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Pre-Gateway – Information Review and Recommendations for the Sydney Central City Planning Panel

241-244 Pennant Hills Road, Carlingford

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1 Introduction

1.1 Purpose of Report

On 11 June 2020, the Sydney Central City Planning Panel (the Panel) as a delegate of the Minister, appointed itself the Planning Proposal Authority (PPA) for a planning proposal (**Attachment A**) at 241-245 Pennant Hills Road, Carlingford (the site). This report has been prepared by the Department for the Panel's consideration in its capacity as a the PPA, at the Panel's request (**Attachment B**).

The purpose of the report is to assist the Panel in a decision on whether the planning proposal should proceed to a Gateway determination. The Department has reviewed planning proposal and supporting information and provides recommendations in relation to the adequacy of the proposal, legislative requirements and its merits.

1.2 The Planning Proposal

The purpose of the planning proposal is to facilitate the redevelopment of the subject land for a mix of commercial and residential land uses.

A 9m maximum height of building control and a floor space ratio (FSR) of 1:1 currently applies to the site under the *Parramatta (former The Hills) Local Environmental Plan 2012*.

The planning proposal seeks to enable the construction of a mixed-use development at a height of up to 49m (15 storeys) and a maximum FSR of 2.4:1 (no FSR mapped for the 565m² of SP2 Infrastructure zoned land on the site). There is no change to the part B2 Local Centre and part SP2 Infrastructure zoning under the proposal. The planning proposal also entails the inclusion of site-specific controls to facilitate development on the site.

A minimum of 1,970m² of 'non-residential' floor space forms part of the proposal. It is anticipated the 'non-residential' floor space could accommodate small business, restaurant, recreational (gymnasium), and childcare uses.

2 Site

2.1 Site Description

The site is legally described as Lots 1, 2, 5 and 6 in Deposited Plan (DP) 805059, with a total area of 6,330m². The site has an irregular shape, bounded by Pennant Hills Road to the south-east, Felton Road to the north and a low-density residential precinct to the west. This neighbouring precinct also contains low rise multi-dwelling housing developments. The site is occupied by a 1-2 storey commercial building with associated car parking.

Figure 1 below shows an aerial image of the site and its allotment configuration.



Figure 1 Subject site. Source: Nearthmap, 26.01.2021

2.2 Site Context

The site is located on the corner of Pennant Hills Road and Felton Road, approximately 250 metres south-west of the former Carlingford Railway Station (the future Carlingford Light Rail stop). Public buses operate from Lloyds Avenue (adjacent to the Railway site), which provides services from Carlingford to Parramatta and Epping. The locality to the north-east of the site generally comprises of larger scale residential developments and is part of the 'Carlingford Growth Precinct', as discussed further in Section 4 of this report and as shown in Figures 2 and 3 below.

Opposite the site to the north is the Carlingford electricity transmission substation, with James Ruse Agricultural High School located 130 metres to the north-west. An established residential flat building precinct characterised by four (4) storey developments and the 'K13 Submarine Memorial Park' is located opposite the site across Pennant Hills Road to the south-east.

Figure 2 shows the subject site and surrounding land uses.

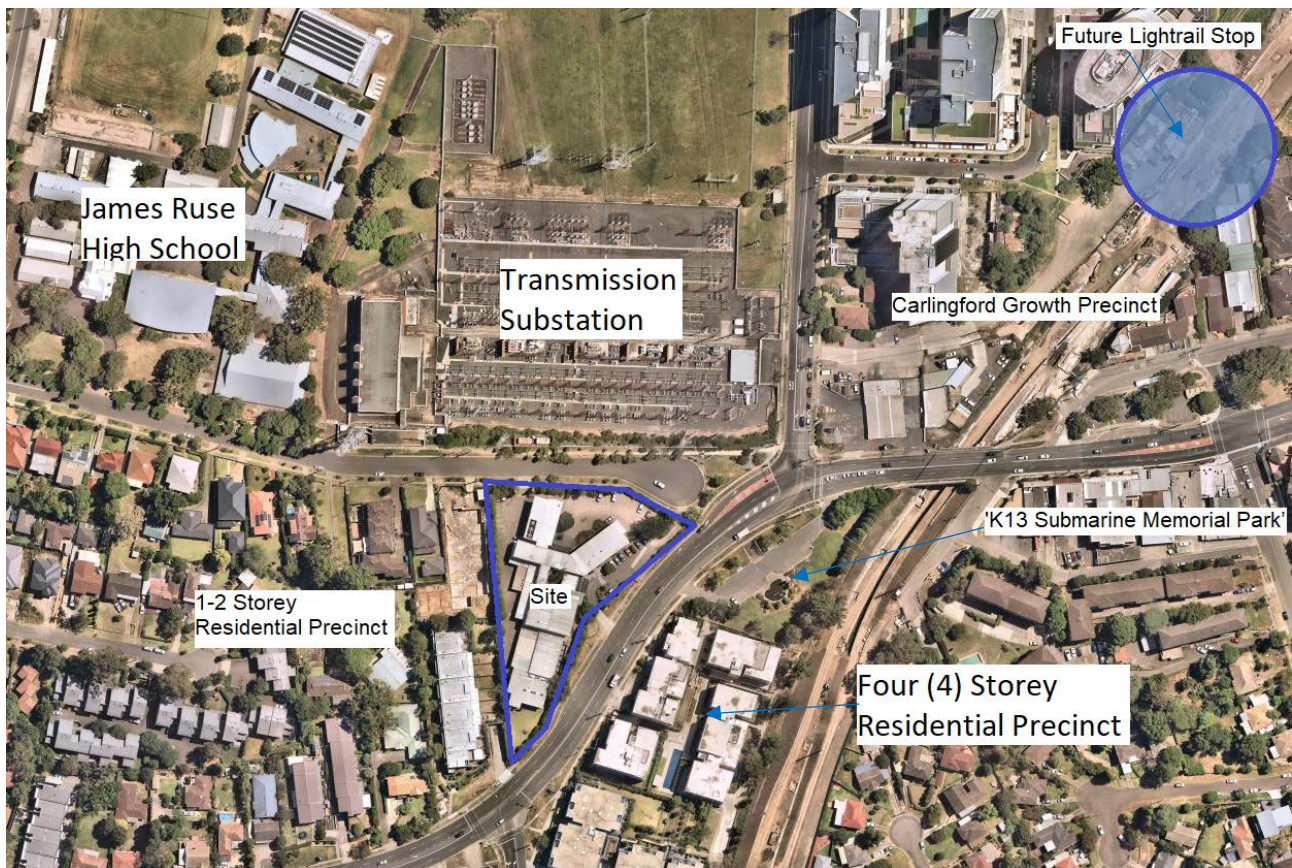


Figure 2 Subject site and surrounding area. Source: Nearmap, 26.01.2021

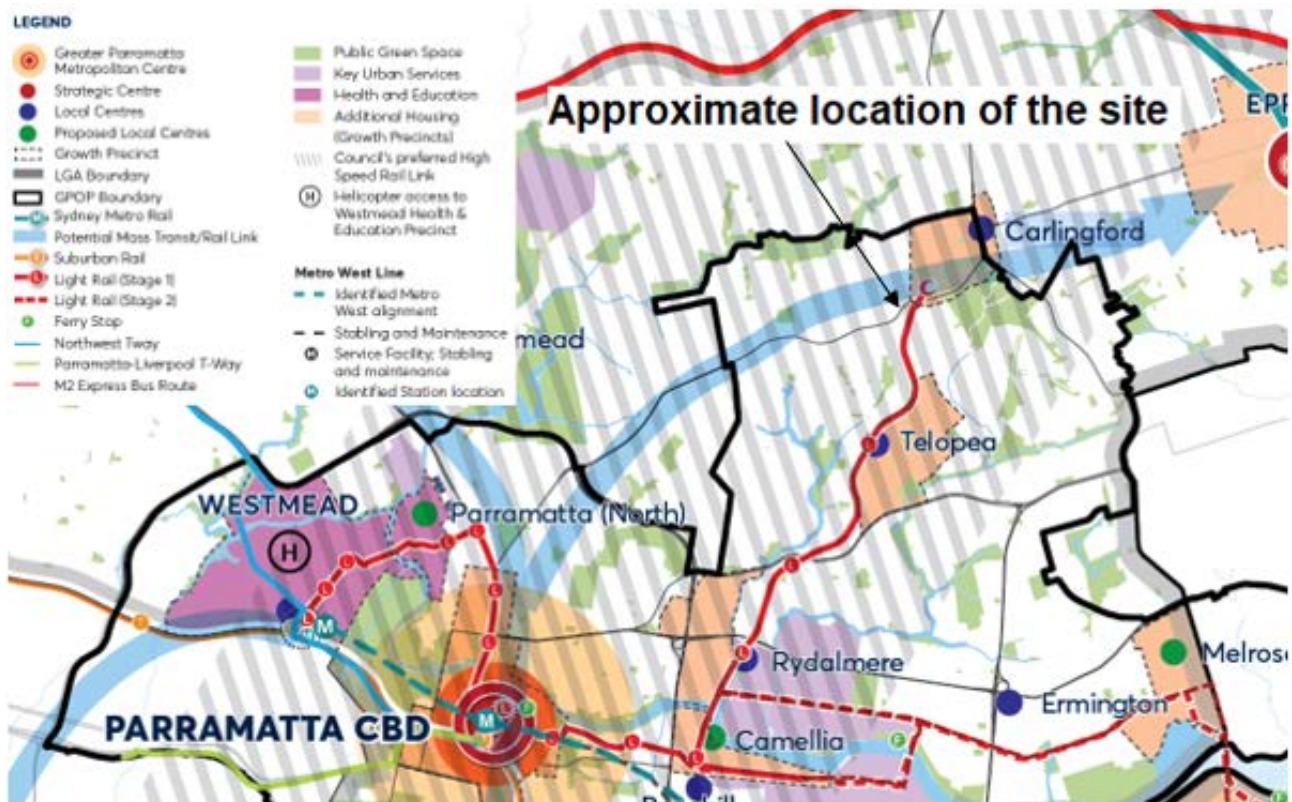


Figure 3 Subject site in relation to the Carlingford Growth Precinct. Source: Parramatta Local Strategic Planning Statement

3 Planning Proposal

3.1 Background

Table 3 below provides the Panel with a brief summary on the history of the planning proposal. The applicant's planning proposal (**Attachment A**) also provides a detailed background at Section 1.0.

Table 3 Summary of Background to Planning Proposal

Date	Summary of Planning Proposal History
23 December 2015	<p>Original proposal</p> <p>The applicant lodged a request for a planning proposal with The Hills Shire Council for the site for a maximum height of 57m and a maximum FSR of 2.8:1.</p>
10 May 2016	<p>The Hills Shire Council considered an assessment of the planning proposal and resolved that it not proceed to Gateway determination.</p>
12 May 2016	<p>NSW Local Government Proclamation transferred part of The Hills LGA, including the site, to the City of Parramatta LGA.</p>
30 November 2016	<p>Pre-Gateway Review</p> <p>City of Parramatta Council failed to consider the planning proposal within 90 days and the proponent requested a pre-Gateway review based on this. The Department's report to the Sydney West Central Planning Panel (now known as the Sydney Central City Planning Panel) (the Panel) (Attachment C1) concluded that the request for review be supported. The report noted several matters the Panel should consider, including height, FSR, traffic and change in nature of employment lands.</p> <p>The Panel issued advice as part of the pre-Gateway review supporting the planning proposal to be submitted for Gateway determination (Attachment C2). The Panel's advice noted that:</p> <ul style="list-style-type: none"> • a maximum height of 28m and maximum FSR of 1.5:1 was appropriate for the site; • the applicant's concept of a maximum building height of 57m and maximum FSR of 2.8:1 was unreasonable due to impacts on adjoining residential properties and road capacity issues; and • the opportunity exists for additional height and FSR if supported by appropriate urban design and traffic studies. <p>City of Parramatta Council provided a submission to the review supporting a maximum height of 28m and maximum FSR of 1.5:1, and that the applicant should provide further testing at this density to determine the exact maximum height and FSR that can be accommodated on the site.</p>
December 2016 to May 2019	<p>Following discussions and negotiations, Council and the applicant were unable to agree on urban design outcomes relating to heights, FSR, bulk and massing, building typology and setbacks. An Urban Design Report (Attachment D) provided by the applicant identifies two concept designs for a maximum height of part 14 metres and part 49 metres:</p> <ul style="list-style-type: none"> • the applicant's preferred option for a maximum FSR of 2.4:1, and • Council staff preferred option for a maximum FSR of 2.1:1.

21 May 2019	<p>Parramatta Local Planning Panel (LPP)</p> <p>The LPP considered a Council staff report on the planning proposal which recommended a maximum height of part 14m and part 49m and a maximum FSR of 2.1:1 (Attachment E1). The LPP recommended that the planning proposal be submitted to the Department for Gateway determination (Attachment E2). The LPP also recommended (Attachment E2) that consideration be given to increase the maximum FSR to 2.4:1, subject to:</p> <ul style="list-style-type: none"> • a maximum of 108 dwellings; • a minimum commercial floorspace of 1,970m²; and • careful analysis of the urban design, height outcomes and traffic issues associated with any new proposal.
22 July 2019	<p>City of Parramatta Council resolution</p> <p>Council considered a report from Council officers (Attachment F1) recommending a maximum height of part 14m and part 49m and a maximum FSR of 2.1:1 consistent with the LPP advice. Council resolved (Attachment F2) not to endorse the planning proposal to proceed to Gateway determination. Council noted it would be agreeable to a planning proposal seeking:</p> <ul style="list-style-type: none"> • a maximum height of 28 metres and a maximum FSR of 1.5:1, consistent with the recommendation of the former Sydney West Central Planning Panel; and • a minimum commercial floorspace of 2,940m² to maintain the existing floorspace on the site.
5 August 2019 – 11 June 2020	<p>Discussions and correspondence between the applicant, Council, the Department and the Panel. Council advised the Department they consider the planning proposal to be refused as the applicant has advised Council, they do not intend to revise their planning proposal as per Council's resolution.</p> <p>The Panel appoints itself as the PPA on 11 June 2020 (Attachment B).</p>
September 2020	<p>Applicant submits amended planning proposal to the Department (Attachment A) which responds to the LPP advice (Attachment E2), seeking a maximum building height of 49m, an FSR of 2.4:1 subject to a maximum of 108 apartments and a minimum of 1,970m² of non-residential floor space being provided.</p>

3.2 Existing and Proposed Controls

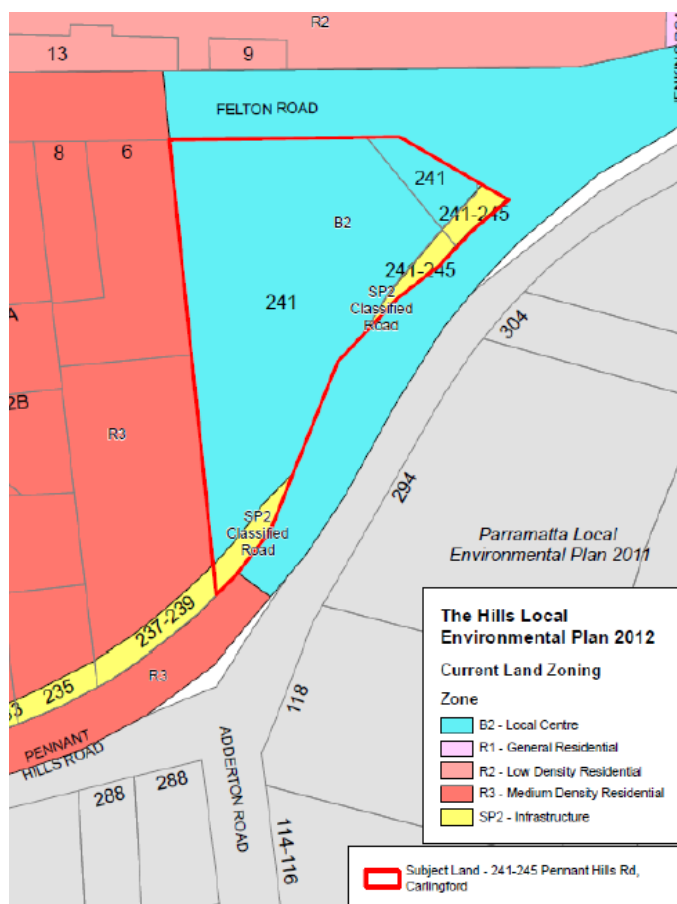
Table 4 below provides a comparison between existing controls applicable to the site under the *Parramatta (former The Hills) Local Environmental Plan 2012*.

Table 4 Summary of Background to Planning Proposal

Parramatta (former The Hills) Local Environmental Plan 2012 Controls	Current	Proposed by Applicant
Zone	Part B2 Local Centre – 5,765m ² Part SP2 Infrastructure (Classified Road) – 565m ² (See Figure 4 below)	No change to zoning proposed
Maximum height of the building	9m	Part 14m (western side) Part 49m (remainder of site)
Floor space ratio	1:1	2.4:1 (excluding land zoned SP2)

The breakdown of the site's area (6,330m²) and its zoning is as follows (see also Figure 4):

- 5,765m² is zoned B2 Local Centre; and
- 565m² zoned SP2 Infrastructure (reserved for road widening with Transport for NSW the acquisition authority).

**Figure 4 Zoning map showing portions of site zoned B2 Local Centre and SP2 Classified Road.**

Figures 5-7 below provide context to the site and planning controls applying to the surrounding locality.

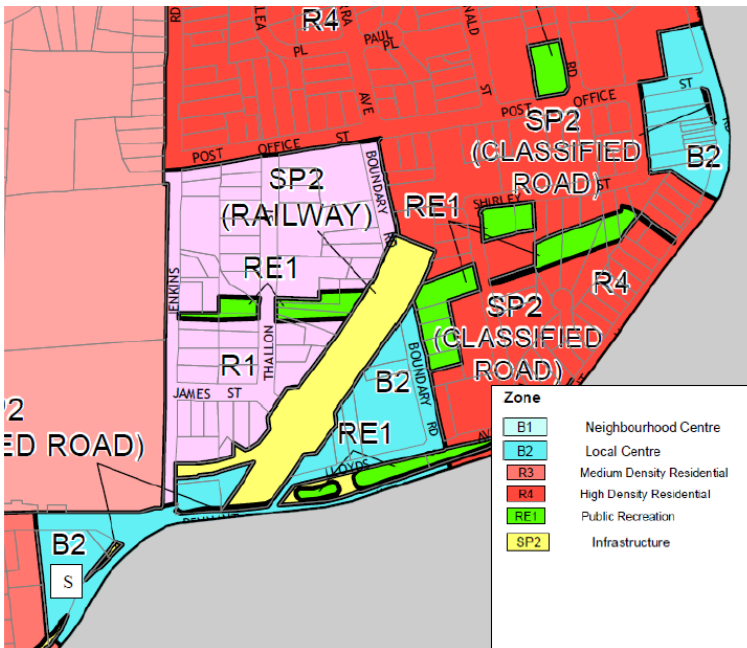


Figure 5 Extract from Applicants planning proposal (Attachment A) showing existing land use zones under the Parramatta (former The Hills) Local Environmental Plan 2012. Site identified with 'S'.

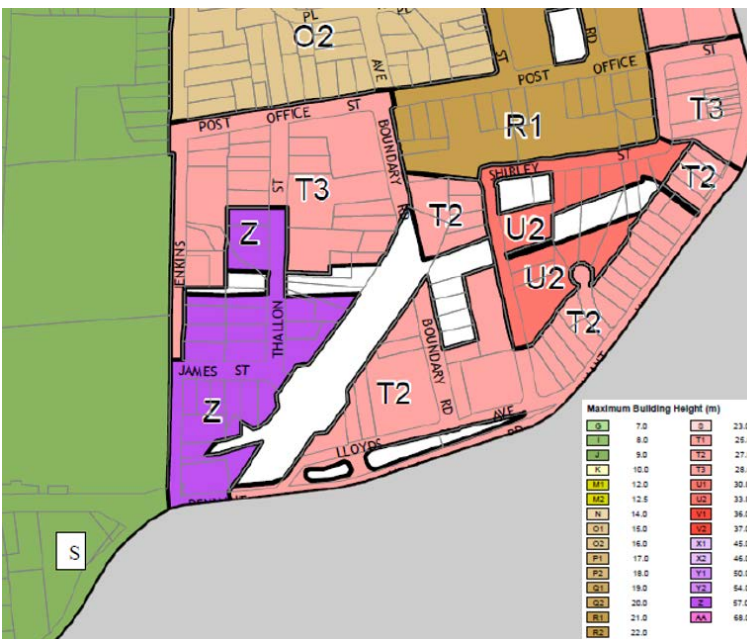


Figure 6 Extract from Applicants planning proposal (Attachment A) showing existing maximum building heights under the Parramatta (former The Hills) Local Environmental Plan 2012. Site identified with 'S'.



Figure 7 Extract from Applicants planning proposal (Attachment A) showing existing FSR controls under the Parramatta (former The Hills) Local Environmental Plan 2012. Site identified with 'S'.

4 Planning Proposal Analysis

Section 3.33(2) of the *Environmental Planning and Assessment Act 1979* (the Act) outlines that a planning proposal is to include:

- a statement of the objectives or intended outcomes of the proposed instrument;
- an explanation of the provisions that are to be included in the proposed instrument;
- the justification for those objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will give effect to the local strategic planning statement of the council of the area and will comply with relevant directions under section 9.1);
- if maps are to be adopted by the proposed instrument, such as maps for proposed land use zones; heritage areas; flood prone land—a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument; and
- details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.

The subsections below consider the planning proposal (**Attachment A**) against the above requirements and the Department's document '*Planning Proposals – A Guide to Preparing Planning Proposals*', dated December 2018. This is to ensure adequacy of the documentation. Where relevant, the Department provides appropriate comments on legislative requirements and/or the merits of the proposal.

4.1 Objectives or Intended Outcomes

The proposal's intended outcomes are to amend the provisions of *Parramatta (former The Hills) Local Environmental Plan 2012* to permit:

- a maximum building height of 14m (4 storeys) on the western side of the site and 49m (15 storeys) on the balance of the site;
- a maximum FSR of 2.4:1 (subject to a maximum of 108 apartments and a minimum of 1,970m² of non-residential floor space being provided); and

- an allowance for winter gardens (having a combined total area of not greater than 465m²) to be excluded from the calculation of gross floor area (GFA) and FSR.

4.2 Explanation of Provisions

The applicant's proposal seeks the intended outcomes for the planning proposal be achieved by the following amendments to the *Parramatta (former The Hills) Local Environmental Plan 2012*:

- amending the 'Floor Space Ratio Map' to indicate a maximum permitted floor space ratio of 2.4:1 on the site;
- amending the 'Building Height Map' to indicate a maximum building height of 14m on the western side of the site and 49m on the remainder of the site;
- amending the 'Additional Permitted Uses Map' to include the subject site as an identified site and amending 'Schedule 1 - Additional permitted uses' of *Parramatta (former The Hills) Local Environmental Plan 2012* as follows:

'Use of certain land at 241-245 Pennant Hills Road, Carlingford

- (1) *This clause applies to land at 241-245 Pennant Hills Road Carlingford, being Lots 1, 2, 5 and 6 in DP 805059, shown as "Item xx" on the Additional Permitted Uses Map.*
- (2) *Development for the purposes of mixed-use development at an FSR of greater than 2.1:1 but not exceeding 2.4:1 may only be granted if:*
 - *the total number of residential apartments does not exceed a maximum of 108, and*
 - *a minimum area of non-residential floor space of 1,970m² is provided.*
- (3) *Despite any other provision of this Plan the floor area 'winter gardens', being enclosed balcony areas, up to a maximum combined floor area of 465m², does not comprise 'gross floor area'.*

The Department considers the proposed use of Schedule 1 to facilitate development on the site is not an appropriate mechanism. The intent of Schedule 1 is to allow additional land uses on specific land where otherwise not permitted and should only be used in exceptional circumstances. All land uses the planning proposal seeks to facilitate on the site are permitted with consent within the B2 zone.

A more appropriate mechanism would be the inclusion of a site-specific clause within 'Part 7 Additional Local Provisions' of the *Parramatta (former The Hills) Local Environmental Plan 2012*, and/or providing controls within a site-specific Development Control Plan (DCP).

Any terms or definition proposed in a site-specific clause must be consistent with terms and definitions of the *Standard Instrument – Principal Local Environmental Plan (SILEP)*. Specifically, the term 'Winter Garden' is not a term which is defined within the SILEP. The Department acknowledges similar site-specific provisions which exclude 'enclosed private balconies' have been incorporated into the *Parramatta Local Environmental Plan 2011* where the term 'enclosed private balconies' is defined within the site-specific clause. This approach could be applied to the proposal.

Please refer to Section 4.4.3 below for further discussion on site specific clauses.

4.3 Justification

4.3.1 Need for the Planning Proposal

Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

The planning proposal has not directly resulted from an endorsed local strategic planning statement, strategic study or report. However, the proposal generally is not inconsistent with the strategic planning framework applicable to the site as outlined in Section 4.3.2.

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The applicant's intended outcomes for the site can only be achieved via a planning proposal to amend the *Parramatta (former The Hills) Local Environmental Plan 2012*. However, careful consideration must be given to how the site-specific controls proposed could be implemented (See Section 4.2 previously).

4.3.2 Relationship to Strategic Planning Framework

Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

Greater Sydney Regional Plan and Central City District Plan

The Greater Sydney Region Plan is the overarching strategy for growing and shaping the Greater Sydney Area. It sets a vision up to the year 2056 and establishes a 20-year plan to manage growth and change for Greater Sydney. It is underpinned by the Central City District Plan (the District Plan) which sets the 20-year vision for the District and contains the planning priorities and actions for implementing the Greater Sydney Region Plan at a district level and is a bridge between regional and local planning.

The planning proposal has considered the Greater Sydney Regional Plan and Central City District Plan. It is generally consistent with relevant provisions of the Central City District Plan. Table 5 below discusses key relevant planning priorities of the Central City District Plan.

Table 5 Central City District Plan

Key Planning Priorities	Discussion/Assessment
Planning Priority C1. Planning for a city supported by infrastructure	The site is well serviced by existing infrastructure. Apart from having direct access to Pennant Hills Road, public transport options (buses and future light rail) are within a 300-350m walk to the north-east of the site. These public transport services provide direct access to employment opportunities in the Parramatta CBD, with the Carlingford Court shopping centre also easily accessible via bus, being just 1.2km to the north-west of the site. Finally, the site is within close proximity to public open spaces, including the K13 Submarine Memorial Park opposite the site and Cox Park located 650m to the east (adjacent to the Carlingford Bowling, Sport and Recreation Club).
Planning Priority C3. Providing services and social infrastructure to meet people's changing needs	The District Plan identifies the pressure that growth has and will place on existing social infrastructure within the Central City District, much of which is already at or near capacity. The site is not within the Carlingford Growth Area and therefore growth on the site has not been accounted in infrastructure and service planning. It is recommended that a social infrastructure needs assessment be prepared to support the proposal.
Planning Priority C5. Providing housing supply, choice and affordability, with access to jobs, services and public transport	The proposed 108 dwellings will assist in contributing to housing needs in the Parramatta LGA. As discussed above under the Planning Priority C1, the site is well serviced and public transport options available provide connectivity to employment areas (e.g. Parramatta CBD). In terms of affordable housing, Council has adopted an Affordable Rental Housing Policy. The policy provides an action that ' <i>in the short term, continue to utilise Voluntary Planning Agreements to secure future affordable rental housing stock.</i> ' Accordingly, this can be a matter for Council to negotiate with the applicant.
Planning Priority C8. Delivering a more connected and competitive GPOP Economic Corridor	The wider GPOP Economic corridor includes urban renewal along the rail line to Carlingford. The planning proposal provides for employment generating floor space (jobs) which is highly accessible from public transport options and within the vicinity of the Carlingford centre.
Planning Priority C10. Growing investment, business opportunities and jobs in strategic centres	Please refer to discussion on commercial floor space area proposed on the site under the heading 'Direction 1.1 Business and Industrial Zones' further in this report. Retention of commercial premises floor area on the site will contribute to providing an economically competitive GPOP corridor in close proximity to the Carlingford centre and with good connectivity to the Parramatta CBD.
Planning Priority C16. Increasing urban tree canopy cover and delivering green grid connections	The urban design analysis (Attachment D) demonstrates that the concept scheme for the site can achieve a reasonably high-level of deep soil planting with up to 27.2% of the site area able to be provided with 6m wide deep soil areas. This includes along the Pennant Hills Road frontage of the site and the length of the western boundary.
Planning Priority C17. Delivering high quality open space	The concept scheme for the site also includes a landscaped public open space area providing a pedestrian link from Pennant Hills Road to Felton Road. The link will provide for site permeability, public open space and connectivity to commercial uses on the site.

Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

City of Parramatta Council's Local Strategic Planning Statement City Plan 2036 (LSPS) sets out a 20-year land use planning vision and came into effect on 31 March 2020. The LSPS balances the need for housing and economic growth, while also protecting and enhancing housing diversity, heritage and local character. The LSPS aims to protect Parramatta's environmental assets and improve the health and liveability of the City.

The LSPS identifies an area including and surrounding the future Carlingford Light Rail stop and commercial uses along Pennant Hills Road as the 'Carlingford Growth Precinct'. The site adjoins this precinct to the south-west. The precinct is zoned B2 Local Centre, R1 General Residential and R4 High Density Residential, targeted for higher density mixed used development with maximum building heights up to 57m and FSR up to 4:1 (see Figures 5-7 previously). The LSPS seeks to encourage growth within such precincts, while retaining areas of lower density residential.

The planning proposal has not given regard to the LSPS. Any subsequent planning proposal submitted to the Department for a Gateway determination must clearly address the LSPS, outlining how the proposal's intended outcomes give it effect. Specifically, any potential impacts on the hierarchical relationship between the proposal and any housing targets in the Carlingford Growth Precinct¹ are to be addressed, along with all relevant Planning Priorities.

The site is well serviced by existing infrastructure. Apart from having direct access to Pennant Hills Road, public transport options (buses and future light rail) are within a 300-350m walk to the north-east of the site. These public transport services provide direct access to employment opportunities in the Parramatta CBD, with the Carlingford Central shopping centre also easily accessible via bus, being just 1.2km to the north-west of the site. Finally, the site is within close proximity to public open spaces, including the K13 Submarine Memorial Park opposite the site and Cox Park located 650m to the east (adjacent to the Carlingford Bowling, Sport and Recreation Club).

In summary, the Department considers the planning proposal appears to give effect to the LSPS and local strategies but is required to be updated to include assessment against the relevant provisions and actions of the LSPS prior to submission for Gateway determination.

Is the planning proposal consistent with applicable State Environmental Planning Policies?

The planning proposal demonstrates that the intended outcomes would not be inconsistent with applicable State Environmental Planning Policies. Consistency with *State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development* (SEPP 65) is discussed further below.

Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

The planning proposal is generally consistent with applicant Ministerial Directions (s.9.1 directions) with further discussion provided below:

Direction 1.1 Business and Industrial Zones:

The objectives of this direction are to:

- encourage employment growth in suitable locations,
- protect employment land in business and industrial zones, and
- support the viability of identified centres

The planning proposal does not seek to rezone the site from B2 Local Centre zone to achieve the intended outcomes, but it may have the effect of reducing available office space and reducing employment land in the locality.

¹ The LSPS provides that a 'Growth Precinct' is a defined precinct identified for higher density growth, usually in combination with some minor retail and business services and have supporting infrastructure and facilities.

The site is currently occupied by exclusively commercial uses including a gym and a number of small business. The commercial floor space of existing buildings on site is 2,940sqm and if developed in line with supporting schemes, would result in a reduction. It is noted that development could be pursued under existing controls which would not require any minimum commercial floor space.

In line with the LPP's advice (**Attachment E2**), the applicant proposes a minimum of 1,970m² of commercial floor space. In Council's consideration of the planning proposal on 22 July 2019, Council resolved (**Attachment F2**):

'That a minimum of 2,940 square metres of commercial floor space be provided in a new proposal to ensure that there is no loss of commercial space across the current site and that the employment objectives to provide jobs close to homes in this business zone may continue to be made possible.'

The applicant's planning proposal suggests the proposal is consistent with this Direction as there is no change to business and employment zoning and the proposal will support the existing Carlingford centre.

It is considered that the proposal's provision of a minimum 1970m² commercial floor space will contribute to the retention of employment uses on the site and support the local area. In this aspect, the proposal is consistent with the Direction.

Direction 2.3 Heritage Conservation:

The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. Opposite the site to the south-east is the 'K13 Submarine Memorial Park', identified as an item of environmental heritage of local significance within Schedule 5 of the *Parramatta Local Environmental Plan 2011*.

The planning proposal states:

'As part of the collaborative work undertaken by the applicant and Council experts, Council's heritage officer has raised no concerns with the planning proposal in respect of potential impacts of the future development on the site of the heritage item. The planning proposal promotes casual surveillance of the memorial park grounds.'

However, consideration has not been explicitly given to potential overshadowing impacts on the heritage item. The Department recommends any subsequent planning proposal submitted for a Gateway determination adequately addresses potential overshadowing impacts on K13 Submarine Memorial Park for the Department's assessment.

It is noted that heritage provisions exist in the *Parramatta (former The Hills) Local Environmental Plan 2012*, through Clause 5.10 Heritage Conservation, which would satisfy the terms of the Direction.

Direction 2.6 Remediation of Contaminated Land:

The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities. Direction 2.6 was issued on 17 April 2020, removing zoning/rezoning proposal considerations from *State Environmental Planning Policy No. 55 – Remediation of Land* (SEPP 55). The Direction applies to the proposal as it will facilitate the development of the site for residential and childcare purposes.

The planning proposal addresses SEPP 55 and advises a Stage 1 Environmental Site Assessment completed for the site concludes the likelihood of contamination is low to moderate. However, any subsequent planning proposal submitted to the Department for a Gateway determination must be updated to address the objectives and requirements of Direction 2.6 and be supported by a preliminary investigation of the land carried out in accordance with the Department's contaminated land planning guidelines, prepared by a suitably qualified and experienced consultant.

Direction 6.3 Site Specific Provisions:

The objective of this direction is to discourage unnecessarily restrictive site-specific planning controls. As discussed in Section 4.2, the application of development controls to the site via Schedule 1 of the *Parramatta (former The Hills) Local Environmental Plan 2012* is not an appropriate or supportable planning mechanism. Any such provisions would be more appropriately dealt with via a site-specific clause within 'Part 7 Additional Local Provisions' of the *Parramatta (former The Hills) Local Environmental Plan 2012*, and/or providing land use controls within a site specific DCP. While the Direction discourages unnecessary restrictive site-specific planning controls, in this instance the controls are intended to provide for the orderly, efficient and economic use of the site.

Should the Panel decide to submit the planning proposal to the Department for a Gateway determination, the planning proposal must be updated to address Direction 6.3, clearly justifying any inconsistencies.

Direction 7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan:

The objective of this direction is to ensure development within the Greater Parramatta Priority Growth Area is consistent with the Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan dated July 2017 (the interim Plan).

The site is located within the vicinity of the 'Carlingford Corridor', which the interim Plan identifies as being subject to 'future review' within the interim Plan. In this regard, the planning proposal is not inconsistent with Direction 7.5.

4.3.3 Environmental, Social and Economic Impacts

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The proposal states that the site does not contain critical habitat, threatened species, populations or ecological communities or their habitats. As such, there unlikely to be adverse impacts resulting from the planning proposal in this regard.

Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Built form, Height and FSR:

Following consideration of the pre-Gateway Review, the Panel advised that additional FSR beyond 1.5:1 would be considered where supported by urban design and traffic analysis. The proponent has prepared urban design analysis to satisfy this requirement which nominates an FSR of 2.4:1 as being acceptable.

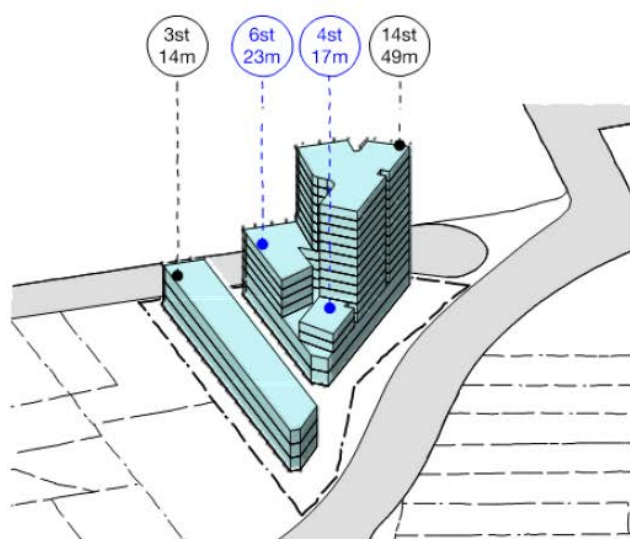
As discussed in Table 4 previously, the LPP supported Council officers' recommended maximum height of part 14m and part 49m and a maximum FSR of 2.1:1. The LPP also recommended that consideration be given to increase the maximum FSR to 2.4:1, subject to:

- a maximum of 108 dwellings; and
- a minimum commercial floorspace of 1,970m².

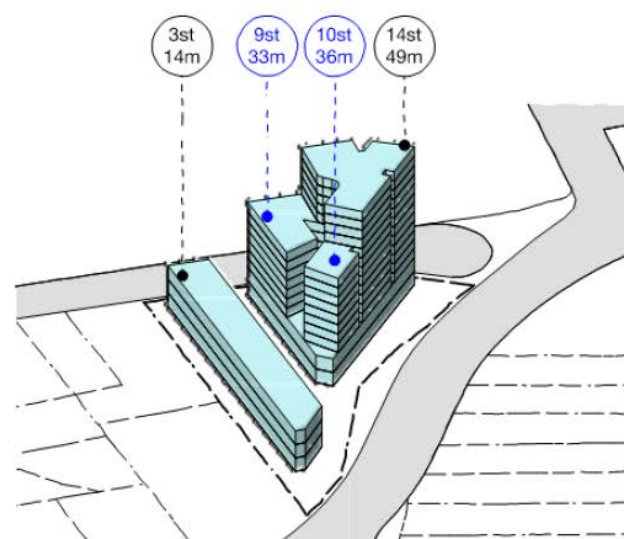
The urban design analysis provided with the planning proposal (**Attachment D**) compares Council officers' and the applicant's preferred urban design and built form outcomes for the site. Figure 8 and 9 below illustrate the difference between the two options is expressed through the height of elements of the main tower. The applicant's option of 33m is 10 metres higher than Council's preferred option of 23m. The applicant's option increases the floor space ratio by 0.3:1 from 2.1:1 to 2.4:1

council preferred scheme november 2018

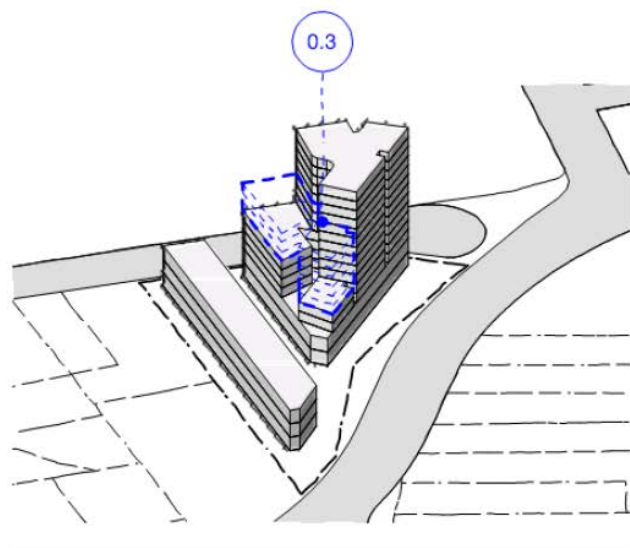
council massing - kaa visualisation

Proposed HOB: **49m**Proposed FSR: **2.1:1****client proposed scheme september 2018**

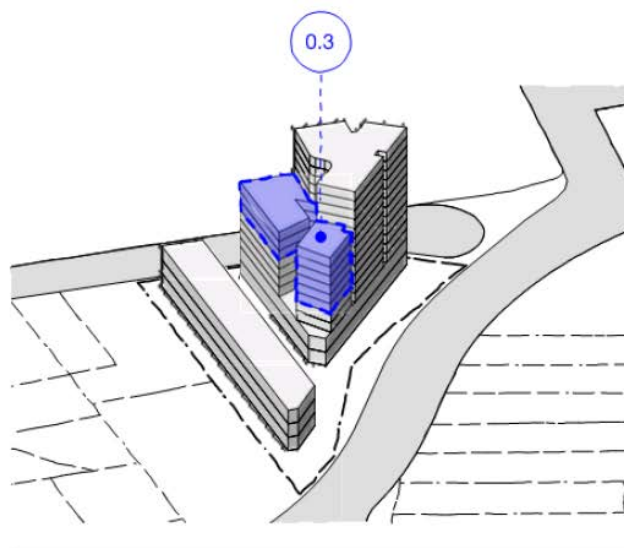
kaa massing

Proposed HOB: **49m**Proposed FSR: **2.4:1****Figure 8 Extract from Urban Design Analysis comparing Council and Applicant's preferred schemes****council preferred scheme november 2018**

council massing - kaa visualisation

**client proposed scheme september 2018**

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**Figure 9 Extract from Urban Design Analysis comparing Council and Applicant's preferred schemes**

Council's draft planning proposal (**Attachment G**) which accompanied the Council Officers' report to the LPP (**Attachment E1**), notes there are only minor points of variation between the Council Officers and the applicants preferred options, being:

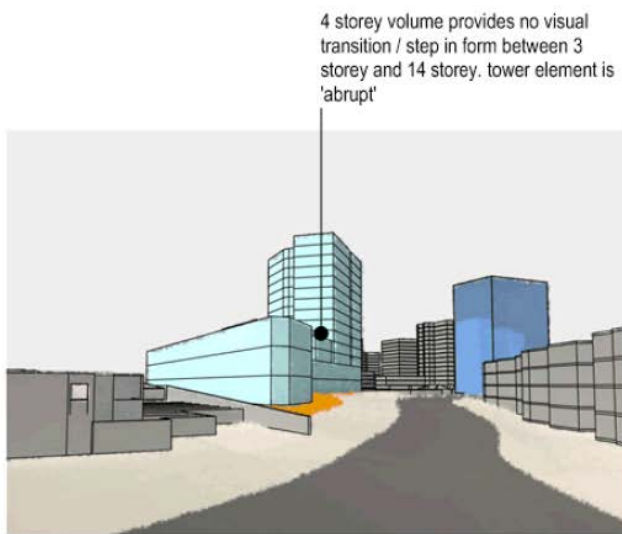
- bulk of western edge of mixed-use podium;
- built form typology to the western side (i.e. multi-dwelling housing (terraces) or 3-storey residential apartment building);
- length of podium and street edge of southern-façade on Pennant Hills Road; and

- setbacks and deep soil.

The Department agrees with the Council officers' assessment that many of the minor differences, including bulk and scale and podium lengths are design details which could be resolved via a site-specific DCP. This could also include setbacks to allow for deep soil planting, transition to lower density properties to the west and site permeability.

The Department notes the applicant's preferred (and current) option provides for a stepping up between built form elements from the western side of the site towards its north-eastern corner. Providing the majority of bulk and scale in the north-east corner would create a visual-link and transition to the higher density and larger scale development within the Carlingford Growth Precinct to the north-east of the site with maximum heights up to 57m and maximum FSRs up to 4:1 are permitted (see Figures 10-12 below).

council preferred scheme november 2018
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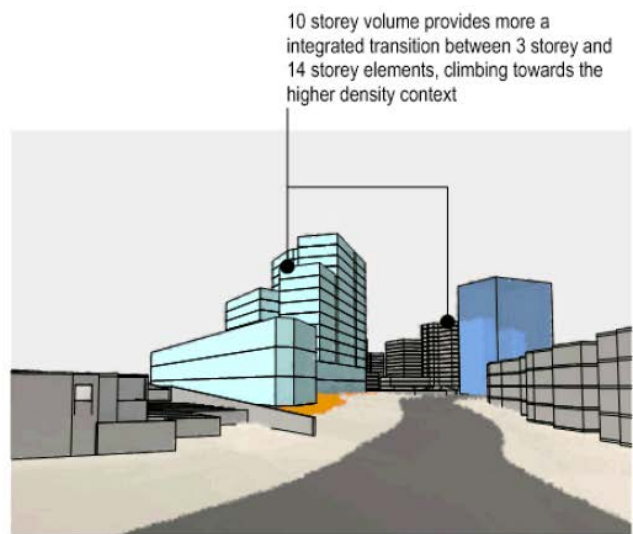
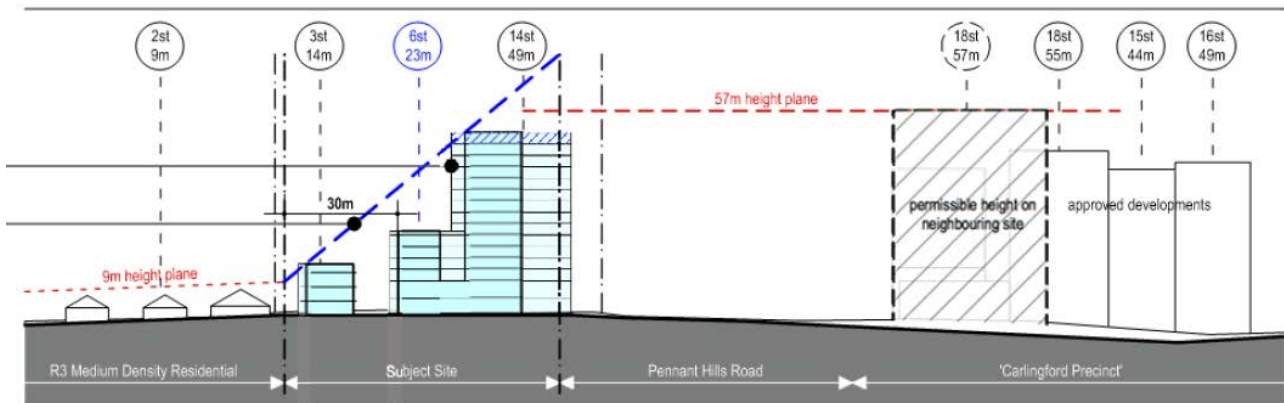


Figure 10 View from Pennant Hills Road looking north

council preferred scheme november 2018
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kaa massing

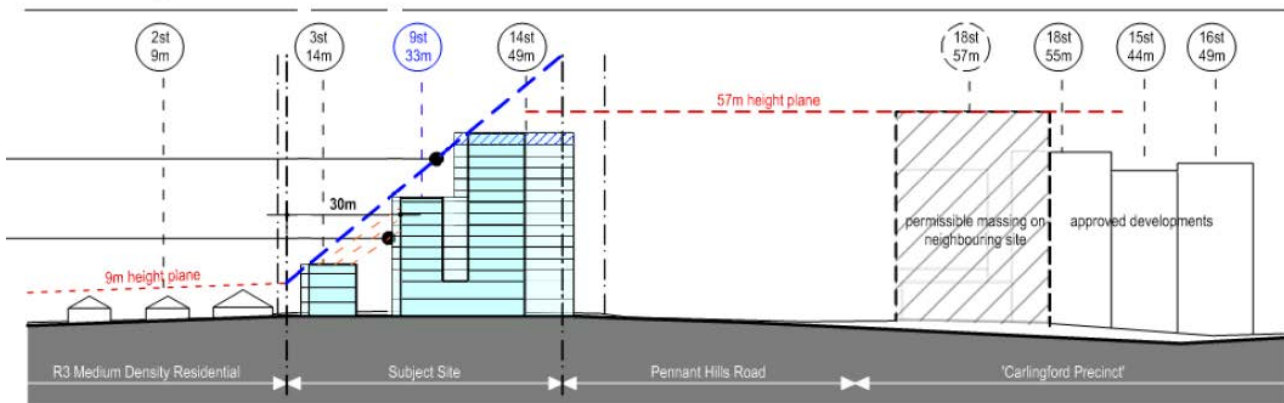


Figure 11 Sections through site to neighbouring land

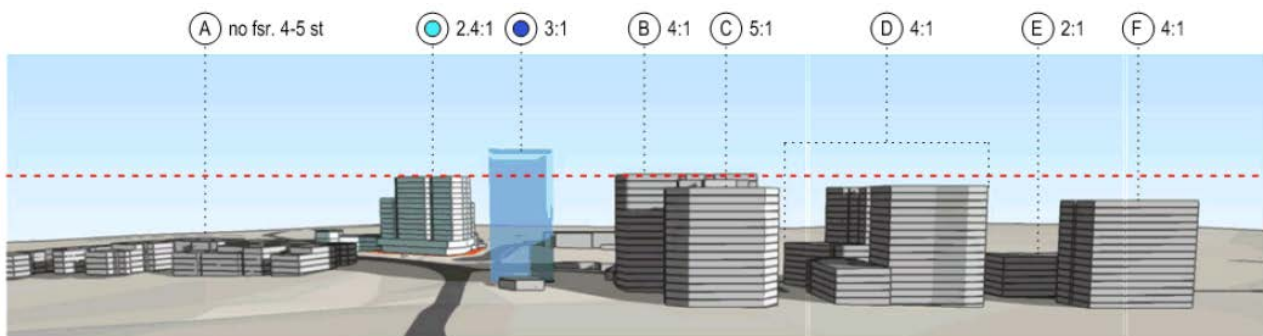


Figure 12 View to site along Pennant hills Road looking west. Proposed development scheme (light blue, 2.4:1) permissible future development (blue, 3:1) and existing/approved developments in Carlingford Growth Precinct.

It is noted that the scheme presented, is one visualisation of the built form resulting from the proposed controls. Amending controls within the LEP will not guarantee this outcome and the scheme is considered a tool to demonstrate that a site is capable of particular level of development.

Other urban design concerns/matters on the applicant's concept scheme as identified by Council Officers are briefly considered below along with other relevant built form matters.

Wintergardens

The site specific provisions of the planning proposal seek to exclude 465m² of 'wintergarden' (enclosed balcony) floorspace from the FSR calculations for the site. The Department considers the use of wintergardens adjacent to a classified road (Pennant Hills Road) is a reasonable design response to ameliorate noise impacts and increase amenity. The exclusion of the 'wintergardens' from FSR is an approach also taken within site specific provisions of the *Parramatta Local Environmental Plan 2011*.

Building Transition/Typology

Council Officers had concerns regarding the inclusion of a residential apartment 'row' building on the western side of the site instead of their preference for multi-dwelling housing (terraces). The LPP also provided advice (**Attachment E2**) that any subsequent Gateway determination should be conditioned to investigate providing multi-dwelling housing (terraces) on the western side of the site.

Multi-dwelling housing is a permissible land use within the B2 zone. The Department agrees a multi-dwelling housing development on the western side of the site could provide for a reasonable transition between the site and lower residential densities south and west of the site. This would also provide a mix of dwelling types and contribute to dwelling diversity in the area. While multi-dwelling housing can be encouraged on the site, it cannot be mandated. The Department recommends this matter be further considered through site-specific DCP provisions.

Design quality for mixed-use tower under SEPP 65

The urban design analysis provided with the planning proposal (**Attachment D**) provides a sufficiently detailed SEPP 65 analysis which demonstrates compliance with the Apartment Design Guide and relevant SEPP 65 provisions would be possible should the proposal progress to development application stage. Full SEPP 65 compliance would need to be demonstrated at any future development application phase.

Traffic

The LPP noted (**Attachment E2**), traffic concerns are a key matter for the proposal. Council Officers also identified traffic issues as a key concern in their consideration of the proposal. The planning proposal has been supported by a Traffic Report (**Attachment H1**), Supplementary Report (**Attachment H2**) and Traffic and Parking Statement (**Attachment H3**)

The initial Traffic Report dated 2015 (**Attachment H1**) was based on entry and exit from the site via Pennant Hills Road. The former Roads and Maritime Services (RMS) raised concerns with the proposed access arrangement on the basis of road safety, sight distance, vehicle manoeuvring and network efficiency issues. RMS supported access to the site being via Felton Road and this approach being directed via any future DCP applied to the site. As a result of access being provided via Felton Road, an increase in traffic movements at the Pennant Hills Road and Baker Street intersection would be generated.

Council Officers recommended in their report to the LPP on 21 May 2019 (**Attachment E1**) that prior to any public exhibition of the proposal, the applicant be required to undertake an updated analysis of Felton Road/Baker Street/Pennant Hills Road intersection. This was to be based upon cumulative impacts of recent planning decisions in the locality to establish if the intersection could accommodate additional traffic.

On 26 August 2020, the applicant provided a subsequent traffic statement (**Attachment H3**) confirming that all vehicle access to the site would be via Felton Road. The statement notes a recent approval to introduce signals at Baker Street intersection which would alter the trip routes of drivers and affect the volumes on Baker Street. The statement concludes that further detailed analysis can be completed upon receipt of updated traffic volume data from Council.

Notwithstanding the above, any subsequent Gateway determination would also require consultation with Transport for NSW. The Council officers' draft planning proposal which accompanies the LPP report (**Attachment G**) states that Council's Traffic and Transport team raised no objections to the proposal proceeding to Gateway Determination.

It is recommended, should the Panel decide to seek a Gateway determination, all supporting traffic reports/studies and supplementary information be consolidated and updated to reflect the current proposal (with a maximum FSR of 2.4:1 and a minimum commercial floor space of 1,970m²) and current available traffic data for the locality.

Road Widening

Two sections of the site (totalling 565m²) are zoned SP2 Infrastructure (Classified Road) and identified for Land Reservation Acquisition by the RMS (now Transport for NSW) for the purposes of State road widening (see Figure 4 previously in this report). The applicant plans to dedicate the southern section free of charge. However, the applicant believes that the northern section is surplus to the State's requirements for road widening.

The applicant contacted the Transport for NSW (TfNSW) to determine if the land is required or surplus to requirements and was advised the "road widening affectation" cannot be removed at this time. TfNSW advises the land may be required to provide localised intersection improvements at Jenkins Road to support growth forecasted for the wider area.

The applicant wrote to the Department requesting the matter of determining if the land is surplus or required be dealt with as part of the planning proposal. TfNSW has advised the portion of the site zoned SP2 Infrastructure Classified Road and identified as Land Acquisition Reservation, is required and the existing controls are not to be amended by the planning proposal.

Any subsequent Gateway determination would also require consultation with TfNSW. The Department recommends that any subsequent planning proposal and supporting documentation submitted for Gateway determination, should clearly demonstrate that the site is capable of being developed without reliance upon the SP2 Infrastructure zoned portions of the site.

Overshadowing

The urban design analysis provided with the planning proposal (**Attachment D**) includes an overshadowing analysis. The Department has concerns with the degree of overshadowing to the low density residential precinct to the west of the site and the residential flat building development across Pennant Hills Road to the south-east.

The overshadowing analysis is not clear. It must clearly demonstrate the resultant shadows from the proposed built form to allow for consideration of solar access to surrounding established developments. Furthermore, the analysis has not considered the potential impacts on the heritage significance of 'K13 Submarine Memorial Park'.

Has the planning proposal adequately addressed any social and economic effects?

The applicant's proposal has addressed social and economic effects. On balance, there are no obvious negative social or economic impacts which would arise as a result of the planning proposal being implemented. This assessment is subject to commercial floor space being provided on the site as part of the proposal.

4.3.4 State and Commonwealth interests

Is there adequate public infrastructure for the planning proposal?

Transport, infrastructure and essential services (i.e. water, sewer, electricity and telecommunications) are all readily available and/or provided to the site. Further investigations would be undertaken to determine whether any upgrade of existing facilities is necessary in consultation with Council and service providers should a Gateway determination be issued for the site.

The applicant has indicated that they wish to enter into a Voluntary Planning Agreement (VPA) with Council and submitted a Letter of Offer on 27 March 2019 (**Attachment I**) with the planning proposal.

The letter of offer outlined the following benefits:

- dedication of a land zoned SP2 at the southern end of the site to the Roads and Maritime Services (RMS) at no cost;
- creation of a publicly accessible through-site link across the site from Pennant Hills Road to Felton Road;
- landscaping of the pedestrian linkage and SP2 zoned land being dedicated to the RMS; and
- provision of a childcare centre with minimum capacity of 90 places.

Council is the appropriate body to continue negotiations on a VPA should the Panel determine to proceed to Gateway. Accordingly, the Panel should provide status updates to Council to support their negotiations on the VPA.

The Panel is provided the above for information purposes only.

What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

Initial consultation with Transport for NSW is outlined above. No additional pre-gateway consultation with other agencies is required. Any subsequent Gateway determination will specify consultation requirements with relevant authorities.

4.4 Mapping

Proposed mapping forms part of the applicant's planning proposal. Should the Panel determine to seek a Gateway determination the Department will undertake further details analysis of proposed map amendments.

4.5 Community Consultation

An indication of any proposed community consultation required has not been provided within the planning proposal. Should the Panel determine to seek a Gateway determination, the planning proposal is to be updated to address 'Section 2.5 Part 5 – community consultation' of the Department's document titled 'Planning Proposals – A Guide to Preparing Planning Proposals' dated December 2018.

4.6 Project Timeline

Should the Panel determine to seek a Gateway determination, the planning proposal is to be updated to provide a clear proposed timeline for plan finalisation in accordance with 'Section 2.6 Part 6 – project timeline' of the Department's document titled 'Planning Proposals – A Guide to Preparing Planning Proposals' dated December 2018.

5 Additional Matters

5.1 Parramatta Land Use Harmonisation LEP

Council has prepared a planning proposal that seeks to establish a new Local Environmental Plan which harmonises the five LEPs (Auburn LEP 2010, Holroyd LEP 2013, Hornsby LEP 2013, Parramatta LEP 2011 and Parramatta (former The Hills) LEP 2012) currently applying across the Local Government Area (LGA). The Harmonisation Planning Proposal was exhibited from 31 August to 12 October 2020.

The permissibility of multi-dwelling housing and residential flat buildings in the B2 zone is being reviewed as part of the Land Use Planning Harmonisation process. The intention for the B2 zone under the Harmonisation Planning Proposal is to encourage construction of mixed-use buildings that integrate suitable commercial, residential and other uses that provide for an active ground level. Ensuring the site does not reduce its current commercial floor space is consistent with this approach.

The harmonisation proposal does not include multi dwelling housing as permitted land use in the B2 zone. Should a consolidated LEP for the City of Parramatta LGA prohibit multi-dwelling housing in the B2 zone, a site-specific provision would need to be included to permit multi dwelling housing on this site to enable the transition of development envisaged by Council.

5.2 Draft Development Control Plan

A draft site-specific DCP (**Attachment J**) was reported to the LPP with the planning proposal (**Attachment E1**). The applicant's planning proposal (**Attachment A**) also contains the draft site-specific DCP. The planning proposal should be supported by a site-specific DCP which contains design objectives to guide future built form and urban design outcomes for the site. The draft DCP must be prepared by Council as the Panel is unable to do so. The planning proposal could also introduce a provision into the *Parramatta (former The Hills) Local Environmental Plan 2012* requiring the preparation of a DCP prior to any development consent being granted.

It is recommended, should the Panel decide to seek a Gateway determination, the applicant updates the planning proposal to include a new site-specific LEP provision requiring the preparation of a DCP prior to any development consent being granted. This DCP should address built form and urban design matters including but not limited to setbacks, deep soil planting areas, transition to lower density properties to the west (i.e. dwelling typology options) and site permeability. Council must also be advised of progress of the planning proposal to enable it to prepare a site-specific draft DCP.

6 Conclusions and Recommendations

In consideration of the proposal's intended outcomes, the applicable strategic planning framework, the constraints and opportunities of the site and surrounding locality, the proposal has previously been found to have strategic and site-specific merit.

Previous consideration by the Panel noted opportunity for greater FSR where supported by traffic and urban design analysis which has now been completed by the proponent to support an FSR of 2.4:1. The proposal provides for an increase in development potential for an isolated site of B2 Local Centre. The proposal facilitates a transition from the Carlingford Growth Precinct to lower densities to the west while capitalising on proximity to the future Carlingford Light Rail station.

Should the Panel support the proposal and submit to the Department for Gateway determination assessment, the following amendments are recommended:

- use of a site-specific clause in lieu of Schedule 1, with references to '*enclosed private balconies*' rather than wintergardens;
- draft site-specific clause to make provision for preparation of a site-specific DCP to address built form and urban design matters prior to any development consent being granted;
- addresses the Parramatta LSPS;
- preparation of supporting social infrastructure assessment;
- address *Ministerial Direction 2.3 Heritage Conservation*, giving regard to potential overshadowing impacts in 'K13 Memorial Submarine Park';

- address *Ministerial Direction 2.6 Remediation of Contaminated Land*, clearly justifying any inconsistencies supported by a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines;
- address *Ministerial Direction 6.3 Site Specific Provisions*, clearly justifying any inconsistencies with the direction's requirements;
- overshadowing analysis within the urban design analysis must be refined to demonstrate resulting shadow clearly;
- all supporting traffic reports/studies and supplementary information are to be consolidated and updated to reflect the current proposal and current available traffic data for the locality. The report must clearly show the history of consultation with Council and the former Roads and Maritime Services (TfNSW);
- the planning proposal and supporting documentation must clearly demonstrate that the site is capable of being developed without reliance upon the SP2 Infrastructure zoned portions of the site; and
- the planning proposal is to be updated to address community consultation and provide a timeline for the project.

IMPORTANT NOTE: Compliance with the recommendations within this report does not guarantee the issuing of any subsequent Gateway determination for the planning proposal to proceed. Should the panel determine to submit the planning proposal to the Department for a Gateway assessment, it will be subject to a detailed legislative and merit-based assessment, additional information may also be requested during this assessment.



7/04/2021

Jazmin van Veen

Acting Director, Central (GPOP)

Assessment officer

Kendall Clydsdale

Agile Planning and Programs

Attachments

Attachment	Document
A	Planning Proposal, dated September 2020
B	Sydney Central City Planning Panel Decision (appointment as PPA), dated 11 June 2020
C1	Pre-Gateway Review by the Department of Planning and Environment, dated 20 October 2016.
C2	Sydney West Central Planning Panel Pre-Gateway Review Advice, dated 30 November 2016
D	Urban Design Analysis, dated 11 April 2019
E1	Council staff report to Local Planning Panel, dated 21 May 2019
E2	Minutes and advice of Local Planning Panel Meeting, dated 21 May 2019
F1	Council staff report to Parramatta Council, dated 22 July 2019
F2	Minutes of Parramatta Council meeting, dated 22 July 2019
G	Council's draft Planning Proposal which accompanied the Council staff report to Local Planning Panel, dated 21 May 2019
H1	Traffic Impact Assessment Report, dated 21 December 2015
H2	Supplementary Traffic Report, dated 30 March 2016
H3	Traffic and Parking Statement, dated 26 August 2020
I	Voluntary Planning Agreement letter of offer, dated 27 March 2019
J	Draft site specific Development Control Plan, dated 23 January 2019