

ITEM-7	POST EXHIBITION - PLANNING PROPOSAL FOR LOT 5 DP 30916, COMMERCIAL ROAD, ROUSE HILL (2/2016/PLP)
THEME:	Balanced Urban Growth.
OUTCOME:	7 Responsible planning facilitates a desirable living environment and meets growth targets.
STRATEGY:	7.2 Manage new and existing development with a robust framework of policies, plans and processes that is in accordance with community needs and expectations.
MEETING DATE:	25 JULY 2017 COUNCIL MEETING
GROUP:	STRATEGIC PLANNING
AUTHOR:	TOWN PLANNER ASHLEY COOK
RESPONSIBLE OFFICER:	ACTING MANAGER FORWARD PLANNING JANELLE ATKINS

EXECUTIVE SUMMARY

This report recommends that the planning proposal to facilitate a mixed use commercial/retail and high density residential development at Lot 5 DP30916 Commercial Road, Rouse Hill proceed to finalisation and that associated amendments to The Hills Development Control Plan 2012 ('DCP 2012') be adopted.

It is considered that the proposal suitably responds to the strategic location of the site and would result in an appropriate yield, density and built form outcome in the context of the site and broader Rouse Hill area.

It is also recommended that Council enter into the draft Voluntary Planning Agreement ('VPA'), which secures a total contribution valued at \$8.25 million comprising the construction and dedication of the extension of Green Hills Drive through the site, the turfing and dedication of land for a new "pocket park" and monetary contributions towards the provision of active open space by Council in the future.

The planning proposal, supporting amendments to DCP 2012 and draft VPA were publicly exhibited from Thursday 25 May 2017 to Friday 30 June 2017. Council received a total of 14 submissions, comprising five (5) from public authorities (Office of Environment and Heritage, Roads and Maritime Services, Heritage Division, Transport for NSW and Department of Education and Communities) and nine (9) individual submissions. The key issues raised related to loss of amenity, traffic impacts, loss of vegetation, heritage, safety and nearby residents wanting to develop similarly.

While the planning proposal would allow for up to 12 storeys on the site, the proposed DCP controls will limit the tallest building elements to the centre of the site and require a stepped built form transitioning to surrounding lower density developments to the north and east. This will assist in reducing visual bulk and scale and avoid unreasonable amenity impacts (including overshadowing and loss of privacy) on adjoining properties.

In respect to traffic impacts, it is considered that the proposed new road through the site would ultimately improve the operation and permeability of the local road network.

PROPONENT

Caladines Town Planning Pty Ltd

OWNERS

Norlex Holdings Pty Ltd

THE HILLS LOCAL ENVIRONMENTAL PLAN 2012

	Current	Proposed
Zone:	Part B5 Business Development Part R3 Medium Density Residential Part SP2 Special Infrastructure	Part R1 General Residential Part SP2 Special Infrastructure
Maximum Height:	Part 16 metres Part 10 metres	Part 12 metres Part 23 metres Part 40 metres
Maximum Floor Space Ratio:	1:1	Base 1:1 Incentive: 2.3:1
Minimum Lot Size:	Part 8,000m ² Part 450m ²	1,800m ²

POLITICAL DONATIONS

Nil disclosures by proponent

HISTORY

15/12/2015

Council considered a report on the planning proposal and resolved as follows:

1. A planning proposal for the following amendments to Local Environmental Plan 2012 be forwarded to the Department of Planning and Environment for a Gateway Determination:
 - Rezone the site from part B5 Business Development, part R3 Medium Density Residential and part SP2 Infrastructure (Public Transport Corridor) to part R1 General Residential and part SP2 Infrastructure (Public Transport Corridor).
 - Increase the maximum building height from part 10m and part 16m to part 12m, part 23m and part 40m.
 - Increase the maximum floor space ratio from part 1:1 to part 2.3:1 across the proposed R1 General Residential zoned land.
 - Amend the minimum lot size from part 450m² and part 8,000m² to 1,800m² across the site.
 - Identify the site on the Key Sites Map and introduce a local incentive clause providing that the proposed density, height and floor space ratio is subject to compliance with Council's apartment size/mix and car parking controls.
 - Include 'shops' as an additional permitted land use under Schedule 1 and include a notation that the amount of retail floor space is capped at 1,700m².
 - Identify the site on the Additional Permitted Uses Map.

2. *Proposed amendments to Part C Section 1 – Parking and Part D Section 5 – Kellyville/Rouse Hill Release Area of Development Control Plan 2012 be publicly exhibited concurrently with the planning proposal.*
3. *A Draft Voluntary Planning Agreement be prepared for the construction and dedication of Green Hills Drive as detailed in this report.*
4. *The Draft Voluntary Planning Agreement be subject to a legal review at the cost of the proponent.*
5. *The Draft Voluntary Planning Agreement be publicly exhibited for a minimum period of 28 days in accordance with the EP&A Act 1979.*

29/01/2016 Planning proposal forwarded to Department of Planning and Environment for Gateway Determination.

02/11/2016 Gateway Determination issued by Department of Planning and Environment with delegation for Council to make the plan.

13/12/2016 Council considered a report on the draft Voluntary Planning Agreement and resolved:

1. *The draft Voluntary Planning Agreement be subject to a legal review and as part of this review, be amended to:*
 - a) *Remove the requirement for Council to construct the median strip and instead require the Developer to construct the median strip as part of the road works and Council to reimburse the Developer an amount of \$306,000 (being the value allocated for this item under CP8);*
 - b) *Clearly specify that Council will pass-on any grant amount received from Transport for NSW for the works (however that Council is not liable to reimburse any amount in the absence of actually receiving this grant from Transport for NSW);*
 - c) *Increase the limit on legal costs to be covered by the Developer from \$5,000 to \$10,000 and clearly specify that Council will be reimbursed, by the Developer, for any fees or costs associated with the dedication of land to Council; and*
 - d) *Finalise details with respect to the specifications for the works and land dedication (in Schedules 2 and 3 of the draft Voluntary Planning Agreement) and timing for the works to be delivered by the Developer under the VPA.*
2. *Following the completion of the legal review and amendments, the draft Voluntary Planning Agreement be publicly exhibited for a period of 28 days in accordance with the EP&A Act 1979, concurrently with the associated planning proposal (2/2016/PLP).*

16/12/2016 – 10/05/2017 Legal review of Draft Voluntary Planning Agreement (VPA).

25/05/2017 – 30/06/2017 Public exhibition of planning proposal, draft VPA and DCP amendments.

REPORT

The purpose of this report is to consider the outcomes of the public exhibition of the planning proposal, DCP amendments and draft VPA for land at Lot 5 DP30916, Commercial Road, Rouse Hill.

1. SUMMARY OF THE PROPOSAL

The proposal seeks to facilitate a mixed use commercial/retail and high density residential development on land at Lot 5 DP30916 Commercial Road, Rouse Hill (Figure 1). The submitted design concept includes the provision of 333 dwellings and 1,684m² of retail/commercial floor space within a built form ranging from 3 to 12 storeys in height (Figures 2 and 3).



Figure 1
Aerial view of the site and surrounding locality



Figure 2
Indicative concept

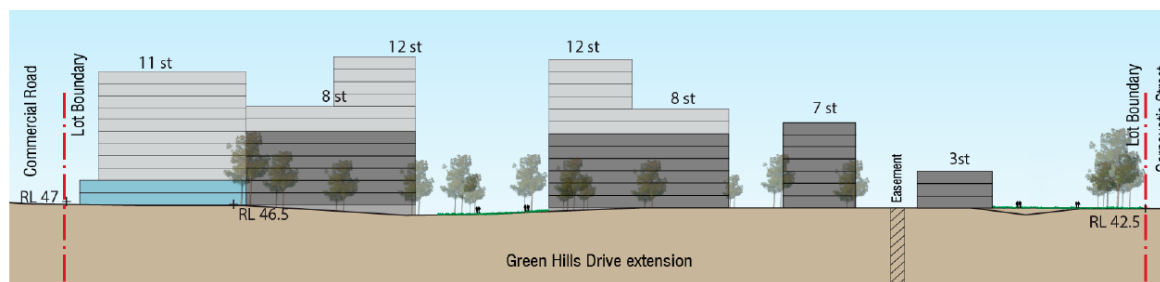


Figure 3
Proposed building heights

To achieve this outcome, the proposal seeks to amend LEP 2012 to:

- Rezone the site from part B5 Business Development, part R3 Medium Density Residential and part SP2 Infrastructure (Public Transport Corridor) to part R1 General Residential and part SP2 Infrastructure (Public Transport Corridor);
- Increase the maximum building height from 16m (B5 Business Development land) and 10m (R3 Medium Density Residential land) to heights of 40m, 23m, and 12m;
- Amend the maximum floor space ratio from 1:1 (B5 Business Development land) to apply a “base floor space ratio” of 1:1 and an “incentivised floor space ratio” of 2.3:1.
- Amend the minimum lot size from 8,000m² (B5 Business Development land) and 450m² (R3 Medium Density Residential land) to 1,800m²; and
- Identify the site within the Additional Permitted Uses map and include ‘shops’ as an additional permitted land use under Schedule 1 with retail floor space capped at 1,700m².

The proposal is supported by site specific development controls to be included within DCP 2012 which relate to:

- Site layout, building heights, setbacks and open space - to ensure a suitable scale and transition of development and protection of the amenity of surrounding properties (particularly lower density development to the north and east);
- Apartment size and car parking - to complement the proposed local LEP clause relating to development outcomes on the site;
- A requirement for active frontages for commercial/retail development at ground level;
- A requirement for the provision of the Green Hills Drive link to ensure delivery of the road in line with Council’s requirements;
- Controls relating to high quality architectural design and building materials; and
- An amended DCP Map Sheet relating to road layout - to reflect development outcomes and access arrangements for the site.

2. GATEWAY DETERMINATION

Council received a Gateway Determination from the Department of Planning and Environment dated 2 November 2016 which authorised Council to exercise delegation to make the plan. The Gateway Determination required that the planning proposal be amended to reflect the agreed methodology for housing mix and diversity within the Sydney Metro Northwest Corridor (consistent with Mayoral Minute No.9/2016) and that following this, Council undertake consultation with public authorities and public exhibition of the planning proposal. All of the conditions of the Gateway Determination have been complied with.

3. SUMMARY OF DRAFT VOLUNTARY PLANNING AGREEMENT

On 24 November 2014, an offer to enter into a draft VPA was submitted by the proponent. The draft VPA provides the following obligations in association with any future development of land at Lot 5 DP30916, Commercial Road, Rouse Hill:

- a) The Developer must construct the extension of Green Hills Drive through the site and dedicate the land to Council, at no cost;
- b) Following completion of the works, Council must reimburse the developer an amount of \$306,000 for the planned median strip along the new road using funds collected for this purpose under Contributions Plan No.8 – Kellyville/Rouse Hill;
- c) The Developer must turf and dedicate a proposed “pocket park” on the site to Council with a minimum area of 1,500m²;
- d) The Developer must make monetary contributions to Council at a rate of \$6,000 per unit towards the provision of active open space by Council in the future. Based on an anticipated yield of 333 units, this would result in a total monetary contribution of approximately \$2 million; and
- e) In recognition of the contribution offered under the VPA, future development on the site will be exempt from the payment of Section 94 and/or Section 94A contributions.

Transport for NSW has offered grant funding to Council for the provision of the Green Hills Drive extension valued at approximately \$1 million. Should this money be received by Council, the VPA requires that it be reimbursed to the Developer in recognition of the works completed. Minor amendments to the road design have been made in accordance with Transport for NSW's submission during the exhibition period. This is further discussed in Section 5 of this report.

Including works, land and monetary contributions, the total value of the draft VPA is approximately \$8.25 million, which equates to a rate of approximately \$25,000 per residential unit.

On 13 December 2016, the draft VPA was reported to Council and it was resolved that the draft VPA be subject to legal review and following this, public exhibition concurrently with the planning proposal. A legal review of the draft VPA was undertaken from 16 December 2016 until 10 May 2017, which involved further discussions with the proponent.

4. EXHIBITION DETAILS

In accordance with the Gateway Determination, the planning proposal, draft DCP amendments and draft VPA were publicly exhibited from Thursday 25 May 2017 to Friday 30 June 2017 and during this time, Council consulted with the following five (5) public authorities:

- 1. Department of Education;
- 2. Office of Environment and Heritage – Conservation Division;
- 3. Transport for NSW;
- 4. Roads and Maritime Services; and
- 5. Sydney Water.

The exhibition material was made available for viewing at Vinegar Hill Memorial Library (Rouse Hill Town Centre), Council's administration building and on Council's website and the public exhibition was advertised within The Hills News and The Rouse Hill Courier. Landowners within the vicinity of the site were notified of the exhibition and invited to comment.

As a result of the exhibition, Council received a total of 14 submissions, comprising five (5) from public authorities (Office of Environment and Heritage, Roads and Maritime Services, Heritage Division, Transport for NSW and Department of Education and Communities) and nine (9) individual submissions.

The key issues raised related to amenity and traffic impacts, loss of vegetation, heritage, safety and residents wanting to develop similarly. Each of the issues raised is discussed below with planning comments in response to each issue.

5. PUBLIC AUTHORITY SUBMISSION SUMMARY

a. Office of Environment and Heritage

The Office of Environment and Heritage (OEH) recommended that future development on the site be designed to retain as much Cumberland Plain Woodland as possible, particularly within the pocket park.

In their submission, OEH noted that the site is located to the west of Caddies Creek and adjacent to the Rouse Hill Development Area which has been the subject of Aboriginal cultural heritage (ACH) investigations since the 1990s. OEH recommends the completion of two basic types of assessment to inform the Planning Proposal:

- An archaeological assessment involving the identification and assessment of aboriginal objects and their management based on archaeological criteria; and
- A cultural heritage assessment involving consultation with aboriginal stakeholders, which can include historical oral history assessment and broader values assessment.

Comment:

In response to OEH's recommendation regarding the retention of Cumberland Plain Woodland, it is recommended that additional controls be included within the DCP which requires any future development to have regard to opportunities to retain threatened species on the site, particularly within the pocket park. This matter will be further considered as part of the detailed development application process.

In response to OEH's request for further heritage assessment, given the site's urban context and the extent of residential and commercial development in the vicinity, it is considered appropriate for these studies to be undertaken as part of the preparation of any development application for the site. It is recommended that additional controls be included within the DCP which specify that any development application submitted for the site must include an archaeological and cultural heritage assessment.

b. Roads and Maritime Services

RMS raised no objections to the proposal, subject to satisfactory arrangements between Council, the proponent and Transport for NSW for the execution of the VPA.

c. Office of Environment and Heritage (Heritage Division)

The OEH (Heritage Division) raised no objection to the planning proposal however identified that future development on the site may become prominent in the views to the former Royal Oak Inn, especially from Windsor Road towards the east. As a result, OEH (Heritage Division) recommended that any future development on the subject site should

be sympathetic to the views forming the background to the Royal Oak Inn (former) and utilise materials and external finishes that minimise contrast.

Comment:

Any future development application for the site would be required to comply with the controls within Council's Heritage DCP. The existing controls are considered to be sufficient and will require future development on the site to be designed sympathetically with respect to surrounding European and Aboriginal Cultural Heritage.

d. Transport for NSW

Transport for NSW (TfNSW) thanked Council for their ongoing support in helping achieve an important link for the operation of bus services through the extension of Green Hills Drive. As part of their review of the planning proposal, TfNSW have requested that amendments be made to the proposed road concept for Green Hills Drive to ensure it is capable of accommodating 14.5 metre long buses.

Comment:

Minor amendments to the road design have been made to ensure all intersections are bus capable. This amended concept will replace the exhibited version within Schedule 3 of the draft Voluntary Planning Agreement. This report recommends that the planning proposal proceed to finalisation, subject to TfNSW's satisfaction that the amended road concept meets their requirements.

e. Department of Education and Communities

The Department of Education and Communities have reviewed the planning proposal and do not have any concerns or matters to raise in a submission.

6. PUBLIC SUBMISSIONS

Council received nine (9) public submissions. The submissions focussed on traffic and parking, amenity impacts, the appropriateness of apartments in this locality, developer contributions, lack of transition of built form and safety concerns. A number of submissions from nearby landowners requested the ability to develop similarly. Each of the issues raised is discussed below with planning comments in response to each issue.

a. Traffic and Parking

The majority of submissions raised concerns regarding the impact that this development will have on the local road network in terms of traffic congestion and on street parking. Further, concern was raised that Green Hills Drive will become a prominent bus route.

Comment:

The traffic report submitted by the proponent takes into account traffic generation from the development as well as an additional 100 vehicle trips per hour in each direction to factor in the possible transfer of other traffic to the new route and likely growth in background traffic activity in the area. Based on the SIDRA traffic analysis model the report concludes that all intersections analysed will perform satisfactorily based on the assumed traffic conditions. It is considered that the level of analysis undertaken at this stage is sufficient.

The proposed development, as a result of the construction of Green Hills Drive, is considered to have a net benefit on the local road network as it will increase pedestrian and vehicular permeability. The proposed roundabout (north) and signalised intersection (south) of the Green Hills Drive intersection will assist with traffic calming.

It is noted that a strategic transit corridor (zoned SP2 Infrastructure) was identified along Green Hills Drive during the initial master planning for Rouse Hill. The development will facilitate the delivery of a strategically identified link, and while there are no current plans to create a bus only lane along Green Hills Drive, Transport for NSW are ultimately responsible for determining bus routes. As they have requested that the extension be made bus capable and offered grant funding towards construction, it is reasonable to assume that the road could make up part of a bus route in the future.

With respect to parking, any future development on the site will be required to provide parking at a rate of 1 space per apartment plus 1 visitor space per 5 apartments, in accordance with the Clause 7.12 (*'Development on certain land within the Sydney Metro Northwest Urban Renewal Corridor'*) of LEP 2012 which would apply to the site. It is considered that this rate is suitable given future residents on the site will have access to high frequency public transport services including the North West Transitway and the Sydney Metro Northwest.

b. Amenity Impacts

Concern was raised regarding the height of the buildings and the potential overshadowing and loss of privacy to adjoining sites.

Comment:

While the proposed development is of a scale that will likely cast shadows, this will predominately occur on the adjoining B5 Business Development zoned land. There is minimal overshadowing in the morning on the adjoining R3 Medium Density Residential zoned land to the west, however by 12pm the shadow has passed, meeting SEPP 65 and Council's DCP requirements with respect to solar access and overshadowing. Shadow analysis provided by the proponent (shown in Figure 4) indicates that the proposed development concept will allow for sufficient solar access to surrounding residential lots.

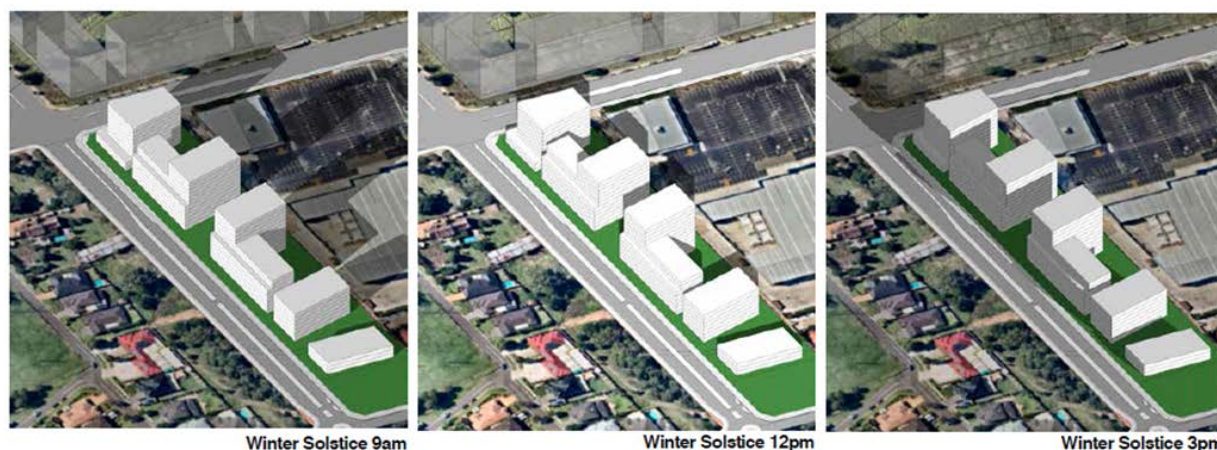


Figure 4
Shadow Analysis for Proposed Development Concept

A number of residents to the east of the site raised concern about a loss of privacy, especially in the likely event of existing vegetation between the subject site and adjoining residential development to the east being removed once the adjoining site develops. Notwithstanding the potential removal of vegetation, it is considered that no unreasonable loss of privacy to adjoining properties will occur given:

- the proposed 20 metre road carriageway and 8 metre front setback to Green Hills Drive will provide adequate separation between buildings on the subject site and surrounding residential development; and
- the proposed stepping of the built form, with a 6 storey interface to Green Hills Drive and taller elements further setback.

Notwithstanding this, it is recommended that in order to soften the potential future built form on the site and reduce potential privacy impacts, an additional control should be included within the DCP which requires high quality landscaping to be provided within setback areas on the site.

c. Appropriateness of Apartments in this locality

A number of submissions raised concerns regarding the appropriateness of permitting apartments in an established urban area predominately characterised by low density residential dwellings.

Comment:

The site is located within 600 metres from the future Rouse Hill Railway Station and Rouse Hill Town Centre and is considered to be a strategically appropriate site to accommodate increased residential yield. Further, surrounding residential land to the north and east is currently zoned R3 Medium Density Residential, providing an appropriate buffer and transition from high density development to low density residential dwellings.

Given the imminent opening of Sydney Metro Northwest, the locality will soon be undergoing urban transformation. While this is likely to cause a disturbance in the short-term, there will be significant long-term benefits of reducing urban sprawl and contributing to housing diversity and supply. The Hills has an opportunity to accommodate additional housing in close proximity to these stations, enabling residents to have improved access to transport infrastructure.

Due to the existing development surrounding the Rouse Hill Railway Station, there are few opportunities for short term redevelopment within the Rouse Hill Precinct. The Hills Corridor Strategy identifies the site as being one of the few remaining vacant sites in close proximity to the future train station and therefore an opportunity to boost projected dwelling yields for the precinct and facilitate improved accessibility through the provision of the Green Hills Drive extension. In particular, the site was considered suitable for redevelopment as medium and high density apartments.

The proposed built form is considered to have merit given the proximity of the site to public transport and the adjacent Rouse Hill Major Centre where buildings up to 10 storeys in height are currently approved. A variety of heights are proposed by the proponent including higher built form closer to Commercial Road and the Rouse Hill Major Centre transitioning to lower scale buildings fronting Carnoustie Street and lower density housing to the north. Additionally, the provision of an area of open space within the northern portion of the site will assist with minimising the impacts of future development on surrounding lower scale development.

**Figure 5**

Proposed development and building heights in the locality

d. Developer Contributions

Concerns were raised that the Council has allowed excessive yield solely for the delivery of Green Hills Drive. Submissions also questioned why the road was not included within the relevant Contributions Plan.

Comment:

While the proposed through site link and pocket park are considered to provide substantial public benefits, the proposed development outcome on the site is considered to have strategic merit given the proximity of the site to Rouse Hill Town Centre and the future Rouse Hill Station. Further, the proponent has demonstrated how the increase in yield can be accommodated with a built form suitable to the site and locality.

It is noted that the extension of Green Hills Drive was originally identified as a strategic transit corridor (zoned SP2 Infrastructure) during the initial master planning for Rouse Hill. Accordingly, it was originally anticipated that the delivery of this road would be funded by State Government, with partial construction by the developer (as is standard within Council's release areas). In light of this, it was not included within the Contributions Plan.

e. Transition of Built Form

Concerns were raised in submissions that the built form would not appropriately transition to adjoining lower densities.

Comment:

As mentioned previously in this report, the proposed development concept indicates a transition of building heights across the site from 11 and 12 storeys on the southern portion of the site to 3 storeys to the north which interfaces with existing low density

residential dwellings. Additionally, the Green Hills Drive frontage will have a six (6) storey podium with taller elements stepped back. A pocket park will also be constructed on the corner of Carnoustie and Green Hills Drive which will assist in providing a significant buffer between future development on the site and existing development to the north.

f. Residents want to develop similarly

Many submissions received requested that Council rezone their site so that they can develop similarly.

Comment:

The planning proposal was initiated by the landowner and seeks to allow for increased development yield on the site, largely in accordance with Council's strategic planning for the site, as articulated within The Hills Corridor Strategy. The planning proposal did not seek to amend the zoning or planning controls applicable to adjoining land.

While other landowners within the locality are able to lodge a planning proposal with Council for consideration, it is noted that Council's strategic planning for the area does not envisage any uplift of existing residential properties within the locality at this time.

g. Safety Concerns

Concerns were raised as to the safety of the proposed development concept in terms of fire threats and antisocial behaviour caused by an increase in population.

Comment:

Any future development will require a detailed development application to be submitted for assessment. Before a decision can be made on a development application, the consent authority must consider the application under section 79C of the *Environmental Planning and Assessment Act 1979*. Section 79C requires consent authorities to consider the likely impacts of development, including the environmental impacts on the natural and built environments, social and economic impacts on the locality and the public interest.

Development would need to be assessed against the Design Safer Communities: Safer by Design Guidelines (2002) and demonstrate how the proposed development incorporates measures to increase safety and reduce opportunities for crime through building design, landscaping, lighting and surveillance. Future development on the site would also be referred to NSW Police for comment.

7. POST EXHIBITION AMENDMENTS

Following consideration of the submissions, it is recommended that the following post exhibition amendments be made to the draft Development Control Plan 2012, prior to finalisation:

DCP 2012 Part C Section 1 – Parking

The Gateway Determination required that the planning proposal be amended to be consistent with the agreed methodology for securing housing mix and diversity within the Sydney Metro Northwest Corridor. Part of Council's LEP provision includes a mandatory parking rate of 1 space per apartment and 1 visitor space per 5 apartments. In light of this, it is considered unnecessary to duplicate this parking rate under the DCP and it is no longer necessary to pursue site specific amendments to Part C Section 1 – Parking of DCP 2012.

DCP 2012 Part D Section 5 – Kellyville/ Rouse Hill Release Area

The following post exhibition amendments are proposed to Part D Section 5 – Kellyville/Rouse Hill Release Area of DCP 2012 (site specific section highlighted yellow with post exhibition changes further marked in red) and are included in Attachment 2:

- Inclusion of clarification that future development on the site is required to comply with Council's housing mix and diversity provision within LEP 2012 (Clause 7.12);
- Require that future development incorporates high quality landscaping within setbacks on the site to soften built form and reduce privacy impacts;
- Require any future development application to include the submission of an archaeological assessment and cultural heritage assessment; and
- Inclusion of controls which require future development to have regard to opportunities to retain threatened species on the site, particularly within the pocket park.

Draft Voluntary Planning Agreement

Following consultation with Transport for NSW, minor amendments to the design concept for Green Hills Drive were required to ensure the road would be capable of accommodating buses. The amended design concept will replace the existing concept located within Schedule 3 of the draft VPA. The post exhibition changes are indicated in red in Attachment 1. The proponent has raised no objection to the amended design of Green Hills Drive, provided that the road extension does not impact the development potential of the site. In this regard it is noted that the developable area of the site would not be encroached by the proposed changes.

It is considered that no post-exhibition amendments to the planning proposal are warranted.

IMPACTS**Financial**

The applicant has offered to enter a VPA which secures a total contribution of \$8.25 million comprising the construction and dedication of a new local road through the site at no cost to council, the turfing and dedication of a pocket park as well as a monetary contribution of approximately \$2 million towards the provision of active open space by Council in the future.

The Hills Future Community Strategic Plan

The planning proposal will facilitate a desirable living environment that meets growth targets. It is also consistent with the key strategy of managing new and existing development with a robust framework of policies, plans and processes that is in accordance with community needs and expectations.

RECOMMENDATION

1. The amended road concept for Green Hills Drive be forwarded to Transport for NSW to satisfy that it meets their requirements.
2. Subject to TfNSW being satisfied, the planning proposal be progressed to finalisation to amend The Hills Local Environmental Plan 2012 as follows:
 - a. Rezone the site from part B5 Business Development, part R3 Medium Density Residential and part SP2 Infrastructure (Public Transport Corridor) to part R1 General Residential and part SP2 Infrastructure (Public Transport Corridor).
 - b. Increase the maximum building height from 16m (B5 Business Development land) and 10m (R3 Medium Density Residential land) to heights of 40m, 23m, and 12m.

- c. Amend the maximum floor space ratio from 1:1 (B5 Business Development land) to apply a “base floor space ratio” of 1:1 and an “incentivised floor space ratio” of 2.3:1.
 - d. Amend the minimum lot size from 8,000m² (B5 Business Development land) and 450m² (R3 Medium Density Residential land) to 1,800m².
 - e. Identify the site on Additional Permitted Uses map and include ‘shops’ as an additional permitted land use under Schedule 1 with retail floor space capped at 1,700m².
3. Council enter into the Voluntary Planning Agreement, as amended (Attachment 1 – ECM Document No.16014369) and authorise Council's common seal to be affixed to the Voluntary Planning Agreement.
4. Draft amendments to The Hills Development Control Plan Part D Section 5 – Kellyville/Rouse Hill Release Area (Attachment 2 - ECM No.16001649) be adopted and come into force following the notification of the planning proposal.

ATTACHMENTS

1. Draft Voluntary Planning Agreement (34 Pages)
2. Draft The Hills Development Control Plan 2012 Part D Section 5 – Kellyville/ Rouse Hill Release Area (66 Pages)

Deed

Lot 5 Commercial Road, Rouse Hill

Planning Agreement

Under s93F of the *Environmental Planning and Assessment Act 1979*

The Hills Shire Council

Norlex Holdings Pty Ltd

[date]

© Lindsay Taylor Lawyers

Lot 5 Commercial Road, Rouse Hill Planning Agreement

Table of Contents

Summary Sheet.....	4
Parties.....	6
Background.....	6
Operative provisions.....	6
Part 1 - Preliminary	6
1 Interpretation.....	6
2 Status of this Deed	10
3 Commencement	10
4 Application of this Deed	10
5 Warranties	10
6 Further agreements	10
7 Surrender of right of appeal, etc.	10
8 Application of s94, s94A and s94EF of the Act to the Development	10
Part 2 – Development Contributions	11
9 Provision of Development Contributions	11
10 Payment of monetary Development Contributions	11
11 Dedication of land	11
12 Carrying out of Work Item	12
13 Variation to Work Item	12
14 NOT USED	12
15 Access to land by Council.....	12
16 NOT USED	13
17 Protection of people, property & utilities	13
18 Repair of damage	13
19 Completion of Work Item	13
21 Rectification of defects.....	14
22 Works-As-Executed-Plan.....	14
23 Removal of Equipment	15
Part 3 – Dispute Resolution	15
24 Dispute resolution – expert determination	15
25 Dispute Resolution - mediation.....	15

Part 4 - Enforcement.....	16
26 Acquisition of land required to be dedicated.....	16
27 Bank Guarantee.....	17
28 Breach of obligations	18
29 Enforcement in a court of competent jurisdiction	19
Part 5 – Registration & Restriction on Dealings.....	19
30 Registration of this Deed	19
31 Restriction on dealings	20
Part 6 – Indemnities & Insurance.....	20
32 Risk.....	20
33 Release.....	20
34 Indemnity	21
35 Insurance	21
Part 7 – Other Provisions.....	21
36 Annual report by Developer	21
37 Review of Deed	22
38 Notices.....	22
39 Approvals and Consent	23
40 Costs.....	23
41 Entire agreement	23
42 Further Acts	23
43 Governing Law and Jurisdiction	23
44 Joint and Individual Liability and Benefits.....	24
45 Position of the Council	24
45.2.1 the power of the Council to make any law; or.....	24
45.2.2 the exercise by the Council of any statutory power or discretion,	24
46 Illegality.....	25
47 Severability	25
48 Amendment	25
49 Waiver.....	25
50 GST.....	26
Schedule 1.....	27
Schedule 2.....	29
Schedule 3.....	31
Execution.....	33

**Lot 5 Commercial Road, Rouse Hill
Planning Agreement**

Summary Sheet

Council:

Name: The Hills Shire Council ABN 25 034 494 656
Address: 3 Columbia Court, Baulkham Hills NSW 2153
Telephone: (02) 9843 0555
Facsimile: (02) 9843 0409
Email: council@thehills.nsw.gov.au
Representative: Dave Walker, General Manager

Developer:

Name: Norlex Holdings Pty Ltd ABN 58 002 073 145
Address: 35 Glenhope Road, West Pennant Hills NSW 2125
Telephone: 0413 597 295
Facsimile: not applicable
Email: caladines@optusnet.com.au
Representative: Allan Caladine

Land:

See definition of *Land* in clause 1.1.

Development:

See definition of *Development* in clause 1.1.

Development Contributions:

See Clause 9 and Schedule 1.

Application of s94, s94A and s94EF of the Act:

See clause 8.

Security:

See Part 4.

Registration:

See clause 30.

Restriction on dealings:

See clause 31.

Dispute Resolution:

See Part 3.

Lot 5 Commercial Road, Rouse Hill

Under s93F of the *Environmental Planning and Assessment Act 1979*

Parties

The Hills Shire Council ABN 25 034 494 656 of 3 Columbia Court, Baulkham Hills NSW 2153 (**Council**)

and

Norlex Holdings Pty Ltd ABN 58 002 073 145 of 35 Glenhope Road, West Pennant Hills NSW 2125 (**Developer**)

Background

- A The Developer is the owner of the Land the subject of the Planning Proposal.
- B The Developer is prepared to make Development Contributions to the Council in conjunction with the carrying out of the Development as described in this Deed.

Operative provisions

Part 1 - Preliminary

1 Interpretation

- 1.1 In this Deed the following definitions apply:

Act means the *Environmental Planning and Assessment Act 1979* (NSW).

Approval includes approval, consent, licence, permission or the like.

Authority means the Commonwealth or New South Wales government, a Minister of the Crown, a government department, a public authority established by or under any Act, a council or county council constituted under the *Local Government Act 1993*, or a person or body exercising functions under any Act including a commission, panel, court, tribunal and the like.

Claim includes a claim, demand, remedy, suit, injury, damage, loss, Cost, liability, action, proceeding or right of action.

Construction Certificate has the same meaning as in the Act.

Contribution Values means the contribution values specified for the Works in Part C of Schedule 1 as indexed in accordance with clause 27.8.

Cost means a cost, charge, expense, outgoing, payment, fee and other expenditure of any nature.

Deed means this Deed and includes any schedules, annexures and appendices to this Deed.

Defect means anything that adversely affects, or is likely to adversely affect, the appearance, structural integrity, functionality or use or enjoyment of a Work Item or any part of a Work Item.

Defects Liability Period means the period of 1 year commencing on the day immediately after a Work Item is completed for the purposes of this Deed.

Development means the mixed use commercial and high density residential development on the Land comprising approximately 333 dwellings and up to 1,700m² of retail floor space generally in accordance with, but subject to the Planning Proposal.

Development Application has the same meaning as in the Act.

Development Concept means the development concept for the Land prepared by Architectus and included in the Planning Proposal.

Development Consent has the same meaning as in the Act.

Development Contribution means a monetary contribution, the dedication of land free of cost, the carrying out of work, or the provision of any other material public benefit, or any combination of them, to be used for, or applied towards a public purpose, but does not include any other benefit provided by a Party to the Council to secure the enforcement of that Party's obligations under this Deed for the purposes of s93F(3)(g) of the Act.

Dispute means a dispute or difference between the Parties under or in relation to this Deed.

Encumbrances means an interest or power:

- (a) reserved in or over an interest in any asset;
- (b) created or otherwise arising in or over any interest in any asset under any mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, title retention, conditional sale agreement, hire or hire purchase agreement, option, restriction as to transfer, use or possession, easement, subordination to any right of any other person and any other encumbrance or security interest, trust or bill of sale; or
- (c) by way of security for the payment of a debt or other monetary obligation or the performance of any obligation.

Equipment means any equipment, apparatus, vehicle or other equipment or thing to be used by or on behalf of the Developer in connection with the performance of its obligations under this Deed.

Final Lot means:

- (a) a lot (including a community title lot or a strata title lot) created in the Development for separate residential occupation and disposition

- which is not intended to be further subdivided (by any means including strata subdivision);
- (b) any distinct part of a lot intended to be used for separate residential occupation (for example, as part of a seniors living complex); or
 - (c) a lot of a kind or created for a purpose that is otherwise agreed by the Parties, not being a lot created by a subdivision of the Land:
 - (i) that is to be dedicated or otherwise transferred to the Council, or
 - (ii) on which is situated a dwelling-house that was in existence on the date of this Deed.

GST has the same meaning as in the GST Law.

GST Law has the same meaning as in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

Item means an item specified in Column 1 of Schedule 1.

Just Terms Act means the *Land Acquisition (Just Terms Compensation) Act 1991*.

Land means Lot 5 in DP 30916 having an area of approximately 20,242 square metres.

LEP means the local environmental plan proposed by the Planning Proposal.

Maintain, in relation to a Work Item, means keep in a good state of repair and working order, and includes repair of any damage to the Work Item.

Median Strip means a median strip on the extension of Greenhills Drive (forming part of the Works specified as Item C1 in Part C of **Schedule 1**).

Occupation Certificate has the same meaning as in the Act.

Party means a party to this Deed.

Planning Proposal means planning proposal PP_2016_THILL_004_00 the subject of a gateway determination on 2 November 2016.

Rectification Notice means a notice in writing:

- (a) identifying the nature and extent of a Defect,
- (b) specifying the works or actions that are required to Rectify the Defect,
- (c) specifying the date by which or the period within which the Defect is to be rectified.

Rectify means rectify, remedy or correct.

Regulation means the *Environmental Planning and Assessment Regulation 2000*.

Stage means a stage of the Development approved by a Development Consent or otherwise approved in writing by the Council for the purposes of this Deed.

Subdivision Certificate has the same meaning as in the Act.

Work means the physical result of any building, engineering or construction work in, on, over or under land.

Work Item means any of the works set out in Part C of **Schedule 1**.

- 1.2 In the interpretation of this Deed, the following provisions apply unless the context otherwise requires:
- 1.2.1 Headings are inserted for convenience only and do not affect the interpretation of this Deed.
 - 1.2.2 A reference in this Deed to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
 - 1.2.3 If the day on which any act, matter or thing is to be done under this Deed is not a business day, the act, matter or thing must be done on the next business day.
 - 1.2.4 A reference in this Deed to dollars or \$ means Australian dollars and all amounts payable under this Deed are payable in Australian dollars.
 - 1.2.5 A reference in this Deed to a \$ value relating to a Development Contribution is a reference to the value exclusive of GST.
 - 1.2.6 A reference in this Deed to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
 - 1.2.7 A reference in this Deed to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
 - 1.2.8 A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Deed.
 - 1.2.9 An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
 - 1.2.10 Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
 - 1.2.11 A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
 - 1.2.12 References to the word 'include' or 'including' are to be construed without limitation.
 - 1.2.13 A reference to this Deed includes the agreement recorded in this Deed.
 - 1.2.14 A reference to a Party to this Deed includes a reference to the servants, agents and contractors of the Party, the Party's successors and assigns.
 - 1.2.15 A reference to 'dedicate' or 'dedication' in relation to land is a reference to dedicate or dedication free of cost.
 - 1.2.16 Any schedules, appendices and attachments form part of this Deed.
 - 1.2.17 Notes appearing in this Deed are operative provisions of this Deed.

2 Status of this Deed

- 2.1 This Deed is a planning agreement within the meaning of s93F(1) of the Act.

3 Commencement

- 3.1 This Deed commences and has force and effect on and from the date when the Parties have:
- 3.1.1 both executed the same copy of this Deed, or
 - 3.1.2 each executed separate counterparts of this Deed and exchanged the counterparts.
- 3.2 The Parties are to insert the date when this Deed commences on the front page and on the execution page.

4 Application of this Deed

- 4.1 This Deed applies to the Land and to the Development.

5 Warranties

- 5.1 The Parties warrant to each other that they:
- 5.1.1 have full capacity to enter into this Deed, and
 - 5.1.2 are able to fully comply with their obligations under this Deed.

6 Further agreements

- 6.1 The Parties may, at any time and from time to time, enter into agreements relating to the subject-matter of this Deed that are not inconsistent with this Deed for the purpose of implementing this Deed.

7 Surrender of right of appeal, etc.

- 7.1 The Developer is not to commence or maintain, or to cause or procure the commencement or maintenance, of any proceedings in any court or tribunal or similar body appealing against, or questioning the validity of this Deed, or an Approval relating to the Development in so far as the subject-matter of the proceedings relates to this Deed.

8 Application of s94, s94A and s94EF of the Act to the Development

- 8.1 This Deed excludes the application of s94 and 94A to the Development.
- 8.2 This Deed does not exclude the application of s94EF to the Development.

Part 2 – Development Contributions

9 Provision of Development Contributions

- 9.1 The Developer is to make Development Contributions to the Council in accordance with Schedule 1, any other provision of this Deed relating to the making of Development Contributions and otherwise to the satisfaction of the Council.
- 9.2 The Council is to apply each Development Contribution made by the Developer under this Deed towards the public purpose for which it is made and otherwise in accordance with this Deed.

10 Payment of monetary Development Contributions

- 10.1 A monetary Development Contribution is made for the purposes of this Deed when the Council receives the full amount of the contribution payable under this Deed in cash or by unendorsed bank cheque or by the deposit by means of electronic funds transfer of cleared funds into a bank account nominated by the Council.

11 Dedication of land

- 11.1 The Developer must dedicate the land specified in Part B of Schedule 1 to Council free of any trusts, estates, interests, covenants and Encumbrances by the time specified in that Schedule.
- 11.2 A Development Contribution comprising the dedication of land is made for the purposes of this Deed when:
- 11.2.1 a deposited plan is registered in the register of plans held with the Registrar-General that dedicates land as a public road (including a temporary public road) under the *Roads Act 1993* or creates a public reserve or drainage reserve under the *Local Government Act 1993*, or
- 11.2.2 the Council is given:
- (a) an instrument in registrable form under the *Real Property Act 1900* duly executed by the Developer as transferor that is effective to transfer the title to the land to the Council when executed by the Council as transferee and registered,
 - (b) any document in registrable form which, when registered, will remove any Encumbrances registered on the title of that land,
 - (c) the written consent to the registration of the transfer of any person whose consent is required to that registration, and
 - (d) the original certificate of title for the land being transferred.
- 11.3 The Developer is to do all things reasonably necessary to enable registration of the instrument of transfer to occur.
- 11.4 Despite any other provision of this Deed, if the Developer is required to dedicate land to the Council on which the Developer is also required to carry out a Work Item under this Deed, the Developer is to comply with clause 11.1

not later than 7 days after the Work Item is completed for the purposes of this Deed.

12 Carrying out of Work Item

- 12.1 Without limiting any other provision of this Deed, any Work Item that is required to be carried out by the Developer under this Deed is to be:
- 12.1.1 carried out in accordance with:
- (a) any design or specification in this Deed, or any design or specification otherwise approved by the Council (as a party to this Deed and not as consent authority);
 - (b) any relevant Approval; and
 - (c) any other applicable law; and
- 12.1.2 completed by the time specified in Part C of **Schedule 1**.

13 Variation to Work Item

- 13.1 The design or specification of any Work Item that is required to be carried out by the Developer under this Deed may be varied by agreement in writing between the Parties, acting reasonably, without the necessity for an amendment to this Deed.
- 13.2 Without limiting clause 13.1, the Developer may make a written request to the Council to approve a variation to the design or specification of a Work Item in order to enable it to comply with the requirements of any Authority imposed in connection with any Approval relating to the carrying out of the Work Item.
- 13.3 The Council is not to unreasonably delay or withhold its approval to a request made by the Developer under clause 13.2.
- 13.4 The Council, acting reasonably, may from time to time give a written direction to the Developer requiring it to vary the design or specification of a Work Item before the Work Item is carried out in a specified manner and submit the variation and any additional costing to the Council for approval.
- 13.5 The Developer is to comply promptly with a direction referred to in clause 13.4 at the cost of the Council.

14 NOT USED

15 Access to land by Council

- 15.1 The Council may enter any land on which a Work Item is being carried out by the Developer under this Deed in order to inspect, examine or test the Work Item, or to remedy any breach by the Developer of its obligations under this Deed relating to the Work Item.
- 15.2 The Council is to give the Developer prior reasonable notice before it enters land under clause 15.1.

16 NOT USED**17 Protection of people, property & utilities**

- 17.1 The Developer is to ensure to the fullest extent reasonably practicable in relation to the performance of its obligations under this Deed that:
 - 17.1.1 all necessary measures are taken to protect people and property,
 - 17.1.2 unnecessary interference with the passage of people and vehicles is avoided, and
 - 17.1.3 nuisances and unreasonable noise and disturbances are prevented;
 - 17.1.4 it does not obstruct, interfere with, impair or damage any public road, public footpath, public cycleway or other public thoroughfare, or any pipe, conduit, drain, watercourse or other public utility or service on any land except as authorised in writing by the Council or any relevant Authority.

18 Repair of damage

- 18.1 The Developer is to maintain any Work Item required to be carried out by the Developer under this Deed until the Work Item is completed for the purposes of this Deed or such later time as agreed between the Parties.
- 18.2 The Developer is to carry out its obligation under clause 18.1 at its own cost and to the satisfaction of the Council.

19 Completion of Work Item

- 19.1 If the Developer considers that any particular Work Item is complete it must, within fourteen (14) days after completion of that item, serve a notice on Council which:
 - 19.1.1 is in writing;
 - 19.1.2 identifies the particular Work Item to which it relates; and
 - 19.1.3 specifies the date on which the Developer believes the Work Item was completed,
- 19.2 The Council is to inspect the Work Item the subject of the notice referred to in clause 19.1 within 14 days of the date of receipt of the notice.
- 19.3 A Work Item required to be carried out by the Developer under this Deed is completed for the purposes of this Deed when the Council gives a written notice to the Developer to that effect.
- 19.4 If the Council is the owner of the land on which the Work Item the subject of a notice referred to in clause 19.1.3 is issued, the Council assumes responsibility for the Work Item upon the issuing of the notice, but if it is not the owner at that time, it assumes that responsibility if and when it later becomes the owner.
- 19.5 Before the Council gives the Developer a notice referred to in clause 19.3, it may give the Developer a written direction to complete, rectify or repair within

a reasonable period of time any specified part of the Work Item to the reasonable satisfaction of the Council.

- 19.6 The Developer, at its own cost, is to promptly comply with a direction referred to in clause 19.5.

20 Median Strip and Roadworks Reimbursement

- 20.1 Within twenty one (21) days of issuing a completion notice in respect of the Median Strip under clause 19.3, the Council will reimburse the Developer in an amount of \$306,000.00 (**Median Strip Reimbursement**).
- 20.2 In the event that the total costs incurred by the Developer in respect of constructing the Median Strip exceed the Median Strip Reimbursement, the Developer will be responsible for those costs.
- 20.3 The Parties acknowledge that Transport for NSW has previously confirmed its '*in principle intention*' to contribute \$1 million to the costs of the Work Item being Item C1.
- 20.4 Within twenty one (21) days of Council receiving any contribution from Transport for NSW towards Work Item C1, Council will remit that amount to the Developer. If no such contribution is received, Council is not liable to reimburse the Developer for the contribution.

21 Rectification of defects

- 21.1 The Council may give the Developer a Rectification Notice during the Defects Liability Period.
- 21.2 The Developer, at its own cost, is to comply with a Rectification Notice according to its terms and to the reasonable satisfaction of the Council.
- 21.3 The Council is to do such things as are reasonably necessary to enable the Developer to comply with a Rectification Notice that has been given to it under clause 21.1

22 Works-As-Executed-Plan

- 22.1 No later than 40 days after a Work Item is completed for the purposes of this Deed, the Developer is to submit to the Council:
- 22.1.1 a full works-as-executed-plan in respect of the Work Item; and
- 22.1.2 if in the possession of the Developer, appropriate certificates to verify that the item of Work have been carried out in accordance with relevant standards and specifications specified in this Deed.
- 22.2 The Developer, being the copyright owner in the plan referred to in clause 22.1, gives the Council a non-exclusive licence to use the copyright in the plans for the purposes of this Deed including the public purpose for which the Work Item was required and provided.

23 Removal of Equipment

- 23.1 When a Work Item on any Council owned or controlled land is completed for the purposes of this Deed, the Developer at its cost and without delay, must:
 - 23.1.1 remove any Equipment from Land and make good any damage or disturbance to the land as a result of that removal, and
 - 23.1.2 leave the land in a neat and tidy state, clean and free of rubbish.

Part 3 – Dispute Resolution

24 Dispute resolution – expert determination

- 24.1 This clause applies to a Dispute between any of the Parties to this Deed concerning a matter arising in connection with this Deed that can be determined by an appropriately qualified expert if:
 - 24.1.1 the Parties to the Dispute agree that it can be so determined, or
 - 24.1.2 the Chief Executive Officer of the professional body that represents persons who appear to have the relevant expertise to determine the Dispute gives a written opinion that the Dispute can be determined by a member of that body.
- 24.2 A Dispute to which this clause applies is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.
- 24.3 If a notice is given under clause 24.2, the Parties are to meet within 14 days of the notice in an attempt to resolve the Dispute.
- 24.4 If the Dispute is not resolved within a further 28 days, the Dispute is to be referred to the President of the NSW Law Society to appoint an expert for expert determination.
- 24.5 The expert determination is binding on the Parties except in the case of fraud or misfeasance by the expert.
- 24.6 Each Party is to bear its own costs arising from or in connection with the appointment of the expert and the expert determination.
- 24.7 The Parties are to share equally the costs of the President, the expert, and the expert determination.

25 Dispute Resolution - mediation

- 25.1 This clause applies to any Dispute arising in connection with this Deed other than a Dispute to which clause 24 applies.
- 25.2 Such a Dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.
- 25.3 If a notice is given under clause 25.2, the Parties are to meet within 14 days of the notice in an attempt to resolve the Dispute.

- 25.4 If the Dispute is not resolved within a further 28 days, the Parties are to mediate the Dispute in accordance with the Mediation Rules of the Law Society of New South Wales published from time to time and are to request the President of the Law Society to select a mediator.
- 25.5 If the Dispute is not resolved by mediation within a further 28 days, or such longer period as may be necessary to allow any mediation process which has been commenced to be completed, then the Parties may exercise their legal rights in relation to the Dispute, including by the commencement of legal proceedings in a court of competent jurisdiction in New South Wales.
- 25.6 Each Party is to bear its own costs arising from or in connection with the appointment of a mediator and the mediation.
- 25.7 The Parties are to share equally the costs of the President, the mediator, and the mediation.

Part 4 - Enforcement

26 Acquisition of land required to be dedicated

- 26.1 If the Developer does not dedicate land required to be dedicated under this Deed at the time at which it is required to be dedicated, the Developer consents to the Council compulsorily acquiring the land for compensation in the amount of \$1 without having to follow the pre-acquisition procedure under the Just Terms Act.
- 26.2 Clause 26.1 constitutes an agreement for the purposes of s30 of the Just Terms Act.
- 26.3 If, as a result of the acquisition referred to in clause 26.1, the Council is required to pay compensation to any person other than the Developer, the Developer is to reimburse the Council that amount, upon a written request being made by the Council.
- 26.4 The Developer indemnifies and keeps indemnified the Council against all Claims made against the Council as a result of any acquisition by the Council of the whole or any part of the land concerned except if, and to the extent that, the Claim arises because of the Council's negligence or default.
- 26.5 The Developer is to promptly do all things necessary, and consents to the Council doing all things necessary, to give effect to this clause 26, including without limitation:
 - 26.5.1 signing any documents or forms,
 - 26.5.2 giving land owner's consent for lodgement of any Development Application,
 - 26.5.3 producing certificates of title to the Registrar-General under the *Real Property Act 1900*, and
 - 26.5.4 paying the Council's costs arising under this clause 26.

27 Bank Guarantee

- 27.1 Prior to the issue of a Construction Certificate for a Work Item, the Developer must deliver to the Council an irrevocable and unconditional bank guarantee from an Australian bank in favour of Council and on terms acceptable to Council (**Bank Guarantee**) for the amount equivalent to the Contribution Value of that Work Item (**Primary Security**).
- 27.2 If the Developer commits a breach of this Deed, without limiting any other remedies available to it, Council may call on the Primary Security provided by the Developer.
- 27.3 If the Council calls on the Primary Security, it may use the amount so paid to it in satisfaction of any costs incurred by it in remedying the relevant breach.
- 27.4 If Council calls on Primary Security, the Council, by notice in writing to the Developer, may require the Developer to provide a further or replacement Bank Guarantee in an amount that, when added to any unused portion of any Primary Security then held by the Council, does not exceed the amount of the Primary Security the Council is entitled to hold at that time under this Deed.
- 27.5 Unless:
- 27.5.1 the Council has made or intends to make a demand against the Primary Security provided by the Developer;
- 27.5.2 the Development Contributions on account of which that Primary Security was provided have not been made; or
- 27.5.3 the Developer is in breach of this Deed at the relevant time, the Council, upon a written request being made by the Developer, must return the Primary Security within ten (10) business days of such a request being made in exchange for a replacement Bank Guarantee for an amount equal to 10% of the Primary Security as defects security (**Defects Security**).
- 27.6 During the Defects Liability Period for a Work Item:
- 27.6.1 without limiting any other remedies available to it, Council may call on the Defects Security provided by the Developer to rectify any breach of a Rectification Notice by the Developer;
- 27.6.2 If the Council calls on the Defects Security, it may use the amount so paid to it in satisfaction of any costs incurred by it in remedying the relevant breach;
- 27.6.3 If Council calls on the Defects Security, the Council, by notice in writing to the Developer, may require the Developer to provide a further or replacement Bank Guarantee in an amount that, when added to any unused portion of any Defects Security then held by the Council, does not exceed the amount of the Defects Security the Council is entitled to hold at that time under this Deed.
- 27.7 Unless:
- 27.7.1 the Council has made or intends to make a demand against the Defects Security provided by the Developer;
- 27.7.2 the relevant Defects Liability Period has not expired; or
- 27.7.3 the Developer is in breach of this Deed at the relevant time,

the Council, upon a written request being made by the Developer, must return the Defects Security within ten (10) business days of such a request being made.

- 27.8 The Contribution Values are to be increased (with the calculation to be made as from the date any Bank Guarantee is due to be provided under this Deed) in accordance with the following formula:

$$A = B \times \frac{C}{D}$$

where:

- A** = the indexed amount;
- B** = the relevant amount as set out in this Deed;
- C** = the Consumer Price Index (All Groups - Sydney) as provided by the Australian Bureau of Statistics (**Index**) most recently published before the date that the relevant payment or the calculation with respect to the relevant amount is to be made; and
- D** = the Index most recently published before the commencement date of this Deed.

If **A** is less than **B**, then the amount of the relevant Contribution Value will not change.

- 27.9 If requested by Council, the Developer must ensure that the Security held by the Council at all times equals the indexed amount of the Contribution Values from time to time.

28 Breach of obligations

- 28.1 If the Council reasonably considers that the Developer is in breach of any obligation under this Deed, it may give a written notice to the Developer:
- 28.1.1 specifying the nature and extent of the breach,
- 28.1.2 requiring the Developer to:
- (a) rectify the breach if it reasonably considers it is capable of rectification, or
 - (b) pay compensation to the reasonable satisfaction of the Council in lieu of rectifying the breach if it reasonably considers the breach is not capable of rectification,
- 28.1.3 specifying the period within which the breach is to be rectified or compensation paid, being a period that is reasonable in the circumstances.
- 28.2 If the Developer fails to comply with a notice given under clause 28.1 relating to the carrying out of Work under this Deed, the Council may step-in and remedy the breach and may enter, occupy and use any land owned or controlled by the Developer and any Equipment on such land for that purpose.
- 28.3 Any costs incurred by the Council in remedying a breach in accordance with clause 28.2 may be recovered by the Council by calling on any relevant Bank Guarantee in accordance with clause 27.

- 28.4 .For the purpose of clause 28.3, the Council's costs of remedying a breach the subject of a notice given under clause 26.1 include, but are not limited to:
- 28.4.1 the costs of the Council's servants, agents and contractors reasonably incurred for that purpose,
 - 28.4.2 all fees and charges necessarily or reasonably incurred by the Council in remedying the breach, and
 - 28.4.3 all legal costs and expenses reasonably incurred by the Council, by reason of the breach.
- 28.5 Nothing in this clause 28 prevents the Council from exercising any rights it may have at law or in equity in relation to a breach of this Deed by the Developer, including but not limited to seeking relief in an appropriate court.

29 Enforcement in a court of competent jurisdiction

- 29.1 Without limiting any other provision of this Deed, the Parties may enforce this Deed in any court of competent jurisdiction.
- 29.2 For the avoidance of doubt, nothing in this Deed prevents:
- 29.2.1 a Party from bringing proceedings in the Land and Environment Court to enforce any aspect of this Deed or any matter to which this Deed relates, or
 - 29.2.2 the Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this Deed or any matter to which this Deed relates.

Part 5 – Registration & Restriction on Dealings

30 Registration of this Deed

- 30.1 The Parties agree to register this Deed for the purposes of s93H(1) of the Act.
- 30.2 Not later than 10 days after the commencement of this Deed , the Developer is to deliver to the Council in registrable form:
- 30.2.1 an instrument requesting registration of this Deed on the title to the Land duly executed by the Developer, and
 - 30.2.2 the written irrevocable consent of each person referred to in s93H(1) of the Act to that registration.
- 30.3 The Developer is to do such other things as are reasonably necessary to enable registration of this Deed to occur.
- 30.4 The Parties are to do such things as are reasonably necessary to remove any notation relating to this Deed from the title to any part of the Land:
- 30.4.1 in so far as the part of the Land concerned is a Final Lot,
 - 30.4.2 in relation to any other part of the Land, once the Developer has completed its obligations under this Deed to the reasonable

satisfaction of the Council or this Deed is terminated or otherwise comes to an end for any other reason.

31 Restriction on dealings

- 31.1 The Developer must not:
 - 31.1.1 sell or transfer the Land, other than a Final Lot or land required to be dedicated to the Council under this Deed, or
 - 31.1.2 assign the Developer's rights or obligations under this Deed, or novate this Deed,
to any person unless:
 - 31.1.3 the Developer has, at no cost to the Council, first procured the execution by the person to whom the Land or part is to be sold or transferred or the Developer's rights or obligations under this Deed are to be assigned or novated, of a deed in favour of the Council on terms reasonably satisfactory to the Council which includes a requirement by that party to observe and be bound by the Developer's obligations under this Deed, and
 - 31.1.4 the Council has given written notice to the Developer stating that it reasonably considers that the purchaser, transferee, assignee or novatee, is reasonably capable of performing its obligations under this Deed, and
 - 31.1.5 the Developer is not in breach of this Deed, and
 - 31.1.6 the Council otherwise consents to the transfer, assignment or novation, such consent not to be unreasonably withheld.
- 31.2 Subject to clause 31.3, the Developer acknowledges and agrees that it remains liable to fully perform its obligations under this Deed unless and until it has complied with its obligations under clause 31.1.
- 31.3 Clause 31.1 does not apply in relation to any sale or transfer of the Land if this Deed is registered on the title to the Land at the time of the sale.

Part 6 – Indemnities & Insurance

32 Risk

- 32.1 The Developer performs this Deed at its own risk and its own cost.

33 Release

- 33.1 The Developer releases the Council from any Claim it may have against the Council arising in connection with the performance of the Developer's obligations under this Deed except if, and to the extent that, the Claim arises because of the Council's negligence or default.

34 Indemnity

- 34.1 The Developer indemnifies the Council from and against all Claims that may be sustained, suffered, recovered or made against the Council arising in connection with the performance of the Developer's obligations under this Deed except if, and to the extent that, the Claim arises because of the Council's negligence or default.

35 Insurance

- 35.1 The Developer is to take out and keep current to the satisfaction of the Council the following insurances in relation to a Work Item required to be carried out by the Developer under this Deed up until the time the Work Item is taken to have been completed in accordance with this Deed:
- 35.1.1 contract works insurance, noting the Council as an interested party, for the full replacement value of the Work Item (including the cost of demolition and removal of debris, consultants' fees and authorities' fees), to cover the Developer's liability in respect of damage to or destruction of the Work Item,
 - 35.1.2 public liability insurance for at least \$20,000,000.00 for a single occurrence, which covers the Council, the Developer and any subcontractor of the Developer, for liability to any third party,
 - 35.1.3 workers compensation insurance as required by law, and
 - 35.1.4 any other insurance required by law.
- 35.2 If the Developer fails to comply with clause 35.1, the Council may effect and keep in force such insurances and pay such premiums as may be necessary for that purpose and the amount so paid shall be a debt due from the Developer to the Council and may be recovered by the Council as recovery as a debt due in a court of competent jurisdiction. The Developer is not to commence to carry out any Work Item unless it has first provided to the Council satisfactory written evidence of all of the insurances specified in clause 35.1.

Part 7 – Other Provisions

36 Annual report by Developer

- 36.1 The Developer is to provide to the Council by not later than each anniversary of the date on which this Deed is entered into a report detailing the performance of its obligations under this Deed.
- 36.2 The report referred to is to be in such a form and to address such matters as required by the Council from time to time.

37 Review of Deed

- 37.1 The Parties agree to review this Deed every 2 years, and otherwise if either party is of the opinion that any change of circumstance has occurred, or is imminent, that materially affects the operation of this Deed.
- 37.2 For the purposes of clause 37.1, the relevant changes include (but are not limited to) any change to a law that restricts or prohibits or enables the Council or any other planning authority to restrict or prohibit any aspect of the Development.
- 37.3 For the purposes of addressing any matter arising from a review of this Deed referred to in clause 37.1, the Parties are to use all reasonable endeavours to agree on and implement appropriate amendments to this Deed.
- 37.4 If this Deed becomes illegal, unenforceable or invalid as a result of any change to a law, the Parties agree to do all things necessary to ensure that an enforceable agreement of the same or similar effect to this Deed is entered into.
- 37.5 A failure by a Party to agree to take action requested by the other Party as a consequence of a review referred to in clause 37.1 (but not 37.4) is not a Dispute for the purposes of this Deed and is not a breach of this Deed.

38 Notices

- 38.1 Any notice, consent, information, application or request that is to or may be given or made to a Party under this Deed is only given or made if it is in writing and sent in one of the following ways:
 - 38.1.1 delivered or posted to that Party at its address set out in the Summary Sheet,
 - 38.1.2 faxed to that Party at its fax number (if any) set out in the Summary Sheet, or
 - 38.1.3 emailed to that Party at its email address set out in the Summary Sheet.
- 38.2 If a Party gives the other Party 3 business days' notice of a change of its address, fax number or email, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted, faxed or emailed to the latest address or fax number.
- 38.3 Any notice, consent, information, application or request is to be treated as given or made if it is:
 - 38.3.1 delivered, when it is left at the relevant address,
 - 38.3.2 sent by post, 2 business days after it is posted,
 - 38.3.3 sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number, or
 - 38.3.4 sent by email and the sender does not receive a delivery failure message from the sender's internet service provider within a period of 24 hours of the email being sent.
- 38.4 If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a

business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

39 Approvals and Consent

- 39.1 Except as otherwise set out in this Deed, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Deed in that Party's absolute discretion and subject to any conditions determined by the Party.
- 39.2 A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

40 Costs

- 40.1 The Developer is to pay to the Council the Council's reasonable costs not exceeding \$10,000 (excluding GST and disbursements) of preparing, negotiating, executing and stamping this Deed, and any document related to this Deed within 7 days of a written demand by the Council for such payment.
- 40.2 The Developer is also to pay to the Council the Council's reasonable costs of enforcing this Deed within 7 days of a written demand by the Council for such payment.

41 Entire agreement

- 41.1 This Deed contains everything to which the Parties have agreed in relation to the matters it deals with.
- 41.2 No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Deed was executed, except as permitted by law.

42 Further Acts

- 42.1 Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to effect, perfect or complete this Deed and all transactions incidental to it.

43 Governing Law and Jurisdiction

- 43.1 This Deed is governed by the law of New South Wales.
- 43.2 The Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them.
- 43.3 The Parties are not to object to the exercise of jurisdiction by those courts on any basis.

44 Joint and Individual Liability and Benefits

- 44.1 Except as otherwise set out in this Deed:
 - 44.1.1 any agreement, covenant, representation or warranty under this Deed by 2 or more persons binds them jointly and each of them individually, and
 - 44.1.2 any benefit in favour of 2 or more persons is for the benefit of them jointly and each of them individually.

45 Position of the Council

- 45.1 The parties acknowledge that the Council is a consent authority with statutory rights and obligations pursuant to the terms of the:
 - 45.1.1 Act;
 - 45.1.2 *Roads Act 1993* (NSW); and
 - 45.1.3 *Local Government Act 1993* (NSW),(collectively referred to as the **Planning Legislation**).
- 45.2 This Deed is not intended to operate to fetter, in any unlawful manner:
 - 45.2.1 the power of the Council to make any law; or
 - 45.2.2 the exercise by the Council of any statutory power or discretion, **(Discretion)**.
- 45.3 No provision of this Deed is intended to, or does, constitute any unlawful fetter on any Discretion. If, contrary to the operation of this clause, any provision of this Deed is held by a court of competent jurisdiction to constitute an unlawful fetter on any Discretion, the parties agree:
 - 45.3.1 they will take all practical steps, including the execution of any further documents, to ensure the objective of the provision held to constitute an unlawful fetter is substantially satisfied;
 - 45.3.2 in the event that clause 45.3.1 cannot be achieved without giving rise to an unlawful fetter on a Discretion, the relevant provision is to be severed and the remainder of this Deed has full force and effect; and
 - 45.3.3 to endeavour to satisfy the common objectives of the parties in relation to the provision of this Deed which is held to be an unlawful fetter to the extent that it is possible having regard to the relevant court judgment.
- 45.4 Where the law permits Council to contract out of a provision of that law or gives Council power to exercise a Discretion, then if Council has in this Deed contracted out of a provision or exercised a Discretion under this Deed, this deed will not to be taken to be inconsistent with the law.
- 45.5 Nothing in this Deed will be deemed to impose any obligation on Council to exercise any of its functions under the Act in relation to the Planning Proposal, any Development Consent, the Land or the Development in a certain manner.

46 Illegality

- 46.1 If this Deed or any part of it becomes illegal, unenforceable or invalid as a result of any change to a law, the Parties are to co-operate and do all things necessary to ensure that an enforceable agreement of the same or similar effect to this Deed is entered into.

47 Severability

- 47.1 If a clause or part of a clause of this Deed can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way.
- 47.2 If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Deed, but the rest of this Deed is not affected.

48 Amendment

- 48.1 No amendment of this Deed will be of any force or effect unless it is in writing and signed by the Parties to this Deed in accordance with clause 25D of the Regulation.

49 Waiver

- 49.1 The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Deed, does not amount to a waiver of any obligation of, or breach of obligation by, another Party.
- 49.2 A waiver by a Party is only effective if it:
- 49.2.1 is in writing,
 - 49.2.2 is addressed to the Party whose obligation or breach of obligation is the subject of the waiver,
 - 49.2.3 specifies the obligation or breach of obligation the subject of the waiver and the conditions, if any, of the waiver,
 - 49.2.4 is signed and dated by the Party giving the waiver.
- 49.3 Without limitation, a waiver may be expressed to be conditional on the happening of an event, including the doing of a thing by the Party to whom the waiver is given.
- 49.4 A waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given, and is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.
- 49.5 For the purposes of this Deed, an obligation or breach of obligation the subject of a waiver is taken not to have been imposed on, or required to be complied with by, the Party to whom the waiver is given.

50 GST

50.1 In this clause:

Adjustment Note, Consideration, GST, GST Group, Margin Scheme, Money, Supply and Tax Invoice have the meaning given by the GST Law.

GST Amount means in relation to a Taxable Supply the amount of GST payable in respect of the Taxable Supply.

GST Law has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Input Tax Credit has the meaning given by the GST Law and a reference to an Input Tax Credit entitlement of a party includes an Input Tax Credit for an acquisition made by that party but to which another member of the same GST Group is entitled under the GST Law.

Taxable Supply has the meaning given by the GST Law excluding (except where expressly agreed otherwise) a supply in respect of which the supplier chooses to apply the Margin Scheme in working out the amount of GST on that supply.

- 50.2 Subject to clause 50.4, if GST is payable on a Taxable Supply made under, by reference to or in connection with this Deed, the Party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration.
- 50.3 Clause 50.2 does not apply to the extent that the Consideration for the Taxable Supply is expressly stated in this Deed to be GST inclusive.
- 50.4 No additional amount shall be payable by the Council under clause 50.2 unless, and only to the extent that, the Council (acting reasonably and in accordance with the GST Law) determines that it is entitled to an Input Tax Credit for its acquisition of the Taxable Supply giving rise to the liability to pay GST.
- 50.5 If there are Supplies for Consideration which is not Consideration expressed as an amount of Money under this Deed by one Party to the other Party that are not subject to Division 82 of the *A New Tax System (Goods and Services Tax) Act 1999*, the Parties agree:
- 50.5.1 to negotiate in good faith to agree the GST inclusive market value of those Supplies prior to issuing Tax Invoices in respect of those Supplies;
- 50.5.2 that any amounts payable by the Parties in accordance with clause 50.2 (as limited by clause 50.4) to each other in respect of those Supplies will be set off against each other to the extent that they are equivalent in amount.
- 50.6 No payment of any amount pursuant to this clause 50, and no payment of the GST Amount where the Consideration for the Taxable Supply is expressly agreed to be GST inclusive, is required until the supplier has provided a Tax Invoice or Adjustment Note as the case may be to the recipient.
- 50.7 Any reference in the calculation of Consideration or of any indemnity, reimbursement or similar amount to a cost, expense or other liability incurred by a party, must exclude the amount of any Input Tax Credit entitlement of that party in relation to the relevant cost, expense or other liability.
- 50.8 This clause continues to apply after expiration or termination of this Deed.

Schedule 1

(Clause 9)

Development Contributions

Column 1	Column 2	Column 3	Column 4
Item/ Contribution	Public Purpose	Manner & Extent	Timing

A. Monetary Contributions

1.Monetary Contribution	Active Open Space	The amount of: \$6,000 per Final Lot in the Development which is created for separate residential occupation; or \$6,000.00 per dwelling constructed on a Final Lot in the Development where more than one (1) dwelling is to be constructed on the relevant Final Lot,	To be paid prior to the first to occur of: - the issue of an Occupation Certificate for the relevant Final Lot; or - the issue of a Subdivision Certificate for a plan which, when registered, will create the relevant Final Lot.
----------------------------	-------------------	---	--

B. Dedication of Land

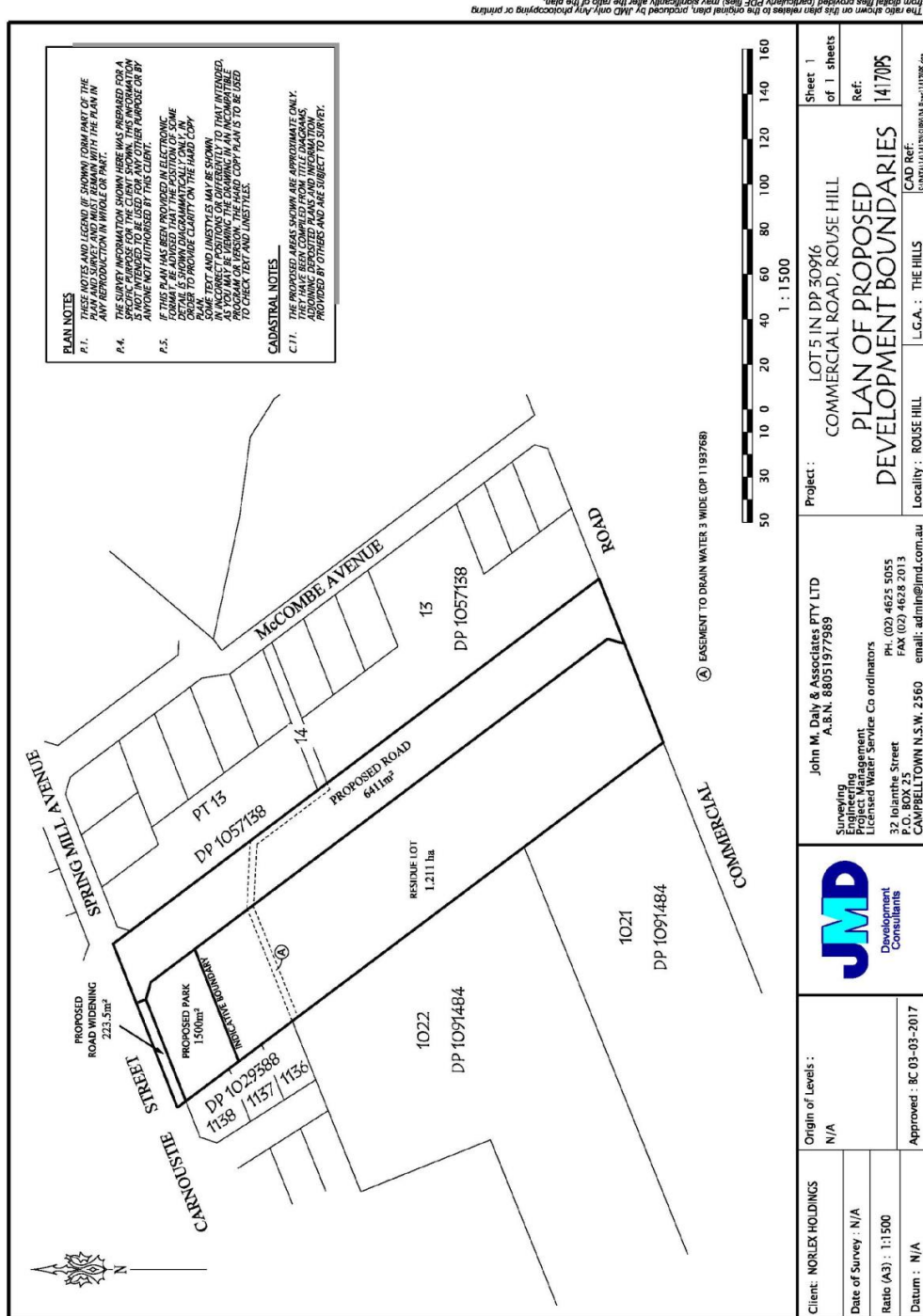
1. Extension of Green Hills Drive	Public Road	All of the Land on which Item C1 will be located as shown on the plan in Schedule 2.	Within 7 days of the completion of Work Item C1.
2. Pocket park	Passive Open Space	The land upon which Work Item C2 is carried out as shown on the plan in Schedule 2.	Within 7 days of the completion of Work Item C2.

C. Carrying out of Work Item

1. Extension of Green Hills Drive (Contribution Value of \$3,500,000)	Public Road	Construction of an extension of Green Hills Drive (including the Median Strip) in accordance with design and specifications approved by the Council, and generally in accordance with the Concept Plan in Schedule 3	Prior to the first to occur of: 1. the issue of an Occupation Certificate for any part of the Development; and 2. the issue of a Subdivision Certificate for a plan which, when registered, would create the first Final Lot within the Development
2. Pocket Park	Passive Open Space	Source and deliver turf to the Council for the 1,500m ² pocket park to such location as the Council reasonably directs	As reasonably directed by the Council

Schedule 2
Plan of Land to be dedicated

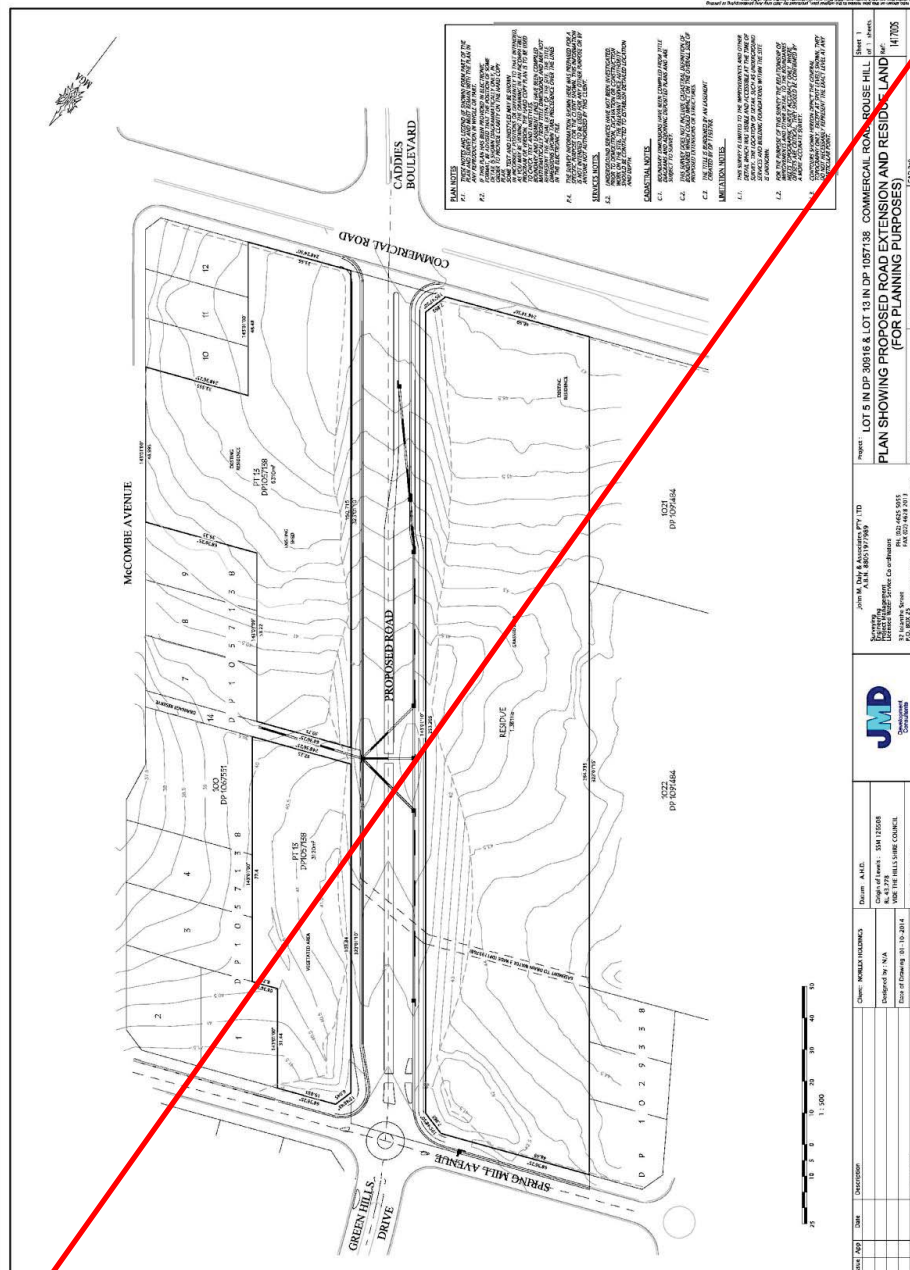
(Schedule 1 Item B1 and B2)



Schedule 3
Concept Plan

(Schedule 1)

**Lot 5 Commercial Road, Rouse Hill
The Hills Shire Council
Norlex Holdings Pty Ltd**





Execution

Executed as a Deed

Dated:

Executed on behalf of the Council

General Manager

Witness

Mayor

Witness

Executed on behalf of the Developer in accordance with s127(1) of the
Corporations Act (Cth) 2001

Name/Position

Name/Position

The Hills Development Control Plan (DCP) 2012

www.thehills.nsw.gov.au

ATTACHMENT 2

THE
HILLS
Sydney's Garden Shire

DRAFT



Part D Section 5
Kellyville / Rouse Hill Release Area

D5

INDEX

1. INTRODUCTION	1
1.1. LAND TO WHICH THIS SECTION OF THE PLAN APPLIES.....	1
1.2. OBJECTIVES AND DEVELOPMENT CONTROLS	1
1.3. DEVELOPMENT CONTROL MAPS	3
1.4. SITE ANALYSIS	3
1.5. DEVELOPER CONTRIBUTIONS	4
1.6. BUSH FIRE HAZARD MANAGEMENT.....	4
2. SUBDIVISION	4
2.1. TREE AND BUSHLAND PROTECTION.....	4
2.2. DENSITY AND ALLOTMENT SIZE	5
2.3. ORIENTATION AND SHAPE OF ALLOTMENTS	9
2.4. ROAD PLANNING	9
2.5. ROAD DESIGN AND CONSTRUCTION.....	16
2.6. STORMWATER MANAGEMENT.....	17
2.7. WATER QUALITY	19
2.8. UTILITIES PROVISION AND LOCATION.....	19
2.9. PUBLIC RECREATION SPACE	20
3. DWELLING DESIGN	24
3.1. SITING OF BUILDINGS	24
3.2. TURKEY NEST PARK – HEIGHT RESTRICTIONS.....	24
3.3. SETBACKS.....	25
3.4. SITE COVERAGE AND PRIVATE OPEN SPACE	26
3.5. CORNER LOTS.....	26
3.6. GARAGE DESIGN	26
4. HOUSING AS PER CLAUSE 4.1 B OF THE HILLS LOCAL ENVIRONMENTAL PLAN 2012	27
4.1. MASTERPLAN REQUIREMENT AND APPLICATION OF DEVELOPMENT CONTROLS.....	27
4.2. SITING OF BUILDINGS	27
4.3. SETBACKS.....	28
4.4. ZERO LOT LINE HOUSING	29
4.5. VEHICULAR ACCESS.....	29
4.6. HEIGHT.....	30
4.7. STREETSCAPE	30
4.8. OPEN SPACE.....	30
4.9. CAR PARKING	31
4.10. SITE COVERAGE.....	32
4.11. LANDSCAPING.....	32
4.12. CORNER LOTS.....	33
4.13. SOLAR ACCESS.....	33
4.14. PRIVACY – VISUAL AND ACOUSTIC.....	34
4.15. ACCESS AND SURVEILLANCE	36
4.16. FENCING	36
APPENDIX 1 - TREE SPECIES SELECTION AND PLANTING GUIDELINES	41
APPENDIX 2 - MAP SHOWING LOCATION OF TURKEY NEST PARK HEIGHT RESTRICTIONS AND LEVELS ALONG GREENWAY LINK PATHWAY	45
APPENDIX 3 - INFORMATION TO BE SUBMITTED WITH A DEVELOPMENT APPLICATION FOR SMALL LOT HOUSING	46

APPENDIX 4 – EXAMPLE OF DWELLING DESIGN ON CORNER ALLOTMENT	49
APPENDIX 5 – EXAMPLES OF GARAGE DESIGN CONTROLS.....	51
APPENDIX 6 – CARRIAGEWAY DESIGN	54

1. INTRODUCTION

This Section of the DCP must be read in conjunction with Part A – Introduction of this DCP.

This Section of the DCP consists of this written document and four accompanying maps (Sheets 1, 2, 3 & 4) which can be viewed at Council's Customer Service Centre or www.thehills.nsw.gov.au.

1.1. LAND TO WHICH THIS SECTION OF THE PLAN APPLIES

This Section of the DCP applies to land within the Kellyville/Rouse Hill Release Area as outlined by a bold black line shown in Figure 1. Reference should be made to the accompanying maps (Sheets 1 to 4) for detailed boundary location.

1.2. OBJECTIVES AND DEVELOPMENT CONTROLS

This Section of the DCP provides detailed guidance for persons wishing to develop within the Kellyville/Rouse Hill Release Area and seeks to ensure the orderly development of the area through the application of planning objectives and controls specific to the release area. The controls relate to subdivision planning, road design, dwelling design and small lot housing.

The specific objectives of this Section of the DCP are as follows:

- (i) To establish a single comprehensive and integrated set of development objectives and controls for most aspects of residential development occurring within the release area;
- (ii) To implement the aims and objectives of LEP 2012 with respect to residential development;
- (iii) To ensure that residential development is compatible with and has minimal impact upon surrounding development and offer high levels of amenity, solar access and energy efficiency for future residents;
- (iv) To control the character and quality of residential development consistent with the expectations of existing release area residents;

- (v) To ensure that the housing market recognises the community's changing demographic profile and provides a mix of household types catering for the different stages in the household life-cycle; and
- (vi) To ensure cost effective residential development reflecting appropriate community standards for health, safety, environmental protection and amenity.

A number of planning investigations and studies resulted in the zoning framework for the release area and assisted in the preparation of this Section of the Development Control Plan. These documents are listed below and in Part A of the DCP and can be read in conjunction with this Section of the DCP to enable a greater understanding of Council's planning objectives for the area:

- i. Kellyville/Rouse Hill Landscape and Urban Design Strategy, 1993
- ii. Kellyville/Rouse Hill Open Space and Recreation Plan, 1998
- iii. Kellyville/Rouse Hill Release Area Contributions Plans No's 8A – 8E.

The controls in this Section are not an exhaustive list of controls applicable to development within the Kellyville/Rouse Hill Release Area. In addition to the following Section references, this Section must be read in conjunction with Part A – Introduction of the DCP.

- Part B Section 2 – Residential
- Part B Section 3 – Dual Occupancy
- Part B Section 4 – Multi Dwelling Housing
- Part B Section 5 – Residential Flat Buildings
- Part C Section 6 – Flood Controlled Land

For example where residential flat buildings are proposed within the release area, the relevant provisions of this plan will apply in addition to Part B Section 5 – Residential Flat Buildings.

In the event of any inconsistency between this Section of the DCP and any other Sections of the DCPs, the provisions of this Section shall prevail only to the extent of the inconsistency.

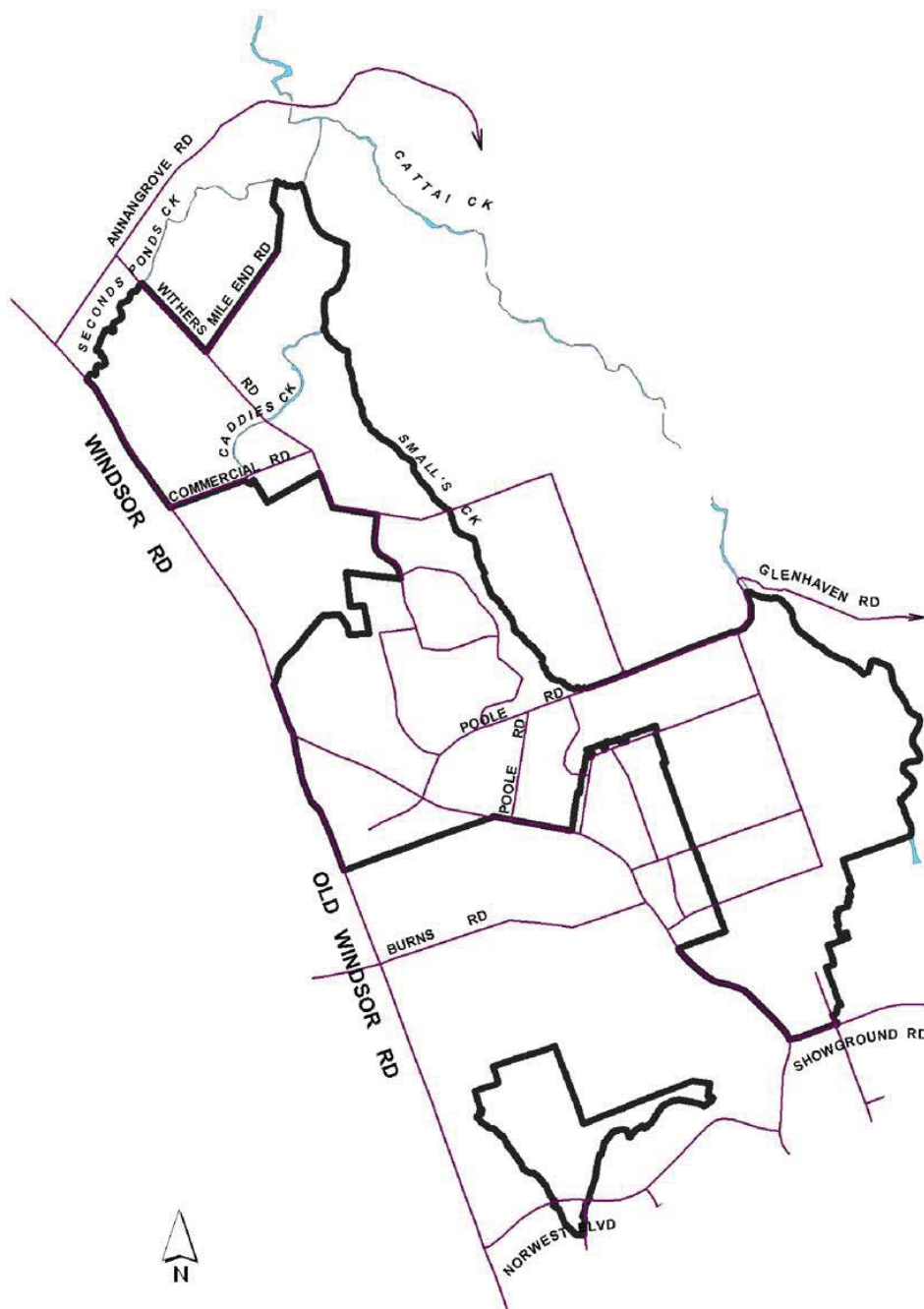


Figure 1 Land to which plan applies (not to scale)

1.3. DEVELOPMENT CONTROL MAPS

OBJECTIVE

- (i) *To ensure the release area develops in an orderly manner consistent with the identified land use structure and current zoning framework.*

DEVELOPMENT CONTROL

- (a) All applications for residential development particularly subdivision should conform to the land use structure and pre-planned road layout as shown on the maps accompanying this Section of the DCP.

1.4. SITE ANALYSIS

OBJECTIVES

- (i) *To encourage a comprehensive approach to site planning, design and assessment of residential development.*
- (ii) *To facilitate assessment of how future dwellings relate to their immediate surroundings and each other.*
- (iii) *To facilitate development of a design that minimises the negative impacts on the amenity of adjoining residential development in accordance with Council's ESD objective 7.*
- (iv) *To ensure development is compatible with land capability.*
- (v) *To minimise adverse impacts on the environment in accordance with Council's ESD objectives 3 and 4.*

DEVELOPMENT CONTROLS

- (a) Development should be designed to respect site constraints such as topography, drainage, soil, landscapes, flora, fauna and bushfire hazard.
- (b) Disturbance to existing natural vegetation and landforms, watercourses, wetlands and overland flow paths should be minimised.
- (c) Development on land adjoining bushland reserves should incorporate measures (such as setbacks and buffers) to prevent any impact on the reserves.

- (d) Development should be sited on the area of land presenting the least topographic constraints.
- (e) Development should be sited away from steep slopes (particularly those containing natural vegetation) so that, where possible, these features can be kept in a natural state.

SUBMISSION REQUIREMENTS

For subdivision applications the site analysis must include:

- the site and its surrounds (Refer to Appendix 2 of this Section).
- a plan describing the site (Refer to Figure 2 of this Section).
- a statement explaining how design and development has regard to the site analysis carried out in one above.
- demonstration of how allotment /dwelling locations and dimensions respond to topography, site constraints and achieve solar orientation.
- the results of the tree survey/assessment and identification of trees/and or bushland to be protected (refer section 2 of this Section).

For all applications proposing one or more dwellings the site analysis must include:-

- the site and its surrounds (Refer Appendix 2 of this Section).
- a plan describing the site (Refer Figure 2 of this Section).
- calculation of built upon area – site coverage.
- a statement explaining how design and development has regard to the site analysis carried out in one above.
- demonstration of how allotment / dwelling locations and dimensions respond to topography, site constraints and achieve solar orientation.

Applications for all other residential development types are to submit a Site Analysis Plan in accordance with the provisions of the relevant Sections of this Development Control Plan.

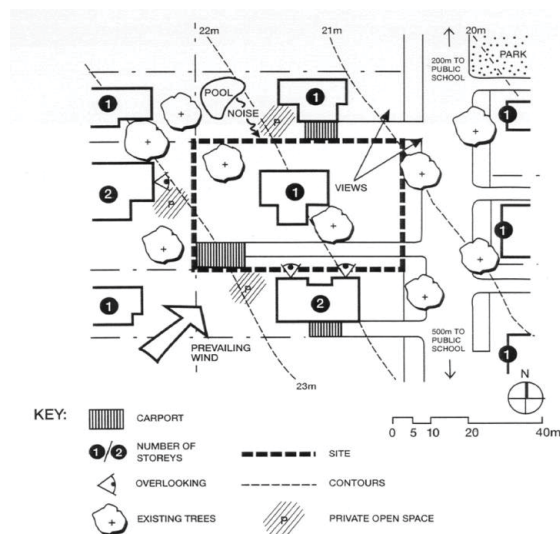


Figure 2 Site analysis plan

1.5. DEVELOPER CONTRIBUTIONS

Refer to Section 94 Kellyville/Rouse Hill Contributions Plan No's 8A – 8E.

1.6. BUSH FIRE HAZARD MANAGEMENT

OBJECTIVE

- (i) *To reduce the risk to life and property in areas of bushfire risk.*

DEVELOPMENT CONTROL

- (a) Council has adopted the NSW Rural Fire Service Guidelines entitled 'Planning for Bushfire Protection 2006'. Development subject to bushfire risk will be required to satisfy the requirements of these guidelines.

2. SUBDIVISION

2.1. TREE AND BUSHLAND PROTECTION

The retention of trees and bushland in new development areas provides a range of benefits to the new home buyer including a contribution to the character of the neighbourhood, spatial definition and interest. Environmental values gained include:

- the possible retention of wildlife links.

- an ecological framework which sustains overall environmental health and ecological processes.
- improved aesthetic values following subdivision and building development.

OBJECTIVES

- (i) *To ensure significant bushland is substantially retained and protected and that development enhances and complements this bushland.*
- (ii) *To conserve and protect the biodiversity of the release area including habitats of threatened flora and fauna species and communities.*
- (iii) *To ensure development and subdivision adjacent to bushland does not detrimentally affect the continued survival of that bushland through appropriate protection mechanisms.*
- (iv) *To provide a basis for adapting lot dimensions and areas, particularly within the Fringe Density areas to enable the retention of trees and bushland.*

DEVELOPMENT CONTROLS

- (a) Prior to development for the purposes of subdivision or small lot housing the applicant is to prepare a tree survey utilising the services of a qualified arborist. This plan will ensure an understanding of the condition of existing trees which will assist in analysing the site opportunities and is to be submitted at subdivision application stage. The tree survey must incorporate a survey of all trees as defined under Council's Tree Preservation Order and all bushland, as defined by SEPP 19 - Bushland in Urban Areas.
- (b) The tree survey/assessment must include:
 - species identification of all trees;
 - a rating of the condition of all existing trees, their health, aesthetic value and life expectancy as a basis for ascertaining their value for retention;
 - an overall rating for groups of trees where they contribute to the area as a mass;
 - definition of tree protection zones and measures consistent with the requirements outlined below;
 - details indicating the position of trees/bushland in relation to proposed roads and building platforms; and

- identification of trees and bushland to be retained following subdivision.

The tree survey may also include any other vegetation that the arborist considers may contribute to the landscape if retained, particularly where the survey includes bushland or regenerating bushland.

- (c) Trees and bushland nominated for retention and proposed protection measures are to be submitted with the subdivision application and shown on the site analysis plan. Protection mechanisms must include:

- protective fencing around trees and bushland to be retained to prevent damage; and
- fences are to be constructed to the drip-line of existing vegetation as a minimum and to prevent damage within the drip-line/protection zone by limiting access into it (Refer to Figure 3),

- (d) Where threatened species or communities are identified and are to be conserved the following actions should be undertaken:-

- protection measures in accordance with the requirements of the relevant recovery plan; identification on site of the extent of the community to be retained;
- plan of management for the land outlining how the land is proposed to be managed in the future; and
- the provision of chain-wire/protective fencing (min 1.2 metres in height) around areas where rare flora and fauna are to be retained and to remain in place during the duration of the subdivision and building construction.

- (e) Any new tree plantings are to be consistent with the tree species selection and planting guidelines provided in Appendix 1 of this Section of the DCP.

2.2. DENSITY AND ALLOTMENT SIZE

This Section of the DCP incorporates density targets which were derived from an analysis of their location to surrounding uses, and topographic and vegetation constraints. All residential development is required to meet these targets. The location of the different density types are shown on the maps accompanying this Section of the DCP.

They are described as follows:

- **Fringe Density** areas typically occur in environmentally sensitive areas and are to be dominated by large lot detached housing with environmentally significant features of the site are protected. The density range for these areas is 5 to 8 dwellings per net hectare, however the minimum density will depend on individual site constraints;
- **Cluster Density** areas are similar in character to the conventional lot subdivisions and are required to be developed within the density range of 10 to 13 dwellings per net hectare. The area requires a mix of residential allotment sizes;
- **Local Centre Density** areas typically occur within close proximity to community and/or commercial facilities and are similar to cluster density areas, however, the density range is between 15 to 20 dwellings per net hectare; and
- **Town Centre Density** areas are in close proximity to either the Regional Centre or the Kellyville District Centre. The density range for these areas is 30 to 35 dwellings per net hectare. Due to the high density requirement, it is envisaged that a major form of the housing will take the form of multi-unit housing.

OBJECTIVES

- (i) *To facilitate a range of lot sizes and housing types within the release area to meet changing demographic profiles and housing requirements.*
- (ii) *To locate smaller lots and multi unit housing types within close proximity to community facilities, open space, public transport, and commercial centres.*

DEVELOPMENT CONTROLS

- (a) Residential development shall achieve the densities within the range of the applicable density type as shown in Table No.1.
- (b) All residue allotments created for future small lot housing developments are to have the minimum dimensions of 40 metres x 50 metres.
- (c) Subdivision applications seeking to create residue parcels for future small lot housing developments shall be accompanied by a concept plan, consistent with the provisions of this Section of the DCP, demonstrating the attainment of the density provisions of this plan.

- (d) All residential subdivisions are required to provide a mix of allotment sizes.

Table 1 Density requirement

Residential Type	Minimum Density	Maximum Density
Fringe	5 dwg/net ha	8 dwg/net ha
Cluster	10 dwg/net ha	13 dwg/net ha
Local Centre	15 dwg/net ha	20 dwg/net ha
Town Centre	30 dwg/net ha	35 dwg/net ha

- (e) A number of development constraints apply to those areas indicated with a Development Restriction on the maps accompanying this Section of the DCP. They are:
- All areas affected by the Development Restriction are required to submit a Development Application for the filling of the land in line with Part C Section 6 of this DCP – Flood Controlled Land; and
 - The area of land to the north of Georgia Terrace affected by the Development Restriction shall not be developed for residential purposes until such time as the adjacent detention basin has been constructed. Filling of the land will be required to a height of one metre above the crest of the adjacent detention basin embankment tapering down to the natural surface level downstream of the basin.

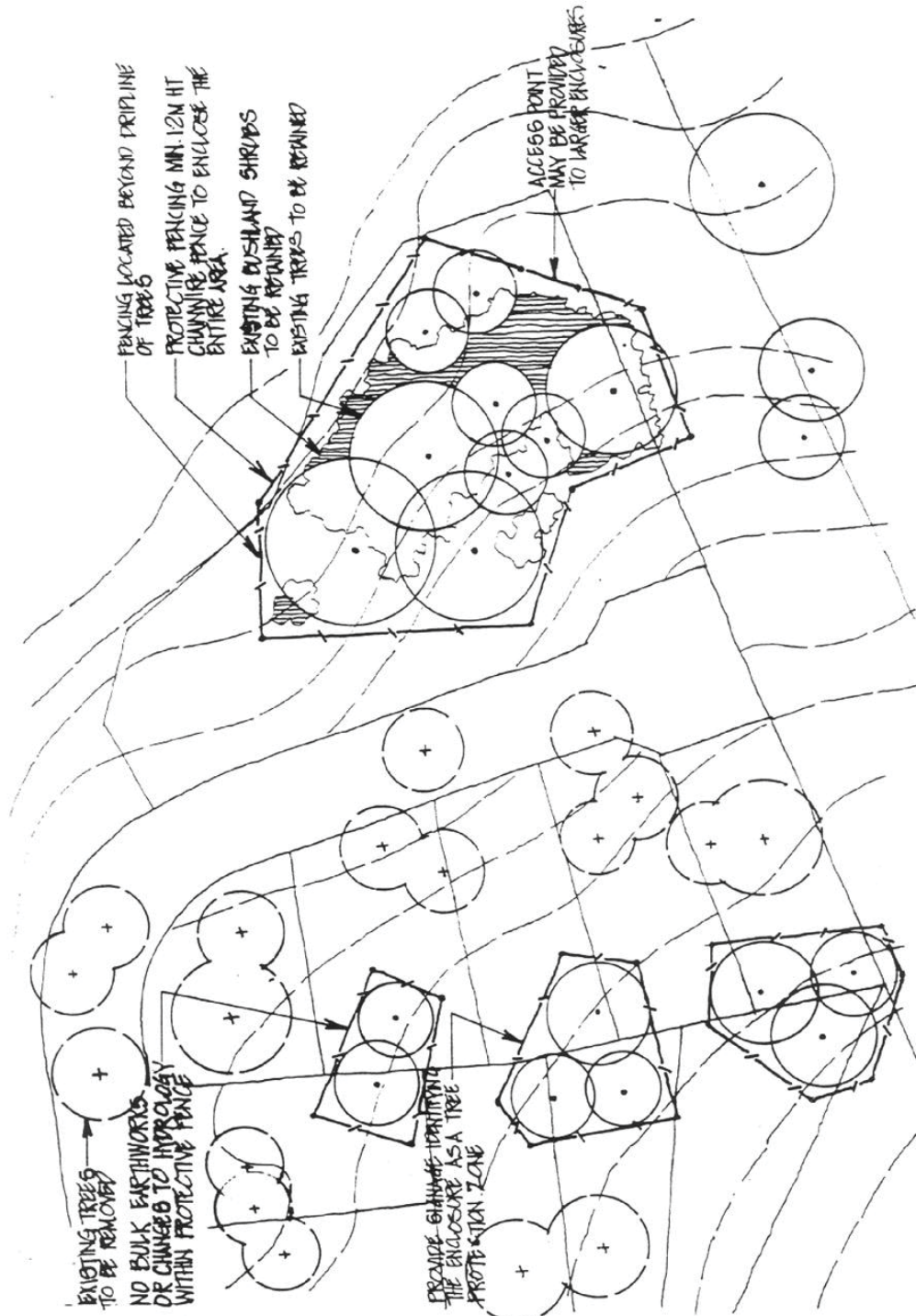


Figure 3 Protective fencing around trees and bushland

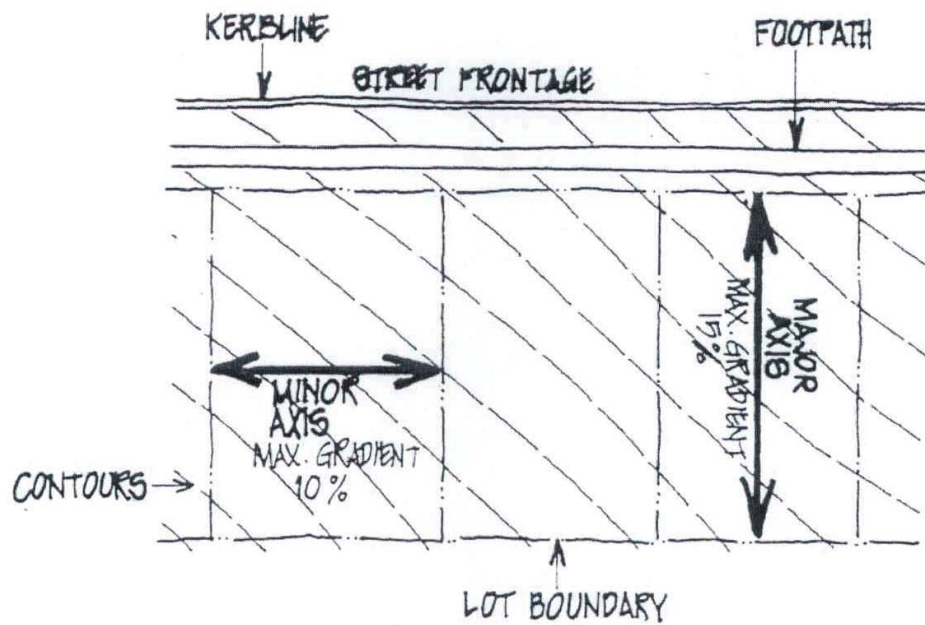


Figure 4 Small lot development

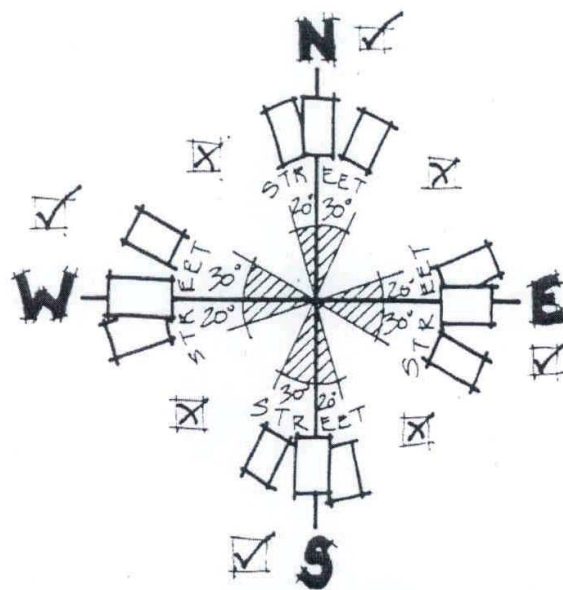


Figure 5 Permissible orientation

2.3. ORIENTATION AND SHAPE OF ALLOTMENTS

The shape and orientation of allotments and dwellings have a fundamental bearing on the level of comfort in a dwelling and the ability to take advantage of solar access, energy conservation and generation.

OBJECTIVES

- (i) *To ensure lots are orientated to enable microclimate management and that environmental features are protected.*
- (ii) *To maximise solar access to dwellings, internal dwelling spaces, and associated private outdoor spaces.*

DEVELOPMENT CONTROLS

- (a) Each allotment shall be orientated and of a shape to enable the siting of a dwelling and ancillary outbuildings, outdoor space, and vehicle parking so as to allow the house to receive direct sunlight. The allotment should also be able to satisfy the other design provisions of this Section of the DCP.
- (b) Dimensions of lots are required to be adequate to protect solar access on-site, taking into account likely dwelling size and the relationship of each lot to the street.
- (c) Lot sizes and dimensions are required to enable dwellings to be sited to protect natural or cultural features, and respond to site constraints including slope, vegetation, drainage or bushfire risk.
- (d) Lot frontages are required to be orientated to streets and open spaces to assist personal and property security, deterrence of crime and vandalism, and surveillance of footpaths, drainage lands and public open space.
- (e) In standard subdivision applications a minimum of 70% of all lots are required to be orientated to facilitate siting of dwellings to take advantage of solar access by ensuring the long axis of lots are within the range N20W to N30E, or E20N to E30S, refer to Figure 5.

Variations to the above orientation requirement will be considered where it can be demonstrated that the parcel to be subdivided is too constrained to make the orientation within the specified range possible.

- (f) All allotments are to be rectangular in shape and not splayed at the end of cul-de-sacs.
- (g) All allotments (not including small lot housing or multi-unit housing) are to have a minimum width of 15 metres and a minimum depth of 30 metres.
- (h) All allotments are required to be capable of containing a rectangular building platform of 10 metres x 15 metres within the required setbacks.
- (i) The access handle to a single battleaxe lot is required to have a minimum width of 4 metres, and 6 metres where the access handle provides access to 2 lots.

2.4. ROAD PLANNING

OBJECTIVES

- (i) *To provide an acceptable level of access, safety and convenience for all street and road users in residential areas, while ensuring acceptable levels of amenity, and minimising the negative impact of traffic.*
- (ii) *To provide a legible and permeable movement network for pedestrians and cyclists along streets and paths to points of attraction within and adjoining the development.*
- (iii) *The road network is based on a hierarchy of nine road/street types, as shown in Figures 6, and include:*
 - **Arterial Roads** such as Windsor Road and Old Windsor Road carry major regional traffic flows and are largely the responsibility of the State Government;
 - **Sub-Arterial Roads** are expected to carry between 5000 to 15000 vehicles per day and will require one to two traffic lanes in each direction. Direct residential access to these roads is not normally permitted unless stated on the maps accompanying this Section of the DCP;
 - **Collector Streets** collect traffic from the access places and access streets and carry higher volumes of traffic. A reasonable level of residential amenity and safety is to be maintained by restricting traffic volumes and vehicle speeds through street alignment and intersection design;
 - **Access Street** is a street providing local residential access with shared traffic, pedestrian and recreation use, but with local traffic priority;

- **Access Place** is a minor street providing local residential access with shared traffic, pedestrian and recreation use, but with pedestrian priority; and
- **Access Way** is a minor street providing local residential and cycleway access where house lots front one side of the street only, and the other side of the street is either public open space or a drainage reserve.

The specific objectives of locating Access Ways adjacent to open space and trunk drainage areas are:

- (i) *To facilitate the orientation of allotments and dwellings to front the open space/drainage areas.*
- (ii) *To enhance the outlook, setting and amenity of subdivisions adjoining open space/drainage areas.*
- (iii) *To increase pedestrian accessibility to these areas.*
- (iv) *To promote passive surveillance of publicly accessible areas thereby increasing safety.*

The planning objectives for the intersection of Old Windsor Road and Windsor Road are as follows:

Short Term - To incorporate traffic management and safety improvements including signalisation and any such works as proposed are to be funded by the Roads and Maritime Services.

Long Term - The intersection or treatment to Windsor and Old Windsor Road to incorporate either local access or service roads to facilitate the orderly development of commercially zoned lands north of Whitehart Bridge.

DEVELOPMENT CONTROLS

- (a) The street and road network should conform to the pre-planned road layout as shown on the maps accompanying this Section of the DCP.
- (b) Internal intersections are to be either T-junctions, roundabouts or controlled by other appropriate traffic management treatments to slow and control traffic.
- (c) Street leg lengths, radius of bends and speeds at slow points are to comply with the requirements of AustRoad Guidelines 1992. Care should be taken to ensure that the changed street conditions do not become a hazard to an unsuspecting motorist. Sudden and

unexpected changes in driver conditions are another cause of accidents. This reinforces the need for street design and construction which reflects the required driver behaviour.

- (d) An acoustic report prepared by a suitably qualified consultant is to be submitted with all residential development applications for land adjacent to existing or proposed Arterial and Sub-arterial roads and should comply with the EPA publication 'Environmental Criteria for Road Traffic Noise' (May, 1999).
- (e) In regard to roads that cross natural drainage channels, the construction of bridges with pierced approaches is preferred to culverts in order to maintain stream corridor function. Any works within, or alterations to, natural drainage systems will require the necessary approvals of the Office of Water/Office of Environment and Heritage.
- (f) Direct vehicular access to Arterial and Sub-arterial roads will not be permitted where alternate access is available. Access will not be restricted to any property from Arterial or Sub-Arterial roads until such time as alternate access is available.
- (g) Roads, in particular Access Ways are, wherever possible, to occur along and adjacent to public open space or drainage lands. Where Access Ways front open space or drainage land the costs associated with their construction is the responsibility of the developer.
- (h) Street networks are to conform to the requirements set out in Table 3: Characteristics of Street Types.
- (i) When travelling from any dwelling to the most convenient collector street or higher order road no more than three turns should be required.
- (j) The driving distance from any dwelling to the nearest collector or higher order street is a maximum of 700 metres.
- (k) Street and road junctions are to be spaced as set out in Table 2.
- (l) The street network is to be designed to limit target street speeds to those specified in Table 3. This may be done by limiting street leg length, and providing appropriate slow points at the end of each leg. Slow points may be provided by a variety of mechanisms including street junctions, introduction of bends and surface obstructions. Speed may also be restrained by

a continuous series of bends, or by a combination of approaches.

- (m) The requirements for acoustic fencing along Arterial and Sub-arterial roads are to consist of the following:
- the fence and associated footings to be sited entirely within private land.
 - where possible earth mounding along sub-arterial roads should be considered in association with the fencing to enhance the effectiveness of noise attenuation.
 - timber fences are to be constructed from hardwood or treated pine with low maintenance finishes.
 - coloured and painted finishes are to be avoided.
 - fencing and any associated acoustic measures are to be provided for the full length of the subdivision adjoining an arterial or sub-arterial road.
- (n) The construction standards for fencing are to include:
- 1800mm high lapped and capped paling fence with three rails.
 - paling and capping to have a minimum overlap of 35mm.
 - paling to have a minimum thickness of 20mm.
 - metal strapping is to be provided on external side to prevent paling removal.
- (o) If noise consultant reports recommend a fence greater than 1800mm, then a solid panel material is required. Suitable construction materials may include lightweight aerated concrete, dense concrete panels or masonry walls.
- (p) The fencing requirement along sub-arterial roads is indicatively shown in Figure 9.

Table 2 Minimum junction spacing

Road Type	Typical Average Junction Spacing (metres)	Minimum Indicative Staggered Junction	Traffic Volumes (Vehicles per day)
Access Place	NA	NA	<300
Access Street	40	40	300 to 2000
Collector Street	40	40	2000 to 3000 (minor) 3000 to 6000 (major)
Sub-Arterial	150	200	5000 to 15000
Arterial	500	200	10,000 and over

Table 3 Characteristics of street types

Street Type	Maximum Traffic Volume(1)	Maximum Number of Dwellings	Design Speed km/hr(2)	Carriageway Width (m) (3)	Verge Widths	Road Reserve	Footpath Required
Access Way (Fronting open space)	100 veh/d	10	15	6.0 metres (4)	3.5 metres*(5)	10.5 metres	No
Access Place	300veh/d	30	30	7.5 metres	3.5 metres*	14.5 metres	No
Access Street	2000veh/d	200	40	8.5 metres	3.5 metres*	15.5 metres	Yes 1.2 metres wide one side only
Collector	3000veh/d with access to lots	1000	50 (20 at ped/cycle crossings)	9.5 metres	3.5 metres*	16.5 metres	Yes 1.5 metres wide both sides

NOTE:

- For single dwelling allotments apply traffic generation rate of 10 veh/day per lot (equivalent to approximately 1 veh/day in the peak hour) unless a lower rate can be demonstrated.
 - See Council's Design Guidelines for Subdivisions and Developments for specific operating speeds.
 - Widening required at bends to allow for wider vehicle paths (using Austroads Turning Templates). Also refer advisory note at rear of this document.
 - Maximum length of carriageway is 80 metres.
 - Council will consider a reduction in the verge width along the open space side down to a minimum of 1m.
- * Verges may also require an additional widening requirement for the provision of a pedestrian/cycleway path, refer to section 2.9: Public Open Space of this Section of the DCP.

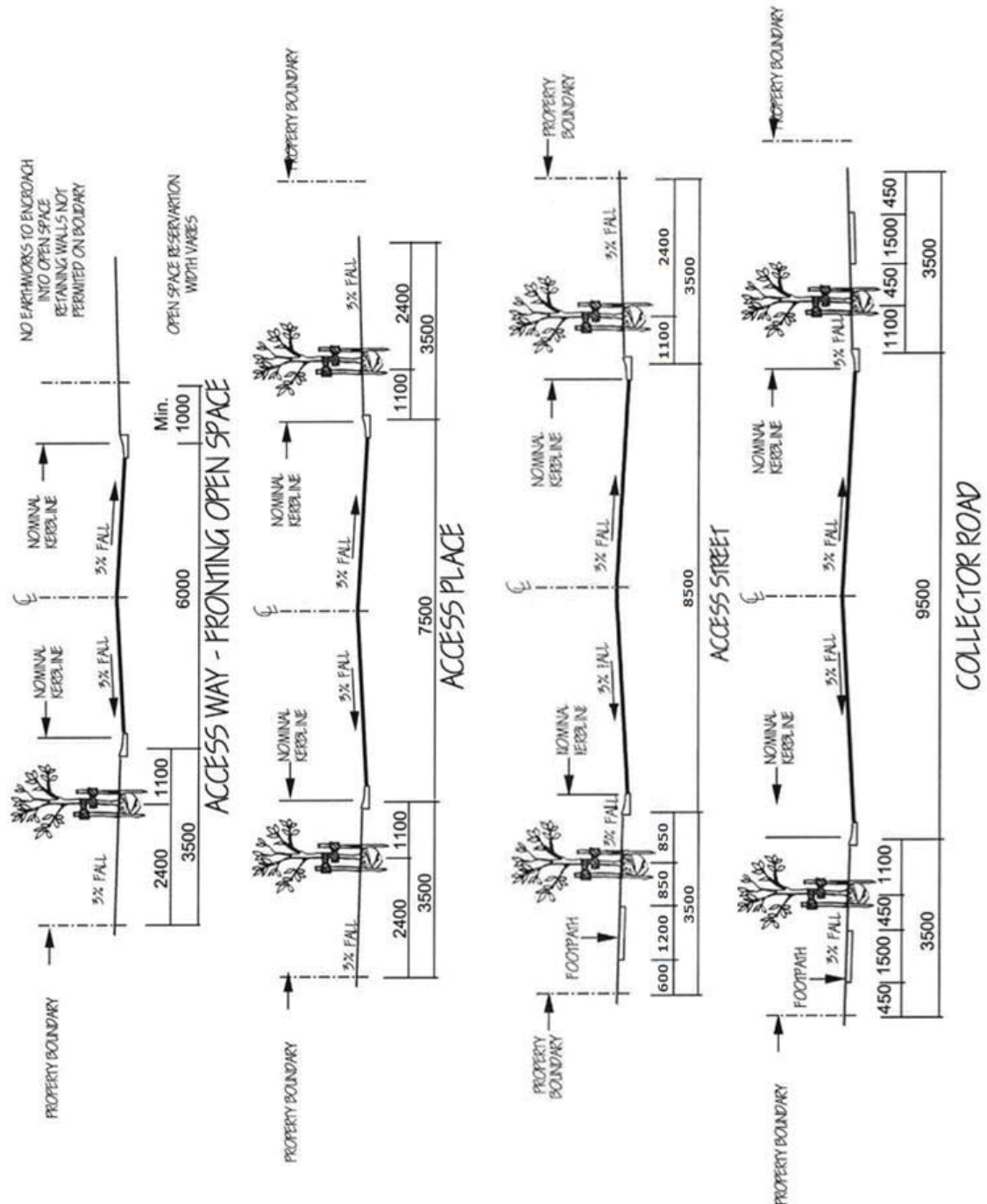


Figure 6 Road hierarchy

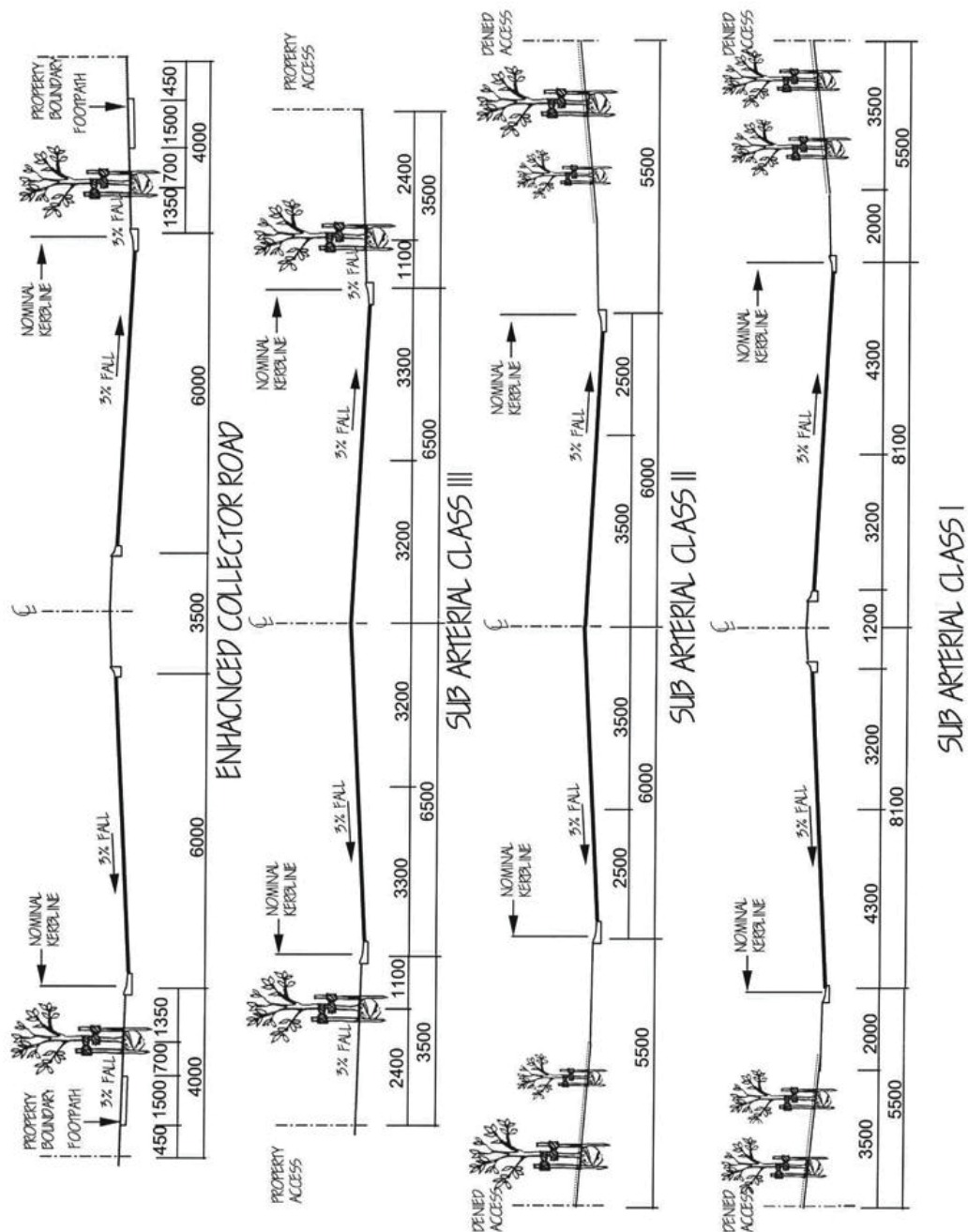


Figure 6 Road hierarchy (cont)

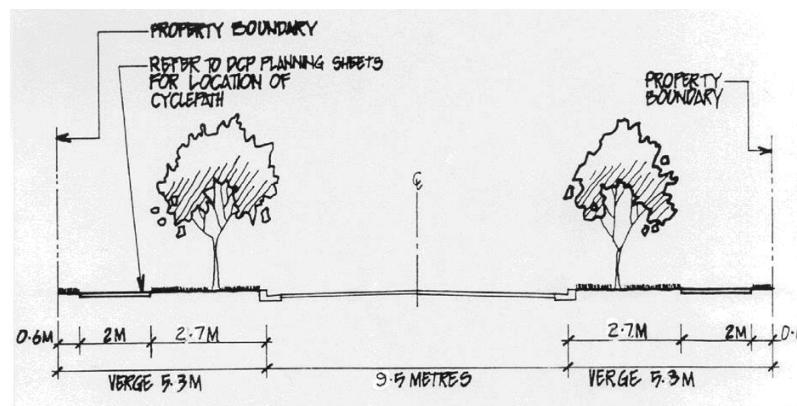


Figure 7 Road widening for major open space links

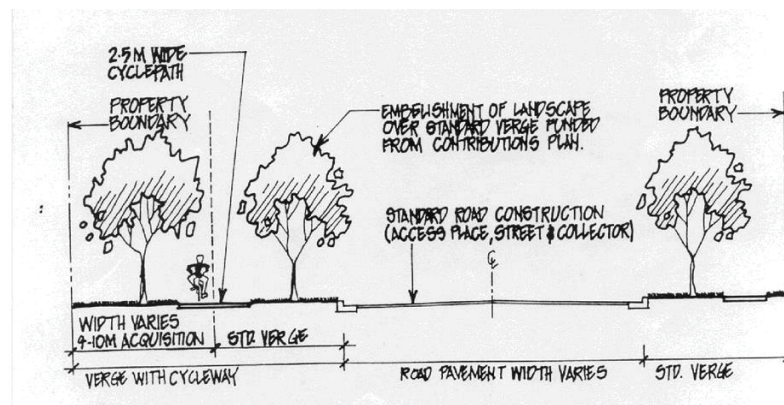


Figure 8 Collector road construction within existing road reserves

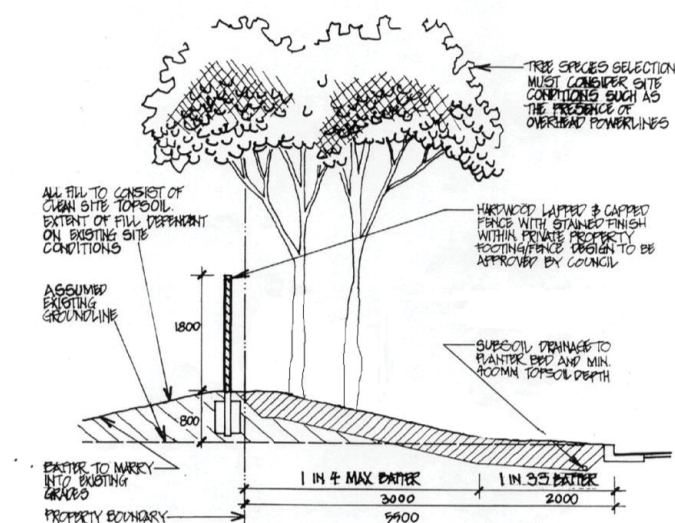


Figure 9 Indicative example of noise attenuation along sub-arterial roads

2.5. ROAD DESIGN AND CONSTRUCTION

OBJECTIVES

- (i) *To ensure sufficient carriageway and verge widths are provided to allow streets to perform their designated functions within the street network and to accommodate public utilities and drainage systems.*
- (ii) *To encourage the use of residential streets by pedestrians and cyclists, and allow cars, buses and other users to proceed safely without unacceptable inconvenience or delay.*
- (iii) *To provide street geometry consistent with the needs of the street function, physical land characteristics and safety.*

DEVELOPMENT CONTROLS

- (a) On collector streets, which function as two-way bus routes, a travelled way allowing unobstructed movements in both directions is required. Safety at bus stops, particularly the overtaking of stationary buses, is also an important design consideration. Speed control through design is a fundamental principle of this Section of the DCP. The alignment and geometry of all collector streets are to be designed for the efficient and unimpeded movement of buses.
- (b) On access streets and access places there will be only light traffic and the travelled way should allow for unobstructed movement in one lane as well as passing opportunities. As speeds are low and there are entrance drives where passing can take place, a narrow pavement is acceptable.
- (c) The design of the carriageway is to discourage motorists from travelling above the intended speed by reflecting the functions of the street in the network. In particular the width and horizontal and vertical alignment is not to be conducive to excessive speeds.
- (d) Roundabouts, street crossfalls, longitudinal gradient, vehicle turning movements and sight distances are to comply with Council's Design Guidelines Subdivisions/Developments.

- (e) Carriageway widths for each type of street are to be as specified in Table 3: Characteristics of Street Types.
- (f) Minimum verge widths for each street type are to be as specified in Table 3. Verge widths may need to be increased to allow space for provision of services, larger scale landscaping, indented parking, future carriageway widening, retaining walls or cycle paths.
- (g) Streets are to be designed to meet the target street speeds in Table 3 for each street type.
- (h) Where the termination of a street is visible from the entry street, T-heads should be used.
- (i) No retaining walls are to be constructed along the edge of roads fronting open space and drainage areas.
- (j) Street trees are to be provided in all residential subdivisions in the alignments shown in Figure 11.
- (k) All collector roads which are to be constructed within existing previously rural road reserves are to be aligned as shown in Figure 7.
- (l) Street tree planting is to be provided to all streets with a spacing of between 7 and 10 metres, with a minimum of one tree per lot frontage. Corner lots will have a minimum of two street trees and normally three trees. The location of street trees must complement proposed driveway locations.
- (m) Street tree planting will only be permitted within publicly dedicated roads following approval of a tree planting plan prepared by a Landscape Architect. The early provision of street tree planting as part of subdivision works will only be agreed to where the planting includes tree guards that will protect the trees during building construction. Refer to Figure 4 of Part C Section 3 – Landscaping of The Hills DCP 2012 for details of minimum construction standards.
- (n) All plans documenting proposed street tree planting must indicate the location of Sydney Water sewer pipes including where they enter a public road reservation.
- (o) Street tree species must be drawn from the landscape character zone maps and tree planting matrix in Appendix 1 of this Section of the DCP. Refer to Part C Section 3 – Landscaping of this DCP for guidance on street tree planting on Access Way, Access Place and Access Street.

- (p) For all sub-arterial roads landscape works in roundabout islands may include low maintenance groundcover planting and native grasses with a mature height of up to 0.5 metres as well as clear stemmed tree planting. A metered water supply point and subsurface drainage is required in all small island planter beds at the developer's expense. Refer to Figure 10 for details of landscape standards.

2.6. STORMWATER MANAGEMENT

OBJECTIVES

- (i) *To prevent stormwater and flood damage to properties arising from the subdivision of land.*
- (ii) *To ensure the statutory requirements of the Office of Environment and Heritage is considered at the early stages of land development.*
- (iii) *To contain nuisance flows to a level which is acceptable to the community, and ensure the street system operates adequately during and after major storm events.*

DEVELOPMENT CONTROLS

- (a) Prior to any pre-lodgement meeting held with Council consultation with Office of Environment and Heritage should occur where development is proposed adjoining a stream, river or similar.
- (b) A riparian zone may be required by Office of Environment and Heritage is to be retained and enhanced along all streams, as a means of conserving stream health, fauna habitat and biological diversity, bank stability, and water quality.
- (c) The minor drainage systems minimum design standard is to capture and convey flows produced by a 10 year Average Recurrence Interval design storm.
- (d) Trapped sag points are not to be created.
- (e) Drainage reserves or Local Drainage Links are required to discharge gaps flows (the difference between the 100 year ARI storm event and half design pipe flow, allowing for blockage, maximum pipe design 100 year ARI) from all ARI runoffs to the generally accepted maximum of the 100 year ARI storm event.

- (f) Local Drainage Links adjacent to residential properties are to be designed in accordance with Kellyville/Rouse Hill Open Space and Recreation Plan. They are to be designed to utilise both their drainage capabilities, landscaping and pedestrian opportunities.
- (g) Local Drainage Links are to be a minimum of 5 metres in width. The Developer is required to supply the land, all associated drainage works including energy dissipation, erosion control planting, pathways and tree planting.
- (h) Drainage facilities are to be of a standard acceptable to Council.
- (i) All drainage pits shall have access from the ground surface. Buried junction pits shall not be permitted.
- (j) All pipes to be dedicated to Council are to be located within public land.
- (k) The drainage system is to be designed by a qualified person in accordance with the requirements of the responsible drainage authority.
- (l) All owners of properties adjoining SP2 Trunk Drainage land are required to contact Council and Sydney Water to confirm the inundation line prior to the lodgement of subdivision applications.
- (m) All drainage designs, excluding minor drainage systems, are to comply with Council's Design Guidelines Subdivisions/Developments. Design criteria are to be confirmed by Council.
- (n) Any discharge to, or construction within Sydney Water trunk drainage land will require the approval of Sydney Water.

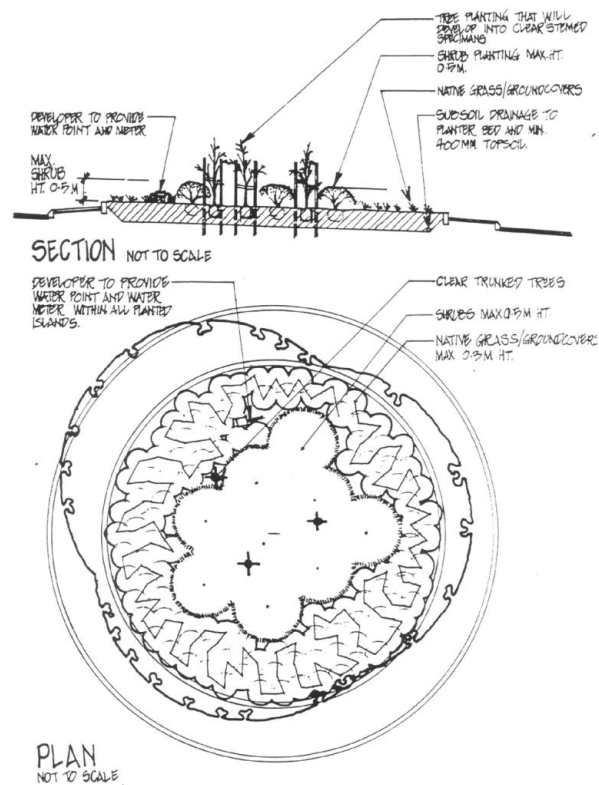


Figure 10 Landscape construction standards in roundabout

2.7. WATER QUALITY

OBJECTIVES

- (i) *To protect downstream waters during construction activities within the release area.*
- (ii) *To assist in the protection and enhancement of stream health.*

DEVELOPMENT CONTROLS

- (a) Applications for residential development including subdivision are to be accompanied by an Erosion and Sediment Control Plan which will describe the measures to be taken at development sites to minimise land disturbance, erosion, and control sediment pollution of waterways.
- (b) Erosion and Sediment Control Plan's shall be prepared in accordance with 'Managing Urban Stormwater – Soils and Construction' produced by the NSW Department of Housing.
- (c) Any discharge to, or construction within Sydney Water drainage land will require the approval of Sydney Water.
- (d) Natural vegetation shall be maintained wherever possible.
- (e) Natural drainage channels are to be retained wherever possible.
- (f) Soil and Water Management Plans are to be submitted with all residential subdivisions and are to be designed in accordance with The Hills Shire Council's 'Works Specification, Subdivisions/Development' and the Department of Housing manual, 'Managing Urban Stormwater: Soils and Construction'.

2.8. UTILITIES PROVISION AND LOCATION

This Section of the DCP seeks to promote shared trench practices.

Advantages of shared trenches include:

- elimination of a number of single trenches each with its own construction, settlement and reinstatement problems.
- accurate location of services for possible repair or maintenance.

- less conflict between services as depth relativities are known.
- more efficient use of construction equipment.
- reduced verge and footpath disturbance enables earlier site development.

OBJECTIVES

- (i) *To maximise the opportunities for shared (common) trenching and reduce constraints on landscaping within road reserves.*
- (ii) *To ensure the provision of public utilities is undertaken in accordance with the requirements of both Council and the relevant servicing authority.*

DEVELOPMENT CONTROLS

- (a) Gas and water services may be located in a shared trench on one side of the street and electricity power and telephone located in a shared trench on the other side of the street. The Kellyville/Rouse Hill release area is also to be serviced with a recycled water supply which will require an increase in Sydney Water Corporation's service allocation.
- (b) The Council requires underground electricity reticulation for all urban residential development.
- (c) Where agreement to develop shared trench practices cannot be met the alignment of services shall be to a standard acceptable to Council.
- (d) Council requires the provision of street tree planting within all verge areas and service authorities are expected to cooperate to ensure this is achieved.
- (e) Provision of all utilities and services is to be supplied and constructed in accordance with the requirements of the relevant authority.
- (f) Details of the location of all sewer reticulation mains are to be supplied to Council for assessment of environmental and property considerations.
- (g) Development is to have water supply for fire fighting purposes in accordance with Specification E1.2 of the Building Code of Australia.
- (h) Concurrence from the relevant Electricity Authority is required for all subdivision

applications where the property is affected by electricity easements.

- (i) Road verge widths are to be in accordance with Table 3.
- (j) Service allocations for local to sub-arterial roads are to be in accordance with Figure 11, subject to consultation with, and the requirements of, individual service providers.

2.9. PUBLIC RECREATION SPACE

Land set aside for open space use has been selected on the basis of its suitability for play facilities and the proposed recreation facilities set out in Council's Kellyville/Rouse Hill Open Space and Recreation Plan.

- **District Parks and Sports Complexes** perform a broad environmental and recreational function. Their distribution is site related and includes areas of conservation and environmental significance, while catering to needs of the district and local residents.
- **Local Open Space Parks** primarily provide for playspace with opportunities for supervised play within a maximum radius of 400 metres from any given residence.
- **The Greenway** is the primary off road open space connection that traverses the release area between Rouse Hill House and Bella Vista Homestead. The route of the Greenway has been determined to maximise the historic and scenic qualities of the release area, and to link major activity nodes such as active open space areas, schools, commercial centres, and community facilities.
- **Major Open Space Links** provide important off road connections through neighbourhoods and a range of landscape settings. They also connect open space areas, schools, commercial and community facilities.
- **Local Open Space Links** are planned within subdivisions to ensure direct access to local parks, schools, commercial centres and complement the pedestrian network provided along collector roads and access streets.
- **Drainage Links** are similar to Major Open Space Links except they occur along major drainage corridors.

OBJECTIVES

- (i) *To ensure the adequate protection of land identified for public open space purposes on the maps accompanying this Section of the DCP occurs during the subdivision and dwelling construction stage.*
- (ii) *To ensure the provision of open space occurs in accordance with the objectives and requirements set out in the Kellyville/Rouse Hill Landscape And Urban Design Strategy and Open Space and Recreation Plan (1998).*

DEVELOPMENT CONTROLS

- (a) Proposed plans of subdivision are required to set aside the area of land for public open space identified in the relevant map accompanying this Section of the DCP.
- (b) Footpath links are to be provided in accordance with the maps accompanying this Section of the DCP.
- (c) Where the maps accompanying this Section of the DCP identify road widening for provision of Greenway Link/Major Open Space Link, the road verge is to be widened in accordance with details provided in Figure 8. The additional area of verge is to be funded through the Kellyville/Rouse Hill Section 94 Contributions Plan No. 8A.
- (d) The maximum gradient of cyclepaths is not to be greater than the adjacent road pavement and is required to provide adequate sight distances at crossings.
- (e) A designated Cyclepath/Footpath route is to have the following pavement widths:
 - Greenway link: 3.0 metres
 - Major Open Space Link: 2.5 metres
 - Drainage Link: 2.5 metres
 - Roads with 3.5 metre verge: 2.0 metres
 - Existing previously rural road reserves: 2.0 metre wide path on both sides of road (Where identified as collector roads, refer to Figure 7).
- (f) Refer to the Kellyville/Rouse Hill Open Space and Recreation Plan for details of the location of the Greenway, Major Open Space and Drainage Links.
- (g) A shared pedestrian/cyclepath with a minimum width of 2 metres is to be provided adjacent to

all collector streets giving major access to a primary or high school, as indicated on maps 1, 2, 3 and 4 accompanying this Section of the DCP.

- (h) Pipes through bushland areas and areas with significant vegetation coverage are to be laid by hand with the aid of small machinery causing minimal disturbance to vegetation and exposed rock outcrops.
- (i) Local Drainage Links within subdivisions are to be a minimum of 5 metres width. The Developer is required to supply the land, 2 metre wide concrete path and planting in accordance with details indicated in Figure 11. Details are to be submitted with the engineering designs.
- (j) Where Local Links are required for open space purposes they are to be a minimum 5 metres width. Council will acquire and provide landscape works where identified in the Section 94 Contributions Plan.
- (k) No retaining walls are to be constructed adjacent to existing or proposed Open Space Parks, Open Space Links or SP2 infrastructure (Trunk Drainage) Land.
- (l) No filling is permitted within proposed Open Space Parks, Open Space Links or Trunk Drainage Land.
- (m) The provision of a 1.5 metre high chain wire fence around proposed open space parks with access provided by a lockable gate, at the developers expense is required.
- (n) Details of fence construction are to be provided by the proponent with the engineering designs.
- (o) The fence must be sited in such a way as to limit access into the open space area, ensuring protection of the area for the duration of subdivision and building construction.

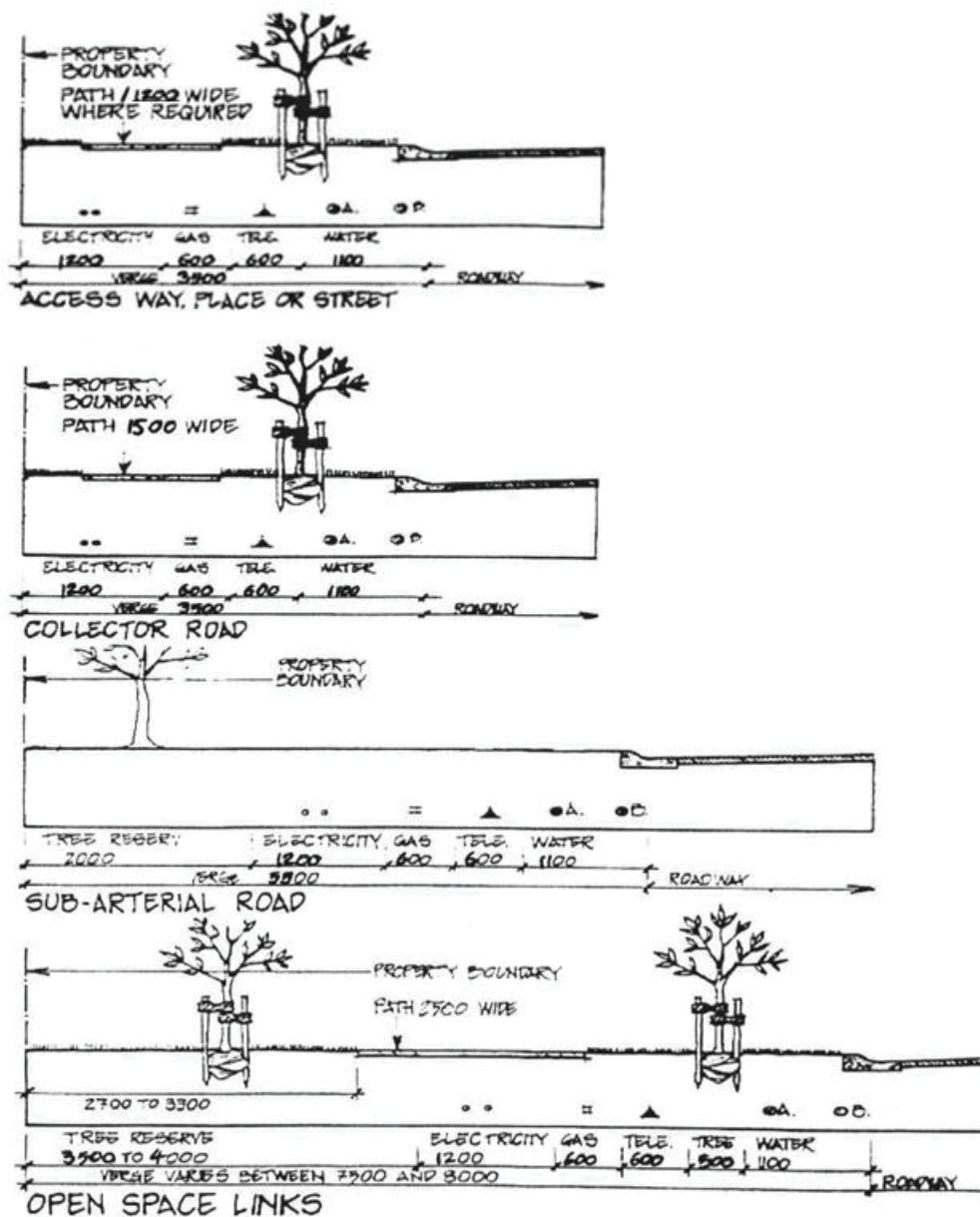
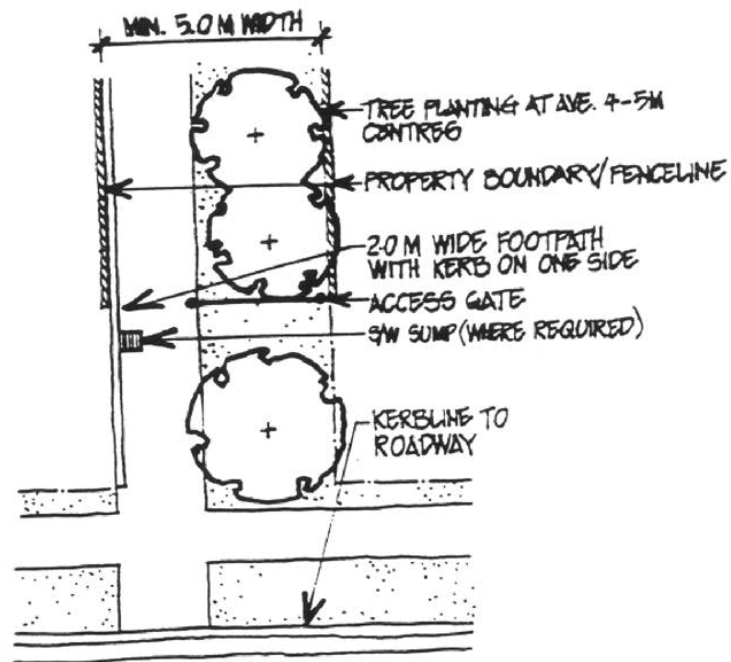
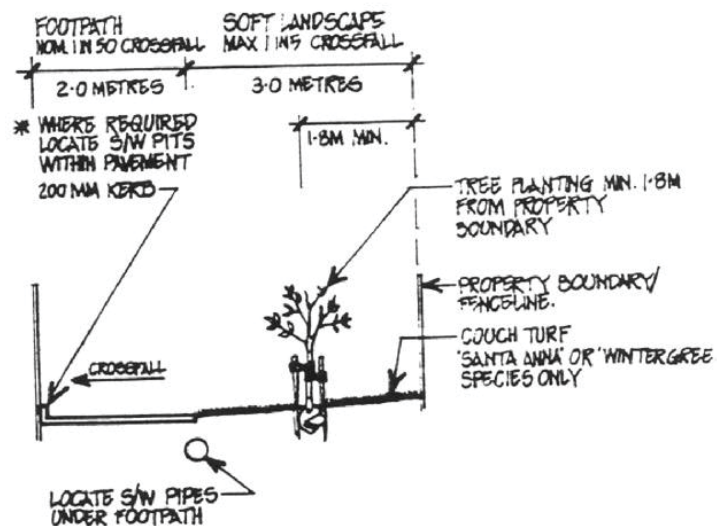


Figure 11 Service allocation



PLAN VIEW



SECTION VIEW

Figure 12 Local drainage links

3. DWELLING DESIGN

The following development control provisions primarily relate to the development of land for detached dwellings.

3.1. SITING OF BUILDINGS

OBJECTIVES

- (i) *To ensure that dwellings are designed with regard to site conditions and minimise the impact on landform.*
- (ii) *To ensure that dwelling design and siting have regard to the amenity of adjoining development and surrounding properties.*

DEVELOPMENT CONTROLS

- (a) Practical and stable access shall be provided from a public road to the building platform.
- (b) The building platform shall be sited in an accessible and practical location and on relatively flat terrain with stable soil and geology.
- (c) Dwellings should be sited so that their height does not detract from the use, appearance, and enjoyment of adjoining spaces and dwellings, including the protection of solar access, or privacy of adjoining neighbours.
- (d) The design and siting of dwellings should ensure that all habitable rooms and recreational open space receive adequate natural light.

3.2. TURKEY NEST PARK – HEIGHT RESTRICTIONS

OBJECTIVES

- (i) *To maintain views to and from Turkey Nest Park and adjoining Greenway Link.*
- (ii) *To maintain the visual prominence of Turkey Nest Park, the adjoining ridgeline to the north, and associated plantings within the urban landscape.*

DEVELOPMENT CONTROLS

- (a) All dwellings, within the area identified on the map (Sheet No.2 and Appendix 2)

accompanying this Section of the DCP as **Building Height Restriction A** shall be single storey in height and are not to exceed 1.5 metres above the level of the pedestrian path along the Greenway Link (including the roof and any other structure associated with the dwelling). This height restriction is to be measured perpendicular to the pathway direction. Cross sections are to be provided with all development applications.

- (b) All dwellings, within the area identified on the map (Sheet No.2 and Appendix 2) accompanying this Section of the DCP as **Building Height Restriction B** shall be single storey in height. Cross sections are to be provided with all development applications.
- (c) All dwellings, within the area identified on the map (Sheet No.2 and Appendix 2) accompanying this Section of the DCP as **Building Height Restriction C** are not to exceed 1.5 metres above the level of the pedestrian path along the Greenway Link. (including the roof and any other structure associated with the dwelling). This height restriction is to be measured perpendicular to pathway. Cross sections are to be provided with all development applications.
- (d) All dwellings, within the area identified on the map (Sheet No.2 and Appendix 2) accompanying this Section of the DCP as **Building Height Restriction D** are not to exceed two storeys in height. Cross sections are to be provided with all development applications.
- (e) Any variation to the above standards will only be considered by Council where :-
 - Compliance with the building height restriction is not possible; and
 - The design and siting of the dwelling incorporates the following:-
 - site excavation to reduce building height,
 - roof design to reduce the overall building height,
 - split level dwelling design, and
 - the maintenance of view lines to and from the ridgeline.
- (f) For Building Height Restriction areas A and B where single storey dwellings are required, consideration will be given to two storey

development where the overall height does not exceed the specified height restriction.

Note. The building height restriction areas and levels along the pathway within the Greenway Link are shown in Appendix 2 of this Section.

3.3. SETBACKS

OBJECTIVES

- (i) To provide visual separation of built forms, privacy and opportunities for landscaping.
- (ii) To protect sunlight and daylight to habitable rooms, protect and optimise useable open space around dwellings, and protect adjoining dwellings from excessive overlooking, overshadowing, and general loss of amenity.
- (iii) To provide sufficient space for vehicle parking, manoeuvrability and clear sight lines.
- (iv) To provide a useable area of private open space to the rear of a dwelling.

DEVELOPMENT CONTROLS

- (a) The minimum building setbacks are shown in the following table.

Table 4 Building setbacks

Location/Frontage	Setback
Primary Street	4.5 metres
Secondary Street (corner allotments)	2.0 metres
Garages	5.5 metres
Side Boundaries	0.9 metres
Rear boundary setback	
1 storey	4.0 metres (1)
2 storey	6.0 metres (2)
Arterial/Sub-Arterial Roads	
1 storey	6 metres
2 storey	8 metres

- In the case of rear boundary setbacks to single storey dwellings, that part of any single storey dwelling encroaching into the 4 metre rear building setback shall not be any wider than 50% of the rear boundary dimension (when measured in metres) to a maximum width of 7.5 metres. The minimum setback from the rear boundary to the external face of any wall comprising part of the dwelling shall not be less than 2 metres.

- Consideration to a larger proportion of the building width being permitted to occur at a minimum setback of 2 metres may be given, provided:-
 - a courtyard is provided to the side boundary with a minimum area of 24m²;
 - the courtyard has a minimum dimension of 4 metres;
 - it can be demonstrated that at least half (50%) of the courtyard will receive a minimum of 2 hours of direct sunlight between 9am and 3pm during mid winter; and
 - the site coverage control (Refer Section 3.5 of this Section of the DCP) is not exceeded.
- In the case of rear boundary setbacks to two storey dwellings, that part of the dwelling encroaching into the 6 metre rear building setback shall not be any wider than 50% of the rear boundary dimension (when measured in metres) to a maximum width of 7.5 metres, provided that part of the dwelling to be setback less than 6 metres from the rear boundary is single storey only. The minimum setback from the rear boundary to the external face of any wall comprising part of the dwelling shall not be less than 4 metres.
- (b) For all dwelling houses the primary street façade must be suitably articulated and incorporate two of the following design elements:-
 - Non-enclosed verandah for at least 40% of the dwelling width;
 - Entry feature or portico;
 - Awnings or similar treatment used over windows;
 - Balcony or window box treatment to first floor element;
 - Recesses or projection of prominent architectural elements to visually break up the façade and avoid blank wall appearance;
 - Use of bay window or similar along façade; and
 - Verandah, pergola or similar provided over garage doors.
- (c) For corner allotments garages shall not form part of the secondary street setback.
- (d) In addition to the setback requirement all dwellings fronting or backing onto arterial roads are to be constructed with appropriate materials

to attenuate noise and designed to acceptable internal noise levels, based on EPA – Environmental Criteria for Road Traffic Noise and Australian Standard 3671 – Road Traffic Noise Intrusion – Building Siting and Construction.

3.4. SITE COVERAGE AND PRIVATE OPEN SPACE

OBJECTIVES

- (i) *To maximise the provision of open space.*
- (ii) *To avoid the creation of drainage and runoff problems, through minimising the amount of impervious area.*
- (iii) *To minimise bulk and scale of residential development.*
- (iv) *To facilitate spatial separation between buildings.*
- (v) *To provide adequate space within residential lots for the establishment of landscaping/tree planting to enhance the quality of the residential environment.*
- (vi) *To provide outdoor living space which is an extension of the dwelling for the enjoyment of its inhabitants.*

DEVELOPMENT CONTROLS

- (a) The maximum site coverage (including garage/carport, driveways, outbuildings, decks, patios, paved areas, tennis courts and pools) for residential development on residential zoned land, as a percentage of the total site area shall not exceed 60% where two storey dwellings are proposed, and 65% where single storey dwellings are proposed. Except for land zoned E4 Environmental Living where the maximum site coverage shall not exceed 30%.

Private Open Space

- (b) The principal private open space area (behind the front building line) must be able to contain a rectangle measuring 4 metres x 6 metres.

3.5. CORNER LOTS

OBJECTIVES

- (i) *To ensure that dwellings sited on corner allotments take advantage of their visually prominent location whereby the design addresses both street frontages.*
- (ii) *To ensure that the dwelling façade along the secondary street frontage provides architectural relief to the streetscape.*

DEVELOPMENT CONTROLS

- (a) On corner allotments a minimum of two of the following design elements are to be included along the secondary frontage:-
 - Verandahs;
 - Gables;
 - Vertical elements to reduce the horizontal emphasis of the façade;
 - Entry feature or portico;
 - Balcony/window boxes or similar elements; and
 - Landscaping/fencing compatible with the frontage status of elevation.
- (b) The following features are not to occur along either façade:-
 - Blank walls without relief;
 - Windows/doors of utility rooms exposed to view; and
 - Hot water services or similar utility installations.
- (c) Any high fencing along the secondary street frontage exceeding 1.2 metres in height should be limited to 60% of the frontage and occur toward the rear of the allotment. Any low fencing equal to or less than 1.2 metres in height may occur toward the front of the allotment.

Reference is made to Appendix 4 of this Section, which provides an example of the dwelling design controls for corner allotments.

3.6. GARAGE DESIGN

OBJECTIVES

- (i) *To reduce the visual dominance of garages.*

- (ii) *To improve the visual quality of the overall built form and streetscape.*

DEVELOPMENT CONTROLS

- (a) Carports and garages shall be designed to be:-
- visually subservient;
 - integrated into the overall dwelling design; and
 - constructed of similar materials and finishes to the dwelling.
- (b) Where a double garage is proposed a minimum of two of the following design measures are to be employed:-
- Garage doors are divided by a vertical masonry pillar or similar;
 - Upper floor element projected forward of the garage to cast shadow and take prominence;
 - Colours and textures to ensure garage doors do not dominate the street elevation;
 - Verandah or pergola provided across the face of the garage;
 - Utilisation of vertical elements to mitigate the horizontal emphasis of the garage;
 - Garage entrance to be orientated away from primary street frontage to face the side boundary; and
 - Staggered garages whereby one garage is setback from the adjoining garage.

Reference is made to Appendix 5 of this Section which provides examples of the garage design controls.

4. HOUSING AS PER CLAUSE 4.1 B OF THE HILLS LOCAL ENVIRONMENTAL PLAN 2012

4.1. MASTERPLAN REQUIREMENT AND APPLICATION OF DEVELOPMENT CONTROLS

OBJECTIVES

- (i) *To provide greater flexibility in the design of larger housing developments.*
- (ii) *To demonstrate that all of the relevant design objectives of this Section of the DCP can be satisfied.*

DEVELOPMENT CONTROLS

- (a) Where a development application for development in accordance with Clause 4.1 B of The Hills LEP 2012, Council may set aside a number of the provisions of this Section of the DCP where:
- The proposal has been the subject of pre-lodgement discussions with Council's planning services staff;
 - A Masterplan is prepared and submitted with the development application; and
 - The Masterplan is able to satisfactorily demonstrate the achievement of the objectives for each development control.
- (b) The above provision does not apply to the following development controls:-
- Density;
 - ESD;
 - Site Boundary Setbacks;
 - Site Coverage;
 - Vehicular Access;
 - Open Space; and
 - Energy Efficiency.

SUBMISSION REQUIREMENT

- Where required applicants are required to submit a detailed coloured Masterplan of the proposed development at 1:200 scale showing contours, adjoining development, major site constraints, internal roadways, areas of common open space, dwelling locations, landscaping, private open space areas, and using annotation justification of any variation sought to the development controls of this Section of the DCP.

4.2. SITING OF BUILDINGS

OBJECTIVES

- (i) *To ensure that dwellings are designed with regard to site conditions and minimise the impact on landform.*
- (ii) *To ensure that dwelling design and siting have regard to the amenity of adjoining development and surrounding properties.*

DEVELOPMENT CONTROLS

- (a) Practical and stable access shall be provided from an internal roadway to the building platform.
- (b) Dwellings shall be sited in an accessible and practical location and on relatively flat terrain with stable soil and geology.
- (c) Dwellings should be sited so that their height does not detract from the use, appearance, and enjoyment of adjoining spaces and dwellings, including the protection of solar access, or privacy of adjoining neighbours.
- (d) The design and siting of dwellings should ensure that all habitable rooms and the principle private open space area receive adequate natural light.

SUBMISSION REQUIREMENT

- Plans must show contours, building platforms and their relationship to the internal road system and adjoining dwellings.

4.3. SETBACKS**OBJECTIVES**

- (i) *To create an attractive, interesting and pleasant streetscape through the siting of buildings.*
- (ii) *To provide visual separation of built forms, privacy and opportunities for landscaping.*
- (iii) *To protect sunlight and daylight to habitable rooms, protect and optimise useable open space around dwellings, and protect adjoining dwellings from excessive overlooking, overshadowing, and general loss of amenity.*
- (iv) *To provide sufficient space for vehicle parking, manoeuvrability and clear sight lines.*

DEVELOPMENT CONTROLS

- (a) Where dwellings abut public land, public roads or private property not part of the development application, the minimum setbacks in Table 5 shall apply.

Table 5 Building setbacks to site boundaries

Frontage	Setback
Primary Street	4.5 metres

Secondary Street	2 metres
Side Boundary to adjoining property	2 metres
Rear boundary setback	
Arterial or Sub-Arterial	
1 storey	6 metres
2 storey	8 metres
All other streets	3 metres

- (b) All garages are to be set back a minimum of 5.5 metres from the primary street frontage or internal roadways.
- (c) For all dwellings the façade must be suitably articulated and incorporate two of the following design elements:-
 - Non-enclosed verandah for at least 40% of the dwelling width;
 - Entry feature or portico;
 - Awnings or similar treatment used over windows;
 - Balcony or window box treatment to first floor element;
 - Recesses or projection of prominent architectural elements to visually break up the façade and avoid blank wall appearance;
 - Use of bay window or similar along façade; and
 - Verandah, pergola or similar provided over garage doors.
- (d) All side setbacks are to be proportioned to the slope of the site having regard to the height and relationship of the building on adjoining properties and will be required to demonstrate:
 - building setbacks that progressively increase as wall heights increase to reduce bulk and overshadowing; and
 - setbacks which provide adequate separation between buildings for visual amenity, solar access, movement and landscaping.
- (e) With respect to building setbacks from private internal driveways and/ or access roads the development on the subject land will be required to demonstrate:
 - building setbacks that progressively increase as wall heights increase to reduce bulk and overshadowing; and
 - that an adequate area is provided between the dwelling and the driveway or private access road to enable adequate areas for

- landscaping ensuring an attractive, vibrant and consistent streetscape.
- (f) Buildings facing each other across internal driveways or private access roads shall not be erected less than:-
- 6 metres apart in the case of single storey development; and
 - 9 metres apart in the case where 1 or more of the buildings is 2 storey.

SUBMISSION REQUIREMENT

- Site plans must clearly indicate setbacks from adjoining public land, public roads or private property not part of the development application, in addition to all front, rear and side setbacks within the development.

4.4. ZERO LOT LINE HOUSING

Note. Council may consider a setback of zero metres along one side boundary (known as zero lot line housing) subject to the compliance with the objectives and development controls outlined below. The purpose of these controls is to ensure an appropriate relationship is established between individual dwellings within the development. They do not apply to the overall site boundaries.

OBJECTIVE

- (i) *To facilitate the more efficient use of land, concentrate open space in a useable focus, optimise areas of sun and shade, and enhance privacy by avoiding overlooking and noise intrusion.*

DEVELOPMENT CONTROLS

- (a) Zero lot line housing shall occur only on the southern side boundary of east-west allotments and either side boundary (but not both sides) of north-south allotments.
- (b) Access to the external face of a zero lot line wall may be protected by easements on the Certificate of Title to adjoining allotments. If such an easement is to be provided, it should be noted at the outset and be included on plans of subdivision submitted to Council.

- (c) No dwelling built on the zero lot line is to abut an adjoining dwelling also built on the zero lot line.
- (d) No windows are to occur along the boundary wall which is to be constructed of maintenance free materials such as face brick or masonry materials, with gutters, eaves and fascias constructed of colorbond steel or similar with no visible downpipes.
- (e) The length of zero lot line walls for single storey dwellings shall be a maximum of 10 metres.
- (f) Walls may be constructed on the boundary where:-
- Eaves, fascias and gutters do not overhang on adjoining property; or
 - Box gutters are utilised and inset within the wall; and
 - A restriction as to user is created for a one metre wide maintenance easement over the adjoining property pursuant to Section 88B of the Conveyancing Act.

4.5. VEHICULAR ACCESS

OBJECTIVES

- (i) *To provide an acceptable level of vehicular access, safety and convenience for all users of the development.*
- (ii) *To ensure that the internal roadway design can satisfactorily accommodate the expected traffic volumes of the development.*
- (iii) *To provide a safe environment for both pedestrians and vehicles using the site and surrounding road network.*
- (iv) *To provide a direct and legible means of vehicular access and circulation within the development.*

DEVELOPMENT CONTROLS

- (a) Internal roadways are to have a minimum width of 6m at the property boundary for a distance of 6m within the development to ensure the safe movement of vehicles into and out of the site from the public road system.
- (b) All internal roadways are to be of a sufficient width to adequately accommodate the volume of traffic generated by the development.

- (c) Table 3 – ‘Characteristics of Street Types’ of this Section of the DCP is to be used as a guide in determining the required width and design of an internal roadway.
- (d) The internal roadway design should make provision for service vehicles where possible.
- (e) Internal roadways should be separated from any adjoining property boundaries by a landscaped verge at least 2 metres in width.

SUBMISSION REQUIREMENT

- Applicants are required to submit plans and details with the development application of proposed vehicular access arrangements, circulation patterns, internal carriageway widths, and demonstrate that the carriageway width and design will satisfactorily accommodate the expected traffic volumes.

4.6. HEIGHT

OBJECTIVES

- (i) *To minimise the impact of overshadowing, loss of privacy on adjoining properties and open space areas.*
- (ii) *To ensure the height of small lot housing forms are compatible with adjoining residential development and the overall streetscape.*

DEVELOPMENT CONTROLS

- (a) Refer to Clause 4.3 *Height of buildings* in The Hills LEP 2012.
- (b) For corner allotments consideration will be given to a three storey element at the street corner of the dwelling which addresses its prominent location within the streetscape.

SUBMISSION REQUIREMENT

- The height all dwellings measured from natural ground level to the eaves and to the roof ridgeline is to be shown on all plans and elevations.

4.7. STREETSCAPE

OBJECTIVE

- (i) *To ensure small lot housing forms are of a high visual quality, enhance the streetscape and are compatible with the existing streetscape.*

DEVELOPMENT CONTROLS

- (a) The proposed development must contribute to an attractive residential environment with clear character and identity.
- (b) Small lot housing forms are to address the public road frontage, internal roadways, and side boundaries with a building form compatible with adjoining development in terms of street elevation, bulk and scale, quality materials and finishes.

SUBMISSION REQUIREMENTS

- All development applications for small lot housing are to be accompanied by a streetscape plan and typical elevation showing the visible components within a street. As a minimum it is to include:-
 - the street reserve together with typical cross sections;
 - location and detailing of pavement, parking bays footpaths and the like;
 - location of landscaping including fencing, lighting and street tree plantings;
 - typical dwelling front alignments, heights and façade designs; and
 - a schedule of external materials, finishes, colours.

4.8. OPEN SPACE

OBJECTIVES

- (i) *To provide outdoor living space which is an extension of the dwelling for the enjoyment of its inhabitants.*
- (ii) *To provide outdoor living space which is of useable dimensions and which is located to receive a reasonable quantity of sunlight.*
- (iii) *To enhance the quality of the built environment by providing high quality landscaping.*

- (iv) *To promote a pleasant and safe living environment.*
- (v) *To provide functional open space within the development for the informal recreation of residents and children's play.*

DEVELOPMENT CONTROLS

- (a) All private open space areas are to be:
 - contiguous to, and accessible from, the primary living areas of the dwelling;
 - located and oriented to ensure it is not directly overlooked from adjoining lots or buildings; and
 - located on relatively flat land to ensure it is useable as open space.
- (b) All common open space areas are to be:
 - centrally located and easily accessible to all residents within the development;
 - provided with direct frontage to an internal roadway for at least 70% of the total open space boundary;
 - of a configuration, slope, and design so as to ensure it is easily maintained;
 - located to ensure the area receives adequate sunlight during mid-winter;
 - of a sufficient size to satisfy the immediate open space demands of the proposed population and accommodate informal active recreational activities; and
 - provided with passive surveillance whereby surrounding dwellings are orientated toward the common open space.
- (c) A minimum area of private open space per allotment is to be provided being 20% of the allotment area of the individual dwelling. All side boundary passages less than 2 metres in width are to be excluded from the calculation of private open space.
- (d) The principle private open space area must be able to contain a minimum area of 24m² and have a minimum dimension of 4 metres.
- (e) At least half (50%) of the principle private open space area is to receive a minimum of 2 hours direct sunlight between 9am and 3pm during mid-winter.
- (f) Where a small lot housing development consists of more than five dwellings a common open space area comprising a child play area

or recreation activities area is to be provided within the overall site

- (g) The common open space area must have a minimum dimension of 12 metres x 12 metres.
- (h) For developments consisting of 15 or more dwellings the common open space area is to comprise an area equivalent to ten square metres per dwelling.
- (i) Access for all residents to the common open space area is to be guaranteed via the titling system.
- (j) The majority of the common open space area is to receive direct sunlight between 9am and 3pm during mid-winter.

SUBMISSION REQUIREMENT

- Plans are to indicate those areas (including dimensions) of any part of the site to be used for private open space or common open space purposes, and demonstrate compliance with the subject development controls.

4.9. CAR PARKING

OBJECTIVES

- (i) *To ensure dwellings have adequate areas of ingress and egress from the local road system and satisfactory on-site access.*
- (ii) *To provide sufficient and convenient parking for residents of and visitors to the site.*
- (iii) *To ensure that adequate car parking is provided on-site so as to prevent inconvenience to residents and congestion in nearby streets.*

DEVELOPMENT CONTROLS

- (a) A minimum of two car parking spaces are to be provided per dwelling of which one space must be within a garage. Should a carport be proposed for the second space, the design of the carport shall be of similar materials as the dwelling, and be located behind the building setback.
- (b) Carports and garages facing a public place are to be no more than 6 metres in width nor extend across more than 50% of the property frontage, whichever is the lesser.

- (c) Carports and garages are to be designed to be:-
- visually subservient;
 - integrated into the overall dwelling design; and
 - constructed of similar materials and finishes to the dwelling.
- (d) Where a double garage is proposed a minimum of two of the following design measures are to be employed:-
- Garage doors are divided by a vertical masonry pillar or similar;
 - Upper floor element projected forward of the garage to cast shadow and take prominence;
 - Colours and textures to ensure garage door subservience;
 - Verandah or pergola provided across the face of the garage;
 - Utilisation of vertical elements to mitigate the horizontal emphasis of the garage;
 - Garage entrance to be orientated away from primary street frontage to face the side boundary; and
 - Staggered garages whereby one garage is setback from the adjoining garage.

Refer to Appendix 5, which provides examples of the garage design controls.

4.10. SITE COVERAGE

OBJECTIVES

- (i) *To maximise the provision of open space.*
- (ii) *To avoid the creation of drainage and runoff problems, through minimising the amount of impervious area.*
- (iii) *To minimise bulk and scale of residential development.*
- (iv) *To facilitate spatial separation between building.*
- (v) *To provide adequate space within allotments for the establishment of landscaping/tree planting to enhance the quality of the residential environment.*
- (vi) *To provide an outdoor landscaped open space area for the enjoyment of inhabitants.*

DEVELOPMENT CONTROL

- (a) The maximum site coverage (including dwellings, roads, garage/carport, driveways, outbuildings, decks, patios, paved areas, tennis courts and pools) for the total development site area shall not exceed 60%.

4.11. LANDSCAPING

OBJECTIVES

- (i) *To enhance the quality of the built environment by providing a high standard of landscaping.*
- (ii) *To ensure that landscaping may be efficiently maintained.*
- (iii) *To promote a pleasant and safe living environment.*
- (iv) *To limit tree removal to maintain the character of the area.*
- (v) *To satisfy Council's ESD objectives No. 3, 4 & 7.*

DEVELOPMENT CONTROLS

- (a) The minimum required landscaped or naturally vegetated area for small lot housing as a percentage of the total site area is 40%.
- (b) Landscaping is to be provided in accordance with the provisions set out in Part C Section 3 of this DCP.
- (c) Tree planting within the development is to be consistent with the tree species selection and planting guidelines provided in Appendix 1.
- (d) Existing trees should be preserved.
- (e) Native species are to be used to maintain a strong natural theme for the neighbourhood due to their low maintenance characteristics, relative fast growth, aesthetic appeal and compatibility with the natural habitat.
- (f) All landscaped areas are to have a minimum width of 2 metres.

SUBMISSION REQUIREMENTS

Landscaping plans are to be submitted with the development application and should include the following:

- North point;

- Scale;
- Main structures on the site (buildings, visitor car parking, driveways, walls, fences, paving, storage areas, etc.);
- Proposed planting and turfed areas;
- Drainage areas;
- All fencing details; and
- Name and contact telephone number of the person who prepared the plans.

All existing trees on site are to be shown on the development application plans with an indication of those trees that are proposed to be retained, and those that are to be removed.

4.12. CORNER LOTS

Refer to section 3.6 of this section of the DCP.

4.13. SOLAR ACCESS

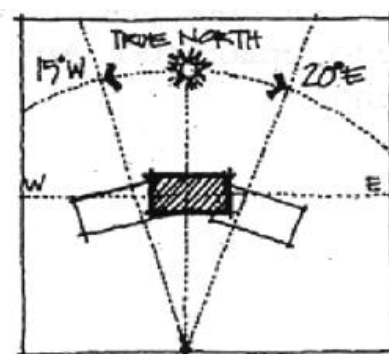
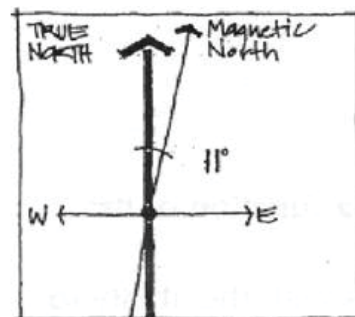
OBJECTIVES

- To maximise solar access to internal living and open space areas in winter.*
- To ensure no adverse overshadowing of adjoining allotments/developments.*
- To orient the development in a way that best allows for appropriate solar access and shading, to ensure energy efficient outcomes in accordance with Council's ESD objective 5.*
- To minimise the need for artificial lighting in dwellings during the day, to ensure energy efficient outcomes in accordance with Council's ESD objective 5.*
- To orientate dwellings so that the living areas face north.*

DEVELOPMENT CONTROLS

- Dwellings should be sited to allow adequate provision for access of direct sunlight to adjacent dwellings.
- Living areas of dwellings shall be orientated to the north wherever possible.
- Dwellings areas should be sited to maximise the amount of direct sunlight available to clothes drying areas.
- Dwellings are to be orientated to promote direct sunlight. Ideally, face the long axis of the development up to 30 degrees east and 20

degrees west of true north. This is illustrated in the following diagrams:



Source: BDP Environment Design Guide

- Where winter solar access is not optimum consider the use of double-glazing or high performance glass.
- Windows to living areas or bedrooms should have suitable shading or other solar control to avoid summer overheating and are to be integrated into the overall elevation design.
- Consider the use of horizontal shading devices (for north facing windows) including eaves, verandahs, pergolas, awnings and external horizontal blinds to allow low summer sun whilst providing shade from high summer sun.

SUBMISSION REQUIREMENT

Shadow Diagrams may be required to identify the shadow impact of any development on adjoining properties.

4.14.PRIVACY – VISUAL AND ACOUSTIC**OBJECTIVES**

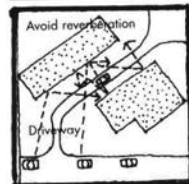
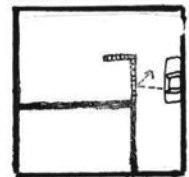
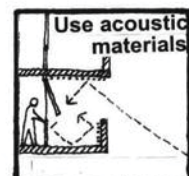
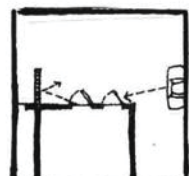
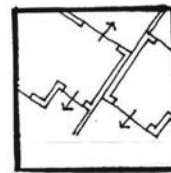
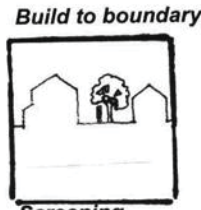
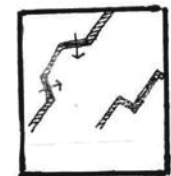
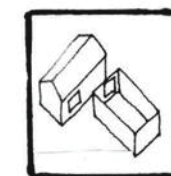
- (i) *To site and design buildings to ensure visual privacy between dwellings in accordance with Council's ESD objective 7.*
- (ii) *To avoid overlooking of living spaces in dwellings and private open spaces.*
- (iii) *To contain noise within dwellings and communal areas without unreasonable transmission to adjoining dwellings.*

DEVELOPMENT CONTROLS

- (a) Buildings are to be designed to ensure maximum protection of privacy, in particular the privacy of primary living areas must be protected. Where appropriate consideration should be given to:
- (b) using windows that are narrow, translucent or obscured or have window sills a minimum of 1.5 metres above the upper storey floor level.
- (c) ensuring that windows that face directly to the windows, balconies or yards of adjoining dwellings are appropriately screened.
- (d) First floor balconies will not be permitted where they overlook living areas of adjacent dwellings.
- (e) Windows should be placed to minimise direct viewing between dwellings.
- (f) Dwellings are to be designed to limit the potential for noise transmission to the living and sleeping areas of adjacent existing and future developments.
- (g) Careful consideration should be given to the location of air-conditioning systems, swimming pools and the like to minimise the impact on the amenity of adjoining properties.
- (h) Private open space areas and driveways are to be designed to minimise noise impacts.
- (i) Dwellings that adjoin arterial or sub-arterial roads are to be designed to acceptable internal noise levels, based on Environmental Protection Authority – Environmental Criteria for Road Traffic Noise and Australian Standard 3671 – Road Traffic Noise Intrusion – Building Siting and Construction.

SUBMISSION REQUIREMENT

- Statement from a qualified acoustic consultant certifying that the design and construction of the building meets the Environmental Protection Authority – Environmental Criteria for Road Traffic Noise and Australian Standard 3671 – Road Traffic Noise Intrusion – Building Siting and Construction.

Design TechniquesAcoustic Privacy*Avoid reverberation**Screen wall to shield noise**Bottom opening windows**Direction of window opening away from noise*Relationship Between DwellingsVisual PrivacyScreening*Screening**Bay windows**Offset windows*Window Style And MaterialsLocation and Direction of Windows

Source: Australia's Guide to Good Design – Residential

4.15. ACCESS AND SURVEILLANCE**OBJECTIVES**

- (i) *To ensure the needs of residents and visitors are considered with particular regard to access requirements, safety and security in accordance with Council's ESD objective 9.*
- (ii) *To promote incorporation of community safety aspects in the development design in accordance with Council's ESD objective 8.*

DEVELOPMENT CONTROLS

- (a) Small lot housing developments are to provide safe and convenient access for prams, wheelchairs and people with disabilities from the public road to all areas of the development.
- (b) The design of an integrated development is to demonstrate consideration of resident safety and security whereby pedestrian pathways and associated areas are not to be obscured, but rather provided with natural surveillance.
- (c) The siting and design of dwellings shall ensure surveillance of all common areas.
- (d) Access to dwellings is to be direct and without unnecessary barriers. For example, use ramps instead of stairs/steps, consider the height and length of handrails and eliminate changes in level between ground surfaces.
- (e) Stairs and ramps are to have reasonable gradients and non slip even surfaces. Refer to AS 1428.1 - 1988 Design for Access and Mobility and supplementary AS 1428.2 - 1992.

4.16. FENCING**OBJECTIVE**

- (i) *To ensure that fencing is of a high visual quality, complements the character of the existing streetscape and is compatible with the proposed development.*

DEVELOPMENT CONTROLS

- (a) Where fencing is proposed, it is to form part of the architectural design concept for the site.
- (b) Where there is no front fencing within the existing public road streetscape, front fencing to the public road frontage is to be avoided to maintain an open streetscape appearance.
- (c) Consideration will be given to fencing on secondary public road frontage setbacks, subject to there being no adverse affect on the immediate area and on traffic visibility and be of a design to incorporate features such as landscaping bays or a variation/combination of materials.

5. LOT 5 DP 30916, COMMERCIAL ROAD, ROUSE HILL

This section of the Development Control Plan applies to land at Lot 5 DP 30916, Commercial Road, Rouse Hill (Figure A).

The controls within this section apply in addition to other relevant controls in this DCP, however where there is any inconsistency the provisions of this section shall apply.



Figure A – The site

The objectives and development controls outlined in this section aim to:

- (i) Facilitate a high quality residential and commercial development that responds appropriately to its context in terms of built form and scale.
- (ii) Ensure that future development on the site provides amenity to residents within and surrounding the site.
- (iii) Ensure that appropriate access and connectivity is provided to and from the site including the construction of the Green Hills Drive extension along the site's eastern boundary.
- (iv) Provide for development which supports the viability of the Rouse Hill Train Station and the adjacent Rouse Hill Regional Centre.

Refer to The Hills Local Environmental Plan 2012 for development standards relating to building height, floor space ratio and permitted number of dwellings on land to which this section applies.

4.17.1 SITE LAYOUT

OBJECTIVES

- (i) To achieve a site layout that maximises development opportunities whilst providing ample, quality open spaces.
- (ii) To integrate future development with surrounding land uses and ensure a suitable interface is provided between development on the site and surrounding lower scale residential development.
- (iii) To enable the provision of the Green Hills Drive extension.

DEVELOPMENT CONTROLS

- (a) The layout of future development shall be generally in accordance with Figure B.



Figure B – Indicative site layout and built form

4.17.2 ACCESSIBILITY

OBJECTIVES

- (i) To ensure safe and efficient vehicular access is provided to and from the site.

DEVELOPMENT CONTROLS

- (a) The extension of Green Hills Drive must be constructed and dedicated to Council, in accordance with the designs adopted by Council, as detailed within the Voluntary Planning Agreement dated TBA (Figure C).

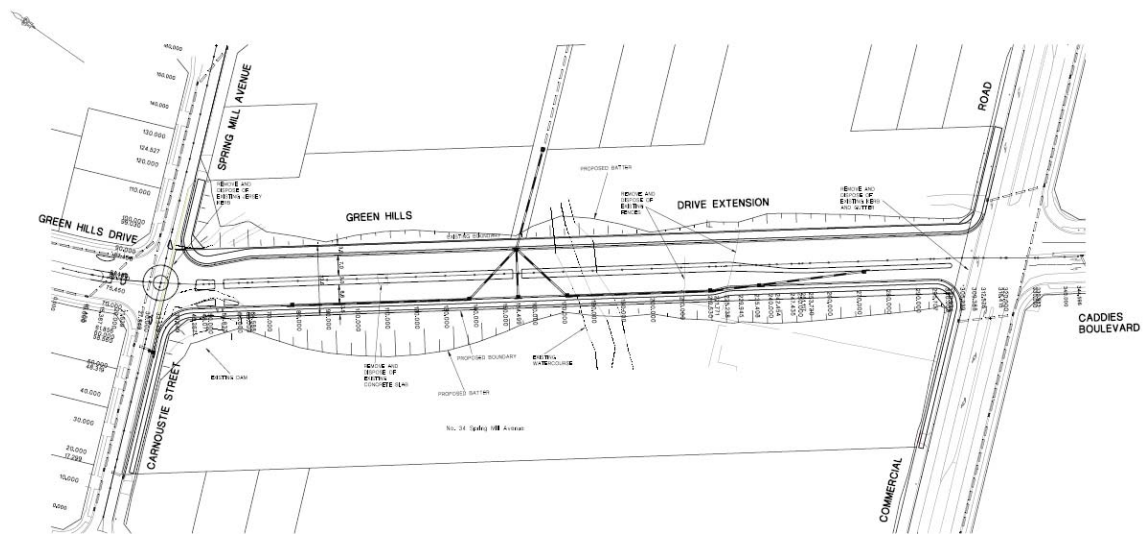


Figure C – Extract of Council's Approved Design Plan

4.17.3 BUILDING HEIGHTS**OBJECTIVES**

- (i) To enable building heights that respond to surrounding development, particularly lower density forms of residential development.
- (ii) To minimise the bulk and scale of development when viewed from surrounding residential areas.

DEVELOPMENT CONTROLS

- (a) Building heights on the site are to generally comply with the number of storeys indicated in Figure B.
- (b) If future development does not comply with the controls within **Clause 7.12 of The Hills Local Environmental Plan 2012 Part B Section 5—Residential Flat Buildings of this DCP** relating to unit size/mix and car parking, the maximum height of buildings permitted on the site is to be in accordance with Figure D.



Figure D - Building heights if not compliant with **LEP2012 Clause 7.12 Council's unit size/mix and car parking controls**

4.17.4 SETBACKS**OBJECTIVES**

- (i) To protect privacy and amenity of adjoining land uses and to reduce bulk and scale.

DEVELOPMENT CONTROLS

- (a) Development shall be setback from Commercial Road by:
 - A minimum of 6 metres for residential development.
 - A zero setback may be provided for retail/commercial floors that provide active frontages.
- (b) Development shall be setback from Green Hills Drive by 8 metres.
- (c) Development shall be setback from the western site boundary by 6 metres.
- (d) High quality landscaping is to be planted within setbacks.

4.17.5 COMMON OPEN SPACE**OBJECTIVES**

- (i) To provide recreational opportunities for all residents of the development.

DEVELOPMENT CONTROLS

- (a) A common open space area with dimensions of at least 50 metres x 50 metres must be provided within the northern portion of the site fronting the western property boundary, Carnoustie Street and Green Hills Drive.
- (b) Common open space areas are encouraged elsewhere throughout the site to provide a natural setting with ample spaces for passive recreation.

4.17.6 UNIT LAYOUT AND DESIGN

Refer to **Part B Section 5—Residential Flat Building of this DCP**.

4.17.7 CAR PARKING

Refer to **Part C Section 1—Parking of this DCP**.

4.17.6 ACTIVE STREET FRONTAGES**OBJECTIVES**

- (i) To ensure that the development is active and inviting and emphasises the pedestrian where practical and possible.

DEVELOPMENT CONTROLS

(a) Active frontages are required for retail/commercial development at ground level fronting Commercial Road and Green Hills Drive. Active frontages are defined as one or a combination of the following:

- Entrance to retail;
- Shop front;
- Café or restaurant if accompanied by an entry from the street;
- Glazed entryway;
- Street entryway.

4.17.7 BUILDING MATERIALS AND FINISHES**OBJECTIVES**

(i) To ensure future development is of a high quality and demonstrates an appreciation for urban design.

DEVELOPMENT CONTROLS

- (a) Building materials and finishes are to be generally in accordance with Figures E and F.
- (b) Materials shall be low maintenance and generally comprise natural/neutral colours.
- (c) Painted surfaces are to be limited to accents such as soffits and architectural features for added visual interest.

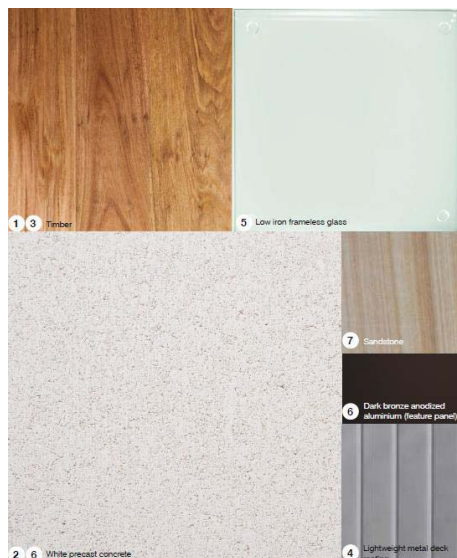


Figure E – Proposed material pallet



Figure F – Example materials and finishes

4.17.8 HERITAGE

Refer to Part C Section 4 – Heritage of this DCP

SUBMISSION REQUIREMENT

- (a) An archaeological assessment involving the identification and assessment of aboriginal objects and their management based on archaeological criteria; and
- (b) A cultural heritage assessment involving consultation with aboriginal stakeholders and can include historical oral history assessment and broader values assessment.

4.17.9 VEGETATION**OBJECTIVES**

(i) To ensure the significant vegetation on the site is retained.

DEVELOPMENT CONTROLS

- (a) Future development should have regard to opportunities to retain threatened species on the site, particularly within the pocket park.

APPENDIX 1 - TREE SPECIES SELECTION AND PLANTING GUIDELINES

TREE SPECIES SELECTION PRINCIPLES

The attached plans establish neighbourhood character zones based on the landscape topography, neighbourhood boundaries, character and features of the release area.

The plan establishes four main zones where distinct landscape characters will be established:

- Drainage Landscape Zone.
- Native Landscape Zone.
- Cultural Landscape Zone.
- Ridgetop Landscape Zone.

Proposed tree species lists for each zone are identified on the basis of the site characteristics and the intended character, allowing for a varied and contrasting landscape to be established.

Works involving restoration of bushland must utilise indigenous species and following establishment have low ongoing maintenance requirements.

For works within open space areas refer to the Kellyville Rouse Hill Open Space and Recreation Plan 1998 and seek discussions with Council prior to submission of any plans for approval.

1.1 Street Tree Species Matrix

The tree species matrix includes species that are considered suitable for growing in the area covered by this Development Control Plan, and are long lived species that will require minimum maintenance while growing in urban conditions.

The species list has been developed to respond to the microclimatic conditions including exposure to harsh weather conditions, soil, drainage conditions and aspect as well as the space allocated within road reserves and drainage land.

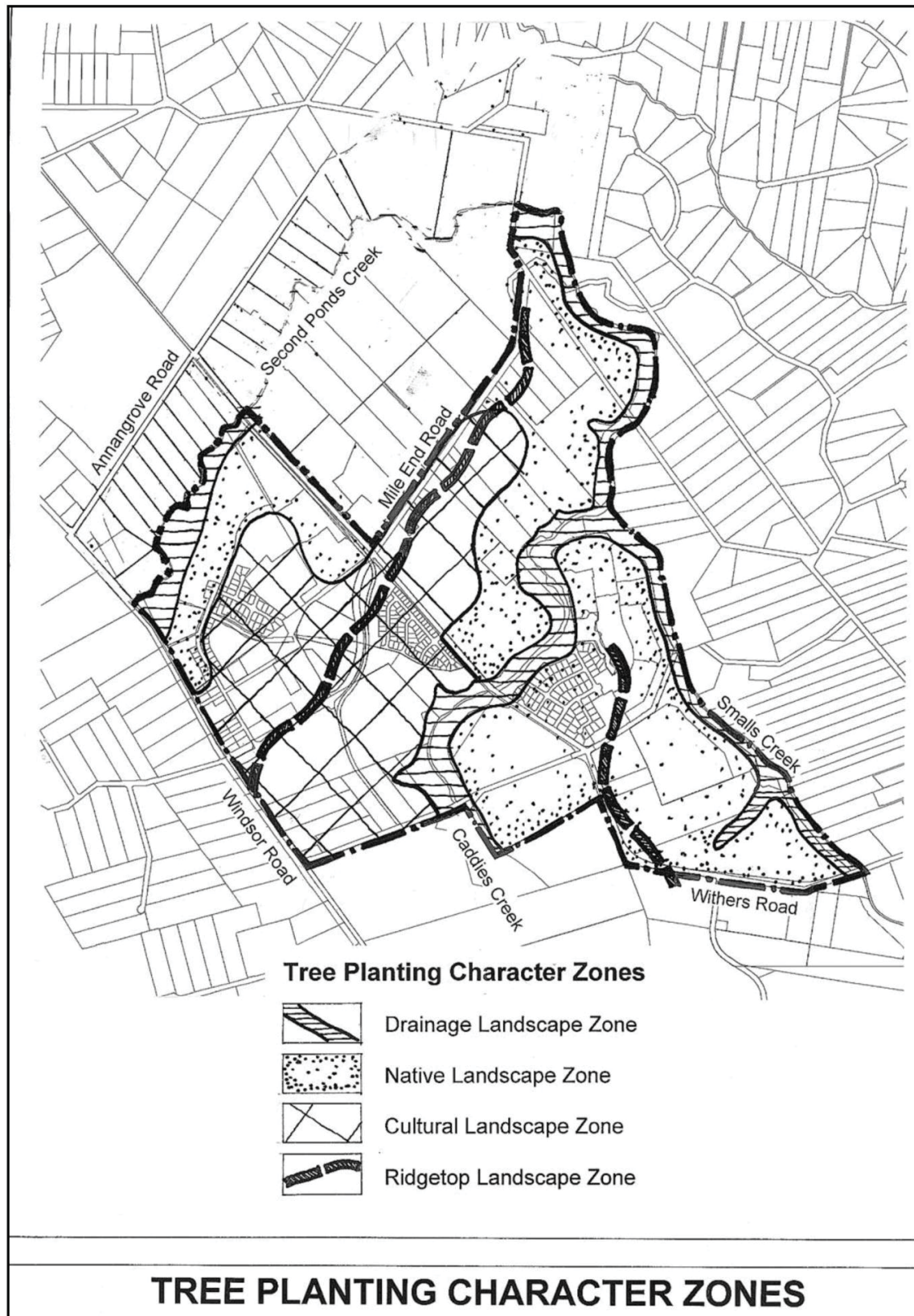
Refer to Part C Section 3 – Landscaping for guidance on street tree planting on Access Way, Access Place and Access Street.

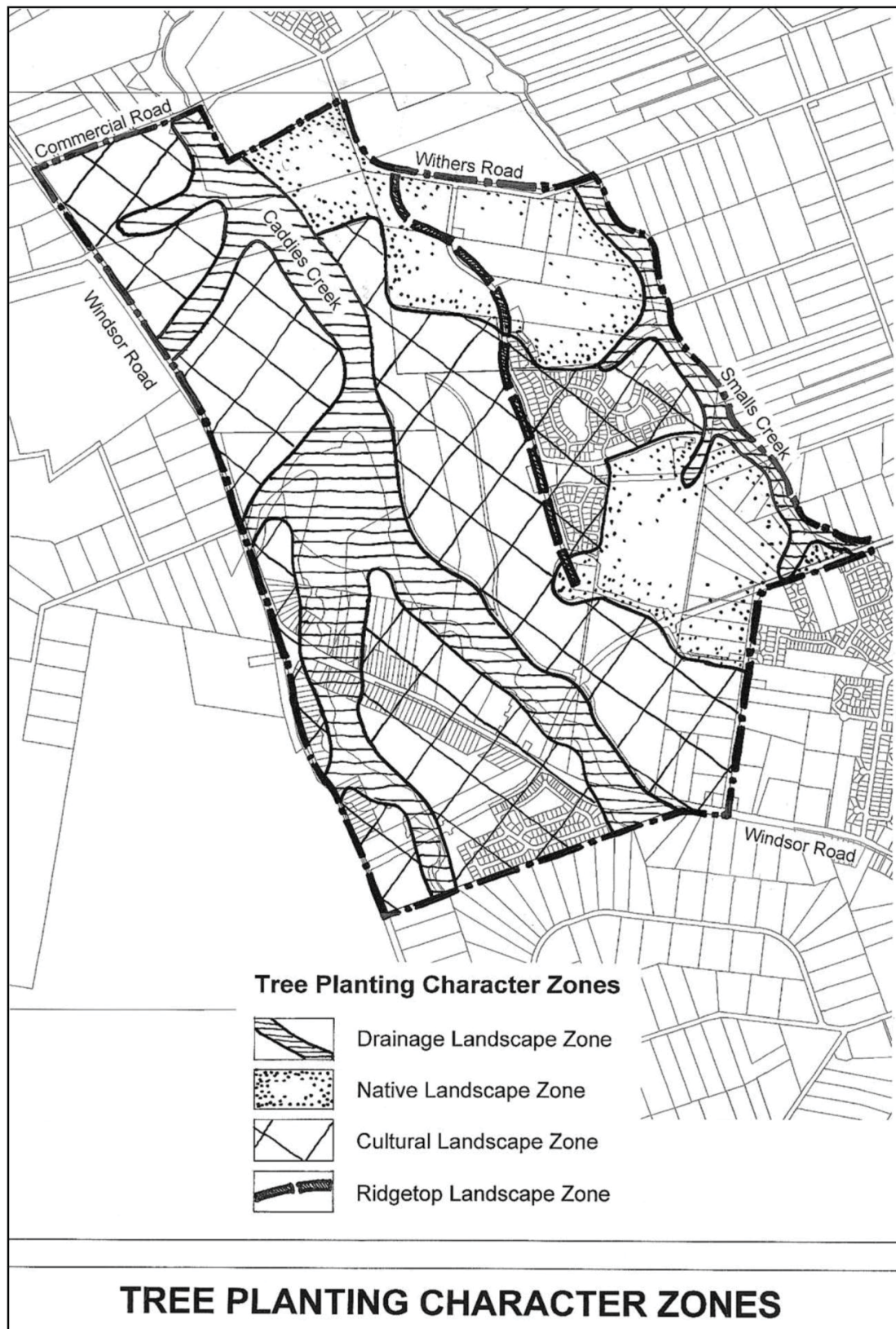
Note. Plans indicating proposed tree planting within publicly owned land must be submitted to Council for approval. The following list must be read in conjunction with the attached plans of Tree Planting Character Zones.

Landscape Setting and Tree Species	Drainage Land	Collector	Sub-arterial, Arterial
Drainage Landscape Zone			
Smalls Creek			
Eucalyptus pilularis	x	x	x
Eucalyptus punctata	x	x	x
Eucalyptus saligna	x		
Eucalyptus teriticornis	x	x	x
Syncarpia glomifera	x		x
Second Ponds Creek			
Melaleuca decora	x		x
Casuarina glauca	x		x
Eucalyptus teriticornis	x	x	x
Caddies Creek			
Angophora floribunda	x	x	x
Casuarina glauca	x		x
Eucalyptus amplifolia	x		x
Eucalyptus teriticornis	x	x	x
Melaleuca decora	x		x
Melaleuca linarifolia	x		x

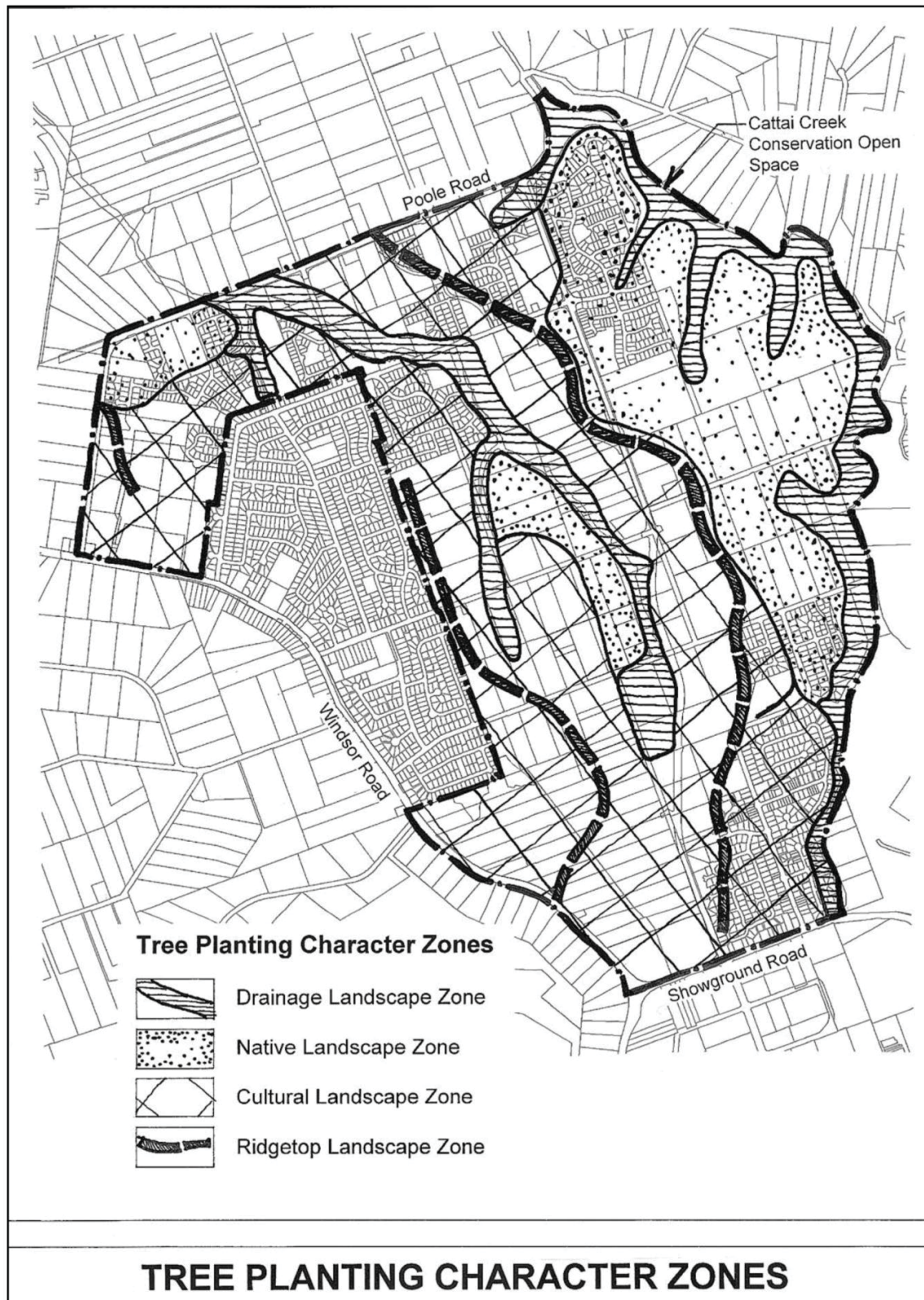
Landscape Setting and Tree Species	Drainage Land	Collector	Sub-arterial, Arterial
Adjacent to flood prone land:			
Adjacent to Cattai Creek Conservation Area			
Angophora costata		X	
Eucalyptus eximia		X	
Eucalyptus piperita		X	X
Eucalyptus sclerophylla		X	X
Native tree species – adjoins Native Landscape Zone			
Acmena smithii	X		X
Eucalyptus elata	X	X	X
Eucalyptus moluccana			X
Syncarpia glomulifera	X		X
Syzigium paniculatum	X		X
Tristaniopsis laurina	X		X
Waterhousia floribunda	X		X
Exotic Tree species – adjoins Cultural Landscape Zone			
Citharexylum quadrangulare		X	
Magnolia x Soulangeana		X	
Ulmus parvifolia		X	
Fraxinus raywoodii		X	
Native Landscape Zone			
Angophora floribunda	X	X	X
Angophora costata		X	X
Eucalyptus crebra	X	X	X
Eucalyptus haemestoma		X	X
Eucalyptus maculata		X	X
Eucalyptus microcorys	X	X	X
Eucalyptus paniculata	X	X	X
Eucalyptus pilularis	X		
Eucalyptus punctata	X	X	X
Eucalyptus scoparia		X	X
Eucalyptus teriticornis		X	X
Lophostemon confertus		X	X
Melaleuca linariifolia	X	X	X
Cultural Landscape Zone			
Native tree species			
Brachychiton discolor		X	X
Eucalyptus cinerea		X	X
Eucalyptus crebra		X	X
Eucalyptus maculata		X	X
Eucalyptus punctata		X	X
Eucalyptus scoparia		X	X
Exotic tree species			
Calodendron capense		X	
Citharexylum quadrangulare		X	
Gleditsia tricanthos 'Sunburst'		X	
Jacaranda mimosifolia		X	
Sapium sebiferum		X	
Ulmus parvifolia		X	

Landscape Setting and Tree Species	Drainage Land	Collector	Sub-arterial, Arterial
Ridgetop Landscape Zone			
Native species			
Araucaria heterophylla		X	
Araucaria cunninghamiana		X	
Eucalyptus maculata		X	X
Eucalyptus scoparia		X	X
Ficus macrophylla		X	
Exotic species			
Fraxinus raywoodii		X	X
Jacaranda mimosifolia		X	X
Lophostemon confertus		X	X

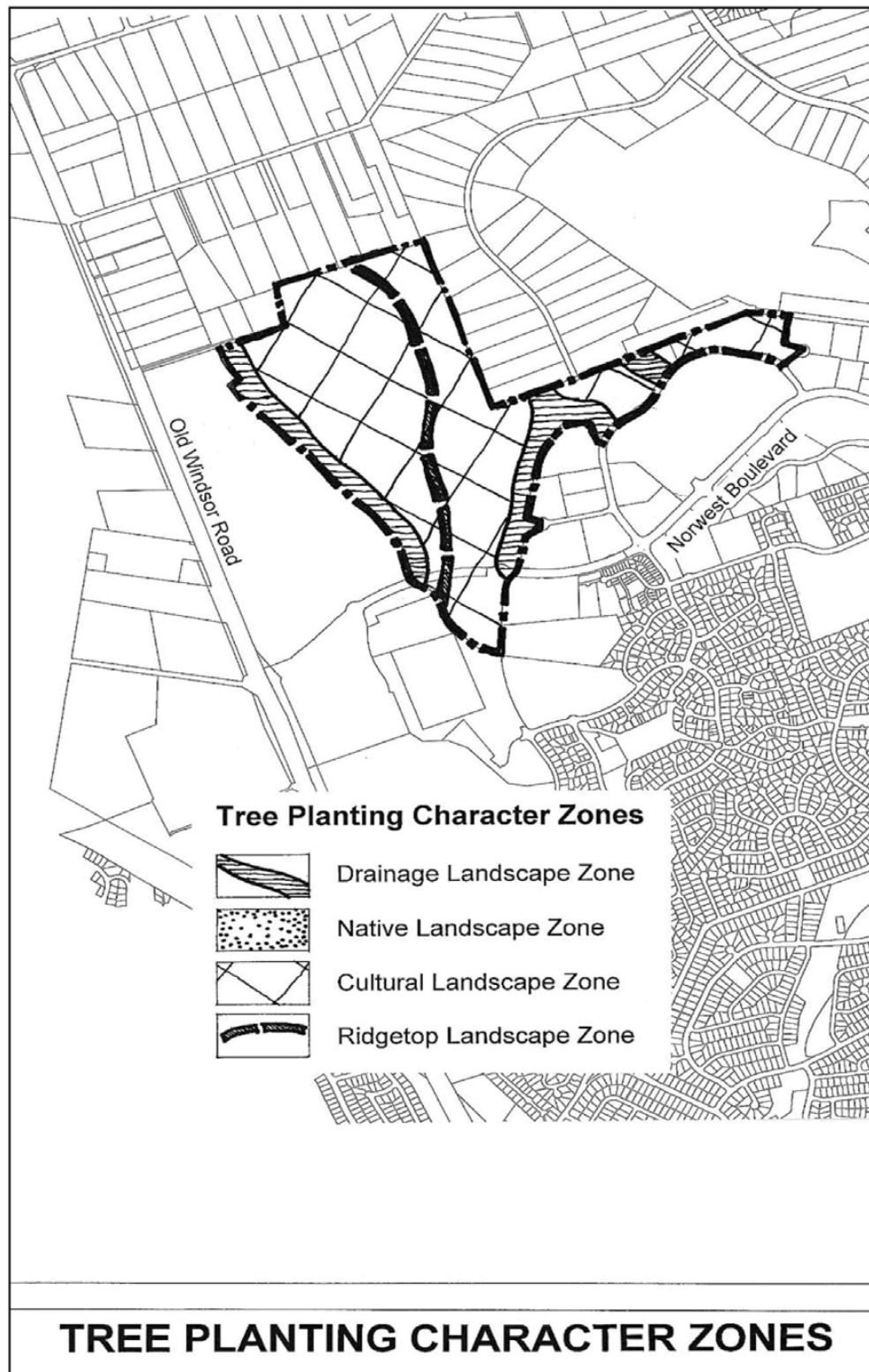




Part D Section 5 Kellyville Rouse Hill Sheet 2 of 4



Part D Section 5 Kellyville Rouse Hill Sheet 3 of 4



Part D Section 5 Kellyville Rouse Hill Sheet 4 of 4

APPENDIX 2 - MAP SHOWING LOCATION OF TURKEY NEST PARK HEIGHT RESTRICTIONS AND LEVELS ALONG GREENWAY LINK PATHWAY



**APPENDIX 3 - INFORMATION TO BE SUBMITTED WITH A DEVELOPMENT
APPLICATION FOR SMALL LOT HOUSING**

(REFER TO CLAUSE 4.1B OF THE HILLS LEP 2012)

The following plans and details are required to be submitted with all development applications.

COMPLETED APPLICATION FORM

You must have the written consent of all current owners.

STATEMENT OF ENVIRONMENTAL EFFECTS (SEE)

SITE PLANS

These plans should include the following information:

- Be produced in ink and be not less than A4 and no greater than A1 in size;
- Be of suitable scale (1:500 or 1:1000 wherever possible). In cases where there is more than 1 sheet an overall plan at 1:4000 should be submitted to illustrate the overall layout;
- Include existing boundaries and lot or portion numbers in broken lines/lettering;
- Proposed boundaries as form lines with proposed dimensions and areas;
- Proposed lots consecutively numbered and include any easements and restricted development areas;
- Widths of all existing roads;
- Footpath and pavement widths of all proposed internal roadways;
- Position of all intersecting adjoining property boundaries, existing roads or property boundaries of land on the opposite side of all existing roads adjoining the site;
- All vegetation and trees on the subject property (separate plan);
- Contours in one metre intervals at Australian Height Datum;
- All existing buildings, watercourses, drains, dams, swamps, easements, right-of-ways, structures or permanent improvements;
- All services;
- Dimensions and area of site;
- Location, size and height of all dwellings;
- Distance to all boundaries from buildings and courtyard fences;
- Existing trees (indicating whether or not they are to be removed or retained);
- Original ground levels and proposed finished ground levels;

- Location of services;
- Location and general description of any adjoining developments;
- Extent of landscaped area provided;
- Site coverage calculations; and
- The height of all dwellings at site boundaries and internal site levels.

ARCHITECTURAL PLANS

- Internal layout of unit/building (existing and proposed);
- Number of garages/carports/spaces for residents/spaces for visitors;
- Location of services/ancillary features;
- Elevations;
- Types of external materials/finishes/colours;
- Must be at an appropriate scale (eg. Scale 1:100 or Scale 1:200); and
- Shadow Diagrams (i.e. 9.00am, 12.00pm and 3.00pm in mid-winter). In addition shadow diagrams are to take into consideration shadows from adjoining development, existing trees, etc.

LANDSCAPE PLANS

- These plans are to be prepared in accordance with Part C Section 3 – Landscaping.

EARTHWORKS PLAN

- Existing and proposed levels/contours.

BASIX certificate

Submission of a BASIX Certificate issued within three months of the date of lodgement is required for a new residential development, including swimming pools, to which BASIX applies. See website for further information: www.basix.nsw.gov.au.

WASTE MANAGEMENT PLAN

Refer to Part B Section 2 – Residential.

SEDIMENT EROSION CONTROL PLAN

Refer to Part B Section 2 – Residential.

COMMUNITY TITLE SUBDIVISION

In addition to the plans required above, a Draft Management Statement and Development Contract must be provided.

STRATA TITLE SUBDIVISION

For Strata Title Subdivision the plans required must:

- Be produced in ink and be not less than A4 and no greater than A1 in size;
- Be of suitable scale (1:500 or 1:000 wherever possible). In cases where there is more than 1 sheet an overall plan at 1:4000 should be submitted to illustrate the overall layout;
- Show proposed boundaries as form lines with proposed dimensions and areas; and
- Show proposed lots consecutively numbered and include any easements and restricted development areas.

MODEL

A scale model is required to be submitted for each development application that proposes more than 20 dwellings, showing the relationship of the proposed development to adjoining properties and the existing streetscape.

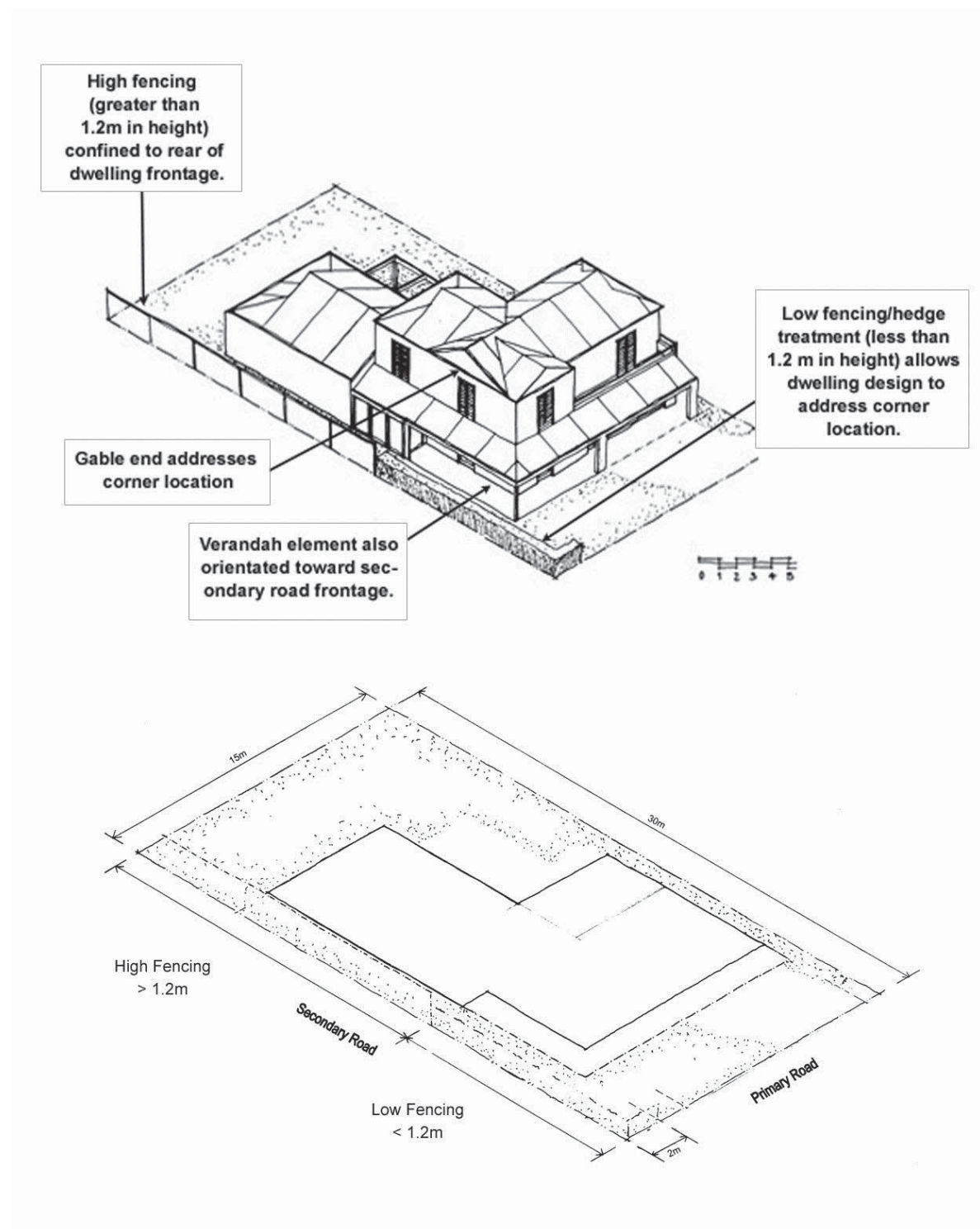
ADDITIONAL REPORTS/PLANS

The following reports may be required depending on the nature of the site and application. Advice will be provided at pre-lodgement stage as to which of the following are required with the application:

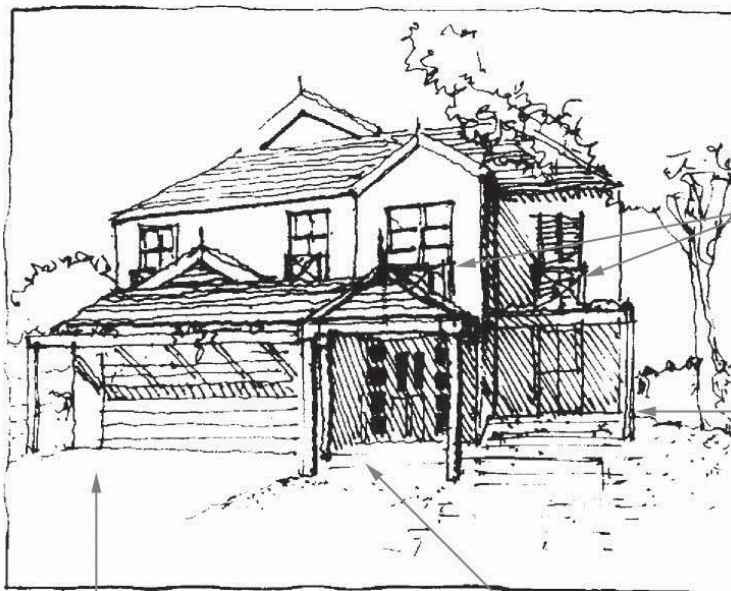
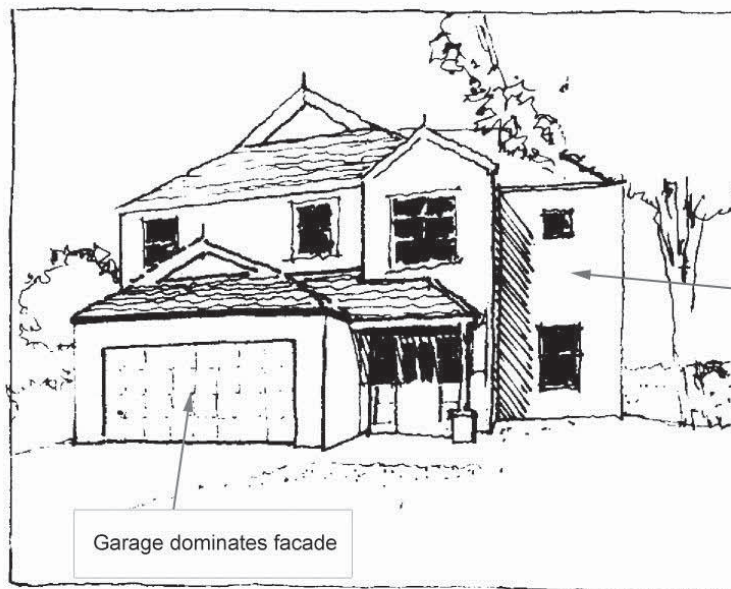
- Flora and Fauna Assessment;
- Geotechnical Contamination Assessment;
- Geotechnical Assessment;
- Heritage Impact Assessment;
- Bush Fire Assessment;
- Tree Assessment Report;
- European and Aboriginal Archaeological Assessment;
- Flood Study;
- Landscape Plan or Masterplan;
- Streetscape Perspective Plan;
- Solar Access and Siting Plan;
- Concept On-Site Detention plans/details; and
- Shadow Diagrams where applicable.

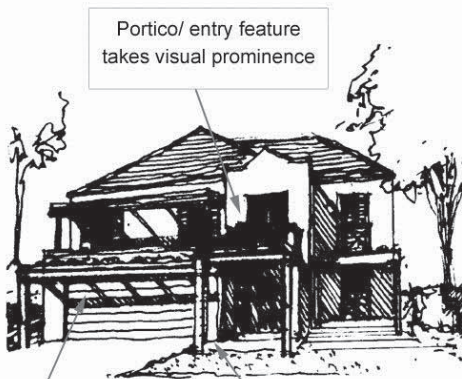
Note. Refer to Part A – Introduction section 4.0 for general lodgement requirements and detailed requirements to be included in each of the above documentation.

APPENDIX 4 – EXAMPLE OF DWELLING DESIGN ON CORNER ALLOTMENT



APPENDIX 5 – EXAMPLES OF GARAGE DESIGN CONTROLS





Portico/ entry feature
takes visual prominence

Pergola/balcony
over garage to
cast shadow

Garage set back from
dwelling facade



Balcony Treatment
to first floor windows

Pergola treatment over
garage to cast shadow

Non-enclosed veranda
across dwelling façade
ensures garage
becomes less

APPENDIX 6 – CARRIAGEWAY DESIGN**Advisory Note:**

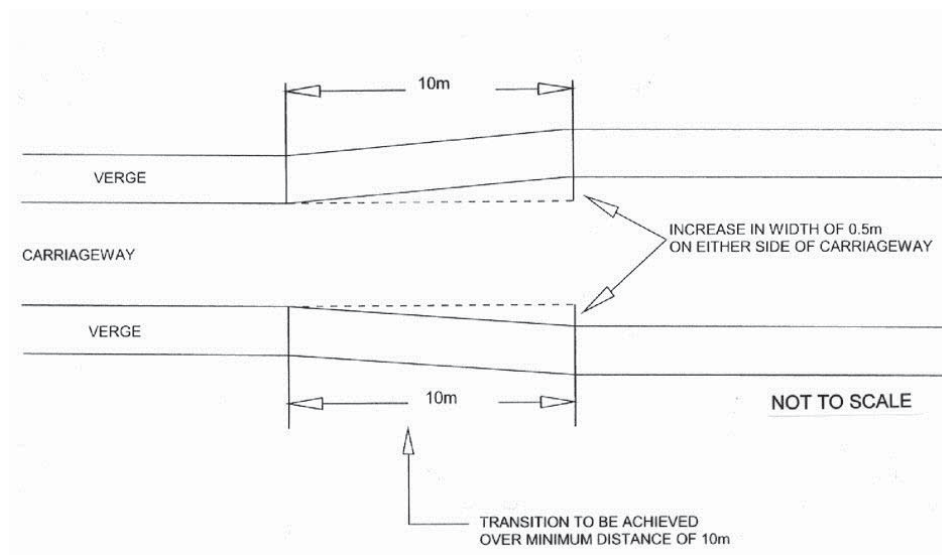
Council at its meeting of the Planning Services Review Committee on 4 April, 2000 resolved to adopt changes to the carriageway width standards of this Development Control Plan as follows:

Road type	Required carriageway width	
	PREVIOUS	CURRENT
Access Way	5.0 metres	6.0 metres
Access Place	6.5 metres	7.5 metres
Access Street	7.5 metres	8.5 metres
Collector Road	9.5 metres	9.5 metres (no change)

In the event that a road is required to be constructed under the current carriageway width standards and will join a road constructed under the previous standards the transition is to be achieved as follows:-

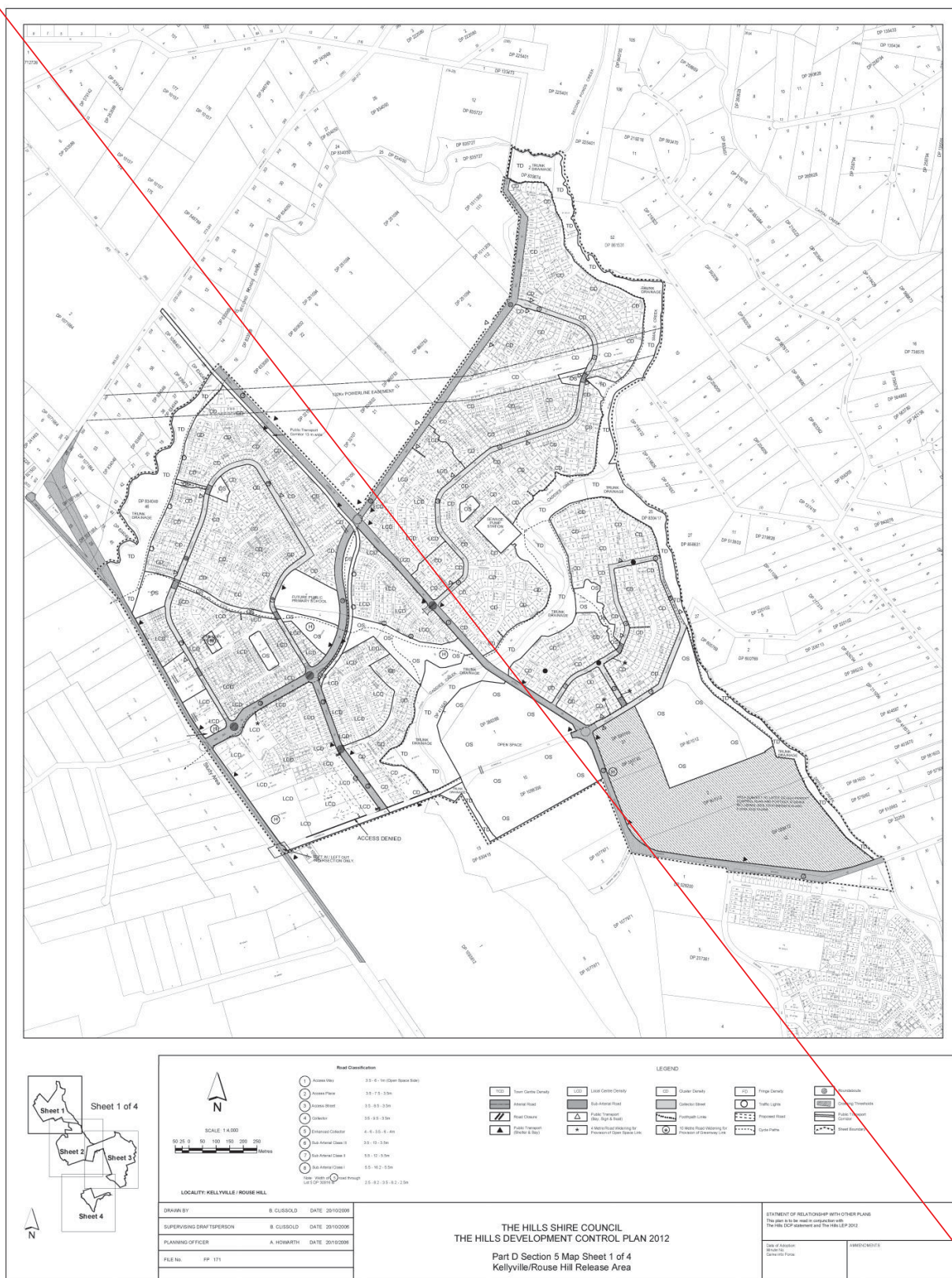
- (i) The required increase to the carriageway width of one (1) metre is to be achieved by a 0.5 metre increase on either side of the carriageway, and
- (ii) The transition to the wider carriageway is to be achieved over a length of 10 metres.

The above criteria are demonstrated graphically below.

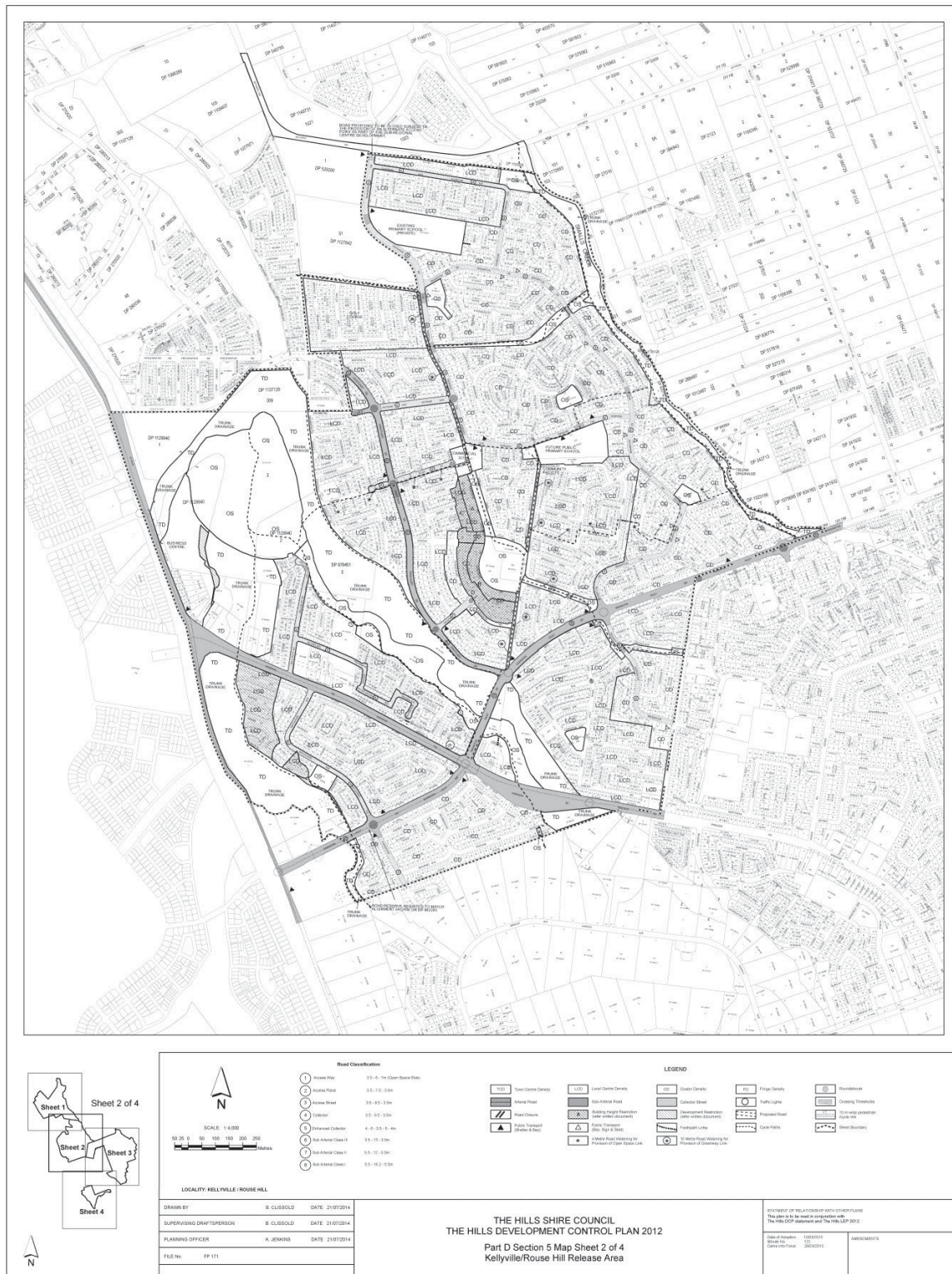


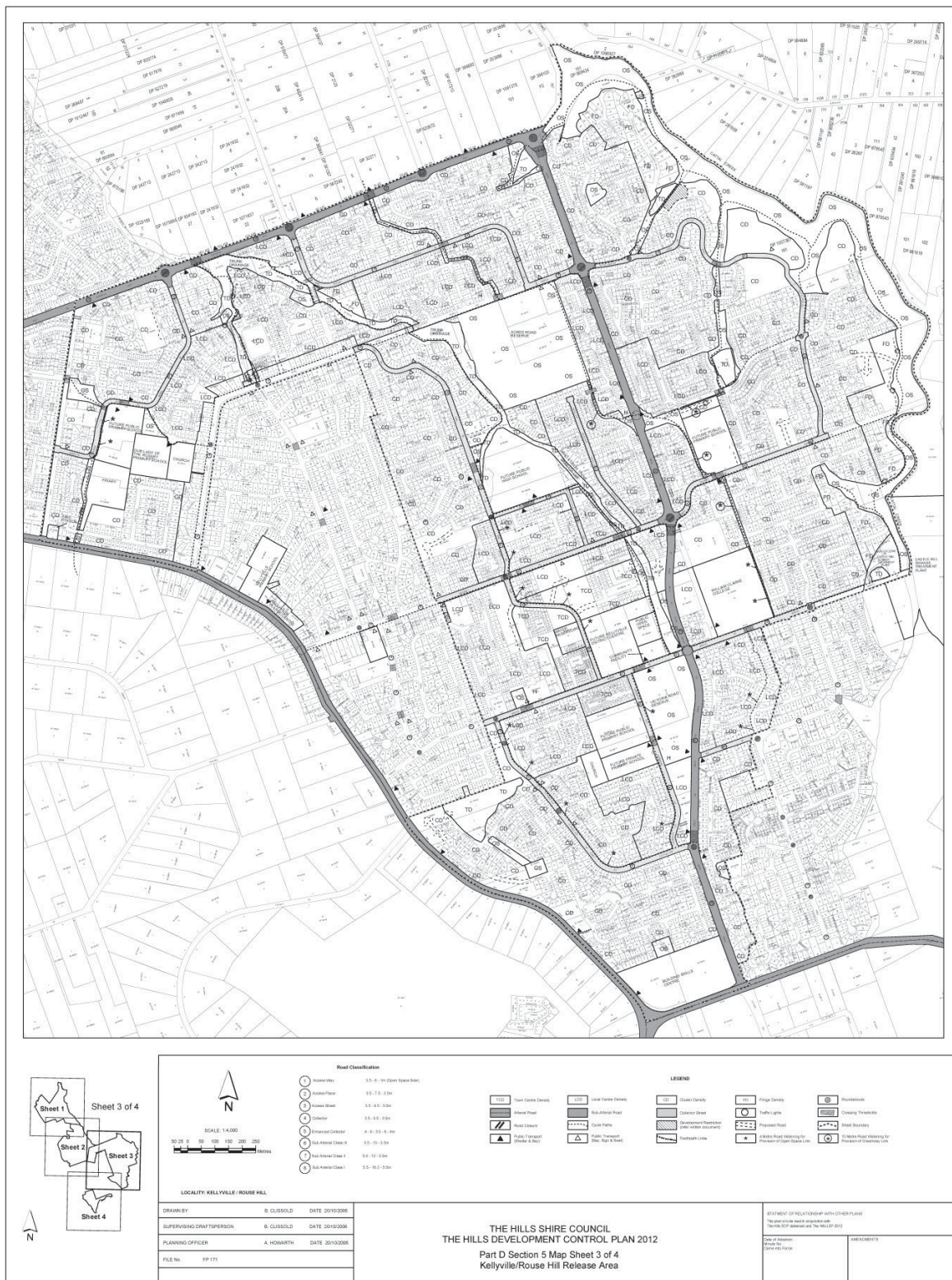
Part D Section 5

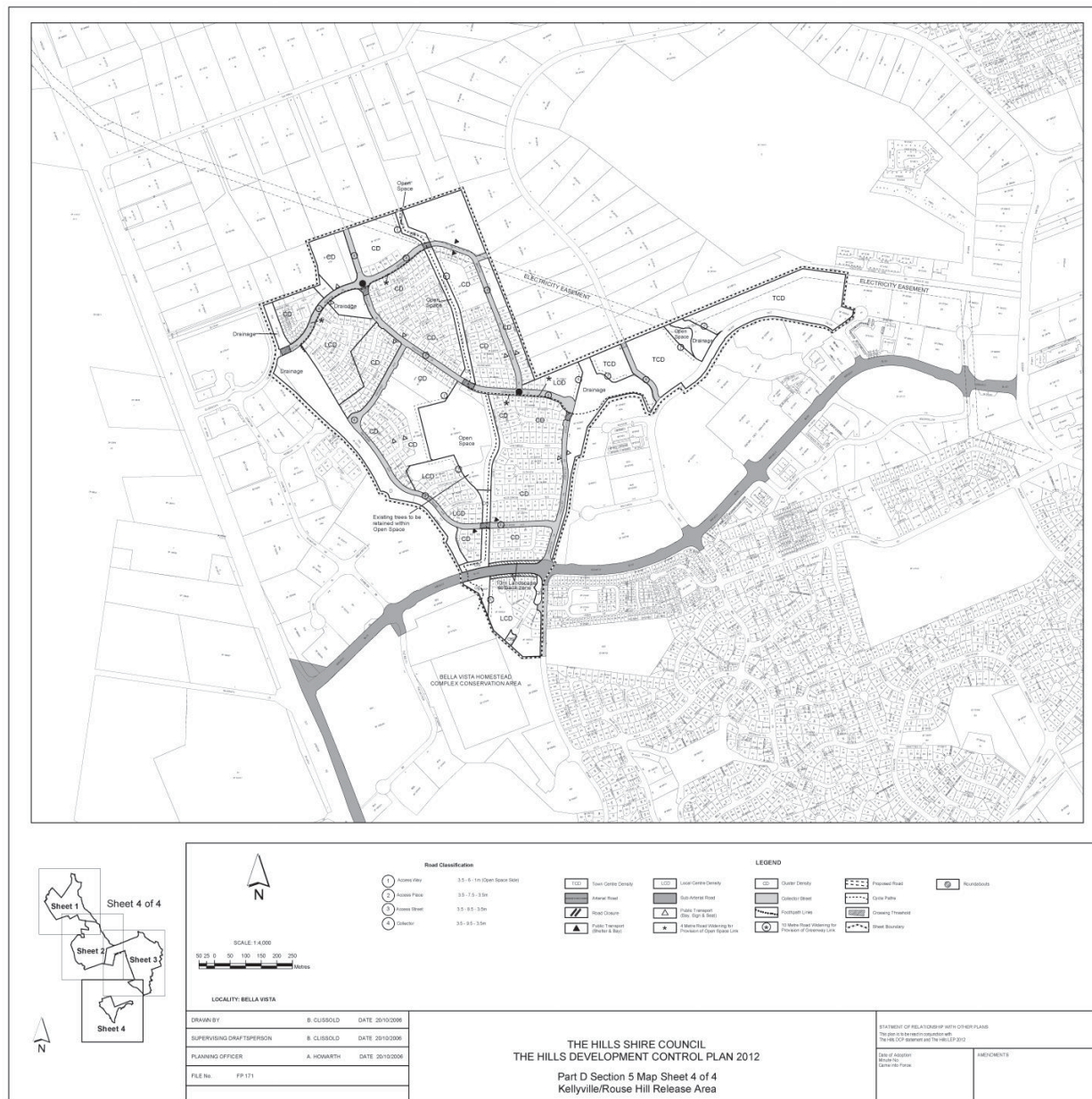
Kellyville / Rouse Hill Release Area











MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 25 July 2017

also need to have regard to the potential impact of the new road along the western boundary of the site.

5. Draft The Hills Development Control Plan 2012 Part D Section 20 – Castle Hill North, as detailed in Attachment 1, be exhibited concurrently with the planning proposal.

Being a planning matter, the Mayor called for a division to record the votes on this matter

VOTING FOR THE MOTION

Clr R K Harty OAM
Clr R M Tracey
Clr A N Haselden
Clr Y D Keane
Clr R A Preston
Clr Dr P J Gangemi

VOTING AGAINST THE MOTION

Clr Dr M R Byrne

ABSENT

Clr A J Hay OAM
Clr M G Thomas

ABSENT FROM THE ROOM

Clr Dr J N Lowe

9.27pm *Clr Dr Gangemi left the meeting and returned at 9.29pm during Item 7.*

ITEM-7

**POST EXHIBITION - PLANNING PROPOSAL FOR LOT
5 DP 30916, COMMERCIAL ROAD, ROUSE HILL
(2/2016/PLP)**

A MOTION WAS MOVED BY COUNCILLOR HARTY OAM AND SECONDED BY COUNCILLOR PRESTON THAT the Recommendation contained in the report be adopted.

THE MOTION WAS PUT AND CARRIED.

367 RESOLUTION

1. The amended road concept for Green Hills Drive be forwarded to Transport for NSW to satisfy that it meets their requirements.
2. Subject to TfNSW being satisfied, the planning proposal be progressed to finalisation to amend The Hills Local Environmental Plan 2012 as follows:
 - a. Rezone the site from part B5 Business Development, part R3 Medium Density Residential and part SP2 Infrastructure (Public Transport Corridor) to part R1 General Residential and part SP2 Infrastructure (Public Transport Corridor).
 - b. Increase the maximum building height from 16m (B5 Business Development land) and 10m (R3 Medium Density Residential land) to heights of 40m, 23m, and 12m.

- c. Amend the maximum floor space ratio from 1:1 (B5 Business Development land) to apply a “base floor space ratio” of 1:1 and an “incentivised floor space ratio” of 2.3:1.
 - d. Amend the minimum lot size from 8,000m² (B5 Business Development land) and 450m² (R3 Medium Density Residential land) to 1,800m².
 - e. Identify the site on Additional Permitted Uses map and include ‘shops’ as an additional permitted land use under Schedule 1 with retail floor space capped at 1,700m².
3. Council enter into the Voluntary Planning Agreement, as amended (Attachment 1 – ECM Document No.16014369) and authorise Council’s common seal to be affixed to the Voluntary Planning Agreement.
4. Draft amendments to The Hills Development Control Plan Part D Section 5 – Kellyville/Rouse Hill Release Area (Attachment 2 - ECM No.16001649) be adopted and come into force following the notification of the planning proposal.

VOTING FOR THE MOTION

Clr R K Harty OAM
 Clr Dr J N Lowe
 Clr R M Tracey
 Clr A N Haselden
 Clr Y D Keane
 Clr Dr M R Byrne
 Clr R A Preston

Clr Dr P J Gangemi

Clr A J Hay OAM
Clr M G Thomas

10.07pm Clr Dr Lowe left the meeting and returned at 10.08pm during Item 9.

TRANSITIONAL HOUSING WITHIN THE HILLS SHIRE (FP176)

SUSPENSION OF STANDING ORDERS

A MOTION WAS MOVED BY COUNCILLOR KEANE AND SECONDED BY COUNCILLOR PRESTON THAT Standing Orders be suspended to allow three supporters to address Council regarding this matter.

THE MOTION WAS PUT AND CARRIED.

368 RESOLUTION

Standing Orders be suspended to allow three supporters to address Council regarding this matter.

At 9.34pm Standing Orders were suspended.