25 July 2017).</i> There is no change in circumstance that has occurred for Council's position to have reasonably changed in this new PP. So, for these reasons, the proposal is consistent with Objective 6 and Planning Priority C3.
Objective 10 – Greater Housing Supply Planning Priority 5 – Providing housing supply, choice and affordability with access to jobs, services and public transport	<i>While the planning proposal would contribute to housing supply in The Hills in the medium to long term, the Castle Hill North planning proposal already seeks to permit an additional 3,575 dwellings on this site, compared to the currently applicable controls.</i> <i>The planning proposal is not responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have already been recognised by existing strategic plans.</i> <i>Additional dwellings on the subject site over and above the uplift which will be permitted under the Castle Hill</i>	The strategic merit for increased density on-site still exists. The PP seeks a density of 2.28:1 which is the same as the original PP which council staff supported on site-specific merit grounds. The new PP application is supported by new economic evidence to further illustrate that 1.54:1 is an unfeasible FSR to enable the amalgamation of the individual houses. The similar sized and located site forming the Garthowen PP, soon to be gazetted, will permit an FSR of 3:1 (compared with 1.85:1 FSR under CHN PP) is further evidence on this. As outlined above, the relative yield difference with this PP of some 80 additional dwellings, is not significant, however enables the site

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	<i>North planning proposal are not required to meet any short, medium or long term dwelling targets and it is unclear what community benefits would result in permitting further residential uplift on this land.</i> <i>The planning proposal seeks to permit a yield in excess of that anticipated under the Castle Hill North Precinct Plan and incremental uplift of this nature and ‘unanticipated’ yield on this site (and potentially other sites) will result in development yields in excess of that planned and catered for under the relevant Contributions Plan.</i>	amalgamation to occur , and enable a design response that mitigates the imposing built form and amenity issue of the neighbouring Toplace development for the landowners. The Greater Sydney Commission in its letter of 4th March 2020 to Council on its draft LSPS highlighted that the Council has still yet to prepared and have a DPIE endorsed Housing Strategy. It further requested Council to show how it can meet an indicative draft range for 6-10 year housing targets for the period 2021/22 to 2025/26 of 9,500- 11,500 dwellings as part of its Local Housing Strategy and relevant LEP updates. Within this context, and in the absence of Council supporting its CHN PP with evidence to demonstrate the controls will facilitate the new dwelling approvals intended, one cannot reasonably accept Council’s position that this proposal will create additional density beyond that anticipated and would therefore create an unreasonable strain on infrastructure as there is no evidence to support these claims. Our proposal includes 2 x independent economic reports that verify the assumed housing delivery from the CHN PP will not be achieved due to the unfeasibility of the controls. For these reasons together with the relative infancy of redevelopment in the centre in response to the new metro transport infrastructure, this PP will not create housing beyond that anticipated in the centre.
Objective 12 – Great Places that bring people together	<i>The Region and District Plans recommend a place-based and collaborative approach throughout planning, design and development to deliver great places. Council has adopted this approach in its planning for</i>	This objective seeks to encourage placed-based planning as a mechanism to deliver a well-designed built environment, social infrastructure and opportunity and fine grain urban form.

Policy Item	Council Position – in Summary	Proponent Response
Planning Priority C6 – Creating and renewing great places and local centres, and respecting the District's heritage	<i>Castle Hill North to deliver a great place for current and future residents to live, work and play in. This culminated in the Castle Hill North Precinct Plan and associated planning proposal. There is no compelling argument for varying the outcomes of this extensive local and collaborative planning process in order to provide additional development yield on this site.</i> <i>While the proposal does identify public domain improvements, which will contribute to the renewing of the Castle Hill Precinct, these are already outcomes required to be delivered in association with development of the site under the Castle Hill North Precinct Plan. Accordingly, the uplift sought does not result in any superior public domain or place-based outcomes for the Castle Hill North planning proposal.</i>	Strategies to achieve this include; ▪ Prioritising people-friendly public realm and open spaces ▪ Providing a fine grain urban form, high amenity and walkability ▪ Recognising the character of the place and its people. The proposal is consistent with Objective 12 and recommended strategies for the following reasons: ▪ It incorporates a publicly access through site link across the site to improve connectivity from north to south in the centre. ▪ It incorporates 3,900sqm of accessible landscaping that provides opportunities for social connection as well as responding to Council's desire for buildings in a landscape setting ▪ It incorporates land dedication and construction of part of a future road connection that can link down to the shopping centre, creating a finer grain scale of streets and connections. Furthermore, the planning proposal is not inconsistent with the desired place making outcomes of the Castle Hill North Precinct Plan. In fact, it goes beyond the expectations of the Precinct Plan in that the proposal is 'offering' to incorporate additional vehicle and pedestrian linkages that will further improve the moveability aspirations, which the Precinct Plan does not designate for the site. As mentioned previously, the PP massing was developed collaboratively with the Council Officers responsible for CHN and in parallel with the CHN plan.

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		The Precinct Plan sought a density of 192 dwellings a hectare for the site. The PP has the potential to deliver 228 dwellings per hectare which is comparable in density. When you factor in the additional vehicle and pedestrian linkages, the overall proposition will achieve a superior placemaking outcome from that expected from the Precinct Plan and one that is consistent with Objective 12.
Ministerial Directions		
Direction 3.1 Residential Zones	<i>It is acknowledged that the planning proposal will broaden the choice of building types and locations available in the housing market and theoretically reduce the consumption of land for housing and associated urban development on the urban fringe.</i> <i>However, as discussed within this report, the proposal has not adequately demonstrated that the additional dwellings sought will have appropriate access to infrastructure and services and as such, it does not align with the objectives of this Direction. The inconsistency of the proposal with this Direction is not justified by a strategy nor is it considered to be of minor significance. In comparison, a key outcome of the Castle Hill North Precinct Plan and planning proposal was to ensure that the extent of growth permitted could be serviced by appropriate infrastructure.</i>	Again, the Council report extract confirms the proposal is in fact consistent with this direction. This is undisputed as the proposal will facilitate future residential development at the site with the capacity to positively contribute to the required additional housing supply within Castle Hill and within close proximity of the Castle Hill Metro Station. The proposed indicative development concept demonstrates an ability to achieve a design and form of development that will incorporate an appropriate mix of apartment types. The future redevelopment of the site will be subject to the relevant provisions under SEPP 65 to ensure a high standard of design and amenity is achieved. As addressed earlier, the proposal will create provide up to approximately 88 dwellings beyond the CHN PP, which was supportable by Council in the original PP and the planning circumstances have not changed since. The re-development of Castle Hill Town Centre into a higher density centre is still in its infancy with

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		only 3 rezonings of site occurring since the announcement of the metro station infrastructure, and one major project under construction. Council has agreed to satisfactory arrangements on the other rezoning's that vary the density from the CHN PP, so there is no reason why the same cannot occur for this PP which was originally supported thought a 2 year rezoning process by staff and the Councillors until the final Council meeting where local politics appears to have influenced Council's position to withdraw its support.
Direction 3.4 Integrating land use and transport	<i>The planning proposal is generally consistent with the Direction's objectives to improve access to housing, jobs and services by walking, cycling and public transport, however not necessarily any more so than the planned outcome for the site under the Castle Hill North Precinct Plan and planning proposal.</i> <i>While the proposed development concept includes a publicly accessible through-site link along the western boundary, this is already a required outcome in association with future development of the land under the Castle Hill North Precinct Plan and planning proposal, which also relies on the remainder of the link (to Pennant Street via Les Shore Place) to be delivered on the adjoining lot to the south.</i>	As Council stated in their report, the proposal is generally consistent with this Direction. In our view, the PP is consistent with this direction as it will enable a form of development that will: ▪ Improve access to housing, jobs and services by walking, cycling and catching public transport; ▪ Increase the choice of available transport whilst reducing dependence on private vehicles; ▪ Support the efficient and viable operation of public transport services; and ▪ Positively respond to the delivery of greater residential density within proximity and ease of access to services. The above points illustrate that the proposal delivers all of the outcomes of transit orientated development as desired by this Direction.

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		In addition to this, the concept incorporates provision for new pedestrian and future vehicle access across the site to support enhanced connectivity and ease for residents north of the site to connect to the town centre and transport, consistent with direction. As noted above the pedestrian link along the western boundary shown in the draft DCP could only be located on the school site without amalgamation of the Vivien PI site. There is no mechanism in either the draft LEP amendments or draft DCP to facilitate the link shown.
Direction 5.9 North West Rail Link Corridor Strategy	<i>The planning proposal is largely consistent with the Structure Plan and Character Maps of the North West Rail Link Corridor Strategy. However, it is noted that strategic planning for the Castle Hill North Precinct (including this site) has progressed beyond the North West Rail Link Corridor Strategy, with planning outcomes for the site refined and articulated through the subsequent The Hills Corridor Strategy and most notably, the Castle Hill North Precinct Plan.</i>	Again, as stated in the Council report extract, the PP is largely consistent with this direction. It is without question that the PP is consistent with the objectives of this Direction in that it will facilitate the provision of 'high density residential' as the site is located only 435m walking distance to the Castle Hill Metro Station. Council's comments regarding the Hills Corridor Strategy and CHN PP are not relevant to satisfying this Direction.
<i>The Hills 2036 Local Strategic Planning Statement and Housing Strategy</i>		
	<i>Given there is already capacity to accommodate continued population growth beyond the 20 year timeframe and as such, additional unplanned dwellings on the subject site are not required to meet dwelling targets.</i> <i>The LSPS seeks to facilitate a supply of apartments for larger households with sufficient space, quality built</i>	We agree there is theoretical capacity to develop more housing in Castle Hill North town centre into the future. However, it is critical to note that, Council's plan has not been founded on empirical based housing supply and market evidence. This is a critical analysis overlay to a theoretical capacity forecast.

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	<i>form and facilities. The subject planning proposal does not state its intention to comply with the LEP housing diversity clause and would subsequently not deliver larger 'family friendly' apartments to the market or meet Council's housing mix and diversity objectives.</i>	The Department of Housing has yet to sign off on Council's Housing Strategy. Furthermore, the Greater Sydney Commission in its letter to Council of 4th March 2020 on its draft LSPS, requested Council; <i>... show how it can meet an indicative draft range for 6-10 year housing targets for the period 2021/22 to 2025/26 of 9,500 –11,500 dwellings as part of its Local Housing Strategy and relevant LEP updates.</i> The economic analysis work provided in our PP highlights that the 'theoretical capacity will not be met in the centre under the current CHN PP due to high land costs associated with individual houses and insufficient density uplift incentive. We disagree that this proposal constitutes 'unplanned dwellings'. Strategic planning is not an absolute process and the outcomes evolve over time. The dwelling targets in the centre are just that, 'targets'. This proposal has the potential to yield some additional dwellings to Council's CNH PP, however we submit that it is entirely justified for the following reasons: ▪ The PP is consistent in terms of yield with the Original PP for the site that the officers previously supported and there has been no policy change or withdrawal of infrastructure that could lead one to legitimately re-consider strategic planning in the area. ▪ As outlined above, Council has already made decisions that permits greater density on two sites in Castle Hill North, so there is no consistency in their strategic logic to now change their support on this application. ▪ The density outcome of 228 dwellings per hectare, constitutes only a modest increase from the Precinct Plan target of 192 dwellings per

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		hectare, and in the context of the significant additional future planned growth in the centre, is considered consistent. As outlined in the PP application we can confidently assert that the housing projections assumed under CHN PP will not be met due to the lack of incentive the proposed controls offer in certain areas of the centre. The CHN PP was not founded on empirical economic data, which is why our PP sought 2 independent economic assessments, consistent with the Greater Sydney Commissions principle of 'evidence-based' strategic planning.

Reason 2:

b) The Castle Hill North Precinct Plan and planning proposal is the culmination of an extensive precinct planning process which has only recently been completed. There is no compelling justification which demonstrates that the proposal will deliver superior outcomes or additional public or community benefits, in comparison to the outcomes to be permitted under the Castle Hill North planning proposal. There has been no change in circumstance to warrant reconsideration of the planning settings for this land which will be finalised imminently;

Response:

The Officer report rightly identifies that despite the existence of the CHN PP, Council has continued to process individual PPs in Castle Hill North. However, the claim by Council that the reasons for progressing these other PPs due to 'unique circumstances' that don't apply to the subject proposal is misleading and not correct.

Furthermore, the original PP for this site was developed in close consultation with Council's strategic planning team and in parallel with the development of Council's CHN PP, which has similarly occurred for the two sites identified below.

A summary response in respect to this aspect is provided in the table below.

Table 2 – Comparison with other PPs in Castle Hill North

Site & Particulars	Council's reported "unique circumstances"	Proponent Comment
Pennant St Site (Topplace) FSR 5.5:1 Height: max 23 storeys <u>Key Particulars:</u> Tower form separation from subject site non-compliant with ADG	- <i>Is more central than the subject site</i> - <i>It is separated from areas of low density in the long term</i> - <i>Originally identified in Council's 2008 Local Strategy</i>	- The site was formally Council land with density of 0.8:1 and was rezoned to 5.5:1 then sold to developers (Topplace). - At this FSR the site is capable of 923 dwellings. - No VPA or 'additional' public benefit was secured. Contributions were paid under the existing Castle Hill S94 plan, which equates to an average contribution of \$3,004 per dwelling. - While it is closer to the station than subject site, the subject site adjoins this site and the FSR differential (5.5:1 versus proposal of 2.28:1) is very significant which more than addresses any locational difference. - Council supported a 42% variation to the tower building heights up to 77m compared with the CHN PP maximum of 54m, illustrating that lack of 'sensitivity' about changes to building form and density from the adopted plan.

		- The Pennant St site therefore did not provide any superior or additional public benefits beyond that assumed in the CHN PP. By comparison, the subject site has been identified for uplift since the North West Rail Corridor Strategy which identified it for FSR of between 3-4:1 and building height of between 7-20 storeys. The current PP is less than the density originally envisaged by the State Government back in 2013. Furthermore, it incorporates vehicular and pedestrian links as well as open space that Council has not required in the CHN PP, but has confirmed would be of public benefit.
Garthowen Cres PP, Castle Hill FSR: 3:1 Height: max 18 storeys <u>Key Particulars:</u> through site link is only 'partially' on site, requires neighbouring site to be developed for the link to be delivered. Building separation of only 10m between the 13 and 18 storey tower, non-ADG compliant	- <i>Site specific plan achieves a superior-outcome</i> - <i>Does not directly adjoin areas that will remain low density in the long term</i>	- The PP has an incentive FSR of 2.5:1, however also includes an additional local provision (new Clause 11A) to permit a further 20% additional floor space above the incentivised FSR if the development provides certain public benefits including the provision of quality public domain, improved pedestrian connections and lot amalgamation. This would allow the development of the subject site to achieve a maximum floor space ratio of 3:1. - The proposed FSR 3:1 compared with the current CHN PP max FSR of 1.85:1 represents a 62% uplift from the current maximum under the CHN PP. - Draft CHN DCP specifies building heights of 4-10 storeys, however Council has supported the PP for heights of 13 and 18 storeys. - The PP will rezone the site to R4 and then be surrounded by R3 land in every direction with max height of 9m. - The site is located at the periphery of the precinct. - How the PP has considered the increased density impact on the adjoining heritage outcome would have been simply managed under the CHN PP and accompanying DCP and thus cannot reasonably be a unique circumstance to support this PP advancing independently.

		Based on the facts summarised above, it is clear that Council has been inconsistent in its decision making, by supporting this PP which significantly departs that CHN PP controls by a greater amount than our PP and sits in a context that is arguably more sensitive as it adjoins a heritage item and will be the tallest building forms on the north-eastern edge of the precinct. This PP is not providing any superior or additional community public benefits form that anticipated in the CHN PP.
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Following the summary above what is clear in terms of the planning history of rezonings in the centre, is that:

- Council has been willing to advance individual site PPs in the centre, whilst it has been progressing its CNH PP. Given this, advancing this PP to Gateway would not create an unwanted precedent for Council;
- The two sites identified above were advanced on grounds without any “special circumstances” or “additional benefits” beyond what Council had assumed or required for the sites. All sites are located within Castle Hill North and have lower density interfaces. In terms of “additional benefits” by comparison, this PP is in fact offering ‘additional’ vehicle and pedestrian connectivity beyond what Council had planned for, and which was previously confirmed by Council as being of material public benefit in the assessment of the original PP for the site.
- Given this, there seems no reasonable justification why Council would consider the merits of this site-specific PP any differently to the two other PPs it has processed concurrently with the CHN PP. Hence, this reason for not supporting the PP does not contain sufficient merit or justification.

Reason 3:

c) The proposed development standards could result in a density and height of building greater than that indicated in the Proponent's development concept and would fail to secure positive development outcomes such as housing diversity or the provision of a terrace edge. The potential built form is considered excessive and out of character with what was envisaged for a site on the periphery of the Castle Hill North Precinct that has an interface with low density residential dwellings; and

Response:

The CHN PP seeks to remove the building height LEP control for the vast majority of sites in the Centre, including the subject site. This is certainly not a typical plan setting approach.

If building height was considered to be highly 'sensitive' by Council and the community, the CHN PP would be instilling maximum building height controls as statutory development standards in the LEP. Instead, Council will rely upon the FSR control together with non-statutory DCP controls to manage built form outcomes.

Given Council's decision to remove LEP building height controls, it signals that Council is certainly not sensitive about tall building forms. In fact, it highlights a considerable degree of flexibility for future development applications. In this context, we are surprised Council has raised the issue of building height as a concern for this PP, firstly because of their election to adopt a more flexible built form design approach and secondly because the building heights proposed match these from the original PP that Council officers suggested and the Council supported.

Since the original PP, the Topplace DA has been approved and the building heights of its towers have actually increased beyond the LEP control. In our opinion, this strengthens the need for the site to become an important transitional urban outcome from the taller forms to the south and to moderate impacts to areas of lower density area to the north. To achieve this, this PP seeks to deliver greater certainty of outcome by setting a maximum LEP building height control, in addition to a maximum FSR control.

Of particular relevance, Council's original PP assessment report made the following comments with respect to the building height of the original PP:

It is important to note that when preparing controls planning authorities cannot anticipate, or have 100% assurance, that certain sites will be amalgamated. Where developers can create a larger master planned development site (such as the subject site), higher densities and built forms may be appropriate as larger sites allow greater flexibility with design and layout of building forms in order to maximise solar access and privacy to units and achieve an attractive future streetscape and urban design outcome.

The incorporation of the 3 storey terraces along the Gilham and Gay Street frontages will provide increased buffer distances from the low/medium density development on the northern side of Gilham Street and the proposed 13 and 17 storey tower elements. The concepts that have been submitted indicate that the tower elements will be setback approximately 15 metres from the Gilham frontage. By having terraces along the frontage, with the tower elements setback, the predominant streetscape when viewed from the street will be a terrace edge.

In order to ensure that the built form is delivered it is recommended that draft development controls be applied to require a 3 storey terrace edge along the Gilham Street and Gay Street frontages and the application of setbacks which ensure that the tower elements are setback no less than 15 metres from the Gilham Street frontage

It is still considered that this will ensure that the proposed tower elements will not have a direct and overbearing interface to the properties on the northern side of Gilham Street¹.

This PP comprises the same building form outcome as the original PP, with two tower forms of 13 and 17 storeys and setback from the street and a lower 3 storey perimeter terrace style housing character at the interface with the lower density residential area. In distance terms this is 40 metres from the low density dwellings across the road.

Furthermore, given the site only contains two tower forms with over a 30m separation and approximately 40% of the site dedicated for open space, demonstrates the site well exceeds the minimum ADG requirements which enables further adjustment of the building form to occur should that be required.

This was demonstrated in the Appendix of the **ae Design** peer review assessment, where an 'alternate design response' for the site was developed, which had the following key attributes:

- 4 x separate 3 storey terrace buildings fronting the low-density areas.
- The two towers setback 50m from the property boundary of existing residential properties on the northern side of Gilham Street.

The additional urban design testing by **ae Design** thus illustrates there are alternate master planning outcomes achievable under the proposed controls which may be superior to the current concept and that the proposal has the flexibility to explore as part of a future development application. We would support working with Council to develop a site-specific DCP (as was prepared for the original PP) to ensure the best master planning outcome for the site in its context can be achieved.

What this PP therefore demonstrates is there are no reasonable grounds for Council not to support the building heights proposed for the site given they match the heights of the original proposal that the officers supported and recommended to Council to make the LEP changes.

Furthermore, we have considered the historical considerations Council has had with the other site-specific PPs in the centre.

The figure extract on the following page, taken from *Council report of August 2017 for Garthowen Crescent PP (page 38)*, is relevant because it illustrates that Council had in fact used the anticipated building heights of the subject site as well as the Toplace site to inform its assessment of an acceptable building height for the Garthowen Crescent PP which at the time was seeking heights up to 26 storeys. The report said:

*As detailed in Figure 6 below, the proposed height of 26 storeys on the site, would allow for one of the tallest buildings within the Castle Hill Precinct to be located in the northeastern periphery of the precinct, exceeding the absolute height of other significant developments anticipated within the precinct at Castle Towers, Pennant Street Target Site, Crane Road and **Vivien Place**.(emphasis added)*

¹ page 327, Council report to 25 July 2017 meeting, and reproduced in officer report to 27 November 2018 Council meeting

Figure 6 extract from Council report on Garthowen Crescent PP

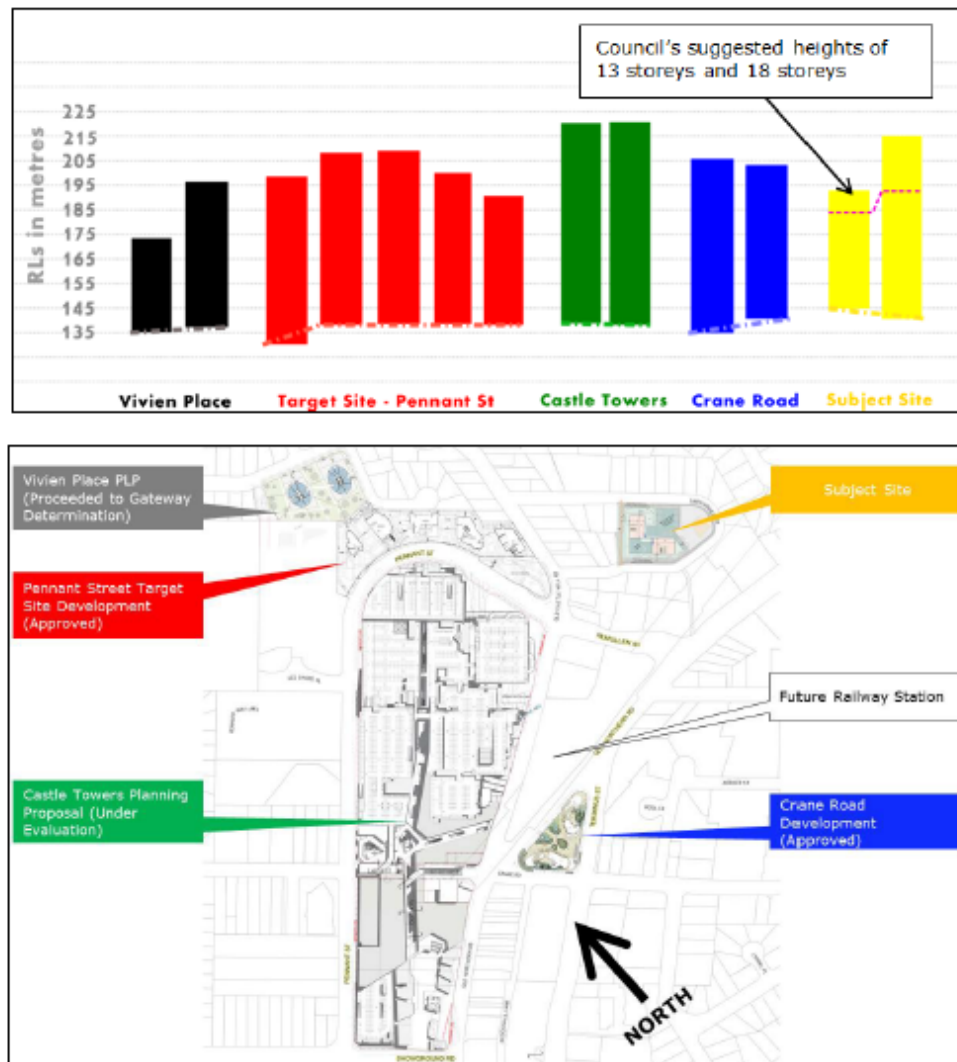


Figure 6
Comparative height analysis

So in our view, the heights proposed have been considered and effectively 'factored' into decisions Council has made on other significant sites in Castel Hill North. For that reason, the proposed heights could not reasonably be held to be either 'inconsistent' with the future context or unexpected.

In terms of Council's concern on that the proposal could include density and height greater than that indicated in the concept, our response is that the PP provides the certainty of maximum statutory FSR and building height control for the site. As stated above, it contains greater clarity that Council's CHN PP which does not seek to impose a maximum building height control.

Should the PP pass gateway determination and the LEP amendments made, detailed design work will accompany a future development application where the precise height in storeys will be confirmed. As outline above, the density sought for this large site afford a number of building configurations to enable it to respond to its emerging urban context.

Reason 4:

d) The proposal does not provide any material public or community benefits, in comparison to outcomes to be permitted under the Castle Hill North planning proposal. While a VPA letter of offer has been submitted, many of the 'public benefits' cited are already required as part of the Castle Hill North planning framework. The proposal fails to identify opportunities or solutions to provide new local infrastructure to service the 'unanticipated' yields proposed and the proponent is only able to deliver a small portion of the proposed western road.

Response:

The CHN PP does not require the site to dedicate land and create a local road nor does it require the site to provide a public through site link to improve pedestrian connectivity in the centre.

These proposed offerings remain fundamental to the proposal and consistent with the original PP. From the original PP assessment, Council officers provided the following commentary on the benefits of these two aspects:

In considering the merits of the proposed **local road** in Council's original PP assessment report of July 2017, for the site, it stated the following:

*It is considered that the proposed local road (when fully connected to Les Shore Place) would allow for greater permeability through this part of the Precinct and **would promote a positive development outcome in terms of the local road network.** (page 331, report of 25 July 2017).*

Post this, in considering the merits of the proposed **local road** in Council officers report for the CHN PP of 27 November 2018, it stated the following:

*Further, uplift being proposed for land within Vivien Place (subject to a separate planning proposal) is intended to facilitate the delivery of a future road link connecting Les Shore Place and Gilham Street **which is a considerable public benefit.** (page 42)*

This demonstrates a consistency of position from Council that the proposed local road would be of clear public merit. That being the case, we see no reasonable reason why Council's position on the benefits of this local road offer has now changed.

Added to this, in recent discussions between the Proponent and QIC representatives about this PP, they have raised no objection to the concept of a road link as proposed and authorised the proponent to formally make this statement in writing.

In considering the merits of the proposed **pedestrian through site link**, in Council's original PP assessment report for the site, it stated the following:

*The proposed development concept, as revised by the proponent, incorporates a single pedestrian connection from north of Gilham Street to Pennant Street. **This connection will provide improved pedestrian permeability through Precinct and improve access to the Castle Towers Shopping Centre and active uses proposed along Pennant Street** (page 331, Council report of 25 July 2017).*

In our opinion, there is no legitimate planning reason why Council now does not consider these offerings as public benefits. Nothing has changed in Council's CHN PP to justify a change in position.

The other aspect to address relates to Council's concern on the proposal's demand on local infrastructure. Again, we remind the Planning Panel that the FSR proposed is consistent with the original PP which the officers supported.

Draft Contributions Plan No.17 Castle Hill North, has been prepared concurrently with the CHN PP. The Contributions Plan has been specifically developed to capture higher developer contributions for the density uplift in the centre to fund the required: open space, transport and drainage upgrades. The plan has been based on a holistic consideration of where key facility upgrades or new investment is needed to support the future increased population.

As the site has not been considered as an amalgamated landholding, the Contributions Plan does not identify requirements for new social infrastructure on this land, as such development on the site would contribute to targeted upgrades in Castle Hill North as identified in the draft Plan. Given this, there is no requirement or need for separate Planning Agreements to be entered into to fund the necessary local infrastructure upgrades.

Draft Contributions Plan No.17 is a specific Castle Hill North Contributions Plan that has been submitted to IPART for review. The Plan seeks to levy for local infrastructure upgrades with a capital works total value of approximately \$79mill.

The Plan when adopted will capture contributions from development applications at a rate of between \$24,600 (per 1 bedroom unit) up to \$46,900 (per 4 bedroom unit). Applying Council's expected development population, to the levy rates, would yield over \$90mill of contributions from development which would meet the required social infrastructure upgrades for the town centre.

This PP, which would create some 88 apartments beyond Council's current plan. When applying an average contribution rate of \$35,750 (applying a mix of 1-4 bed units), it would generate some \$3.15mill additional developer contributions to fund the capital work embellishments in the centre. In addition to this, the PP includes at no cost to Council, construction of a publicly accessible through site link and dedication and construction of a road along the western site boundary to enable future north-south connection. The cost of constructing only the physical works has been estimated by MBM, and independent quantity surveyor to be approximately \$949,517 (*refer letter and summary attached*)

As the proposal includes open spaces beyond the minimum ADG requirement it is reasonable to assume the demand on open space as a result of the additional dwellings sought by this PP will be at best minimal. In terms of traffic impacts, the traffic assessment report accompanying the PP found that the proposal would account for less than 5% of peak traffic movements in the centre and the additional density resulting in 1 extra traffic movement every 3-4 minutes during AM peak (8am-9am) and PM peak (3pm-4pm).

This impact is minor and would not give cause to alter Council's transport infrastructure upgrade plan, the additional impact is likely within the margin of statistical error of the modelling undertaken. Furthermore, the impact is offset through the proposals VPA offer to improve pedestrian connectivity that will incentivise walking and reduce the need for short vehicle trips in the centre.

Having regard to the above, the minor increase in demand on open space use and local transport infrastructure will be either be satisfactorily addressed through the greater receipt of contributions and the impacts offset via the provision of generous open space and proposed pedestrian and road linkages on the site. In the absence of Council proving otherwise, in our view the proposal can be reasonably accommodated in the centre without creating any unforeseeable or demonstrably different demand impacts on social infrastructure.

The VPA offer accompanied the PP. Despite proponent request, unfortunately Council never wanted to engage in discussions on the particulars of the VPA offer. Nevertheless, should the Planning Panel resolve to support the PP to get to Gateway Determination, the proponent is willing to engage with Council to ensure satisfactory arrangements are achieved in drafting the VPA.

3. SUMMARY & CONCLUSION

This letter responds to Council's reasons for not support this PP for gateway. As outlined, the reasons resolved by Council in our opinion, do not constitute reasonable grounds not to support this PP to gateway.

As we have stated in this letter and provided in the PP documentation, this PP is unchanged from the original PP which was supported for its strategic and site-specific merit by Council staff and the Council up until to final Council meeting.

As stated in the Council report, amalgamation can never be guaranteed hence why the CHN PP hasn't contemplated the sites amalgamation and that's why the site was previously supported to progress concurrently (like the other PPs) and should again be afforded the same ability.

Specifically, this letter demonstrates the following:

- The proposed density of 2.28:1 is comparatively lower than the potential 3:1 FSR originally slated for the site in the *North West Rail Link Corridor Strategy*, and considerably lower than adjoining Toplace site at 5.5:1 and the current Garthowen Crescent PP at 3:1.
- The proposed building heights of 13 and 17 storeys were previously supported by Council and more recently has served to provide context for Council to support the Garthowen Crescent PP with heights up to 18 storeys. This is illustrated by Council factoring the proposed height into its strategic planning in the centre.
- Council has consistently stated in both its original assessment report 25 Jul 2017, post exhibition assessment report 27 Nov 2018 and the CHN PP report 27 Nov 2018 that the proposed local road and pedestrian through site link would be of public benefit, which is in direct contrast to their new position now that claims otherwise.
- In terms of strategic policy compliance, it is without question that the proposal satisfies the cited Objectives and Planning Priorities from the Metropolitan and District Strategic plans.
- The proposal will deliver a range of tangible public benefits in the form of the creation of new vehicular access and public through-site links which will importantly provide desirable and legible connections to the Caste Towers Shopping Centre and the metro station to the south, costing close to \$1mill. This offer is in addition to \$7.11 contributions payable under the new plan designed to fund local infrastructure upgrades. This will benefit future residents on-site as well as the existing and future surrounding community.

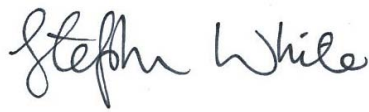
The need to amend the planning controls on the site is now more critical than ever. High rise tower forms now about the single storey residential houses on-site, creating significant discordant building scale interfaces, with resultant amenity and privacy issues. At the current proposed density within the CHN PP, the proponent will be forced to abandon the final amalgamation of the site on the grounds of financial viability and the potential benefits of a master planned outcome would be lost.

The urban design analysis demonstrates the site can 'comfortably' accommodate the density proposed and by doing so, exceed many of the minimum ADG design objectives and criteria in a way that can act as a comfortable transitional scale to moderate the impact of the taller towers to the south.

The anticipated environmental and amenity impacts arising from the planning proposal have been considered and the specialist reports submitted with the planning proposal conclude that the proposal will facilitate a development that will not result in any unreasonable impacts on the surrounding locality that would ordinarily be expected for a site earmarked for high density housing.

In conclusion, for the reasons provided in this letter, in our opinion, the planning proposal satisfies both strategic and site-specific merit test of the *A Guide To Preparing Local Environmental Plans* and therefore warrants support to proceed to gateway.

Yours sincerely,

A handwritten signature in black ink that reads "Stephen White". The signature is written in a cursive, flowing style.

Stephen White
Director
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swhite@urbis.com.au

Encl – VPA cost estimate

SYDNEY

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SYDNEY | PARRAMATTA | BRISBANE | MELBOURNE | CANBERRA | PERTH | ADELAIDE

03 July 2020

Castle 7 Pty Ltd c/o Foresight Management Pty Ltd

Level 6, 89 York Street
Sydney NSW 2000

(via email to: ghynd@foresightmgt.com.au)

Attn: Greg Hynd

Dear Greg

Vivien Place, Castle Hill

Further to the receipt of document titled '04 Proposal Overview 4.3 typical tower Plan', our estimated price for the works in question is as follows:

Total for Road and Open Space	\$ 390,409.00
Total for Through Site Link	\$ 522,260.00
Total	\$ 912,669.00 EXCL GST

Amount includes construction works including supervision and profit. It also includes design and project management fees.

A breakdown of our estimate is attached.

Please do not hesitate to contact me with any queries

Yours Sincerely

MBMpl Pty Ltd

A handwritten signature in black ink, appearing to be 'Richard Smith'.

Richard Smith

Director

richard.smith@mbmpl.com.au

0413 753 793

Vivian PI VPA Works



	Measure	Unit	Rate	Total
Road Reserve Work				
Clear and strip topsoil	750	m2	\$ 15	\$ 11,250
Services Relocation	1	unit	\$ 32,000	\$ 32,000
Earthworks	375	m3	\$ 40	\$ 15,000
Pavement	180	m2	\$ 90	\$ 16,200
Kerb & Gutter	104	m	\$ 70	\$ 7,280
Footpath	52	m	\$ 130	\$ 6,760
Drainage Pipe	50	m	\$ 850	\$ 42,500
Kerb Inlet Pit	2	unit	\$ 3,500	\$ 7,000
Verge Topsoil & Landscape	150	m2	\$ 90	\$ 13,500
Street Trees	7	unit	\$ 500	\$ 3,500
Additional Open Space Landscape				
Civil Works	220	m2	\$ 35	\$ 7,700
Landscape	220	m3	\$ 180	\$ 39,600
Trees	3		\$ 500	\$ 1,500
Sediment Control	1		\$ 8,000	\$ 8,000
Traffic Control	1		\$ 17,000	\$ 17,000
Sub Total			\$	228,790
Preliminaries & Supervision	1		\$	42,000
Subtotal			\$	270,790
Profit			\$	40,619
Total for Works			\$	311,409
Road Design			\$	55,000
Project Management			\$	24,000
Total For Road and Open Space			\$	390,409
Through Site Link				
Civil and Landscaping	1680	m2	\$ 180	\$ 302,400
Drainage	1		\$ 50,000	\$ 50,000
Preliminaries and Supervision	1		\$ 40,000	\$ 40,000
Profit	1		\$	58,860
Total For Works			\$	451,260
Design	1		\$ 45,000	\$ 45,000
Project Management	1		\$ 26,000	\$ 26,000
Total for Through Site Link			\$	522,260
			total	\$ 912,669
escalation to construction	to end of	2020	0.00%	\$ -
	12 months	2021	1.50%	\$ 13,690.03

Vivian PI VPA Works



Measure	Unit	Rate	Total
12 months	2022	2.50%	\$ 23,158.96
total to end of 2022			<u>\$ 949,517</u>