



RS/BG
14470
26 April 2016

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Secretary
NSW Department of Planning & Environment
23-33 Bridge Street
SYDNEY NSW 2000

**PRE GATEWAY REVIEW REQUEST
FOREST PARK, EPPING**

On behalf of our client, Austino Property Group, we hereby seek a Pre-Gateway Review in relation to a planning proposal lodged with Hornsby Shire Council for the site at the corner of Epping and Blaxland Roads, Epping. The Planning Proposal was submitted to the Council on 9 December 2015 and on 13 April 2016 Council resolved to refuse the proposal. This Pre-Gateway Review request is submitted on the basis that the council has confirmed in writing that the request to prepare a planning proposal is not supported.

Please find attached to this letter:

- A signed Pre-Gateway Review Application Form;
- A cheque for \$5,000, being the relevant application fee;
- A hard and soft copy of the Planning Proposal;
- A hard and soft copy of the relevant Council business paper extracts; and
- A hard and soft copy of Council's written notification of the refusal to support the proposal.

The Pre-Gateway Review process was initiated with the following objectives:

- To provide a mechanism for applicants to have council rezoning decisions reviewed;
- To ensure decisions on planning proposals that are well located, planned, and assist housing and job supply can be independently reviewed; and
- To increase transparency and provide greater certainty in plan making.

This request is consistent with all these objectives. The planning proposal has not been endorsed by Council, and a key reason that Council has put forward for not endorsing this proposal is that the accompanying voluntary planning agreement offer does not provide a large enough monetary contribution. In this case, Council is seeking a monetary contribution of 70% of the value of the uplift that will result from the planning proposal. It appears that consideration of the required monetary contribution is eclipsing a well-considered assessment of the strategic and merit impacts of the proposal. It is therefore appropriate that Council's assessment of the proposal be independently reviewed.

Secondly, as demonstrated in the planning proposal documentation submitted to Council and discussed further in this letter, the site has very significant strategic merit. In summary, the site is located adjacent to a major public transport interchange, the design concept has been developed

with careful consideration to relevant urban design objectives, and the project would deliver the following (approximately):

- Housing for 1,635 people;
- In excess of 1,000 construction jobs;
- \$23 million per year in retail spending; and
- \$1.2 billion of total construction output.

Finally, there is a significant lack of certainty surrounding the consideration of this planning proposal that has resulted from the impending Council amalgamations. Discussions in relation to this project were commenced with Hornsby Shire Council in 2014, with a strong working relationship continuing through to the lodgement of the planning proposal documentation of 9 December 2015. However, on 18 December 2015 it was announced that the site would be transferring to Parramatta City Council as part of the Council amalgamation process.

Since this announcement, Parramatta City Council has taken a strong interest in the proposal. It swiftly became apparent that the two Councils had strikingly different opinions on core issues such as the quantum and nature of the public benefit to be provided and desirable urban design outcomes. It is simply not possible for the proponent to satisfy two Councils, removing all certainty from the planning proposal process. It is still not known when the boundary change will occur, so it cannot even be determined which LGA the site will be in at each step of the planning proposal, development application and project delivery processes.

Further to the demonstrated need for this planning proposal to be subject to a Pre-Gateway Review, we request that the Sydney West Joint Regional Planning Panel (JRPP) be made the Responsible Planning Authority (RPA). For the reasons outlined above, the uncertainty around which LGA the site falls within at each step of the process means that it is appropriate that the JRPP take on this role.

1.0 PLANNING PROPOSAL

On 9 December 2015 a preliminary planning proposal request was submitted to Hornsby Shire Council in relation to for 2-18 Epping Road, 2-4 Forest Grove and 725 Blaxland Road, Epping. The planning proposal seeks to amend the Hornsby Local Environmental Plan 2013 for the subject site as follows:

- Reconfiguring the layout of the existing R4 High Density Residential and RE1 Public Recreation zones;
- Permitting a maximum building height of up to 72 metres for the western portion, stepping down to a maximum of 17.5 metres for the eastern portion of the site; and
- Allow retail premises, food and drink premises and underground car parking on part of the site by including these uses as 'additional permitted uses' within Schedule 1 of the LEP.

An aerial site photo is provided at **Figure 1**, and a current zoning map is provided at **Figure 2**.

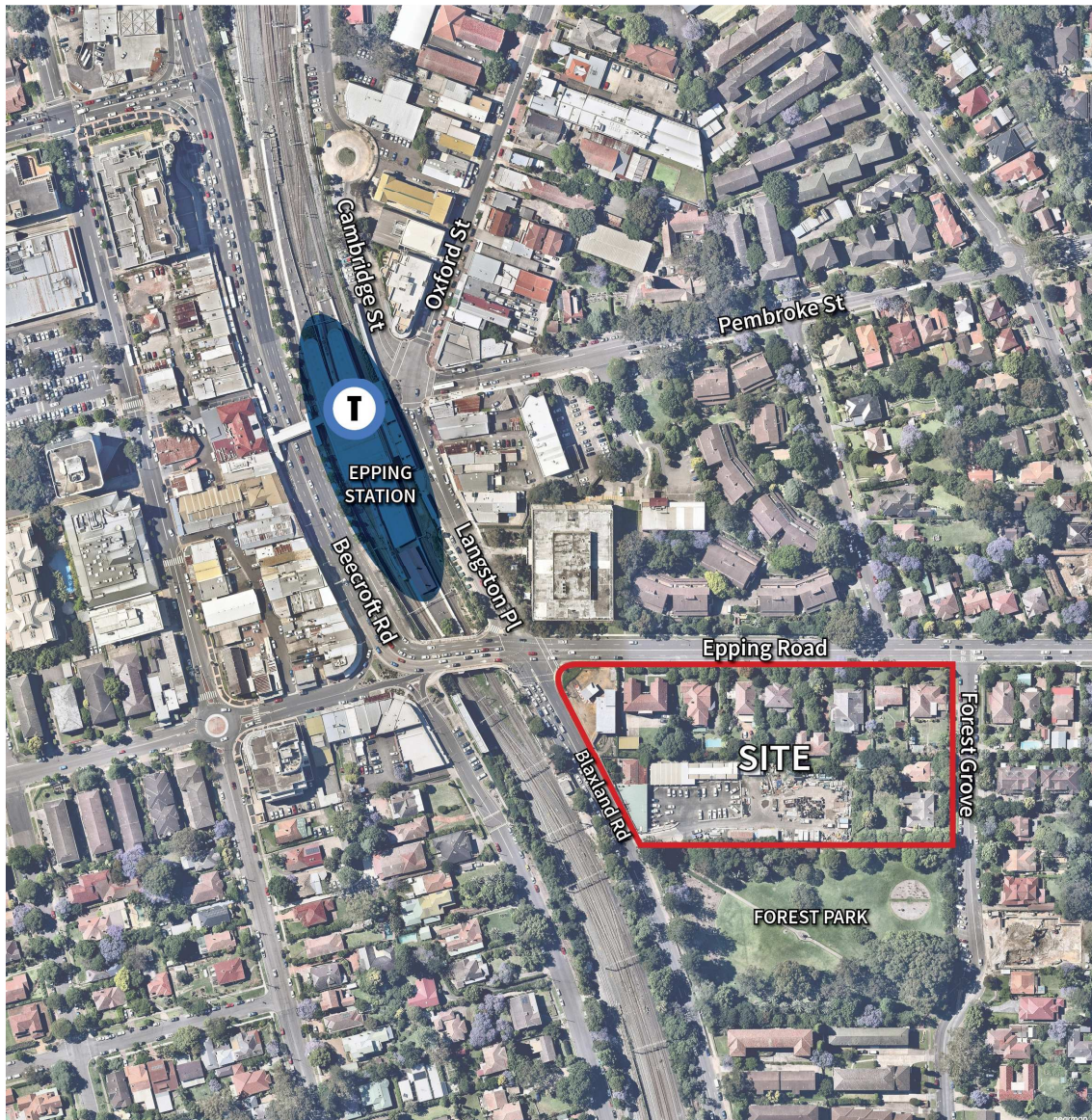


Figure 1 – An aerial photo of the site, demonstrating its proximity to the railway station
Source: NearMap

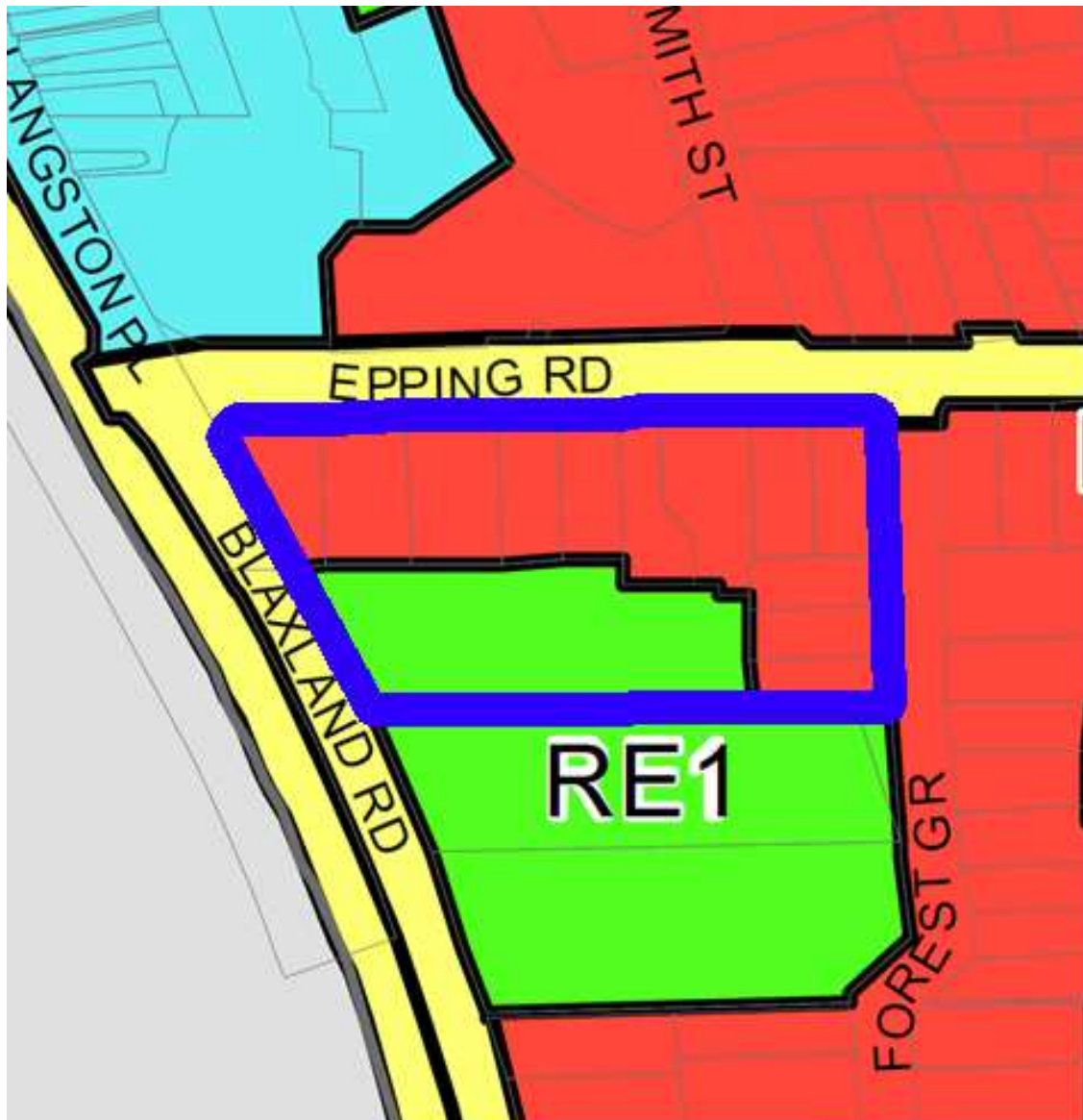


Figure 2 – Extract of Hornsby LEP 2013 Land Zoning Map, with site shown in blue

2.0 BACKGROUND

The following table provides a summary of the chronology of the planning proposal, covering the period from the first formal discussions with Council to current events.

Table 1 – Chronology of events

Date	Event
24 September 2014	First pre-lodgement meeting with Hornsby Council
19 August 2015	Briefing to Hornsby Councillors
24 November 2015	Pre-lodgement meeting with Hornsby Council
9 December 2015	Planning Proposal lodged with Hornsby Council
18 December 2015	Proposed amalgamation boundaries released, with the subject site to fall within the Parramatta LGA
22 December 2015	Hornsby Council issue letter stating it is unsure if the Planning Proposal can be progressed due to Council amalgamations
13 January & 6 February 2016	Letters of response sent confirming Hornsby Council can continue to assess the Planning Proposal
10 February 2016	Hornsby Council issue letter stating it agrees that the Planning Proposal can proceed
11 February 2016	Austino met with Parramatta Councillors and senior staff for project briefing
15 February 2016	Exhibition period closes
1 March 2016	Austino met with Parramatta Council staff for project briefing
14 March 2016	Submission reported to and endorsed by Parramatta Council. The issues raised in the submission are significantly different to issues previously raised by Hornsby Council.
5 April 2016	Report prepared for Hornsby Council recommending that the proposal does not proceed
13 April 2016	Austino met with Hornsby Council Mayor and Deputy Mayor Hornsby Council resolves to refuse the proposal

Pre-lodgement meetings and discussions were held with Hornsby Shire Council for more than one year prior to the lodgement of the Planning Proposal. Then, through no fault of either Council or the proponent, less than two weeks after the lodgement of the proposal the parties were notified that the site would be transferred to Parramatta City Council as part of the Council amalgamation process.

It is acknowledged that it is important for Parramatta Council to be appropriately consulted during the assessment of the planning proposal. However, it has become apparent that the proposal is effectively being assessed by both Councils, each with different priorities and opinions

For example, Hornsby Shire Council has stated that the appropriate overshadowing control for Forest Park is the provision of 2 hours of sunlight between 9am and 3pm at midwinter to at least 50% of the area. However, Parramatta City Council has proposed a significantly more onerous control (in fact more onerous than that applying to Martin Place in Central Sydney), of no overshadowing at all to 50% of the area of the park between the hours of 10am and 2pm at midwinter.

It is not possible for the proponent to negotiate to refine a planning proposal and associated voluntary planning agreement with two Councils that have widely differing views on fundamental issues such as appropriate urban design, built form and public benefit. Accordingly, this pre Gateway review request is submitted to allow the consideration of the proposal to proceed.

3.0 MERIT ASSESSMENT AND JUSTIFICATION FOR REVIEW

Epping is currently experiencing unprecedented growth that is seeing it swiftly becoming one of Sydney's more dominant metropolitan centres. This growth is enabling significant investment in urban design and the public domain, delivering quality spaces to be enjoyed for generations to come.

The subject site is located at a strategic location between the soon to be rejuvenated town core and the under-appreciated Forest Park. Previously burdened with fragmented ownership and an area of open space that was in fact exclusively used as a works depot, the potential of the site has now been unlocked.

The opportunities of the site are evident:

- The site is immediately adjacent to the core of the Epping Town Centre;
- The site is immediately adjacent to Forest Park;
- The site area is in close proximity to Epping Railway Station;
- The site is at the intersection of Epping and Blaxland Roads, which are busy, regional roadways which can accommodate taller scale development;
- The site is a large amalgamated site with three street frontages, with the potential for greater residential density.

The site is within the Epping Urban Activation Precinct. The *Epping Town Centre Urban Activation Precinct Finalisation Report* provided the following conclusion in relation to the former bowling club land:

Due to the history and complexities of this site, the department considers it is more appropriate to retain the open space zoning for this site as part of the Epping Town Centre precinct. The proponent could enter into negotiations with the council at a future date for a planning proposal for the site once it is no longer required for the North West Rail Link project, which could involve a planning agreement to developing the site whilst still providing a community benefit.

Since the finalisation of the urban activation precinct plans, two significant events have occurred:

- Austino have secured control over the majority of the site, eliminating the fragmented ownership issue;
- The Epping to Thornleigh Third Track Project is approaching completion (mid 2016), meaning that the works depot will not be required indefinitely.

These events mean that the vast majority of the site is now a significant consolidated landholding and the development potential identified in the Finalisation Report can be unlocked. In fact, it is the largest significant consolidated landholding in Epping. Combined with the characteristics of the site, this presents a once in a generation opportunity to deliver a development that generates significant public benefits that will contribute to the long term vitality of Epping.

A rigorous urban design methodology was applied by the specialist consultant team to capitalise on these opportunities. The key elements of the approach were as follows:

- Reconfigure the privately owned open space area into true public open space (dedicated at no cost to Council)
- Provide a modern urban square for enjoyment by workers and residents in the area, commensurate with Epping's growing importance as a metropolitan centre;
- Provide an extension to Forest Park, ensuring that the park and future built form appropriately relate to each other;

- Facilitate towers at the western end of the site, partnering the tower already envisaged on the northern side of Epping Road and in a location that has minimal impact on any adjoining properties or public open spaces;
- Modulate the building heights down from the towers to the existing neighbouring height controls; and
- Allow the (much needed) increased housing supply to fund the embellishment of the associated public open spaces, as well as contributing to new community facility (such as a swimming pool).

A development concept has been prepared that embodies these urban design principles. An assessment of the concept demonstrates that it has positive social and economic benefits, and will not result in any significant detrimental environmental impacts. The LEP amendments described in the planning proposal are necessary to ensure that the proposed public benefits can be delivered via the realisation of the development concept, resulting in a very positive outcome for the Epping community.

4.0 ISSUES RAISED BY HORNSBY AND PARRAMATTA COUNCILS

4.1 Hornsby Shire Council

The proposed urban plaza is inconsistent with the adopted strategy for the Epping Town Centre
The strategy for the Epping Town Centre was developed when the largest portion of the Forest Park site was a former bowling club used as a construction works depot, with the remainder small lots in individual ownership. Now that the site is in single ownership and the works depot is to be removed, the context of the site is clearly different and it is appropriate that the strategy is revisited.

The Hornsby DCP requires a site through link connecting Epping Road to Forest Park (refer **Figure 3**). This link was illustrated as a 'gun barrel' link between buildings.



Figure 3 – Required through site link (red arrow)
Source: Hornsby DCP 2013

The concept design includes a through site link in this location, however it is dramatically enlarged and enhanced (refer **Figure 4**). It is now in the form of an urban plaza, activated by surrounding retail spaces and providing various opportunities for people to pass through or to dwell. Even at mid-winter, the new urban plaza receives full sunlight from noon to 2pm. This makes it a very attractive place for workers to have their lunch break, and will ensure that the plaza is well patronised all year round.

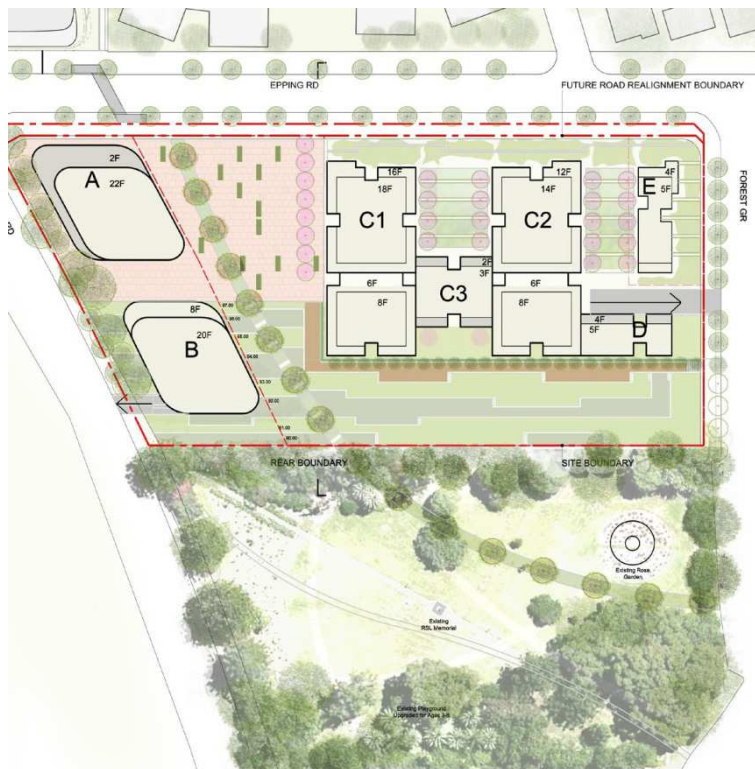


Figure 4 – Proposed Urban Plaza

Source: PTW

The bulk and scale of the development concept requires substantial review to address the preferred location of the dedication land and to optimise solar access to Forest Park

The bulk and scale of the development concept was developed in discussion with Hornsby Council, particularly in relation to how to manage the former Bowling Club site. This site is identified in the Hornsby LEP 2013 for acquisition as local open space, and Council advised Austino that there was a community expectation that this land would become a part of Forest Park in the future. However, Council has not accommodated this acquisition into their ten year Section 94 plan.

Hornsby Council has acknowledged that the Registered Valuer's assessment of the land of \$33 million is appropriate. Furthermore, the Council business paper report stated *"in absence of the land dedication offer, the expansion of Forest Park would be unlikely to represent value for money when compared with alternative open space in the location."* The Department of Planning Epping UAP Finalisation Report stated *"The proponent could enter into negotiations with the Council at a future date for a planning proposal for the site once it is no longer required before the North West Rail Link project, which could involve a planning agreement to developing the site whilst still providing a community benefit"*. These factors demonstrate that it is appropriate to revisit the urban form of the site, including the location of the public land.

To inform the design process, a base case scenario was developed and agreed with Council (refer **Figure 5**). Council agreed to the development potential of 8 storeys on the former Bowling Club, being the same scale of development permitted on the neighbouring land, with this potential transferred elsewhere on the site.



Figure 5 – Transfer of GFA and additional GFA from base case scenario
Source: PTW

The gross floor area (GFA) of the development concept provided in the Planning Proposal is 69,244m², and can be summarised as follows:

■ Bowling Club GFA development potential:	16,487m ²
■ Remaining Austino land GFA at 5 to 8 stories:	26,975m ²
■ Additional uplift GFA	25,782m ²
■ Total GFA for Austino	67,857m ²
■ GFA 18 Epping Road (not owned by Austino)	1,388m ²
■ Total Planning Proposal GFA	69,244m ²

16,487m² of GFA is proposed to be transferred from the former Bowling Club to the other lands which Austino owns, increasing building heights. The business paper report states that this approach has merit and provides the opportunity for the community to obtain 6,665m² of open space at no cost to Council.

The additional uplift GFA of 25,782m² mainly results from increasing the height of the buildings addressing Blaxland Road and the railway line. The additional building height is consistent with development proposed to the north across Epping Road, and together the proposals will serve to highlight this important urban location.

In terms of solar access, Hornsby Council requires 2 hours of sunlight between 9am and 3 pm to at least 50% of the area. Council acknowledges in the business paper report that the proposal achieves the requirement to 55 percent of the site.

It is evident that the nature of Epping around the railway station is changing, with the previously suburban character being transformed into a more urban setting. Additional open space in the locality must reflect this changing character, with new spaces taking a more urban approach to meet the ongoing needs of the community.

Therefore the bulk and scale and arrangement of the public open space of the concept design is appropriate and delivers appropriate solar access to Forest Park. The interface between public and private spaces is critical to the detailed design of the project. These design details can be resolved to ensure the amenity of both spaces is protected and enhanced. It is anticipated that these issues can be resolved without a reduction of open space to be dedicated for public purposes.

Additional traffic assessment is required to consider the cumulative impact of development

It is agreed that additional traffic modelling is required, with a network model to be prepared as part of the suite of detailed technical studies to be undertaken once the strategic value of the proposal is confirmed through the Gateway process.

The proposed public facilities and monetary contribution do not provide a public benefit commensurate with the proposed intensity of development

Parramatta Council has recently expressed that a 20 percent return of value capture in favour of Council is fair and reasonable, while Hornsby Council has stated it wants 70 percent in favour of Council.

The public benefit offer that accompanied the Planning Proposal provided for \$50.54m of public benefit. The value was determined by Hills PDA based on Registered Valuer and QS reports, and has not been disputed by Hornsby Council. The \$50.54m equates to \$1,201 per m² of GFA of total uplift (all former Bowling Club GFA and additional uplift GFA).

A relevant and recent sale in within the Epping Urban Activation Precinct is the CBUS site at the corner of Epping Road and Langston Place, immediately to the north of the subject site. The CBUS site has a value of \$2,011 per m², setting the benchmark value. The proposed contribution of \$1,201 per m² of total uplift GFA equates to 60% in favour of Council of the benchmark value.

Based on a review of VPAs across the metropolitan area, Austino always considered that the provision of 40-50% of value capture to Council was fair and reasonable. However, Austino was willing to raise this to 60% in order to guarantee a favourable outcome for the community. It must be noted that it was always stated that the Planning Proposal should be assessed on merit and the proposed monetary contribution should be considered separately to the strategic merits of the proposal.

4.2 Parramatta City Council

Limiting the overshadowing on Forest Park

Both Councils have significantly different controls in regard to overshadowing. Hornsby Council acknowledges the Planning Proposal achieves an average 55% of sunlight access at each hourly interval between 9am and 3pm at midwinter.

Parramatta Council use a 'solar access plane' model requiring 50% of the area of the park to receive sunlight between 10am and 2pm at midwinter. To complying with the Parramatta Council overshadowing control, the GFA of the concept design would need to be reduced by 16,230m² (assuming 75% efficiency as imposed by Council) as demonstrated in **Table 2** below.

Table 2 – Impact of efficiency and solar access changes

Element	Hornsby	Parramatta	Impact on Yield	Impact %
GBA meeting solar access control	81,463	70,686	10,777	-13.2%
GFA efficiency	85%	75%	-	-
Resultant GFA	69,244	53,014	16,230	-23.4%

In the context of the site, the appropriate overshadowing control is that provided by Hornsby Council, being 2 hours of sunlight to at least 50% of the area between 9am and 3pm at midwinter.

Addressing the sloping down of the gradient towards Forest Park

The concept design was developed to respond to the level difference between Epping Park and Forest Park. If additional connectivity is required between Forest Grove and Blaxland Road then further consideration can be given to the relevant levels and gradients towards Forest Park.

Minimising the cumulative bulk and scale impacts

The reason for the massing and the uplift is set out under the response to Hornsby Council 's issues.

The cumulative bulk and scale impacts of the development will continue to be carefully considered, in the context of providing acceptable amenity to the neighbouring park and the desire to provide appropriate yield adjacent to a major transport interchange.

A preferred efficiency for the residential GFA

In relation to residential GFA efficiency, it is noted that there is no definitive industry standard but rather efficiency varies from project to project. The GFA expressed in the planning proposal has been calculated based on the indicative concept design, and is therefore more reliable than a simple calculation based on building envelopes. PTV Architects have confirmed that the indicative design can achieve 85 percent efficiency with the concept envelopes whilst delivering appropriate areas for servicing, access and amenity. In any case, the GFA efficiency an indicative scheme should not be a consideration in determining the strategic merits of a planning proposal.

A design excellence process

The proponent is committed to delivering design excellence for this project. Two architectural firms were engaged during the development of the concept plan to test various options and ensure the concept responded to the unique constraints and opportunities of the site. The proponent will continue to work with Council to ensure that the detailed design exhibits design excellence.

A proposed pedestrian link linking Blaxland Road with Forest Grove on the northern edge of Forest Park

A pedestrian link can be incorporated into the expanded Forest Park, however it is not appropriate to provide a laneway across the site. A key element of the road widening project along Epping Road is the removal of access driveways. As the ownership of the site was previously fragmented, to facilitate the removal of driveways to Epping Road a new laneway for rear access was required and this was reflected in the Hornsby DCP 2013. However, now that the ownership has been consolidated the multiple driveways are not required, with single access points to the site on Forest Grove and Blaxland Road. If a trafficable link was provided across the site, it is likely that it would be used as a rat run to avoid the Epping and Blaxland Roads intersection.

Redirection of the proposed community benefits to other proposed community benefits

The proponent is not wedded to the delivery of a particular community project. The voluntary planning agreement offer that was previously submitted was specifically constructed to allow the monetary contribution of \$10 million to be applied flexibly, including to the embellishment of Forest Park as suggested by Parramatta Council.

5.0 CONCLUSION

Given that Council has not endorsed the proposal, and given the difficulties that have arisen from the impending relocation of the boundary of the LGA meaning that the site will fall under a different Council, this application is submitted for the proposal to be considered under the Pre-Gateway Review process. Further, we request that the Sydney West Joint Regional Planning Panel (JRPP) be made the Responsible Planning Authority (RPA).

Should you have any queries about this matter or require any further information, please do not hesitate to contact me on 9956 6962 or at rstark@jbaurban.com.au.

Yours faithfully,



Robert Stark
Principal Planner