

JRPP PLANNING REPORT (FURTHER REPORT)

JRPP NO:	2012SYW030
DA NUMBER:	870/2012/JP
LOCAL GOVERNMENT AREA:	THE HILLS SHIRE COUNCIL
PROPOSED DEVELOPMENT:	RESIDENTIAL FLAT BUILDING AND MULTI DWELLING HOUSING DEVELOPMENT
STREET ADDRESS:	NOS. 40-52 BARINA DOWNS ROAD, BAULKHAM HILLS
APPLICANT/OWNER:	MERFAD PTY LIMITED
NUMBER OF SUBMISSIONS:	FIRST NOTIFICATION PERIOD: 28 SUBMISSIONS SECOND NOTIFICATION PERIOD: 9 SUBMISSIONS THIRD NOTIFICATION PERIOD: 2 SUBMISSIONS
RECOMMENDATION:	APPROVAL
REPORT BY:	DEVELOPMENT ASSESSMENT CO-ORDINATOR GAVIN CHERRY

DETAILS

MANDATORY REQUIREMENTS

Owner:	Merfad Pty Limited	1.	<u>LEP 2005</u> – Satisfactory.
Zoning:	R4 High Density Residential	2.	<u>LEP 2012</u> – Satisfactory
Area:	17,470m ²	3.	<u>SEPP 65 – Design Quality of Residential Flat Development</u> – Satisfactory.
Existing Development:	Vacant allotment with approved construction works commenced.	4.	<u>DCP 2011</u> - Variations proposed – see report.
		5.	<u>BHSC Multi Unit Housing Guidelines</u> – Satisfactory
		6.	<u>Section 79C (EP&A Act)</u> – Satisfactory.
		7.	<u>Section 94A Contribution</u> - \$309,167.12
		8.	<u>Capital Investment Value:</u> \$26,600,000.00

SUBMISSIONS**REASONS FOR REFERRAL TO JRPP**

1. Exhibition:	Yes - 14 days.	1.	Capital Investment Value in Excess of \$20 million.
2. Notice Adj Owners:	Yes - 14 days.		
3. Number Advised:	1st Notification: 66 2 nd Notification: 31 3 rd Notification: 31		
4. Submissions Received:	1st Notification: 28 submissions which includes a petition including 10 signatures. 2 nd Notification: Nine submissions. 3 rd Notification: Two submissions.		

REVISED HISTORY

16/02/2012	Subject Development Application lodged.
20/09/2012	Subject Development Application deferred by the Joint Regional Planning Panel requiring the submission of amended plans within fourteen (14) days of the receipt of the meeting resolution / minutes.
26/09/2012	JRPP meeting resolution / minutes received from the JRPP Secretariat and referred to the applicant for the preparation and submission of amended plans.
03/10/2012	Draft concept floor plans submitted to Council for preliminary review against the resolution of the JRPP.
03/10/2012	Letter sent to the applicant providing comment on the draft concept plans and request for further amendments to Building E.
05/10/2012	The Hills Local Environmental Plan 2012 officially notified on the NSW legislation website. As a result THDCP 2011 is in force.
10/10/2012	Amended plans and additional information submitted to Council for assessment.
10/10/2012 – 24/10/2012	Amended plans and additional information renotified to affected properties.

10/10/2012	Email sent to the applicant requesting an amended elevation drawing (Building F), amended cover sheet plan and amended BASIX Certificates.
11/10/2012	Applicant contacted by telephone and requested to correct various unit and bedroom notations indicated on the amended plans.
15/10/2012	Amended floor plans and elevation drawings submitted.
22/10/2012	Amended BASIX Certificates received.
22/10/2012	Correspondence sent to the applicant's consultants identifying discrepancies between the amended plans and the amended BASIX certificates.
29/10/2012	Further amended plans submitted.

BACKGROUND

On 20 September 2012, a report was submitted to the Joint Regional Planning Panel (JRPP) with a recommendation to refuse the Development Application. This recommendation for refusal was on the grounds of unsatisfactory bulk and scale, character integration and non-compliances with the Development Control Plan (Refer to Attachment A4).

The Joint Regional Planning Panel resolved to defer the subject Development Application as outlined below:-

"The decision is to defer the application for submission of amended plans that will replicate the design of the northern portion of buildings A & F, specifically in relation to the number of stories and setbacks, to deal with the panel concerns about the impact of bulk and scale. These plans are also to deal with appropriate window treatment and balcony screening to ensure adequate privacy for the neighbouring properties. The plans to be changed are for buildings B & E and the southern portion of A & F. The plans are to be submitted within 14 days of the panel's notification of its determination.

The panel requests the council to attend to the matter urgently upon receipt of the plans and to report back to the panel with their assessment of the plans. Panel also asks that the residents who have objected will have all the amendments explained to them."

The purpose of this assessment is to report on the amended plans and additional information submitted to Council in response to the above resolution.

AMENDED PROPOSAL

The amended proposal is for the construction of six residential flat buildings and four town house dwellings (multi dwelling housing).

The amended development provides 173 units compared to the previous proposal with 177 units. The amended residential flat building component of the development includes the following:-

- 24 x one bedroom units with an additional 74 x one bedroom dual key units;
- 47 x two bedroom units; and

- 28 x 3 bedroom units

As a result of the changes, the proposal now complies with Council's density requirements for the site (173 persons per hectare).

Parking for apartment residents and visitors is still provided within two separate basement parking areas.

The four multi dwelling housing units are proposed on the north-eastern corner of the subject site. All four dwellings and associated parking are retained as previously reported to the JRPP.

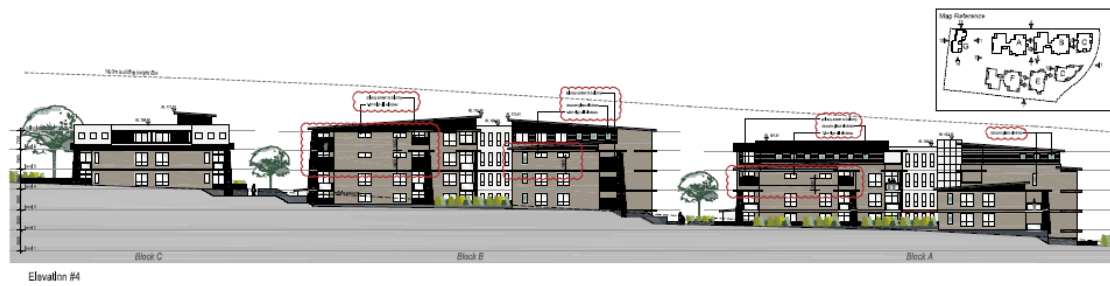
ISSUES FOR CONSIDERATION

1. Assessment against JRPP Deferral Resolution

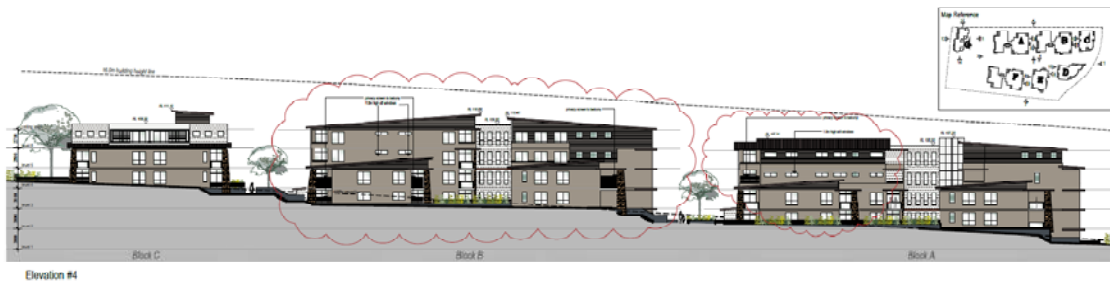
The proposed amendments have been considered against the deferral resolution of the JRPP as follows:-

- Building A: The southern portion of Level 4 and Level 5 have been amended to provide greater upper level separation to the northern adjoining properties. The amended setback at this location is now 15.59m whereas the previous proposal was 11.78m. The amendments have resulted in a two storey interface at the lower levels of the building.
- Building B: Level 5 and Level 6 have been amended to provide greater upper level separation to the northern adjoining properties. The amended setback for Level 4 and 5 is now 13.2m and 12.84m whereas the previous proposal was 6.7m and 7.0m. The amendments have resulted in a two storey interface at the lower levels of the building. The resulting amended upper floor setbacks are also considered to provide an improved transition between Buildings A, B and C as viewed from the adjacent northern properties.
- Building E: Level 5 and Level 6 have been amended to provide greater upper level separation to the southern adjoining properties. The amended setback for Level 5 and 6 is now 16.96m and 12.84m whereas the previous proposal was between 9.0m and 13.445m. The amendments have resulted in a two storey interface at the lower levels of the building. The resulting amended upper floor setbacks are also considered to provide an improved transition between Buildings D, E and F as viewed from the adjacent northern properties.
- Building F: The southern portion of Level 4 and Level 5 have been amended to provide greater upper level separation to the southern adjoining properties. The amended setback at this location is now 14.840m whereas the previous proposal was 11.030m. The amendments have resulted in a two storey interface at the lower levels of the building. The proposed amendments are considered to be consistent with the deferral requirements of the JRPP and satisfactory.

A comparative analysis of the previous and now amended northern and southern elevations is provided below:-



Previous Northern Elevation



Proposed Amended Northern Elevation



Previous Southern Elevation



Proposed Amended Southern

The proposed amended development has adopted the recommendations of the JRPP by amending the design of Buildings B and E as well as the southern portions of Buildings A and F. As detailed above, the applicant has amended the proposed development to provide an improved stepped interface between the residential flat buildings and the adjacent single and two storey residential dwellings. The amendments result in a two storey interface for all amended buildings at the ground and first floor (as viewed from the neighbouring dwellings) with all upper levels set back well in excess of the DCP requirements. This amendment provides improved integration with the surrounding low density character of the area whilst enabling additional built form to be accommodated within the central depression of the site.

In addition to the above elevation drawings, the applicant has submitted amended section drawings at various locations around the boundaries of the site demonstrating an improved setback transition and visual interface to the neighbouring residential properties. Refer to Attachment A3 for further details.

As a result the proposed amended development is considered to comply with the deferral requirements of the JRPP and is considered satisfactory.

2. Compliance with LEP 2005 and LEP 2012

The Development Application was lodged under the provisions of LEP 2005 and is a permissible use under that instrument. A "savings provision" within LEP 2012 requires the proposal to continue to be assessed under LEP 2005 however it is noted that the proposal continues to remain as a permissible use under LEP 2012.

LEP 2012 includes development standards which would be applicable to the proposed development if the savings provision was not in place. The proposed applicable development standard is as follows:-

- Maximum Building Height 16.0 metres

As previously outlined within the original report to the JRPP, assessment of the plans submitted indicates a maximum building height of 16.8m associated with roof top plant and 16.3m associated with roofing elements as shown on Section Drawing B-B. In this regard the development is not considered to comply with the maximum 16.0m height requirement. Although it is considered that LEP 2012 does not apply, using a precautionary approach, the minor height variation has been re-assessed giving consideration to the built form and setback amendments resulting from the previous JRPP resolution and the Department of Planning's "Varying Development Standards: A Guide 2011" publication.

The guidelines refer to the NSW Land and Environment Courts five part test as an assessment tool for considering the appropriateness of a variation to an environmental planning instrument. Each test is replicated below with justification provided as follows:-

1. *the objectives of the standard are achieved notwithstanding noncompliance with the standard*

The proposal is for a residential flat building which is a permissible form of development on the subject site. As detailed within the previous planning report, the site is an unusual situation as it is surrounded by R3 – medium density residential zoned allotments. In this regard the maximum building height requirement is required to be considered in context with the objectives of the zone and the interface of the development to the existing single and two storey residential dwelling surrounding the site.

The zone objectives of the LEP require a variety of housing needs to be provided within identified high density environments and to encourage high density development in locations that are close to public transport and population centres. The objectives do not specifically address character, integration or amenity considerations.

The applicant has amended the development in accordance with the deferral requirements of the JRPP to ensure a two storey interface is provided at the lower levels of the residential buildings. The upper floors are also set back well in excess of the DCP requirements.

The identified minor height variation is only associated with roofing and plant elements in the centre depression of the site due to the existing irregular topography. As a result the proposed minor variation is considered satisfactory with respect to the objectives of the

zone as a high density development is proposed in an identified high density zone which is now considered to be more sympathetic to the adjoining residential developments.

2. *the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*

As detailed above, the zone objectives of the LEP do not specifically address height, amenity or character considerations and as such these objectives are not considered to be applicable to the proposed height variation. The applicant has amended the development in accordance with the deferral requirements of the JRPP to ensure a two storey interface is provided at the lower levels of the residential buildings. The upper floors are also set back well in excess of the DCP requirements. While the objectives are not applicable, the maximum height requirement is specifically relevant in this situation (due to the interface issues raised above) however the applicant has sufficiently amended the development to address character issues raised and lessen the visual bulk and scale of the development as viewed the interface boundary. As such the variation is considered satisfactory.

3. *the underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

The underlying objective of the height requirement is to ensure an appropriate integration of the development with surrounding development. This has been achieved as outlined within Section 1 above.

4. *the development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*

The LEP standard is new and is generally untested.

5. *compliance with the development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.*

The site is an unusual situation as it is surrounded by R3 – medium density residential zoned allotments. In this regard the maximum building height requirement is required to be considered in context with the objectives of the zone and the interface of the development to the existing single and two storey residential dwelling surrounding the site. The applicant has amended the development in accordance with the deferral requirements of the JRPP to ensure a two storey interface is provided at the lower levels of the residential buildings. The upper floors are also set back well in excess of the DCP requirements. The identified minor height variation is only associated with roofing and plant elements in the centre depression of the site due to the existing irregular topography and as such compliance is unachievable without significant reduction in the maximum height of the development which was not supported by the JRPP. As a result the proposed minor variation is considered satisfactory as a high density development is proposed in an identified high density zone which is now considered to be more sympathetic to the adjoining residential developments.

It is therefore considered that the proposal and resulting minor variation to the maximum height requirements within the LEP are satisfactory.

3. Compliance with DCP 2011, Part B, Section 5 – Residential Flat Buildings

The proposed amended development has been re-assessed against the relevant development standards of The Hills Development Control Plan 2011 which recently came into force following gazettal of The Hills Local Environmental Plan 2012.

The specific developments standards applicable to the proposed amendments have been reconsidered resulting in reassessment of density and common open space compliance as detailed below:-

DEVELOPMENT STANDARD	DCP 2011 REQUIREMENTS	PROPOSED AMENDED DEVELOPMENT	COMPLIANCE
Density	Between 150 and 175 persons per hectare Note: Density is calculated as follows:- 1 bed: 1.3 persons 2 bed: 2.1 persons 3 bed: 2.7 persons	Amended Development Proposal: 173 persons per hectare. (Note: The previous proposal at 184 persons per hectare did not comply).	Yes
Common Open Space	20m ² of common open space per unit proposed.	Retained at 2827.7m ² (noting a reduced DCP requirement from 3,540m ² to 3,460m ²)	No – however the proposal is an improvement on the previous development providing a reduced variation from that previously proposed which is consistent with the deferral requirements of the JRPP.

3.1 Common Open Space

Clause 3.13 of DCP 2011, Part B, Section 5 – Residential Flat Buildings provides the following development standard:-

“The area provided shall be equivalent to the rate of 20m² per dwelling.”

The relevant objectives of the DCP are as follows:-

“(i) To provide a functional open space area within the development for the informal recreation of all apartment building residents and children’s play.”

Comment

The amended development provides a reduction in required common open space area from 3540m² to 3,460m². Whilst the proposal still provides a variation to the DCP, the

intent of common open space area requirement is considered to be complied with. The DCP standard does not differentiate a common open space breakdown between one, two and three bedroom dwellings, instead requiring a standardised area per dwelling irrespective of scale of occupancy. The provision of 2,827.7m² is considered sufficient for residents to utilise these areas for recreational activities. Furthermore it is noted that the adjoining public reserve recently dedicated to Council was originally part of the subject site and will still be able to provide recreational opportunities for the residents if the development were to be approved.

As a result the retained variation to the DCP for common open space provision is considered satisfactory.

3. Compliance with DCP 2011, Part C, Section 1 – Parking

The amended proposal has altered the resulting bedroom / parking requirements as per the DCP. As a result a reassessment has been undertaken as detailed below:-



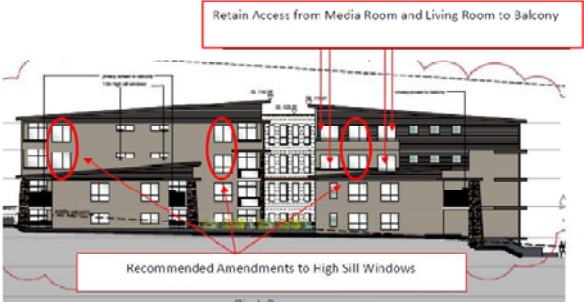
APT BEDROOM NO.	NO. OF UNITS	DCP PARKING RATE	REQUIRED
1 X BEDROOM	24 X 1 bed units (includes 1 x bed units with media rooms)	1 parking space per 1 x bed unit	24 spaces
2 X BEDROOM	84 X 2 bed units (includes dual key units being 1 bed per domicile and 2 x bed with media rooms)	2 parking spaces per 2 bed unit	168 spaces
3 x bedroom	28 x 3 bed units (includes 3 x bed units with media rooms)	2 parking spaces per 3 bed unit	56 spaces
Total Residential Flat Building Requirements:			248 spaces
TOWN HOUSES	NO. OF UNITS	DCP PARKING RATE	REQUIRED
-	4 X Town Houses	2 spaces per dwelling	8 spaces
TOTAL RESIDENTIAL PARKING REQUIRED: 248 spaces (units) plus 8 spaces (town houses) = 256 spaces		TOTAL RESIDENTIAL PARKING PROPOSED: 258 (units) + 8 (town houses) = 266 spaces (being a surplus of 10 spaces)	
VISITOR PARKING	DCP RATE	DCP REQUIRED	PROPOSED
Town Houses	2 spaces per 5 dwellings	2 visitor spaces	Nil as stacked visitor spaces are not included in the assessment as per THDCP 2011 Part C, Section 1 – Parking. The variation was addressed within the previous JRPP planning report and is considered satisfactory.
Apartments	2 spaces per 5 dwellings	If dual key units are considered to be individual units then based	67 visitor spaces however the proposed 3 space variation results from the

		<p>on 173 dwellings, 70 visitor spaces are required.</p> <p>Note: previous visitor parking requirement was 71 spaces.</p>	<p>individual classification of the dual key units as separate domiciles and is a reduced variation from the previous scheme proposed.</p> <p>The previous variation was addressed within the previous JRPP planning report and is still considered satisfactory noting that the surplus parking can be amended through any strata subdivision to visitor parking if the need arose.</p>
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4. Issues Raised in Submissions

In response to the deferral requirements of the Joint Regional Planning Panel and the submission of amended plans by the applicant, the amended development proposal was placed on public notification for a further fourteen days. Two submissions have been received in response to the amended plans which are addressed below:-

ISSUE/OBJECTION	COMMENT	OUTCOME
<p>The plans for apartment buildings to be constructed in the area are particularly disturbing. Not only would they look particularly ungainly against a picturesque suburban environment, but it would invade the privacy of those houses of a far lower height.</p> <p>Forcing urban consolidation upon an area which values itself upon space would prove to be unadvised.</p>	<p>The subject site is zoned R4 – High Density Residential specifically enabling residential flat building development on the site pursuant to THLEP 2012.</p> <p>An apartment building / residential flat building development is already approved on the site as outlined within Development Consent 1557/2007/HB.</p> <p>The proposed amended development is compliant with the deferral requirements of the Joint Regional Planning Panel as outlined within the resolution of this meeting dated 20 September 2012. This deferral required the applicant to amend the development to provide greater side setbacks for the upper level components of Buildings A, B, E and F improving the building interface and privacy impacts of the development on adjacent low density residential development.</p> <p>As a result the proposed amended residential flat building development is now considered an appropriate form of development in this location.</p>	Issue addressed.
It appears that the	Level 5 and Level 6 of the northern portion of	Issue

ISSUE/OBJECTION	COMMENT	OUTCOME
<p>developer has ignored the JRPP ruling on the southern part of building B. It appears that little or no effort has gone into addressing the privacy concerns.</p>	<p>Building B facing the adjacent properties (Elevation 4) are not consistent with the upper floor windows proposed for Buildings A, E and F.</p> <p>The proposed windows for Building B are as follows:-</p>  <p>The proposed upper floor windows for Building A (for comparison) are as follows:-</p>  <p>As such it is considered appropriate to condition Level 5 and 6 of Building B (Elevation 4) to provide high sill windows as per the other proposed buildings as amended in red below:-</p>  <p>It is considered that the proposed amended setbacks for Levels 5 and 6 of Building B have satisfied the deferral requirements of the Joint Regional Planning Panel. It is also considered that the above suggested amendments in red will ensure that the window and privacy treatments to this building are consistent with that proposed for Building A, E and F. It is also noted that these levels provide an external wall setback of 13.2m (balcony set back 10.710m) which is well in excess of the DCP required side boundary set back of 6.0m.</p>	<p>addressed. Refer to Condition No. 1 for recommended amendments in red.</p>

ISSUE/OBJECTION	COMMENT	OUTCOME

CONCLUSION

The Development Application has been assessed against the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, Baulkham Hills Local Environmental Plan 2005, The Hills Local Environmental Plan 2010, The Hills Development Control Plan 2011, State Environmental Planning Policy (State and Regional Development) 2011 and State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development and is considered satisfactory.

The proposed amended development provides an improved stepped interface between the residential flat buildings and the adjacent single and two storey residential dwellings. The amendments result in a two storey interface for all amended buildings at the ground and first floor (as viewed from the neighbouring dwellings) with all upper levels set back in excess of the DCP requirements.

In addition the proposed development has been amended to comply with the DCP requirements concerning density.

It is recommended that the subject Development Application be approved subject to conditions.

Financial

This matter has no direct impact upon Council's adopted budget or forward estimates. The applicant will be required to pay the monetary contributions pursuant to Contributions Plan No. 94A as a condition of consent.

Hills 2026

The amended proposal provides a mix of housing which is an environmentally sustainable form of residential development and as amended is not considered to adversely impact upon the character of the locality and the Shire as a whole.

RECOMMENDATION

The Development Application be approved subject to the following conditions.

GENERAL MATTERS

1. Development in Accordance with Submitted Plans (as amended in red)

The development being carried out in accordance with the following approved plans (as amended in red) and details, stamped and returned with this consent except where amended by other conditions of consent.

- Amendments in red detail that Tree 7 and Tree 35 are already removed and that Tree 29 is permitted to be removed due to conflicts with the approved front fence.
- Amendments in red alter various windows of Building B to high sill windows.

REFERENCED PLANS AND DOCUMENTS

DRAWING NO.	DESCRIPTION	REVISION	DATE
Job No. 2003	Cover Sheet	-	-
DA01	Site Analysis Plan	A	04/11/2011

DA02	External Works Concept Plan	B	10/04/2012
DA03	Basement Level 1	C	22/06/2012
DA04	Level 1	D	04/09/2012
DA05	Level 2	D	04/09/2012
DA06	Level 3	D	04/09/2012
DA07	Level 4	E	04/10/2012
DA08	Level 5	E	04/10/2012
DA09	Level 6	E	04/10/2012
DA10	Roof Plan	E	04/10/2012
DA11	Elevations 1 – 3	E	04/10/2012
DA12	Elevations 4 – 6	E	04/10/2012
DA13	Elevations 7 – 9	E	04/10/2012
DA14	Site Elevations 10 - 14	A	04/11/2011
DA15	Site Sections A + B	C	22/06/2012
DA16	Site Sections C + D + E	E	04/10/2012
DA17	Site Details – Driveway Sections	C	22/06/2012
DA18	Site Details – Mail + Fence + Waste	C	22/06/2012
DA19	Typical Unit Layouts – Blocks A + B + F	B	10/04/2012
DA20	Typical Unit – Blocks C + E	A	04/11/2011
DA21	Typical Unit Layouts – Blocks D + G	B	10/04/2012
DA 25	Elevations at Boundary	E	04/10/2012
DA26	Basement Driveway – Ramp Details	C	22/06/2012
0416.L.01	Landscape Site Plan	A	08/12/2011
0416.L.02	Landscape Plan – Block A	A	08/12/2011
0416.L.03	Landscape Plan – Blocks B & C	A	08/12/2011
0416.L.04	Landscape Plan – Blocks D & E	A	08/12/2011
0416.L.05	Landscape Plan – Block F	A	08/12/2011
0416.L.06	Landscape Plan – Block G	A	08/12/2011
0416.L.07	Landscape Details and Specification	A	08/12/2011
-	Schedule of Finishes: Block A	-	-
-	Schedule of Finishes: Block B	-	-
-	Schedule of Finishes: Block C	-	-
-	Schedule of Finishes: Block D	-	-
-	Schedule of Finishes: Block E	-	-
-	Schedule of Finishes: Block F	-	-
-	Schedule of Finishes: Block G	-	-

No work (including excavation, land fill or earth reshaping) shall be undertaken prior to the issue of the Construction Certificate, where a Construction Certificate is required.

2. External Finishes

External finishes and colours shall be in accordance with the details submitted with the development application and approved with this consent.

3. Compliance with NSW Police Requirements

Compliance with the requirements of the NSW Police outlined within their correspondence dated 19 April 2012 being as follows:-

- The car parking area in the basement is to be painted white;
- 3 – 5 metres of appropriately maintained vegetation is to be located either side of residential pathways and bicycle routes;
- Lighting is to meet Australian Standards;
- CCTV is to be incorporated to monitor common open spaces throughout the development as well as monitoring access / exit driveways and entrances to the unit blocks
- An alarm system should be installed in garage and storage areas that connect to the relevant unit.
- Magnetic door locking systems linked to fire sprinkler alarms are recommended to ensure that fire exits are used for emergencies only

4. Compliance with the NSW RMS Requirements

Compliance with the requirements of the NSW Roads and Maritime Services dated 29 March 2012 but restricted to Items 3 – 14 of this correspondence.

5. Planting Requirements

All trees planted as part of the approved landscape plan are to be minimum 75 litre pot size. All shrubs planted as part of the approved landscape plan are to be minimum 200mm pot size. Groundcovers are to be planted at 5/m².

Angophora costata is to be replaced with Angophora floribunda

Prunus X blireana is to be replaced with Nyssa sylvatica

Eucalyptus robusta is to be replaced with Eucalyptus moluccana

6. Provision of Parking Spaces

The development is required to be provided with 266 residential off-street car parking spaces and 71 off street visitor parking spaces as well as bicycle and motorcycle parking as per the approved plans. These car parking spaces shall be available for off street parking at all times.

Residential parking spaces are to be allocated to the individual dwellings in accordance with THDCP 2011 Part C, Section 1 – Parking being as follows:-

- Units: 1 bedroom requires 1 parking space;
- Units 2 – 4 bedrooms require 2 parking spaces; and
- Each town house requires 2 parking spaces.

Note: Dual key units are to be allocated 2 parking spaces with 1 space provided to each domicile.

7. Protection of Existing Vegetation

Care is to be exercised during the construction of the proposed works to ensure natural vegetation and topography on the subject site is not unnecessarily disturbed.

Any excavated material not used in the construction of the subject works is to be removed from the site and under no circumstances is to be deposited in bushland areas.

8. Separate Application for Strata Subdivision

A separate application must be submitted for any proposed strata titled subdivision of the approved development.

9. Protection of Public Infrastructure

Council must be notified of any damage to public infrastructure caused by the development. Adequate protection must be provided prior to work commencing and maintained during building operations. Any damage caused must be made good, to the satisfaction of Council, before an Occupation Certificate can be issued. Public infrastructure includes the road pavement, kerb and gutter, concrete footpaths, drainage structures, utilities and landscaping fronting the site.

10. Structures Adjacent to Piped Drainage Easements

Buildings and structures, including footings and brick fences, adjacent to existing or proposed drainage easements must be located wholly outside the easement. A design must be provided by a structural engineer certifying that the structure will not impart a load on the pipe in the easement.

11. Requirements for Council Drainage Easements

No works are permitted within existing or proposed public drainage easements unless approved by Council. Where works are permitted, the following requirements must be adhered to:

Provision for overland flow and access for earthmoving equipment must be maintained.

The existing ground levels must not be altered. No overland flow is to be diverted out of the easement.

No fill, stockpiles, building materials or sheds can be placed within the easement.

New or replacement fencing must be approved by Council. Open style fencing must be used.

12. Gutter and Footpath Crossing Application

Each driveway requires the lodgement of a separate gutter and footpath crossing application, accompanied by the current fee as prescribed by Council's Schedule of Fees and Charges.

13. Engineering Works – Design and Construction Approval Process

The design certification and construction approval of the engineering works nominated in this consent require separate approval prior to the commencement of any works.

Works on existing public roads or any other land under the care and control of Council require an Engineering Construction Certificate (ECC) in accordance with the Roads Act 1993 or the Local Government Act 1993. This includes the construction of new roads which are to be dedicated as public road. An ECC can only be issued by Council.

All other engineering works must be approved by either Council or an accredited certifier. This certification must be included with the documentation approved as part of any Construction Certificate. The designer of the engineering works must be qualified, experienced and have speciality knowledge in the relevant field of work.

For Council to issue an ECC the following must be provided:

- a) A completed application form.
- b) Four copies of the design plans and specifications.
- c) Payment of the applicable application and inspection fees.
- d) Payment of any required security bonds.

14. Supervision of Works

All work in the road reserve must be supervised by a suitably qualified and experienced person. The supervisors name, address and contact phone number must be submitted to Council prior to works commencing in the road reserve. A construction programme and anticipated duration of works must be submitted to Council prior to works commencing in the road reserve.

15. Public Liability Insurance

All contractors working in the road reserve must have a current public liability insurance policy with an indemnity limit of not less than \$10,000,000.00. A copy of this insurance must be submitted to Council prior to works commencing in the road reserve.

16. Construction Certificate

Prior to construction of the approved development, it is necessary to obtain a Construction Certificate. A Construction Certificate may be issued by Council or an Accredited Certifier. Plans submitted with the Construction Certificate are to be amended to incorporate the conditions of the Development Consent.

17. Building Work to be in Accordance with BCA

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

18. Acoustic Requirements

The recommendations of the Acoustic Assessment and Report prepared by SLR Consulting Australia Pty Ltd, referenced as Report number 610.07939.05813R1, dated 12 December 2011 and submitted as part of the Development Application are to be implemented as part of this approval.

19. Adherence to Approved Waste Management Plan

The Waste Management Plan submitted to and approved by Council must be adhered to at all stages in the demolition/construction/design of facilities and on-going use phases. All waste material nominated for recycling must be reused or recycled. Any material moved offsite is to be transported in accordance with the requirements of the Protection of the Environment Operations Act (1997) and only to a place that can lawfully be used as a waste facility. Dockets/receipts verifying recycling/disposal must be kept and presented to Council when required.

20. Garbage Storage – Odour Control

A waste contractor shall be engaged to remove all waste from the garbage storage area on a regular basis so that no overflow of rubbish will occur. Practical measures are also to be taken to ensure that odour emission from the garbage storage area does not cause offensive odour as defined by the Protection of the Environmental Operations Act, 1997.

21. Waste Storage and Separation - Construction and Demolition

The reuse and recycling of waste materials must be maximised during construction and demolition. The separation and recycling of the following waste materials is required:

- 1) masonry products (bricks, concrete, concrete roof tiles) to be sent for crushing/recycling;
- 2) timber waste to be separated and sent for recycling;
- 3) metals to be separated and sent for recycling;
- 4) clean waste plasterboard to be returned to the supplier for recycling (excluding plasterboard from demolition); and
- 5) mixed waste (plastic wrapping, cardboard etc) to be sent to a licenced recycling or disposal facility

This can be achieved by constructing a minimum of five trade waste compounds on-site. Each waste compound must be adequately sized to enclose the waste. Alternatively, mixed waste may be stored in one or more adequately sized waste compounds and sent to a waste contractor/waste facility that will sort the waste on their site for recycling. Waste must be adequately secured and contained within designated waste areas and must not leave the site onto neighbouring public or private properties. Personal waste must not litter the site. Copies of actual weighbridge receipts verifying recycling/disposal must be kept and presented to Council when required.

22. Surplus Excavated Material

The disposal/landfill of surplus excavated material, other than to a DECC licensed facility, is not permitted without formal approval from Council prior to the commencement of works. Any unauthorised disposal of waste, which includes excavated material, is a breach of the *Protection of the Environment Operations Act 1997* and subject to substantial penalties. Unless Council approves an alternate site, then all surplus excavated material must be disposed of at a licensed waste facility. Copies of actual receipts verifying recycling/disposal must be kept and presented to Council when required.

23. Commencement of Domestic Waste Services

All garbage, recycling and garden organics bins (including bulk bins) are to be ordered no earlier than (3) days prior to occupancy of the development. The bins are to be ordered by the property owner or agent acting for the owner by calling Council's Waste Hotline on Ph 1800 623 895.

24. Domestic Waste Management – Townhouses

Council will provide each unit with a minimum of one 140 litre garbage bin (emptied weekly), one 240 litre recycling bin (emptied fortnightly) and one 240L garden organics bin (emptied fortnightly).. Allowance is to be made for:

- a. space for all garbage and recycling bins to be placed on the kerb for servicing on collection day.
- b. storage of bins allocated to each unit to be:
 - i. within the lot boundary of each unit;
 - ii. incorporated into the landscape design of each unit;
 - iii. screened and not visible from the street;
- c. adequate natural or mechanical ventilation where bins are stored in an enclosed cupboard; or storage compound so that odour emissions do not cause offensive odour as defined by the *Protection of the Environment Operations Act 1997*; and
- d. flat or ramped paved pathway, grade not to exceed 7% and distance not to exceed 75m (or 50m for aged persons or persons with a disability), to allow manoeuvring of the bins from the lot/unit to the kerb for servicing (and not over steps, landscape edging or gutters or through the unit).
- e. each bin to be clearly marked with individual unit numbers.

25. Domestic Waste Management – Residential Flat Buildings

Construction of the garbage and recycling bin storage area(s) is to be in accordance with the "Bin Storage Facility Design Specifications" as attached to this consent. Storage facility is to be provided for a minimum of 18 x 1,100L bulk garbage bins and 70 x 240L recycling bins.

26. Property Numbering

The responsibility for property numbering is vested solely in Council.

The property addresses for the four town houses accessed via Fairmont Avenue as follows:-

Lot 115	30 Fairmont Avenue, Baulkham Hills NSW 2153
Lot 116	28 Fairmont Avenue, Baulkham Hills NSW 2153
Lot 117	26 Fairmont Avenue, Baulkham Hills NSW 2153
Lot 118	24 Fairmont Avenue, Baulkham Hills NSW 2153

The property addresses for dwellings accessed via the Barina Down Road entrance shall be: -

Units 1-136 / 40-52 Barina Down Road, Baulkham Hills NSW 2153

With unit numbers allocated as per the below table.

	Building A		Building B		Building C		Building D		Building E		Building F	
	Lot No.	Unit No.	Lot No.	Unit No.	Lot No.	Unit No.	Lot No.	Unit No.	Lot No.	Unit No.	Lot No.	Unit No.
Level 1 Drawing DA04 Issue C	1A 1B 2A 2B 3A 3B	1A 1B 2A 2B 3A 3B	N/A		N/A		N/A		N/A		94A 94B 92A 92B 93A 93B	108A 108B 109A 109B 110A 110B
Level 2 Drawing DA05 Issue C	4A 4B 5 6 7A 7B 8A 8B 9 10	4A 4B 5 6 7A 7B 8A 8B 9 10	24A 24B 25	30A 30B 31	N/A		N/A		77 78 79	89 90 91	98A 98B 99 100 101A 101B 95 96 97A 97B	111A 111B 112 113 114A 114B 115 116 117A 117B
Level 3 Drawing DA06 Issue C	11A 11B 12 13 14A 14B 15A 15B 16 17	11A 11B 12 13 14A 14B 15A 15B 16 17	26A 26B 27 28 29A 29B 30A 30B 31 32	32A 32B 33 34 35A 35B 36A 36B 37 38	49 50	60 61	65 62 63 64	73 74 75 76	80 81 82 83	92 93 94 95	105A 105B 106 107 108A 108B 102 103 104A 104B	118A 118B 119 120 121A 121B 122 123 124A 124B
Level 4 Drawing DA07 Issue E	18 19 20 21A 21B 22A 22B 23A 23B	18 19 20 21A 21B 22A 22B 23A 23B	39A 39B 40 41 42A 42B 43A 43B 44 45	39A 39B 40 41 42A 42B 43A 43B 44 45	62 63 64 65	62 63 64 65	77 78 79 80	77 78 79 80	96 97 98 99	96 97 98 99	125A 125B 126 127 128 129A 129B 130A 130B	125A 125B 126 127 128 129A 129B 130A 130B
Level 5 Drawing DA08 Issue E	24 25 26 27 28 29	24 25 26 27 28 29	46 47 48 49A 49B 50A 50B 51 52	46 47 48 49A 49B 50A 50B 51 52	66 67 68 69	66 67 68 69	81 82 83 84	81 82 83 84	100 101 102 103	100 101 102 103	131 132 133 134 135 136	131 132 133 134 135 136
Level 6 Drawing DA09 Issue E	N/A		53 54 55 56A 56B 57A 57B 58 59	53 54 55 56A 56B 57A 57B 58 59	70A 70B 71 72	70A 70B 71 72	85 86 87 88A 88B	85 86 87 88A 88B	104 105 106 107	104 105 106 107	N/A	

Please refer to approved numbering correspondence and plan. These unit numbers, as issued, are to be displayed clearly on all unit door entrances.

Clear and accurate external directional signage is to be erected on site at driveway entry points and on buildings. Unit numbering signage is also required on stairway access doors and lobby entry doors. It is essential that all numbering signage throughout the complex is clear to assist emergency service providers locate a destination with ease and speed, in the event of an emergency.

27. Australia Post Mail Box Requirements

Australia post requires there be one (1) single group of cluster mail boxes. Should more than one (1) cluster be required, contact Australia Post for their approval. The number of mail boxes be provided is to be equal to the number of units plus one (1) for the proprietors. The townhouses will require individual mail boxes. Mail boxes are to have a

minimum internal dimension of 230mm wide x 160mm High x 330mm long and are to be provided with an opening of 230mm x 30mm for the reception of mail.

28. Creation and Extinguishment of Drainage Easements

- i) The development must create a drainage easement of variable width in favour of Council over the subject title as per Council's requirements, over the infrastructure assets constructed/ to be constructed within the subject site.
- ii) The development is required to extinguish the existing drainage easement referred as 'D' on the subject title Lot 6 DP 1085297.

In order to create and extinguish the drainage easements as required, the applicant must submit necessary documentation including a Request document and Plan, together with the relevant fee as prescribed in Council's Adopted Fees and Charges prior to the lodgement and registration of the easement at Land and Property Information (LPI).

As Council is the beneficiary, release of the easement must be reported to Council and require adequate time, which is to be allowed for the preparation of a report to Council.

29. Dedication of Public Road – Fairmont Avenue

The constructed public road (Fairmont Avenue) must be dedicated as a public road to Council. This dedication shall be carried out at no cost to Council.

30. Compliance with Accessibility Requirements

The development is required to comply with the access requirements and recommendations outlined within the "Access Compliance" report prepared by PSE Access Consulting dated 26 December 2011

PRIOR TO THE ISSUE OF CONSTRUCTION CERTIFICATE

31. Landscape Bond

To ensure the public amenity of the streetscape a landscape bond in the amount of \$30,000.00 is to be lodged with Council prior to the issue of the Construction Certificate. It shall be refunded 6 months following the issue of the Final Occupation Certificate and the submission to Council of certification from a qualified Landscape Architect or Council's Tree Management Team that the works have been carried out in accordance with the approved landscape plan.

32. Design Verification

Prior to the release of the Construction Certificate design verification is required from a qualified designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in SEPP65.

33. Approved Plans to be Submitted to Sydney Water

The approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easement, and if any requirements need to be met. Plans will be appropriately stamped.

Please refer to the web site www.sydneywater.com.au for:

- Quick Check agents details – See building and Developing then Quick Check and
 - Guidelines for Building Over/Adjacent to /Sydney Water Assets – see Building and Developing then Building and Renovating.
- or telephone 13 20 92.

34. Basement Car Park and Subsurface Drainage

The stormwater pump-out system must provide for the following:

- a) A holding tank sized to store the run-off from a 12 hour 1 in 100 year ARI storm event;
- b) A alternating two pump system capable of emptying the holding tank at either the Permissible Site Discharge rate or the rate of inflow for a 5 hour 1 in 5 year ARI storm event, whichever is lower;
- c) An alarm system to alert a pump failure;
- d) 100mm freeboard to all nearby parking spaces;
- e) The system must be connected to the Onsite Stormwater Detention system before being discharged to the street, under gravity.

All relevant plans, calculations, hydraulic details and manufacturer specifications for the pump must be submitted with certification from the designer confirming the design complies with the above requirements.

35. Works in Existing Easement

All adjoining properties either benefited or burdened by the existing easement must be notified of the proposed works within the easement in writing, including commencement and completion dates, before a Construction Certificate is issued.

36. Works on Adjoining Land

Where the engineering works included in the scope of this approval extend into adjoining land, written consent from all affected adjoining property owners must be obtained and submitted to Council before a Construction Certificate is issued.

37. Draft Legal Documents

Where an encumbrance on title is required to be created as part of this consent, draft copies of all legal documents must be submitted to Council for checking before a Construction Certificate is issued.

38. Security Bond – Pavement and Public Asset Protection

In accordance with Section 80A(6)(a) of the Environmental Planning and Assessment Act 1979, a security bond of \$87,000.00 is required to be submitted to Council to guarantee the protection of the adjacent road pavement and public assets during construction works. The above amount is calculated at the rate of \$30.00 per square metre based on the public road frontage of the subject site plus an additional 50m on either side and the width of the road measured from face of kerb on both sides. The minimum bond amount is \$10,000.00.

The bond must be lodged with Council prior to the issue of a Construction Certificate.

The value of this bond shall be confirmed with Council prior to submission and may be in the form of cash or an unconditional bank guarantee. The bond is refundable upon written application to Council along with payment of the applicable bond release fee, and is subject to all work being restored to Council's satisfaction. Should the cost of restoring any damage exceed the value of the bond, Council will undertake the works and issue an invoice for the recovery of these remaining costs.

39. Security Bond – External Works

In accordance with Section 80A(6)(b) of the Environmental Planning and Assessment Act 1979, a security bond is required to be submitted to Council to guarantee the construction, completion and performance of all works external to the site. The bonded amount must be based on 150% of the tendered value of providing all such works. The minimum bond amount is \$10,000.00.

The bond must be lodged with Council prior to the issue of any Construction Certificate.

The value of this bond shall be confirmed with Council prior to submission and may be in the form of cash or an unconditional bank guarantee. The bond is refundable upon written

application to Council along with payment of the applicable bond release fee, and is subject to all work being completed to Council's satisfaction.

40. Bank Guarantee Requirements

Should a bank guarantee be the proposed method of submitting a security bond it must:

- a) Have no expiry date;
- b) Be forwarded direct from the issuing bank with a cover letter that refers to Development Consent DA 870/2012/JP;
- c) Specifically reference the items and amounts being guaranteed. If a single bank guarantee is submitted for multiple items it must be itemised.

Should it become necessary for Council to uplift the bank guarantee, notice in writing will be forwarded to the applicant fourteen days prior to such action being taken. No bank guarantee will be accepted that has been issued directly by the applicant.

41. Engineering Works and Design

The design and construction of the engineering works outlined below must be provided for in accordance with the following documents and requirements:

- a) Council's Design Guidelines Subdivisions/ Developments
- b) Council's Works Specifications Subdivisions/ Developments

Any variance from these documents requires separate approval from Council.

The works listed below require an Engineering Construction Certificate (ECC) as outlined earlier in this consent. The following engineering works are required:

Note: Design and construction details approved under an Engineering Construction Certificate (44/2012/EC) previously issued for the subject site must be amended to reflect the compatibility with the subject DA 870/2012/JP.

i. Full Width Road Construction - Fairmont Avenue

The full width construction of the roads listed below is required, including footpath paving and other ancillary work to make this construction effective.

Proposed roads must be constructed to the following requirements:

Road Name:	Formation: (Footpath/ Carriageway/ Footpath) (m)	Traffic Loading: N(ESA)
Fairmont Avenue	Road Type: Access Road 3.5m – 6.5m – 3.5m (Total width 13.5m)	2 x 10 ⁵

The design must incorporate a standard kerb return radius of 7.5m based on a 4m splay corner unless otherwise directed by Council.

ii. Turning Heads

Cul-de-sac turning heads must be provided at the end of Fairmont Ave and at the end internal driveway proposed within the site to service waste collection. The cul-de-sac must have a 19m diameter at its widest point measured from the face of kerb on each side and to be constructed to Council's standards.

iii. Road Shoulder and Kerb and Gutter Construction

The road shoulder must be constructed along the sites Barina Downs Road frontage, including all associated drainage, kerb and gutter, road pavement, concrete footpath, verge formation, service adjustments and ancillary work required to make the construction effective.

A total carriageway width of 11m and a design traffic loading of 2 x 10⁵ must be provided.

iv. Concrete Footpath Paving

A 1.5m wide concrete footpath, including access ramps at all intersections, must be provided across the Barina Downs Road frontage and both sides of the proposed Fairmont Avenue fronting the development site in accordance with Council's requirements.

v. Footpath Verge Formation

The grading, trimming, topsoiling and turfing of the footpath verge fronting the development site is required to ensure a gradient between 2% and 4% falling from the boundary to the top of kerb is provided. This work must include the construction of any retaining walls necessary to ensure complying grades within the footpath verge area. All retaining walls and associated footings must be contained wholly within the subject site. Any necessary adjustment or relocation of services is also required, to the requirements of the relevant service authority. All service pits and lids must match the finished surface level.

vi. Painted Centreline Relocation

The existing painted centreline on **Barina Downs Road** must be relocated following completion of the road works outlined above, transitioning back to the existing line marking at either end.

vii. Driveway Requirements

The design, finish, gradient and location of all driveway crossings must comply with the above documents and Council's driveway specifications which can be found on Council's website:

<http://www.thehills.nsw.gov.au/>

The proposed driveway from Barina Downs Road must be built to Council's heavy duty standard.

The proposed driveways from Fairmont Avenue must be built to Council's heavy duty standard.

A separate driveway application fee is payable as per Council's Schedule of Fees and Charges.

viii. Disused Layback/ Driveway Removal

All disused laybacks and driveways must be removed and replaced with full kerb and gutter together with the restoration and turfing of the adjoining footpath verge area.

ix. Service Conduits

Service conduits to each of the proposed new allotments, laid in strict accordance with the relevant service authority's requirements, are required. Services must be shown on the engineering drawings.

x. Flooding and Drainage Works

In order to ensure the proposed piping of the overland flow associated with the development does not have adverse impact on the existing flood behaviour and provision of adequate flood protection to the development based on best engineering practices of floodplain management and infrastructure assets, detailed design shall be prepared generally in accordance with the Trunk Drainage Works concept plans 1131-TD DA01-DA05 Revision B dated 21/06/2012 and statement of Flooding dated 09/05/2012 both prepared by HKMA Engineers.

This shall include:

- Raised driveway crests to minimum RL providing 300mm freeboard above the 1 in 100 year ARI peak flood level.
- Provision of appropriate outlet structures and soil protection measures.

- Provision of erosion protection in the form of rock protection or reinforced turf as appropriate over the total width of the overland flow path from the end of the driveway to the landscaped area.
- Provision of Surcharge Pits and erection of Guide Posts around them on the opposite side of Barina Downs Road.
- Upgrade the existing pipe across Barina Downs Road to a minimum of 600mm diameter, unless the existing pipe is confirmed as 600mm diameter or larger.
- Provision of open type fencing across the overland flow path;
- Construction of all walls provided to limit the extent of overland flows with an impervious membrane. Additionally, a full impervious membrane is to be provided to all lower ground and basement carpark walls so as to prevent the ingress of overland flow and groundwater to those areas.

42. Concept Engineering Design Approval

The submitted concept engineering design plans are for DA purposes only and must not be used for construction.

43. Section 94A Contribution

Pursuant to section 80A (1) of the Environmental Planning and Assessment Act 1979, and The Hills Shire Wide Section 94A Contributions Plan, a contribution of **\$309,167.12** shall be paid to Council. This amount is to be adjusted at the time of the actual payment in accordance with the provisions of the Hills Shire Wide Section 94A Contributions Plan.

The contribution is to be paid prior to the issue of the Construction Certificate or Complying Development Certificate.

You are advised that the maximum percentage of the levy for development under section 94A of the Act having a proposed construction cost is within the range specified in the table below;

Proposed cost of the development	Maximum percentage of the levy
Up to \$100,000	Nil
\$100,001 - \$200,000	0.5 %
More than \$200,000	1%

44. Internal Pavement Structural Design Certification (Waste Services)

A Certified Practicing Engineer (CPEng) must confirm the structural adequacy of the internal pavement design to Council prior to the issue of a Construction Certificate. The proposed pavement design must be adequate to withstand the loads imposed by a loaded waste vehicle (i.e. 28 tonne axle load) from the boundary to the waste collection point including any manoeuvring areas.

PRIOR TO WORK COMMENCING ON THE SITE

45. Protection of Existing Trees

The trees that are to be retained are to be protected during all works strictly in accordance with AS 4970- 2009 Protection of Trees on Development Sites.

At a minimum a 1.8m high chainwire fence is to be erected at least three (3) metres from the base of each tree or group of trees and is to be in place prior to works commencing to restrict the following occurring:

- Stockpiling of materials within the root protection zone,
- Placement of fill within the root protection zone,
- Parking of vehicles within the root protection zone,
- Compaction of soil within the root protection zone.

All areas within the root protection zone are to be mulched with composted leaf mulch to a depth of not less than 100mm.

The installation of services within the root protection zone is not to be undertaken without consultation with Council's Tree Management Officer.

46. Pre-Construction Public Infrastructure Dilapidation Report

A public infrastructure inventory report must be prepared and submitted to Council recording the condition of all public assets in the direct vicinity of the development site. The report shall include:

- a) Designated construction access and delivery routes; and
- b) Photographic evidence of the condition of all public assets. The report shall clearly identify the date of recording.

47. Traffic Control Plan

A Traffic Control Plan is required to be prepared in strict compliance with the requirements of AS 1742.3 and the current RTA Traffic Control and Work Sites Manual and submitted to Council for approval. The person preparing the plan must have the relevant RTA accreditation to do so. Where amendments to the approved plan are required, they must be submitted to Council for approval prior to being implemented.

48. Management of Building Sites – Builder's Details

The erection of suitable fencing or other measures to restrict public access to the site and building works, materials or equipment when the building work is not in progress or the site is otherwise unoccupied.

The erection of a sign, in a prominent position, stating that unauthorised entry to the site is not permitted and giving an after hours contact name and telephone number. In the case of a privately certified development, the name and contact number of the Principal Certifying Authority.

49. Consultation with Service Authorities

Applicants are advised to consult with Telstra and Australia Post regarding the installation of telephone conduits and letterboxes respectively.

Unimpeded access must be available to the electricity supply authority, during and after building, to the electricity meters and metering equipment.

The building plans must be submitted to the appropriate Sydney Water office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements. If the development complies with Sydney Water's requirements, the building plans will be stamped indicating that no further requirements are necessary.

50. Principal Certifying Authority

A sign is to be erected in accordance with Clause 98 A (2) of the Environmental Planning and Assessment Regulations 2000.

51. Approved Temporary Closet

An approved temporary closet connected to the sewers of Sydney Water, or alternatively an approved chemical closet is to be provided on the land, prior to building operations being commenced.

52. Builder and PCA Details Required

Notification in writing of the builder's name, address, telephone and fax numbers to be submitted to the Principal Certifying Authority prior to work commencing.

Two days before work commences, Council shall be notified of the Principal Certifying Authority in accordance with the Regulations.

53. Notification of Asbestos Removal

Prior to commencement of any demolition works involving asbestos or asbestos containing materials, all adjoining neighbours and Council must be given a minimum five days written notification of the works.

54. Demolition Works & Asbestos Removal/Disposal

The demolition of any existing structure is to be carried out in accordance with the *Occupational Health & Safety Regulations 2001 Part 8* and the *Australian Standard AS 2601-1991: The Demolition of Structures*. All vehicles leaving the site carrying demolition materials are to have loads covered and are not to track any soil or waste materials on the road. Should the demolition works obstruct or inconvenience pedestrian or vehicular traffic on adjoining public road or reserve, a separate application is to be made to Council to enclose the public place with a hoarding or fence. All demolition waste is to be removed from the site according to the Council's approved waste management plan. – Demolition Waste Section. All asbestos, hazardous and/or intractable wastes are to be disposed of in accordance with the Workcover Authority Guidelines and requirements. The asbestos must be removed by a bonded asbestos licensed operator. Supporting documentation (dockets/Receipts), verifying recycling and disposal must be kept, to be checked by Council if required.

55. Discontinuation of Domestic Waste Service(s)

Prior to commencement of any demolition works, Council must be notified to collect any garbage or recycling bins from any dwelling/building that is to be demolished and to discontinue the waste service (where the site ceases to be occupied during works). Construction or demolition workers must not use Council's domestic and garbage and recycling service for the disposal of waste. Please contact Council's Domestic Waste Hotline on 1800 623 895 for the discontinuation of waste services.

56. Site Water Management Plan

A Site Water Management Plan is to be submitted to the Certifying Authority for approval prior to the commencement of any site works. The plan is required to be site specific and be in accordance with 'Managing Urban Stormwater – Soils and Construction' (The Blue Book) produced by Landcom and the NSW Department of Housing.

The site water management plan is to include sediment and erosion controls, controls for the management of stormwater across the site and the management and treatment of any collected water impacted by suspended solids. That is, the treatment of water collected in any excavations.

A copy of the plan is to be kept on site during construction.

57. Stabilised Access Point and Prevention of Tracking Mud onto the Road

A stabilised, all weather access point is to be provided prior to the commencement of site works and maintained throughout construction activities until the site is stabilised.

The controls shall include a method for shaking and or cleaning trucks leaving the site which are liable to track mud, clay and soil onto the road way.

The access and sediment controls shall be in accordance with the guidelines: Managing Urban stormwater – Soils and Construction, produced by Landcom and the NSW Department of Housing (the Blue Book).

58. Construction Noise Management Plan

Prior to the commencement of works on site a construction noise management plan shall be developed and submitted to the Council which gives consideration to the "Interim Construction Noise Guideline" prepared by the Department of Environment and Climate Change dated July 2009. The Construction Noise Management Plan shall include the following:

- Identification of all nearby residences and other sensitive land uses and where relevant the noise levels at the identified assessment locations.
- An assessment of potential noise impacts from the proposed construction methods and construction vehicle movements.

- Detailed examination of feasible and reasonable noise mitigation measures that would minimise or avoid noise impacts associated with the excavation and construction. This would include a recommendation of and commitment to, the most appropriate noise abatement measures.
- Development of reactive and pro-active strategies for dealing promptly with any noise complaints, including documentation and feedback mechanisms.
- Identification of a site contact person to follow up complaints.

All recommended noise mitigation measures are to be implemented throughout the course of construction.

59. Hazardous Materials Assessment

Prior to any works commencing on site a Hazardous Materials Site Assessment is required to be undertaken and submitted to the certifying authority.

The assessment must identify all materials likely to contain asbestos and identify any other hazardous material.

The hazardous materials assessment must also provide a plan for the removal and disposal of the hazardous waste.

The removal of asbestos must be undertaken by an appropriately licence contractor.

DURING CONSTRUCTION

60. Standard of Works

All work must be completed in accordance with this consent and Council's Works Specification Subdivisions/ Developments and must include any necessary works required to make the construction effective. All works and public utility relocation must incur no cost to Council.

61. Engineering Construction Inspections

Construction inspections are required for the engineering works included in this consent at the completion of the following inspection stages:

- Prior to commencement of work;
- Traffic control to AS 1742-3;
- Bedding of pipes in trenches;
- Trench backfill within roads;
- Formwork for concrete structures;
- Sub-grade proof roller test;
- Proof roller test for kerb;
- Sub-base course proof roller test;
- Base course proof roller test;
- Prior to placing of fill;
- Road crossing;
- Final inspection; and
- Asphaltic concrete surfacing.

The inspection of works approved by Council can only be carried out by Council. An initial site inspection is required prior to commencement of works. 24 hours notice must be given for all inspections.

62. Hours of Work

Work on the project to be limited to the following hours: -

Monday to Saturday - 7.00am to 5.00pm;

No work to be carried out on Sunday or Public Holidays.

The builder/contractor shall be responsible to instruct and control sub-contractors regarding the hours of work. Council will exercise its powers under the Protection of the Environment Operations Act, in the event that the building operations cause noise to emanate from the property on Sunday or Public Holidays or otherwise than between the hours detailed above.

63. Roof Water Drainage

Gutter and downpipes to be provided and connected to an approved drainage system upon installation of the roof covering.

64. Compliance with BASIX Certificate

Under clause 97A of the Environmental Planning and Assessment Regulation 2000, it is a condition of this Development Consent that all commitments listed in BASIX Certificate No. 410095M_05 (Blocks A, B & C), No. 410691M_05 (Blocks D, E & F) and No. 410579M_04 (Block G) be complied with. Any subsequent version of this BASIX Certificate will supersede all previous versions of the certificate.

A Section 96 Application **may** be required should the subsequent version of this BASIX Certificate necessitate design changes to the development. However, a Section 96 Application **will** be required for a BASIX Certificate with a new number.

65. Compliance with Critical Stage Inspections and Other Inspections Nominated by the Principal Certifying Authority

Section 109E(d) of the Act requires certain specific inspections (prescribed by Clause 162A of the Regulations) and known as "Critical Stage Inspections" to be carried out for building work. Prior to permitting commencement of the work, your Principal Certifying Authority is required to give notice of these inspections pursuant to Clause 103A of the Regulations.

N.B. An Occupation Certificate cannot be issued and the building may not be able to be used or occupied where any mandatory critical stage inspections or other inspections required by the Principal Certifying Authority are not carried out.

Where Council is nominated as Principal Certifying Authority, notification of all inspections required is provided with the Construction Certificate approval.

NOTE: You are advised that inspections may only be carried out by the PCA unless by prior agreement of the PCA and subject to that person being an accredited certifier.

66. Stockpiles

Stockpiles of topsoil, sand, aggregate or other material capable of being moved by water shall be stored clear of any drainage line, easement, natural watercourse, footpath, kerb or roadside.

67. Asbestos Removal

Asbestos and asbestos containing material shall be removed by a licenced asbestos removalists and all work must be in accordance with the requirements of the NSW Workcover Authority. Asbestos and asbestos containing material is to be disposed of in accordance with the requirements of the Department of Environment, Climate Change and Water (DECCW). All docketts and paper work for the disposal shall be retained and made available to Council upon request.

68. Dust Control

The emission of dust must be controlled to minimise nuisance to the occupants of the surrounding premises. In the absence of any alternative measures, the following measures must be taken to control the emission of dust:

- Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the construction work.

- All dusty surfaces must be wet down and suppressed by means of a fine water spray. Water used for dust suppression must not cause water pollution; and
- All stockpiles of materials that are likely to generate dust must be kept damp or covered.

69. Rock Breaking Noise

Upon receipt of a justified complaint in relation to noise pollution emanating from rock breaking as part of the excavation and construction processes, rock breaking will be restricted to between the hours of 9am to 3pm, Monday to Friday.

Details of noise mitigation measures and likely duration of the activity will also be required to be submitted to Council seven (7) days of receiving notice from Council.

70. Construction Noise

The emission of noise from the construction of the development shall comply with the Interim Construction Noise Guideline published by the Department of Environment and Climate Change (July 2009).

71. Contamination

Ground conditions are to be monitored and should evidence such as, but not limited to, imported fill and/or inappropriate waste disposal indicate the likely presence of contamination on site, works are to cease, Council is to be notified and a site contamination investigation is to be carried out in accordance with *State Environmental Planning Policy 55 – Remediation of Land*.

The report is to be submitted to Council for review prior to works recommencing on site.

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

72. Landscaping Prior to Issue of Occupation Certificate

The landscaping of the site shall be carried out prior to issue of the Final Occupation Certificate in accordance with the approved plan. All landscaping is to be maintained at all times in accordance with BHDCP Part D, Section 3 – Landscaping and the approved plan.

73. Design Verification Certificate

Prior to the release of the Occupation Certificate design verification is required from a qualified designer to confirm that the development has been constructed in accordance with approved plans and details and has satisfied the design quality principles consistent with that approval.

74. Completion of Engineering Works

An Occupation Certificate must not be issued prior to the completion of all engineering works covered by this consent, in accordance with this consent.

75. Post Construction Public Infrastructure Dilapidation Report

Before an Occupation Certificate is issued, an updated public infrastructure inventory report must be prepared and submitted to Council. The updated report must identify any damage to public assets in the direct vicinity of the development site and the means of rectification for the approval of Council.

76. Pump System Certification

Certification that the stormwater pump system has been constructed in accordance with the approved design and the conditions of this approval must be provided by a suitably qualified hydraulic engineer.

77. Creation and Registration of Restrictions and Positive Covenants

a) Creation of Restrictions and Positive Covenants

The submission to Council of all necessary documentation together with payment of the endorsement fee prescribed in Council's Schedule of Fees and Charges to create the following over the title of the property. The wording must nominate The Hills Shire Council

as the authority to release, vary or modify each restriction or positive covenant. Standard wording is available on Council's website and must be used.

i. Positive Covenant – Stormwater Pump Maintenance

A positive covenant to ensure the ongoing maintenance of the constructed stormwater pump-out system at the expense of the property owner.

ii. Positive covenant – Site Emergency Response Plan

A positive covenant to ensure the on-going implementation and maintenance of emergency response measures.

iii. Drainage Easements – Council

Suitable drainage easements must be created over all stormwater drainage pipelines and structures which convey public stormwater runoff, in accordance with the requirements of Council. Easements are only required for stormwater drainage pipelines and structures that are not located within a public road or drainage reserve.

Removal of Existing Drainage Easement

The existing drainage easement must be removed as required under this consent prior to issue of an Occupation Certificate.

iv. Restriction – Bedroom Numbers

A restriction must be created on the title of each dwelling limiting the number of bedrooms to that shown on the plans and details approved with this consent. The restriction must also state that no internal alterations are permitted that result in the creation of additional bedrooms.

b) Registration of Request Documents

The request documents endorsed by Council must be registered and a copy of the registered documents submitted to Council before an Occupation Certificate is issued.

78. Works as Executed Plans

Works as Executed (WAE) plans prepared by a suitably qualified engineer or registered surveyor must be submitted to Council when the engineering works are complete. The WAE plans must be prepared in accordance with Council's Design Guidelines Subdivisions/ Developments on a copy of the approved engineering plans. An electronic copy of the WAE plans, in ".dwg" or ".pdf" format, must also be submitted.

Where applicable, the plans must be accompanied by pavement density results, pavement certification, concrete core test results and site fill results.

79. Performance/ Maintenance Security Bond

A performance/ maintenance bond of 5% of the total cost of the engineering works is required to be submitted to Council. The bond will be held for a minimum defect liability period of one year and may be extended to allow for the completion of necessary maintenance or in the case of outstanding works. The minimum bond amount is \$5,000.00. The bond is refundable upon written application to Council along with payment of the applicable bond release fee, and is subject to a final inspection.

80. Confirmation of Pipe Locations

A letter from a registered surveyor must be provided certifying that all pipes and drainage structures are located within the proposed drainage easements.

81. Flooding Extent Plan

A plan of survey prepared by a registered surveyor must be provided that shows the 1 in 100 year ARI storm event flood levels associated with the adjacent drainage system. The plan must reflect the WAE plans and clearly indicate the extent of inundation.

82. Final Plan and 88B Instrument

The final plan and 88B Instrument must provide for the following. Standard wording is available on Council's website and must be used.

a) Dedication of Public Roads

The proposed extension of Fairmont Ave must be dedicated as public road at no cost to Council.

83. Public Asset Creation Summary

A completed public asset creation summary form must be submitted with the WAE plans. A blank form can be found on Council's website.

84. Internal Pavement Construction Certification (Waste Services)

Certification from a Certified Practising Engineer (CPEng) must be submitted to Council prior to the issue of an Occupation Certificate confirming that the internal pavement has been constructed in accordance with the approved plans and is suitable for use by a loaded waste vehicle.

85. Inspection of Bin Bay Storage Area(s)

Inspection of the bin bay storage area(s) is to be undertaken by Council's Waste Management Project Officer to ensure compliance with Council's design specifications.

THE USE OF THE SITE

86. Maintenance of Landscaping Works

The landscaping works, associated plantings and construction of retaining walls are to be effectively maintained at all times and throughout the life of the development.

87. Offensive Noise - Acoustic Report

The proposed use of the premises and/or machinery equipment installed must not create offensive noise so as to interfere with the amenity of the neighbouring properties.

Should an offensive noise complaint be received and verified by Council an acoustic assessment is to be undertaken (by an appropriately qualified consultant), and an acoustic report is to be submitted to Council for review. Any noise attenuation recommendations recommended and approved by Council must be implemented.

88. Servicing of Bins

Council contracted or private garbage/recycling collection vehicles servicing the development are not permitted to reverse in or out of the site. Collection vehicles must be travelling in a forward direction at all times to service bins.

89. Agreement for On-site Waste Collection

An Indemnity Agreement is to be signed and returned to Council to enable servicing of bins from the private road by Council's waste collection vehicles.

90. Noise Control – Car Park Exhausts

The car park exhaust fans and outlets shall not cause noise in excess of 5dB above the background noise level measured at the boundary of the subject property.

91. External Lighting

Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All external lighting shall comply with the Australian Standard AS 4282:1997, The Control of Obtrusive Effects of Outdoor Lighting.

ATTACHMENTS

- A1. Amended Locality Plan
- A2. Amended Elevation Drawings
- A3. Amended Section Drawings
- A4. Previous JRPP Planning Report

ATTACHMENT A1 – LOCALITY PLAN



- ☐ SUBJECT SITE
- ✓ PROPERTIES NOTIFIED
(SIX OFF THE SCOPE OF THE PLAN)
- SUBMISSIONS RECEIVED

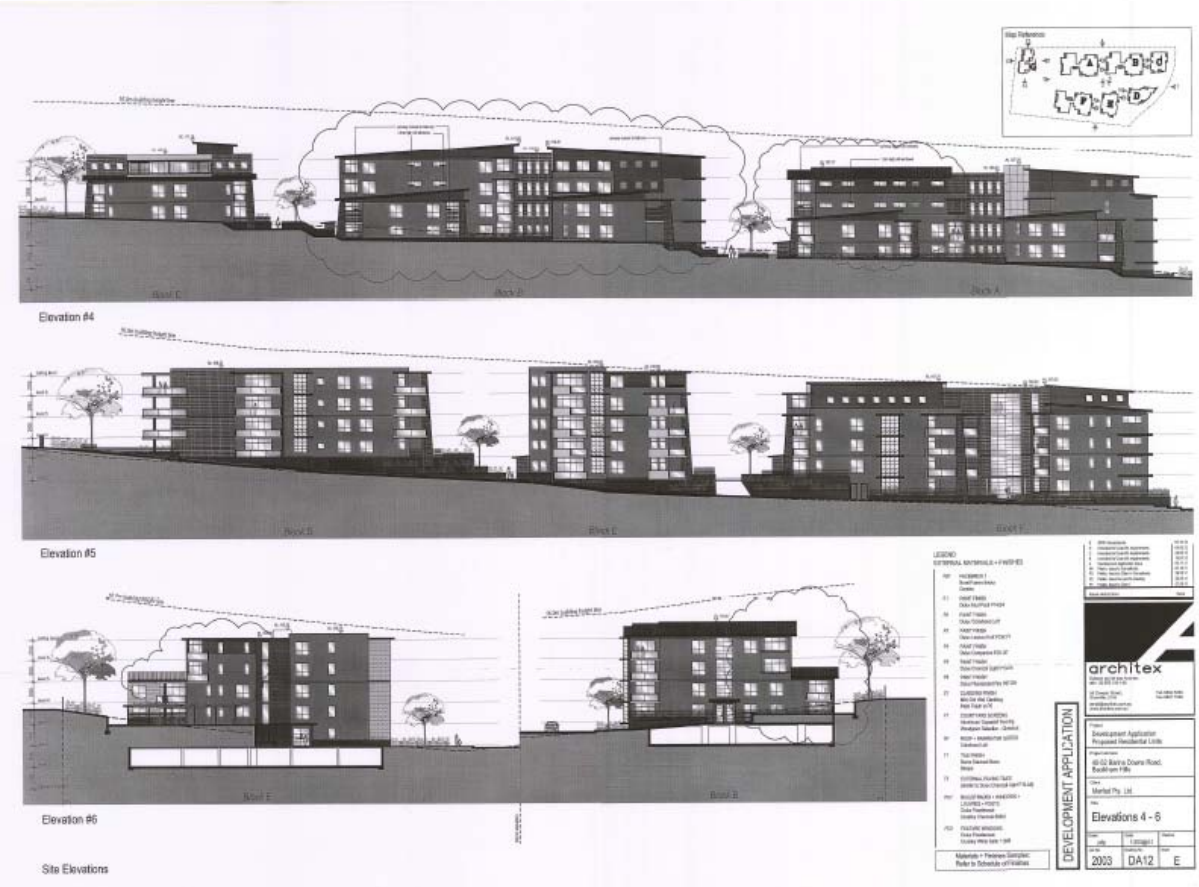
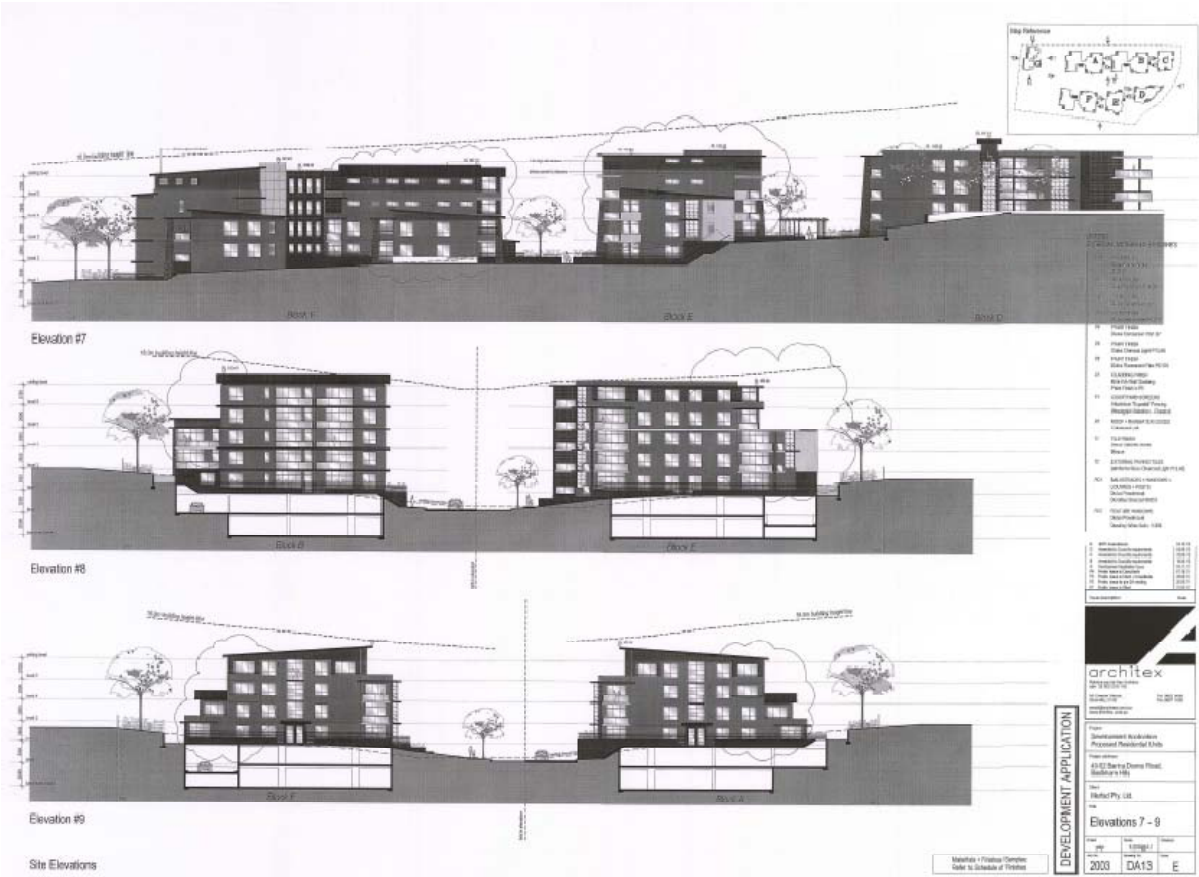


THE HILLS SHIRE COUNCIL

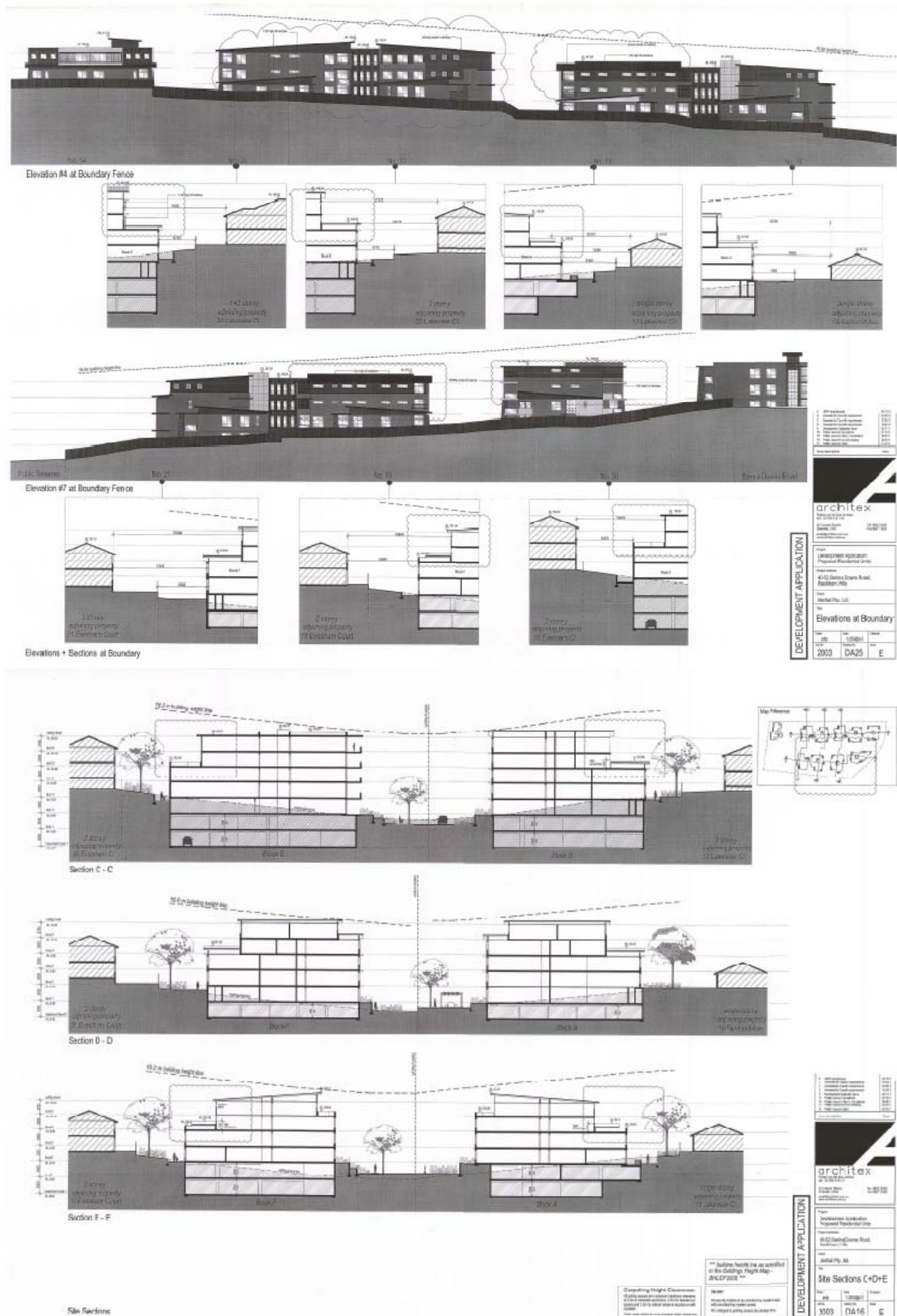
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ATTACHMENT A2 – AMENDED ELEVATION DRAWINGS



ATTACHMENT A3 – AMENDED SECTION DRAWINGS



ATTACHMENT A4 – PREVIOUS JRPP PLANNING REPORT

JRPP PLANNING REPORT

JRPP NO:	2012SYW030
DA NO:	870/2012/JP
PROPOSED DEVELOPMENT:	APARTMENT BUILDING AND TOWN HOUSE DEVELOPMENT
SUBJECT SITE:	LOT 6 DP 1085297 - 40-52 BARINA DOWNS ROAD, BAULKHAM HILLS
APPLICANT:	MERFAD PTY LIMITED
LODGEMENT DATE:	16 FEBRUARY 2012
REPORT BY:	DEVELOPMENT ASSESSMENT CO-ORDINATOR GAVIN CHERRY
RECOMMENDATION:	REFUSAL

BACKGROUND

MANDATORY REQUIREMENTS

Owner:	Merfad Pty Limited	1.	<u>BHLEP 2005</u> – Unsatisfactory.
Zoning:	<u>BHLEP 2005</u> : Residential 2(a) <u>Draft THLEP 2010</u> : R4 – High Density	2.	<u>Draft THLEP 2010</u> – Unsatisfactory. <u>Note</u> : Apartment Buildings and Town Houses are a permissible form of development within the current LEP and Draft LEP.
Area:	17,470m ²	3.	<u>SEPP 65 – Design Quality of Residential Flat Development</u> – Unsatisfactory.
Existing Development:	Vacant allotment with approved construction works commenced.	4.	<u>BHDCP Part C, Section 7 – Apartment Buildings</u> - Variations proposed – unsatisfactory.
		5.	<u>BHDCP Part C, Section 6 – Town Houses</u> - Variations proposed – Satisfactory.
		6.	<u>BHDCP Part D, Section 1 – Parking</u> - Variation proposed – Satisfactory.
		7.	<u>BHSC Multi Unit Housing Guidelines</u> – Unsatisfactory
		8.	<u>Section 79C (EP&A Act)</u> – Unsatisfactory.

		9.	<u>Section 94A Contribution</u> - \$309,167.12
		10.	<u>Capital Investment Value:</u> \$26,600,000.00

SUBMISSIONS JRPP

REASONS FOR REFERRAL TO

1. Exhibition:	Yes - 14 days.	1.	Capital Investment Value in Excess of \$20 million.
2. Notice Adj Owners:	Yes - 14 days.		
3. Number Advised:	1st Notification: 66 2 nd Notification: 31		
4. Submissions Received:	1st Notification: 28 submissions which includes a petition including 10 signatures. 2 nd Notification: Nine submissions.		

HISTORY

09/10/2001	Council approved a Development Application 605/2001/HB for a proposed medium density development comprising 47 units (primarily townhouses) at the subject site.
20/03/2003	Development Application 1699/2003/HB for a proposed development comprising 54 apartment units and 44 townhouses was refused under delegated authority.
23/07/2004	Class 1 Appeal to Development Application 1699/2003/HB (NSW Land and Environment Court Appeal No. 10418 of 2003) refused by the NSW Land and Environment Court primarily due to poor amenity outcomes for future residents.
18/11/2004	Development Application 996/2005/ZA for a proposed subdivision of a larger property into 5 lots including the subject site and a lot for open space was approved under delegated authority.
08/03/2007	Development Application 1557/2007/HB was approved by way of deferred commencement for a Residential Apartment Building development comprising 114 residential apartments in 6 buildings and 4 x 3 bedroom townhouses in a 4 stage subdivision.
19/01/2009	Active Development Consent 1557/2007/HB issued following

satisfaction of the deferred commencement requirements.

16/02/2012	Subject Development Application lodged.
27/03/2012	Letter sent to the applicant raising numerous issues relating to DCP non compliances, character interpretation, bulk and scale, car parking clarification, occupancy and density clarification, BASIX Certificate amendments, additional drainage details, amended car parking and driveway design details, relocated letterboxes and request to either withdraw or amend the application to reduce the height of the development as per the previous consent issued.
12/04/2012	Partial additional information submitted.
17/04/2012	Preliminary briefing provided to the Joint Regional Planning Panel.
24/05/2012	Conciliation Conference held at Council between the applicant, concerned residents and Council officers. The outcomes of this conference required the applicant to review the proposed height of the development, amend windows, balconies and privacy measures and for Council officers to liaise with the RMS concerning traffic management concerns.
08/06/2012	Further letter sent to the applicant reiterating previous concerns regarding bulk, scale and character integration as well as ongoing identified non compliances with density, visitor parking, storage areas, gross floor area and building height. This letter also requested the submission of further information concerning site drainage, parking design, waste management along with issues raised by the NSW RMS and NSW Police. The applicant was again requested to amend the application to reduce the height of the development at the interface with adjoining predominantly two storey detached dwellings as per the previous consent issued or withdraw the application.
02/07/2012	Additional information submitted. A copy of this information was sent to the NSW RMS for further consideration and comment.
04/07/2012	Amended drainage information submitted by the applicant.
30/07/2012	Email sent to the NSW RMS requesting comments on the additional information submitted from the applicant and referred on 02/07/2012.
13/08/2012	Section 94A Contribution information submitted by the applicant.
17/08/2012	NSW RMS contacted by telephone seeking finalisation of comments on the amended information referred by Council on 2 July 2012 (noting an email follow up was sent on 30 July 2012 without response).
21/08/2012	Additional comments received from the NSW RMS.

- | | |
|-------------------|---|
| 27/08/2012 | Additional detail submitted by the applicant outlining that the development is considered to comply with the DCP and Draft LEP 16.0m height requirements. |
| 29/08/2012 | Meeting undertaken between the applicant, applicant's consultant and Council staff to discuss concerns raised with respect to proposed building height, bulk and scale. |
| 31/08/2012 | Further letter sent to the applicant providing examples of inappropriate interface with adjoining developments. |

PROPOSAL

The proposal is for the construction of six apartment buildings between four and six storeys comprising 177 individual units. The apartment building component of the development includes the following:-

- 18 x studio or one bedroom units with an additional 82 x one bedroom dual key units;
- 46 x two bedroom units; and
- 31 x 3 bedroom units

If the proposed dual key units were not considered to be two individual (one bedroom) dwellings but rather a single two bedroom unit then the total unit yield across the development would be reduced to 136 units. However the dual key units have been assessed as two x one bedroom individual units as they each have separate habitable areas including separate kitchen and laundry facilities with a shared entry corridor.

The apartments range from studio units to three bedrooms plus media rooms. Parking for apartment residents and visitors is provided within two separate basement parking areas containing 272 car spaces.

In addition four townhouse units are proposed on the north-eastern corner of the subject site. All four townhouses have three bedrooms and garages with carports for two cars.

Vehicular access to the apartment component of the proposed development is via a central driveway to Barina Downs Road whilst the townhouses will be accessed via a Fairmont Avenue extension to be constructed by the applicant.

The apartment buildings (Buildings A to F) are positioned on each side of the central driveway in a north-south orientation. Common open space for the subject development will be centrally located between Buildings A and F and an additional common open space area is proposed to be located on the south-west corner of the subject site adjacent to Buildings D and E.

The subject site is located to the south of Norwest Business Park with a total area of 17,470m². The land is zoned Residential 2(a). The north western corner of the subject site adjoins a public reserve which was created by the approved subdivision of an original allotment containing the subject site and the adjoining public reserve. This subdivision was approved under Development Consent 966/2005/ZA. Council's acquisition of the land for the public reserve has been finalised.

The development site is irregular in shape and falls approximately 12m from Barina Downs Road to the north with a topographic depression through the centre of the site from each side about 5m. This gully is not considered to be a natural watercourse as it does not connect to any natural watercourses downstream.

The locality is a mixture of single residential dwelling developments to the east and west and business park commercial/warehouse uses to the north. Some medium density developments are located to the east and west of the subject site with a large medium density (town house) development near the junction of Windsor Road/Barina Downs Road.

CONCILIATION CONFERENCE

A conciliation conference was held on 24 May 2012 which was attended by the applicant's consultants, residents, Council staff and Councillors. The following issues were discussed:

- Permissibility (LEP and Draft LEP)
- Integration with Local Character and Building Height
- Building Setbacks and Separation
- Section 94 Contributions and Infrastructure Provision
- Amenity Impacts (Privacy and Overshadowing)
- Noise Impacts and Air Conditioning
- Traffic and Parking Impacts
- Stormwater Drainage and Potential Flooding
- Waste Storage and Collection
- Service Authority Requirements
- Devaluation
- Accountability for Decision Making

As a result of the conciliation conference, the following outcomes were reached:-

- Restrictions are to be implemented on title (or as conditions of consent if approved) ensuring basement parking spaces are not enclosed as garages.
- The applicant was requested to review window locations, window design and potential balcony screening measures to address privacy concerns raised.
- The applicant was requested to review the potential to address the building height concerns raised (which could include a reduction in levels).
- Council staff will further consider garbage truck access and waste collection from within the site.
- Council staff will further consider the traffic concerns raised in conjunction with any comments from the NSW Roads and Maritime Services.
- Council staff will separately investigate site security fencing which is encroaching into the nature strip affecting pedestrian access along Barina Downs Road.

The applicant was requested to provide additional information to address the matters raised during the conference. The applicant submitted plans which included amended window locations and design but did not reduce the proposed building heights or envelope.

The objectors were notified of the amended plans and nine submissions were received. It is noted that the issues raised in the second notification are generally similar to those raised in the first notification. The issues raised in the submissions are addressed within Section 8 this report.

ISSUES FOR CONSIDERATION

1. Compliance with BHLEP 2005

The subject site is zoned Residential 2(a) under Baulkham Hills LEP 2005 and an "apartment building" and "town house" development is permissible development on the subject site within this zone.

The following general objectives of the LEP are considered relevant to the proposed development:

"(2) The objectives of development of this plan are:

With respect to the natural and built environment of the Baulkham Hills local government area, that development should:

- (v) respect, improve and integrate with the local character of the locality in which it is carried out, and*
- (vii) have regard to the land issues that form the rural and urban environment of the Shire,*

(b) with respect to the community of that area, that development should:

- (i) integrate land use and improve access to open space, employment opportunities, public transport, community facilities and commercial services,*
- (ii) maximise positive social impacts and minimise potentially detrimental social impacts,*
- (iii) provide informal surveillance of public spaces,*

(c) with respect to use of resources within that area, development should:

- (i) protect localities from inappropriate development and ensure that local amenity is maintained and enhanced,*
- (ii) provide choice in housing for residents,*
- (iii) ensure that urban housing type varies and is designed and constructed in a manner that can accommodate (or be adapted to the needs of) a variety of household types."*

The following objectives of the zone are considered relevant to the proposed development:

- "(a) to make general provision for land to be used for the purposes of housing and associated facilities, and*
- (b) to provide for development for medium-density housing forms (including apartment buildings, town-houses, villas and the like) in locations close to the main activity centres of the local government area,"*

Comment:

The proposed development has been considered against the above objectives of Council's LEP. The design of the proposal is not considered to have appropriately responded to the urban character within the locality as the additional building height and density sought through the current application does not achieve a satisfactory level of integration or compatibility in terms of bulk, scale and building height to the development potential of the adjacent residential allotments.

While it is acknowledged that the site is capable of residential apartment building development under the provisions of BHLEP 2005, the bulk and scale was limited throughout previous applications on the site, most recently approved within Development Consent 1557/2007/HB. This previous application gave careful consideration to the bulk, scale and integration of the approved development at its interface with neighbouring residential properties with a smaller building height and building envelope proposed.

It is therefore considered that the proposal is inconsistent with the relevant objectives in Council's Local Environmental Plan 2005 being an overdevelopment of the site and is not supported.

2. Compliance with Draft THLEP 2010

The subject site is intended to be zoned R4 – High Density Residential under Draft The Hills LEP 2010 and a "residential flat building" and "multi unit housing" development is permissible development on the subject site within this intended zone.

The following general objectives of the LEP are considered relevant to the proposed development:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage high density residential development in locations that are close to public transport routes and centres.*

While the proposed development achieves compliance with the above objectives in that the proposal is providing housing choice in the area, in close proximity to public transport routes (future north west rail corridor throughout Norwest Business Park), the development site is not considered to be a normal circumstance. The site is an isolated R4 zoned allotment under the Draft LEP, surrounded by an R3 zone (multi unit housing capability) of a considerably lower built form outcome than that capable on the subject site.

When considering the appropriateness of the development under the Draft LEP, the general aims of the plan have been considered with the following relevant consideration replicated below:-

- "(a) To guide the orderly and sustainable development of The Hills Shire, balancing its economic, environmental and social needs; and*
- (d) To provide for balanced urban growth through efficient and safe transport infrastructure, a range of housing options, and a built environment that blends with The Hills Shire's cultural and natural heritage."*

The proposed development is not considered to be an example of orderly development, is not considered to balance the social and environmental needs of surrounding properties and is not considered to be an example of balanced urban growth given the

disparity in building height between the proposed development and the future development capability of surrounding allotments.

The social and environmental constraints of a site are considered to dictate the development potential of an allotment, and given the concerns raised in previous Development Applications, submissions from concerned residents and discussion at the Conciliation Conference, the proposed development is considered to be an unreasonable overdevelopment of the site.

In addition it is noted that Draft LEP 2010 introduces development standards which are applicable to the proposed development. The proposed applicable development standard is as follows:-

- Maximum Building Height 16.0 metres

As detailed within Section 4 of this report, the indicated building height planes on the submitted elevation drawings do not appear to accurately represent the required 16.0m height plane. The applicant has provided written advice reiterating that the development complies with the DCP and Draft LEP height requirements with indicated breaches resulting from drawing constraints. As such the applicant has advised that reliance on the elevation drawings submitted does not provide an accurate representation of the maximum building heights proposed. Further assessment of the plans however has still identified discrepancies in the height planes indicated on the submitted elevation drawings of up to 17.2m above natural ground level. In addition the submitted section drawings indicate a maximum building height of 16.8m associated with roof top plant and 16.3m associated with roofing elements as shown on Section Drawing B-B within Attachment 6. In this regard the development is not considered to comply with the maximum 16.0m height requirement.

While a height variation under normal circumstances could be favourably considered, the proposed built form and scale is not considered appropriate when considered in conjunction with the current and likely future character of the area.

It is therefore considered that the proposal is inconsistent with the above aims in the Draft Local Environmental Plan and is not supported.

3. Compliance with BHDGP Part C, Section 6 – Town Houses

The proposed development has been assessed against the relevant development standards and objectives of Baulkham Hills Development Control Plan as detailed below:-

Development Standard	BHDGP Part C Section 6 Requirements	PROPOSED	COMPLIES
Permissible Zone	Residential 2(a), 2(a1) & 2(a2)	BHLEP: 2(a) Draft LEP : R4	Yes
Isolation	The proposed development cannot isolate an adjoining lot(s) as per Clause 21(2) of BHLEP 2005	The proposed development does not prevent the separate development of properties to the east and west for town house or villa housing development.	Yes

Development Standard	BHDCP Part C Section 6 Requirements	PROPOSED	COMPLIES
3.1 Site requirements	(a) Min. site area - 1,800m ² (b) Min. road frontage - 28m (c) Average width - 30m (d) Battle-axe access - Prohibited	17,470m ² 33m to Fairmont 35m N/A	Yes Yes Yes N/A
3.2 Site analysis	Submission of a site analysis plan.	Plan submitted	Yes
3.3 Building Setback			
➤ Setback to Protect Trees	Where trees are located within the 10 metre front setback or 4.5 metre side or rear setback, all buildings are to be set back 5m from the trees or clear of the drip line of the trees whichever is the greater distance (measured from the outside of the tree trunk at ground level).	Cleared in front setback area. 4.5m to the centre of the trunk of the tree in the rear setback zone.	Yes No – considered satisfactory by Council's Tree Management Section.
➤ Building Alignment	Primary road frontage: Urban classified road – 10m Existing urban road – 10m Rouse Hill Development Area – 6m Secondary road frontage (corner allotments) – 6m Side/rear boundary to adjoining property: 1.5m for 5m portion of single storey component and 4.5m for remainder	9.8m minimum N/A TH1 (northern most) Side: 2.0m for 9.2m being a variation. Rear: 9.6.0m TH2: 9.8m rear TH3: 5.6m rear TH4 (southern most) Side: 1.5m for a	No – 200mm variation proposed. N/A No Yes Yes Yes No

Development Standard	BHDCP Part C Section 6 Requirements	PROPOSED	COMPLIES
Basement Carpark	2 nd storey component – 6m	2.5m length then the remainder is between 2.0m and 3.2m Rear: 5.83m	Yes
		<u>TH1 (northern most)</u> Side: 2.0m Rear: 9.6.0m	No Yes
		<u>TH2</u> : 9.6m rear	Yes
		<u>TH3</u> : 4.0m rear	No
		<u>TH4 (southern most)</u> Side: 2.05m Rear: 4.6m	No No
3.4 Building Heights	No encroachment into the front setback area	N/A	
	Where there are no significant trees in the setback area, a minimum of 2.5m from any side or rear boundary.	Yes - Satisfactory as advised by Council's Tree Management Section.	
	Max. eave height – 7.2m Max. ridge height – 9m Max. height for flat or skillion roofed buildings – 7.2m	Max 9.2m (skillion roof)	No
	On sloping sites, development is to be stepped so that the floor level of habitable rooms does not exceed 1m above or below natural ground level when measured at any point on the ground floor.	Max 1.0m finished floor level above natural ground level.	Yes
	Underfloor parking will only be considered on steeply sloping sites where the ground floor of the dwelling is not more than one metre above natural ground level.	N/A	N/A
	Basement car parking will	N/A	N/A

Development Standard	BHDCP Part C Section 6 Requirements	PROPOSED	COMPLIES
	<p>only be permitted where it can be demonstrated that the design achieves positive planning outcomes that otherwise will not be achieved, to include:-</p> <ul style="list-style-type: none"> ➤ Retention of sensitive environmental features such as significant trees or landscape features; ➤ Integration and regeneration of heritage buildings with a suitable curtilage within the development; or ➤ Provision of total landscape areas that exceed the minimum requirements by 30%. <p>Basement car parking not to protrude more than 1m above existing natural ground level</p>		
3.5 Density	<p>Max. 95 persons per hectare based upon the following occupancy rates:</p> <p>Existing detached dwelling - 3.5 persons 1 BR- 1.3 persons 2 BR - 2.1 persons 3 BR - 2.7 persons 4 BR - 3.5 persons</p>	Townhouses = 4x3 bed = 4 x 2.7 = 10.8 density	No - when combined with the apartment buildings. Refer to Apartment Building Table of Compliance for a combined density calculation across the development site.
3.6 Building Separation and Driveway Treatment	<p>10m between buildings facing each other.</p> <p>Stairs, eaves, bay windows, porticos, awnings, verandas and the like may encroach subject to min separation of 8m is achieved between any points on buildings facing each other across internal driveways.</p> <p>Landscape bays shall be provided along the edge of</p>	<p>N/A</p> <p>N/A</p> <p>Proposed</p>	<p>N/A</p> <p>N/A</p> <p>Yes</p>

Development Standard	BHDCP Part C Section 6 Requirements	PROPOSED	COMPLIES
	driveways.		
	Where a unit fronts the driveway a 2m wide landscape area must be provided between the unit and the driveway (except where entrance and garages are located).	N/A	N/A
	Min. 2m wide landscape area between the driveway and any adjoining property boundary.	>2m to neighbouring property	Yes
	Driveway dimensions:		
	- Max. permitted driveway pavement width is 6.7 metres. in areas adjacent to garages where manoeuvring area is required for vehicles.	12.2m for double garages to TH 3 & 4	No – however satisfactory.
	- Driveways to have a minimum width of 6m at the property boundary for a distance of 6m within the development to ensure easy entry/exit of vehicles.	6.0m	Yes
	- Except where a wider driveway (between 6m and 6.7m) is required for manoeuvring or safe entry/exit to or from the site the width of the driveway must be minimised. A minimum pavement width of 3 metres will be permitted.	N/A	N/A
	The location of the driveway entry point along the road frontage and gradient of the driveway should be in accordance with the requirements in Part D Section 1 – Parking of this DCP.	Satisfactory	Yes
	Driveway materials shall include a mix of impervious and pervious pavements with pervious pavements to be used in less trafficked	Satisfactory	Yes

Development Standard	BHDCP Part C Section 6 Requirements	PROPOSED	COMPLIES
	areas: - A mix of finishes and materials that minimise the visual prominence of the driveway; - Locating landscape area so they screen paved areas from view from the street; and - Locating buildings to permit curving driveways so as to reduce sight lines along the driveway.		
3.7 Landscaped Area	Minimum of 50% of the site exclusive of access driveways and parking. Min. 30% deep rooted planting where basement car parking is proposed. All landscaped areas are to have a minimum width of 2m.	69.7% across entire site 37.7% across entire site Complies	Yes Yes Yes
3.8 Unit Floor Area	1 BR - 75m ² 2 BR - 110m ² 3 BR - 135m ²	3 x bedroom town houses at 149m ² .	Yes
3.9 Building Materials	Submission of the following: - Schedule of external materials - Detailed descriptions and samples of internal materials. - Details of alternative materials considered and reasons as to why proposed materials were selected ahead of other alternatives. - Perspective of proposed development including landscaping.	Finishes schedule submitted in SEPP65 Assessment Report and considered satisfactory.	Yes
3.10 Building Design & Streetscape	- External brick walls to be maximum of 12m in length unless a return, recessed balcony or some other method of variation is adopted to break the straight run of brickwork. - Balconies must be recessed or otherwise treated to	<12m without articulation. No – balconies attached to the wall	Yes No

Development Standard	BHDCP Part C Section 6 Requirements	PROPOSED	COMPLIES
	prevent the appearance of attachment to the walls. Designs must be in harmony in terms of form, mass, colour and structure with the existing and likely future development in the street.	at the rear but as per 1557/07/HB	
	- Blank courtyard walls along boundaries shared with open space or reserves should be avoided and opportunities to create and orient dwellings to permit direct views from living areas into the open space/reserve should be pursued in design.	N/A	N/A
	- Dwellings that have courtyards facing a street or public place should be avoided. Where other design constraints dictate the need for a fence, it should be constructed of masonry material similar to the construction of the dwelling and should be setback a minimum of 2m from the property boundary to enable adequate landscaping.	N/A	N/A
	- Building layout should take into consideration views into the site. Unobscured views of expanses of garage doors or rear paling or masonry fences should be avoided.	Satisfactory	Yes
	- Building design and layout should promote natural surveillance of common areas and all entrances. Dormant spaces and possible areas of entrapment must be avoided.	Satisfactory	Yes
3.11 Urban Design	Applications must demonstrate conformity with	Refer to separate assessment outlined	No – unsatisfactory

Development Standard	BHDCP Part C Section 6 Requirements	PROPOSED	COMPLIES
Guidelines	"Baulkham Hills Multi Unit Housing – Urban Design Guidelines" (2005) which has been adopted by Council as a guide for the design of town houses.	within Section 6 of this report.	built form integration. Refer to Section 6 of this report for future details.
3.12 Open Space	<p><u>A. Private open space:</u></p> <ul style="list-style-type: none"> - One continuous area of private open space equal to 50% of the floor area of the dwelling shall be provided for each dwelling. - Private open space areas are to be contiguous to the dwelling for which it is provided and have a minimum useable area of 5m x 5m. - At least 80% of units have a private open space that receives direct sunlight to 50% of the required courtyard area between 9am and 3pm on 21 June. For the remaining 20% of units 50% of each private open space area is to receive direct sunlight for 3 hours between 9am and 3pm on June 21. - A collapsible or permanent clothes drying device is to be provided within the private open space area and should be located so as to maximise the amount of direct sunlight available to clothes drying areas. - Private open space areas shall be enclosed with a wall or fence with an effective height of 1.8m from the finished ground level of the open space courtyard. All fencing enclosing private open space facing a common area or public place shall be constructed in masonry similar to the type and 	<p>TH1: Approx 110m² TH2: Approx 85m² TH3: Approx 60m² TH4: Approx 75m²</p> <p>5m x 5m but not continuous as new stairs indicated for TH3 and TH4</p> <p>Complies as private open space areas are orientated north</p> <p>To be conditioned if the application is approved.</p> <p>To be conditioned if the application is approved.</p>	<p>Yes Yes No – short 14.5m² Yes</p> <p>No – minor stair case encroachment.</p> <p>Yes</p> <p>To be conditioned if the application is approved.</p> <p>To be conditioned if the application is approved.</p>

Development Standard	BHDCP Part C Section 6 Requirements	PROPOSED	COMPLIES
	<p>colour to be used in the building.</p> <p>B. Common open space:</p> <ul style="list-style-type: none"> - Common open space areas comprising a children's play area shall be provided on the site behind the building line, for developments of more than five (5) dwellings. - The common open space is to be centrally located and regularly shaped and must meet the following criteria: <p>5 or less units – N/A 6 – 14 units - min 144m² in area @ 12m x 12m dimensions 15 or more units - 10m² per unit with minimum dimension of 12m</p> <p>Common open space should:</p> <ul style="list-style-type: none"> - be suitable to enable it to be used for recreational activities, and be capable of deep-rooted planting to allow substantial vegetation to be planted. Dual use of the common open space for drainage purposes will not be permitted if inundation of the common open space restricts use of the land for recreational purposes or has a detrimental impact on landscaping provided; - be overlooked from adjoining units to ensure natural surveillance of the space. - achieve adequate solar access (50% of the common area should receive direct sunlight between 9am and 3pm for 4 hours in midwinter). 	<p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>	<p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>

Development Standard	BHDCP Part C Section 6 Requirements	PROPOSED	COMPLIES
	In larger developments common open space must be designed to link to internal pedestrian paths through the site.	N/A	N/A
3.13 Solar Access	<ul style="list-style-type: none"> - Each dwelling shall obtain direct sunlight where possible. - Living spaces to face the north wherever possible. - 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. - If suitable, minimise the size of west facing windows, or consider external vertical shading devices such as vertical blinds and blade walls. Shading elements are to be integrated into the overall elevation design. 	<p>Satisfactory solar access provided.</p> <p>Satisfactory (where possible)</p> <p>Satisfactory as per BASIX Certificate commitment requirements.</p> <p>Satisfactory as per BASIX Certificate commitment requirements.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
3.14 Ventilation and Infiltration	<ul style="list-style-type: none"> - Consider prevailing breezes in relation to building orientation, window design and internal circulation. - Place windows to allow for cross ventilation i.e. on opposite sides of a building rather than in adjacent walls where possible. - Consider the installation of fans, roof vents, louvered windows and high-level windows to aid air circulation. 	<p>Satisfactory</p> <p>Satisfactory</p> <p>Satisfactory</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
3.15 Insulation and Thermal Mass	- Lighting is to be provided and installed in accordance with the Building Code of Australia.	To be conditioned if the application is approved.	To be conditioned if the application is approved.

Development Standard	BHDCP Part C Section 6 Requirements	PROPOSED	COMPLIES
	<ul style="list-style-type: none"> - Lighting in communal areas must be provided to ensure the security of residents and visitors. - Maximise the use of natural lighting through window placement and skylights. - Light switches in common areas are to be time switched. - Motion detectors are to be used for unit entries, lobbies and outdoor security. (f) Incorporate dimmers, motion detectors, and automatic turn-off switches where appropriate. (g) Provide separate switches for special purpose lights. 		
3.16 Stormwater Management	<p>(a) Drainage systems are to be designed and constructed in accordance with the design guidelines set out in "Australian Rainfall and Runoff 1987" published by the Institution of Engineers, Australia.</p> <p>(b) Drainage easements will be required where the development property does not drain directly into the existing stormwater drainage system or a public road.</p> <p>Development Consent will not be issued until the submission of documents demonstrating the creation of any necessary easements over downstream properties.</p> <p>(c) Discharge points are to be controlled and treated to prevent soil erosion, and may require energy dissipating devices on steeper topography, to Council's requirements.</p>	Assessed by Council's Engineers and considered satisfactory.	Yes

Development Standard	BHDCP Part C Section 6 Requirements	PROPOSED	COMPLIES
	<p>(d) Downstream amplification of existing drainage facilities may be required.</p> <p>(e) Developments within the Upper Parramatta River Catchment must comply with any requirements of the Sydney Catchment Management Authority.</p> <p>(f) On-site detention and/or water recycling, and/or water quality management systems may be required to Council's and/or the Sydney Catchment Management Authority requirements to counteract an increase in stormwater runoff.</p> <p>(g) The design of drainage systems is to be in accordance with Council's Design Guidelines for Subdivisions/ Developments.</p> <p>(h) Water Sensitive Urban Design (WSUD) principles shall be employed in the management of the site's stormwater in terms of water retention, reuse and cleansing. In this regard: ➤ The drainage design is to include measures to manage the water quality of stormwater runoff. One measure that should be considered is integration of bio-retention filters along roadways, driveways and within open space areas.</p>		
3.17 Car Parking	(a) All car parking required by Council shall be provided on-site in accordance with the requirements contained within Part D Section 1 - Parking of this DCP.	Minor variation to visitor parking requirements as detailed further within Section 5 of this report.	No – refer to Section 5 of this report for further assessment detail.

Development Standard	BHDCP Part C Section 6 Requirements	PROPOSED	COMPLIES
	<p>(b) On site car parking is to be provided at the following rates:</p> <p>1 bedroom - 1 space 2-4 bedrooms - 2 spaces Visitor Parking - 2 spaces per 5 dwellings</p> <p>Car parking rates are to be <u>rounded up</u> to the next whole number.</p>	1 x garage and carport proposed as previously approved	Yes
	<p>(c) Excavation for underground car parking will be considered on its merits. Such can take the form of a common basement car park or on sloping sites individual garages may be excavated into the slope to provide for underfloor parking.</p>	N/A	N/A
	<p>Underfloor parking that results in taller and or bulkier elevations will not be supported, particularly if these elevations are visible from the street or any adjoining properties.</p>	N/A	N/A
	<p>(d) Garages must not dominate the façade or driveway of townhouse developments.</p>	Satisfactory	Yes
	<p>For 2-garage spaces consideration should be given to enclosing only one space in a garage and treating the second space with a pergola or deck.</p>	Proposed garage and carport as per DCP consideration.	Yes
	<p>(e) Enclosed double garage will only be permitted where a minimum of two of the following design measures are employed:</p> <p>➤ Garage doors are divided by a vertical masonry pillar or similar, ➤ Colours and textures are</p>	N/A	N/A

Development Standard	BHDCP Part C Section 6 Requirements	PROPOSED	COMPLIES
	<p>used to ensure garage doors do not dominate the elevation,</p> <ul style="list-style-type: none"> ➤ A verandah or pergola is provided across the face of the garage, ➤ Vertical elements are utilised to mitigate the horizontal emphasis of the garage, and ➤ Garages are staggered whereby one garage is setback from the adjoining garage. 		
	(f) Car parking spaces should be screened from the street.	Garages orientated to the street	No – but as per approved
	(g) Single garages shall have a minimum internal clear dimensions of 5.5m x 3.0m.	3m x 5.5m	Yes
	Double garages must have internal clear dimensions of 5.5m x 5.4m. These garage dimensions are exclusive of the storage area requirement in section 3.18.	N/A	N/A
	(h) Visitor parking must be provided with minimum dimensions of 5.5m x 2.6m.	Stacked visitor parking proposed	No – however the proposed stacked parking is consistent with the previous approval issued.
	Access to visitor parking behind security gates must be maintained through the operation of an intercom system installed at or near the gate.	N/A	N/A
	Maximum driveway gradient of 5% for 6 metres before the intercom to minimise problems associated with using the intercom on steep driveway gradients.	Satisfactory as advised by Council's Engineers.	Yes
	(i) Provision of a separate vehicle turning facility	N/A	N/A

Development Standard	BHDCP Part C Section 6 Requirements	PROPOSED	COMPLIES
	<p>between the intercom location and the security door to enable visitor vehicles to manoeuvre and leave the site in a forward direction should the resident be unavailable or denied access to the car park.</p> <p>(j) Extra 300mm in width to parking spaces adjoining a solid wall. This does not apply to garages, which must comply with the dimensions specified above.</p> <p>(k) Parking areas within the front setback are discouraged.</p> <p>(l) 2m wide landscaped strip between car parking areas and adjoining property boundaries to screen the parking from view.</p> <p>(m) Disabled parking provision is to be provided in accordance with Baulkham Hills Shire Council policy entitled "Making Access For All" (2002).</p> <p>(n) Developments in excess of 10 units are to provide separate pedestrian and vehicular access from the street.</p> <p>(o) A carwash bay must be provided in accordance Part D Section 1 – Parking of this DCP.</p>	<p>Satisfactory as advised by Council's Engineers.</p> <p>Stacked parking within the driveways for visitors.</p> <p>>2m Proposed</p> <p>Refer to Apartment Building Assessment</p> <p>N/A</p> <p>Refer to Apartment Building Assessment</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Refer to Apartment Building Assessment</p> <p>N/A</p> <p>Refer to Apartment Building Assessment</p>
3.18 Storage	10m ³ storage area Minimum area 5m ² and 2m in width.	Nil storage area proposed	No – consistent with previous approval.
3.19 Access and Adaptability	<p>Accessible path of travel addressing AS 1428 Pt 1</p> <p>1 accessible unit if development is 20 dwellings</p>	<p>No accessible townhouse proposed</p>	Satisfactory – accessible units

Development Standard	BHDCP Part C Section 6 Requirements	PROPOSED	COMPLIES
	<p>or less, Otherwise 5% if more than 20 dwellings proposed.</p> <p>1 accessible visitor parking bay required.</p> <p>1 accessible drop off bay required.</p> <p>1 bay for coaster size bus and associated path of travel.</p> <p>Access Report required addressing Class B Australian Standard Requirements</p>	<p>Refer to Apartment Building Assessment</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>	<p>contained within apartment building component of the larger development.</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>
3.20 Pedestrian Access Safety and Security	<p>Pathways are accessible to people with mobility impairments.</p> <p>Adequate lighting, signage and choice of materials/ surfaces for all pathways.</p> <p>Design allows natural surveillance of pathways.</p>	<p>N/A</p> <p>Satisfactory</p> <p>Satisfactory</p>	<p>N/A</p> <p>Yes</p> <p>Yes</p>
3.21 Privacy – Visual And Acoustic	<p>Overlooking of private spaces/ adjoining units and dwellings minimised.</p> <p>Design considers and addresses potential noise conflicts.</p>	<p>Satisfactory</p> <p>Satisfactory</p>	<p>Yes</p> <p>Yes</p>
3.22 Services	Appropriate Services Available	Satisfactory	Yes
3.23 Waste Management Storage and Facilities	Required number of garbage bins and storage area provided.	Satisfactory as advised by Council's Resource Recovery Section.	Yes
3.24 Waste Management Planning	Waste Management Plan provided.	Satisfactory as advised by Council's Resource Recovery	Yes

Development Standard	BHDCP Part C Section 6 Requirements	PROPOSED	COMPLIES
		Section.	
3.25 Fencing	<p>1.8 metre high to all courtyard areas.</p> <p>Courtyard walls facing public areas are to masonry (or mixed materials)</p> <p>No pre-painted solid metal fencing or rendered finishes in one colour are permitted.</p> <p>Fencing to be setback a minimum 2.0m from the front boundary.</p>	<p>To be conditioned if the application is approved.</p> <p>N/A</p> <p>>2.0m setbacks proposed.</p>	<p>To be conditioned if the application is approved.</p> <p>N/A</p> <p>Yes</p>
3.26 Developer Contributions	Contributions payable for this development – refer to current Section 94A contributions rate.	Section 94A Contributions Calculation provided.	Yes
Basix Certificate	A Basix Certificate is required with all required notations reflected on the plans	Basix Certificate submitted and satisfactory.	Yes
External Finishes	<p>A schedule of colours and finishes is required addressing:-</p> <ul style="list-style-type: none"> • External walls • Roof treatment • Driveway treatment • Guttering and fascias • Window frames etc 	Schedule submitted	Yes

The proposed development provides a number of variations to the DCP which are already approved within Development Consent 1557/2007/HB. The existing approved variations are detailed below:-

- Side setbacks
- Rear setbacks
- Nil storage areas adjacent to garage
- Non compliant private open space areas
- Balcony design
- Driveway pavement width
- Stacked visitor parking
- Setback to retained trees
- Building Height

As these variations were previously considered and supported in the approval of the town house component of the previous development, these variations have not been justified again within the current Development Application assessment.

It is noted that the above variations are still considered to be minor in nature ensuring a two storey construction which appropriately integrates within the streetscape of Fairmont Avenue with satisfactory building articulation, solar access, useable private open space areas and separation to neighbouring properties.

The proposed amended development also results in an additional minor front setback variation as follows:-

- The minimum front setback is 9.8m instead of the required 10.0m

The proposed variation being 200mm is considered satisfactory as the setback results from the curvilinear alignment of the cul-de-sac head and maintains a consistent setback to that evident within Fairmont Avenue.

As a result the existing approved variations, and proposed additional 200mm front setback variation is considered satisfactory and supportable.

4. Compliance with BHDGP Part C, Section 7 – Apartment Buildings

The proposed development has been assessed against the relevant development standards and objects of Baulkham Hills Development Control Plan as detailed below:-

DEVELOPMENT STANDARD (CLAUSE NO.)	BHDGP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
3.1 Site Requirements	Min. lot size 4000m ² Min. frontage – 30m	17,470m ² 129m	Yes
3.3 Setbacks – Building Zone	Front (one street frontage) - 10m Front (two street frontages): Primary frontage – 10m Secondary frontage – 6m Side – 6m Rear – 8m	Minimum 10.085m (Barina Downs Road) Minimum 10m (Fairmont Avenue) Bld A: Min 7.0m Bld B: Min 6.71m Bld C: Min 6.71m Bld D: Min 31.0m Bld E: Min 9.24m Bld F: Min 9.0m Bld A: Min 10.0m Bld B: N/A Bld C: N/A Bld D: N/A Bld E: N/A Bld F: N/A	Yes – Building C Yes – Building A Yes Yes Yes Yes Yes Yes Yes N/A N/A N/A N/A N/A N/A – The public reserve was part of the site but has been dedicated as per Consent No.

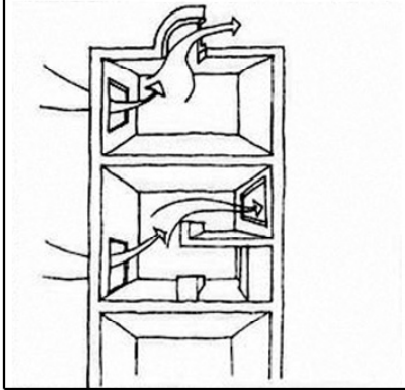
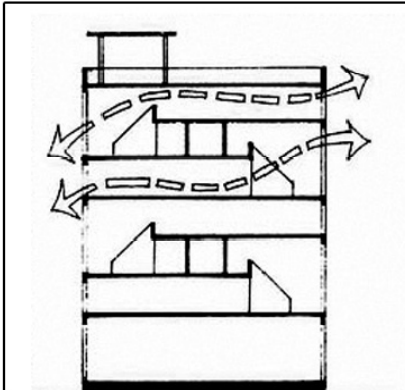
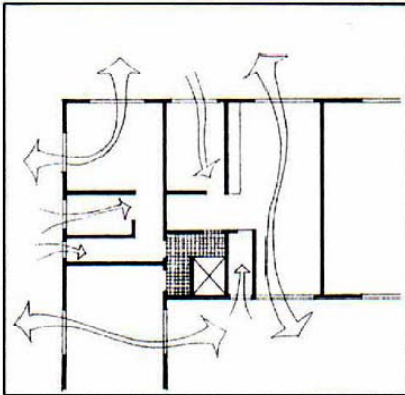
	No basement encroachment into setback zones.	<p>Bld A: Min 7.0m to side (no encroachment) and 11.89m to rear (no encroachment)</p> <p>Bld B: Min 7.0m (no encroachment)</p> <p>Bld C: Min 7.0m to side (no encroachment) however 9.630m to front. (encroachment)</p> <p>Bld D: Min 9.0m to side (no encroachment) and 10.415m to front (no encroachment)</p> <p>Bld E: Min 9.0m (no encroachment)</p> <p>Bld F: Min 9.0m to side (no encroachment) and 5.780m to rear (no encroachment as setback to a public reserve previously dedicated)</p>	<p>1557/2007/HB.</p> <p>Yes</p> <p>Yes</p> <p>No</p> <p>Yes</p> <p>Yes</p> <p>Yes – The public reserve was part of the site but has been dedicated as per Consent No. 1557/2007/HB.</p>
3.4 Building Heights (per storey)	13 metres to eaves 16 metres to ridge	<p>Maximum eave height of 13.4m associated with Building F as indicated on Section B-B.</p> <p>Maximum ridge height of 16.8m associated with roof top plant of Building F (maximum roof level of 16.3m) as indicated on Section B-B.</p>	No - The applicant has submitted detailed justification to state that the proposed building heights comply with the 16.0m height requirement however reassessment of the section drawings submitted has still identified maximum eave and ridge height variations.
3.5 Building Separation and Treatment	12m	Bld A: Min 11m corner to corner but Min 12m for all	Yes for all units facing each other as the

		<p>walls facing each other</p> <p>Bld B: Min 12m to Building A and min 20.06m to Building D</p> <p>Bld C: Min 12m to Building B and min 20.045m to Building D</p> <p>Bld D: Min 12m to Building E and min 17.39m to Building B</p> <p>Bld E: Min 13.75m to Building F and min 23.9m to Building B</p> <p>Bld F: Min 13.75m to Block E and min 23m to Block A</p>	only corner to corner setback which is less than 12m is Building A (but not facing each other).
3.6 Landscaped Area	50% of site area	Total site: 61.2% as indicated within the SEE.	Yes
3.7 Building Length	Max. 50m	<p>Bld A: 50m (including ground floor staircase)</p> <p>Bld B: 50m (including ground floor staircase)</p> <p>Bld C: 22.5m</p> <p>Bld D: 36m</p> <p>Bld E: 35m</p> <p>Bld F: 49.5m</p>	Yes for all.
3.8 Building Design and Streetscape	<p>Designs must be in harmony in terms of form, mass, colour and structure with existing and likely future development in the street.</p> <p>Siting and design to ensure clear definition of street edge and reinforce street corners. Building lines together with landscaping treatments should distinguish the public and private realms.</p>	<p>Not considered to be in harmony with surrounding built mass</p> <p>Satisfactory</p>	<p>No</p> <p>Yes</p>

	<p>Must not be repetitive in design and incorporate harmonious design variations such as verandas, entrances, facades, etc.</p>	Satisfactory	Yes
	<p><u>Walls and Rooflines:</u></p> <ul style="list-style-type: none"> - Articulation provided to reduce bulk - With variety of colours to reduce monotony and add enhance the streetscape - With windows to enhance façade appearance - Well balanced vertical and horizontal proportions - Break up large horizontal facades (whether walls or roofs) into smaller sections no longer than 10m - Use of well-proportioned and balanced projections and recesses on facades. - Provision of architectural features in the façade such as entry porches, pergolas, etc. 	<p>Bulk considered excessive</p> <p>Satisfactory finishes</p> <p>Provided</p> <p>Satisfactory</p> <p>15m but broken with articulation element</p> <p>Satisfactory</p> <p>Satisfactory</p>	<p>No</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
	<p><u>Garages:</u></p> <ul style="list-style-type: none"> - Comprise more than one material and colour to enhance visual attractiveness and interest. - Concealed or screened by planting from the street and public view, as much as possible. 	<p>Basement proposed</p> <p>Basement proposed</p>	<p>N/A</p> <p>N/A</p>
	<p><u>Entrances:</u></p> <ul style="list-style-type: none"> - Clearly visible from the public and semi-public areas. Lighting to be provided for safety at night. - Entries to be readily apparent from the street and clearly visible from inside the dwelling for casual surveillance. - Space around building entrance to be sufficiently large to stand out and have a distinctive architectural form. - Entries to be distinctive, attractive and welcoming. - Provide sheltered transitional areas around building entries. - All ground floor dwellings to have their own entry at ground level. - Building entries to be visible from, or address the site front boundary, and clearly delineated and observable from the driveway. 	<p>Satisfactory</p> <p>Satisfactory</p> <p>Satisfactory</p> <p>Satisfactory</p> <p>Covered entry foyer</p> <p>Entry via ground foyer</p> <p>N/A Building A is towards the rear with access from central open space</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>

	<p><u>Views and Siting:</u></p> <ul style="list-style-type: none"> - Siting of building to take advantage of any views to nearby/adjoining landscaped open space or any public reserve. - Siting and design to take advantage of any views to open space, public reserves and bushland to promote natural surveillance and enhance visual amenity for residents. - Avoid blank courtyard walls along boundaries shared with open space or reserves. - Provide opportunities to create and orient dwellings to permit direct views from living areas into the open space/reserve. - Avoid courtyards facing a street or public place. If cannot be avoided due to design constraints, design to comply with Section 3.27 Fencing giving consideration to streetscape and visual impact issues. 	<p>Satisfactory</p> <p>N/A</p> <p>N/A</p> <p>Satisfactory</p> <p>N/A – Building A is at the rear</p>	<p>Yes</p> <p>N/A</p> <p>N/A</p> <p>Yes</p> <p>N/A</p>
3.9 Urban Design Guidelines	Demonstrate conformity with "Baulkham Hills Multi Unit Housing – Urban Design Guidelines 2002"	See separate assessment	See separate assessment
3.10 Density	150-175 persons per hectare	184 persons resulting from the separate classification of the dual key units.	Yes
3.11 Unit Layout and Design	<p>1 bedroom – 75m²</p> <p>2 bedroom – 110m²</p> <p>3 bedroom – 135m²</p>	<p>1 bed: 69m² to 84m²</p> <p>2 bed: 89m² to 149m²</p> <p>3 bed: 109m² to 131m²</p>	No – permissible however by way of the SEPP.
3.12 Building Materials	<p>Must comply with the Local Government Act, 1993, Local Government regulations and Building Code of Australia</p> <p>Reflect and complement the existing character and streetscape.</p> <p>Choice of materials to consider both their environmental and economic costs.</p> <p>Use graffiti resistant materials in areas accessible by the general public and communal areas within the development.</p> <p>Use colours that are visually</p>	Satisfactory for all	Yes

	<p>pleasing and reflect the predominant colours in the area.</p> <p>Avoid materials and colours with excessive glare.</p> <p>Avoid materials that are likely to contribute to poor internal air quality.</p> <p>Select materials that will minimise the long-term environmental impact over the whole life of the development.</p> <p>Preference to materials derived from renewable sources or are sustainable and generate lower environmental cost, recycled material/s with low embodied energy, better lifecycle costs and durability.</p>		
3.13 Open Space	<p>Private: Ground level – 4m x 3m (min)</p> <p>Above ground – min. 10m² with min. depth 2.5m</p> <p>Common: 20m² per dwelling</p>	<p>All ground floor units are compliant.</p> <p>All upper floor units have sufficient area and minimum depth for the proposed balconies.</p> <p>136 Apartments requires 2,720m² of Common Open Space – 2827.7m²</p> <p>However if the dual key units are assessed as separate domiciles then the development proposes 177 units requiring the provision of 3,540m² of common open space area.</p>	<p>Yes</p> <p>Yes</p> <p>No – the dual key units have been assessed as separate domiciles.</p>
3.14 Solar Access	<p>Adjoining buildings / open space areas – 4 hours between 9am & 3pm on 21 June</p> <p>Common open space – 4 hours between 9am & 3pm on 21 June</p>	<p>Complies</p> <p>Sufficient solar access is available for the northern common open space area at</p>	<p>Yes</p> <p>Yes</p>

		9.00am, 12.00 noon and 3.00pm with sufficient solar access to the southern common open space area at 12 noon.	
3.15 Ventilation	 <p>Cross ventilation can be achieved through roof vents and air shafts. Apartments with mezzanines and two storey apartments assist in air movement.</p>  <p>Good cross ventilation can be achieved with double orientation apartments, having split levels and corridors on alternative floors</p>  <p>Cross ventilation is best achieved through narrow floor plans</p> <p>- Consider prevailing breezes in relation to building orientation, window design and internal</p>	<p>Considered in SEPP 65 Assessment and deemed satisfactory</p>	Yes

	<p>circulation.</p> <ul style="list-style-type: none"> - Place windows to allow for cross ventilation i.e. on opposite sides of the building rather than adjacent walls where possible. These windows are to be lockable in a partly open position. - Promote air circulation and consider the installation of fans, roof vents, louvered windows and high-level windows to aid air circulation. - Provide security screen doors at unit entries. - Minimise air gaps by incorporating door and window seals. 		
3.16 Lighting	<ul style="list-style-type: none"> - Lighting to be in accordance with the Building Code of Australia. - Adequate lighting to ensure the security and safety of residents and visitors. - Maximise the use of natural lighting through window placement and skylights. - In common areas lights are to be time switched and energy efficient fitting should be used. - Motion detectors are to be used for unit entries, lobbies and outdoor security. - Incorporate dimmers, motion detectors, and automatic turn-off switches where appropriate. - Provide separate switches for special purpose lights. 	<p>Considered in SEPP 65 Assessment and deemed satisfactory</p> <p>Compliance with BCA to be conditioned</p>	Yes
3.17 Stormwater Management	<ul style="list-style-type: none"> - Drainage easements required where the development property does not drain directly into the existing stormwater drainage system or a public road. Development Consent will not be issued until the submission of documents demonstrating the creation of any necessary easements over downstream properties. - Discharge points are to be controlled and treated to prevent soil erosion, and may require energy dissipating devices on steeper topography, to Council's requirements. - Where necessary, downstream amplification of existing drainage facilities will be required including Council infrastructure if required. 	<p>Satisfactory as assessed by Council's Subdivision Engineers.</p>	Yes

	<ul style="list-style-type: none"> - Developments within the Upper Parramatta River Catchment must comply with any requirements of the Sydney Catchment Management Authority. - On-site detention, water recycling, or water quality management systems may be required to Council's and/or the Sydney Catchment Management Authority and/or the Hawkesbury Catchment requirements, to counteract an increase in stormwater runoff. -Design of drainage systems to be in accordance with Council's Design Guidelines for Subdivisions/ Developments. - Water Sensitive Urban Design (WSUD) principles to be employed in the management of the site's stormwater in terms of water retention, reuse and cleansing. In this regard, the drainage design is to include measures to manage the water quality of stormwater runoff. At a minimum the design is to integrate bio-retention filters along roadways, driveways and within open space areas; - On site detention tanks are only permitted in common areas within a proposed development (for example driveways, common open space) and not within private courtyards. 		
3.18 Vehicular Access	<ul style="list-style-type: none"> - Access to the site to be in accordance with the requirements of BHDCP Part D Section 1 – Parking. - Provision of adequate vehicular entry and exit and circulation areas. The design must: <ul style="list-style-type: none"> - provide a safe environment for both pedestrians and vehicles using the site and surrounding road networks; - ensure vehicular ingress and egress to the site is in a forward direction at all times; - provide for service vehicles where possible; and - be designed to minimise the visual impact of hard paved areas. - A centrally located driveway, a minimum of 10 metres from any side boundary or street. - Minimum driveway width of 6 metres at the property boundary 	<p>Satisfactory</p> <p>Satisfactory as assessed by Council's Subdivision Engineers.</p>	Yes

	<p>for a distance of 6 metres within the development to ensure easy entry/exit of vehicles.</p> <ul style="list-style-type: none"> - Driveway gradients to be in accordance with Australian Standard – AS 2890.1 – 1993 – Part 1 – Parking Facilities – Off Street Car Parking. 		
3.19 Car parking	<p><u>Rate per unit & visitor parking:</u> 1 space per 1 BR 2 spaces per 2 or 3 BR Visitor – 2 spaces per 5 dwellings</p> <p><u>Parking Dimension:</u> - Lockable single garages min. dimension – 5.5 metres x 3 metres (exclusive of storage) - Lockable double garages min. dimension – 5.5 metres x 5 metres (exclusive of storage) - Visitor parking dimensions – 5.5 metres x 2.6 metres</p> <p><u>Manoeuvring and Ramps:</u> - First 6 metres of the driveway inside the property boundary to be a maximum of 5% - Ramp grades to comply with Australian Standard 2890.1 - Manoeuvring in accordance with Australian Standard 2890.1</p>	<p>Refer to separate car parking assessment.</p> <p>Satisfactory assessed as by Council's Subdivision Engineers.</p> <p>Satisfactory assessed as by Council's Subdivision Engineers.</p>	<p>Yes</p> <p>Yes</p>
3.20 Storage	10m ³ with an area 5m ² and dimension 2 metres	Compliant storage areas and dimensions proposed as indicated on the Storage Area Table on the Cover Sheet Plan.	Yes
3.21 Adaptability, Pedestrian Access & Safety	<p>Lift provided if greater than 2 storeys</p> <p>Accessible housing: 5% in a development >20 units</p>	Lift proposed	Yes
3.22 Pedestrian/Bicycle Links	<p><u>Within the Site</u> - Access to dwellings should be direct and without unnecessary barriers. No steps between the street frontage and the principal building entrances. - Provide clearly defined pedestrian pathways between proposed development and proposed footpaths along sub-arterial roads. - Adequate lighting in common and access areas.</p>	<p>Accessible ramps provided</p> <p>Definable paths provided</p> <p>Satisfactory</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

	- All pathways and ramps to conform to the minimum dimensional requirements set out in AS1428 Part 1-1998 Design for Access and Mobility and AS1428 Part 2-1992. and Council's Policy "Making Access for All 2002".	1:14 indicated ramp	Yes
	- All surfaces to be stable, even and constructed of slip resistant materials. Any stair nosings should have a distinctive colour and texture.	Satisfactory	Yes
	- Building and unit numbering and all signage is to be clear and easy to understand. International Symbols of Access should be displayed where buildings, crossings, amenities, car parking, pathways and ramps are accessible, as detailed in the Baulkham Hills Shire Council policy entitled "Making Access For All 2002".	Satisfactory.	Yes
	- Pathway locations must ensure natural surveillance of the pathway from primary living areas of adjoining units. Dwelling entries must not be hidden from view and must be easily accessible.	Satisfactory	Yes
	- A bicycle lockup facility to be provided close to the main entry to the building.	Satisfactory to be located within storage areas.	Yes
	<p><u>Local Pedestrian Links</u></p> <p>- Where possible, a pedestrian link through the site must be provided as part of the development to increase the connectivity of the area for local pedestrians. The following factors should be considered when identifying the most appropriate location for the link of the pathway:</p> <ul style="list-style-type: none"> - The link must be no less than 3m wide; - Should be a straight-line link through the site linking streets or other public spaces; and - Cannot include stairs and any ramps. Must have a reasonable gradient - refer to AS 1428.1 - 1988 Design for Access and <p>-) The design and layout of any building adjoining and landscaped spaces adjoining the pathway should ensure there is natural surveillance of the pathway to protect the amenity of users. A solid fence along the boundary of the pathway restricting views of the pathway from adjoining</p>	Satisfactory	Yes
		Passive surveillance capable	Yes

	<p>properties <u>not acceptable</u>.</p> <ul style="list-style-type: none"> - The pedestrian link must be dedicated to Council as a public footway and the footpath, and lighting must be provided at no cost to Council. 	N/A	N/A
3.23 Privacy – Visual and Acoustic	<ul style="list-style-type: none"> - Minimise direct overlooking of main internal living areas and private open space of dwellings both within and adjoining the development through building design, window locations and sizes, landscaping and screening devices (refer to section 3.13 Open Space). - Consider the location of potential noise sources within the development such as common open space, service areas, driveways, and road frontage, and provide appropriate measures to protect acoustic privacy such as careful location of noise-sensitive rooms (bedrooms, main living areas) and double glazed windows. - Dwellings adjoining arterial roads to be designed to acceptable internal noise levels, based on AS 3671 – Road Traffic Noise Intrusion Guidelines. 	Unsatisfactory bulk and scale and as such unsatisfactory window provision and privacy.	No
3.24 Services	<ul style="list-style-type: none"> - Development consent not to be granted until satisfactory arrangements are made with relevant authorities for the provision of services. - Pump out sewage management systems <u>not acceptable</u> for apartment building developments. - Site services and facilities (such as letterboxes, clothes drying facilities and garbage facility compounds shall be designed so as: <ul style="list-style-type: none"> - To provide safe and convenient access by residents and the service authority; and - Visually integrated with the development and have regard to the amenity of adjoining development and streetscape. - All electricity and telephone services on site must be underground. - Laundries shall be provided to each dwelling. 	Can connect to existing infrastructure.	Yes
3.25 Waste Management – Storage and	<ul style="list-style-type: none"> - Waste collection and separation facilities to be provided for each dwelling. Each dwelling should 	Satisfactory as advised by Council's Resource	Yes

Facilities	<p>have a waste storage cupboard in the kitchen capable of holding at least a single days waste, and sufficient to enable separation of recyclable material.</p> <ul style="list-style-type: none"> - Adequate storage for waste materials must be provided on site and any such waste must be removed at regular intervals and not less frequently than once per week for garbage and fortnightly for recycling. - Screen views of waste and storage facility from any adjoining property or public place while ensuring there is some natural surveillance from within the development to minimise vandalism and other anti-social activity. - Waste storage areas to be kept clean, tidy and free from offensive odours at all times. 	Recovery Section.	
3.26 Waste Management Planning	Submission of a Waste Management Plan – demolition, construction and on-going use.	Satisfactory as advised by Council's Resource Recovery Section.	Yes
3.27 Fencing	<ul style="list-style-type: none"> - Fencing materials chosen must protect the acoustic amenity and privacy of courtyards. Courtyard fences shall be constructed of masonry. - Boundary fencing/ walls fronting a street shall be setback a minimum of 2 metres, to permit landscaping, and shall include recesses and other architectural features. - Fencing or walls shall be combined and integrated with site landscaping. - The following fencing or finishes are not acceptable because of its poor visual appearance: <ul style="list-style-type: none"> - Pre-painted solid, metal fencing; or - Rendered finishes where the entire fence is fully rendered. 	Satisfactory fencing is proposed.	Yes
3.28 Developer Contributions	In accordance with the current Section 94 rate – to be conditioned.	Section 94 Contributions conditioned.	Yes
Basix Certificate	A Basix Certificate is required with all required notations reflected on the plans	Compliance demonstrated.	Yes
External Finishes	A schedule of colours and finishes is required addressing:- <ul style="list-style-type: none"> • External walls 	Satisfactory	Yes

	<ul style="list-style-type: none"> • Roof treatment • Driveway treatment • Guttering and fascias • Window frames etc 		
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4.1 Character and Integration

The proposed development is not considered to comply with Clause 3.8(b) Building Design and Streetscape within BHDCP Part C, Section 7 – Apartment Buildings. This clause states the following:-

“Designs must be in harmony in terms of form, mass, colour and structure with the existing and future development in the street”

As outlined within various correspondence sent to the applicant, concern has been raised with the integration of the proposed apartment building development with the likely future character of the surrounding area. The surrounding character to the immediate east and west includes single and two storey dwellings of good quality that are unlikely to be redeveloped in the foreseeable future. If redevelopment was to occur however, this development will be no greater than a two storey town house. In addition a small apartment building development (maximum three storeys above parking) is proposed opposite the subject site at No. 64 Mackillop Drive further reinforcing concerns with the proposed building height, bulk and scale on the subject site.

The additional information submitted by the applicant has sought to justify the proposed development and additional building height by acknowledging that the development is generally limited to one or two storeys of additional building height from that previously approved, and generally located within the centre depression of the site. The justification has also focused heavily on SEPP 65 compliance and has reiterated amendments to this SEPP which prevent refusal of an application if certain criteria (such as gross floor area) are compliant with the Residential Flat Code requirements. In summary the following arguments have been provided from the applicant to justify the proposal:-

- The additional units are positioned in areas along the central spine of development where there is minimal impact or no impact on adjoining properties;
- The proposal provides substantial setbacks with a reduction in window and balcony provision which minimises adverse impact from visual or acoustic privacy;
- The proposed height, density and greater setbacks from all front, side and rear boundaries ensures that the proposal cannot be considered an over-development of the site;
- The proposed design has taken into consideration the current development consent and design approved by Council, the objectives and planning controls of the LEP and DCP, the SEPPs’ 10 design principles (rules of thumb) and the Residential Flat Code “best practice” recommendations.

Comment

The concerns raised primarily relate to integration with the future character of the area rather than strict compliance with the SEPP or DCP however it is noted that despite the compliance arguments provided above, the proposal does provide setback, height, common open space and density variations to the DCP requirements.

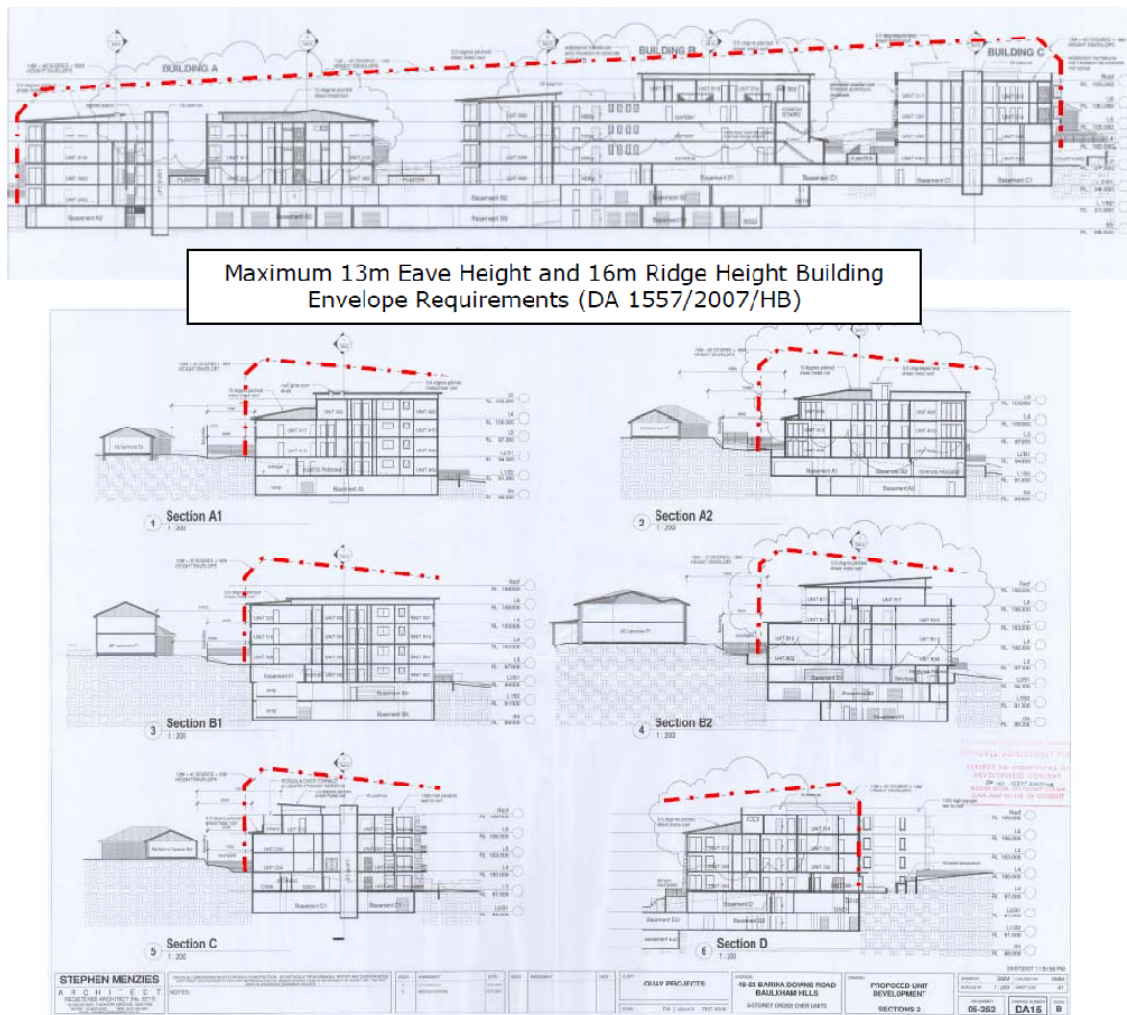
The proposed variations to the DCP (such as building height or density) under normal circumstances could be potentially justified by the topographic constraints of the site, generally compliant apartment side, front and rear boundary setbacks and other measures such as privacy screening and landscaping measures. However the development site has other constraints that need to be considered and responded to. The site is an isolated R4 zoned allotment under the Draft LEP, surrounding by an R3 zone (multi unit housing capability) of a considerably lower built form outcome than that capable on the subject site. Furthermore the development capability outlined within BHDCP Part C, Section 7 – Apartment Buildings and SEPP 65 – Design of Residential Flat Buildings outlines a maximum development potential and is not a given allowance within all sites. The social and environmental constraints of a site are considered to dictate the development potential of an allotment, and given the concerns raised in previous Development Applications, submissions from concerned residents and discussion at the Conciliation Conference, the proposed development is considered to be an overdevelopment of the site.

In response to these concerns, the applicant was repeatedly requested to reconsider the proposed additional building height and amend the development to the height and number of storeys previously approved. This amendment was considered to enable the retention of the additional dwelling yield by way of the proposed dual key units and the other numerous identified DCP variations resulting such as visitor parking requirements, storage dimensions and building setbacks to name a few. To date the applicant has not amended the proposal in accordance with this request and as such the proposal is considered unsupportable.

4.2 Building Height

The proposed development has been assessed against the eave and ridge height requirements within both the DCP and Draft LEP and minor variations have been identified to these height requirements as outlined within the table of compliance above. In response to height compliance concerns raised, the applicant submitted further written advice reiterating that the proposed building heights generally comply with the 16.0m height requirement and that the identified potential minor non compliances result from the constraints of the plans submitted and the inability of the drawings to provide a three dimensional representation of the building envelopes with respect to the irregular natural topography.

It is noted however that the DCP requires a maximum height of 13m at the external façade of the apartment building (being the eave line interfacing with adjoining properties) with 16m being the maximum ridge height (creating a building envelope). The height requirements of the DCP are most appropriately reflected within the preceding approved plans associated with Development Consent 1557/2007/HB which depict the required building height envelope requirements as follows:-



Maximum 13m Eave Height and 16m Ridge Height Building Envelope Requirements (DA 1557/2007/HB)

The relevant objectives of the DCP are detailed below:-

- “(i) To ensure that buildings reflect the existing landform of the neighbourhood, including ridgelines and drainage depressions.*
- “(ii) To protect privacy and amenity of surrounding allotments and residential development in accordance with Council’s ESD objective 7.*
- “(iii) To minimise overshadowing of adjoining properties.”*

Comment

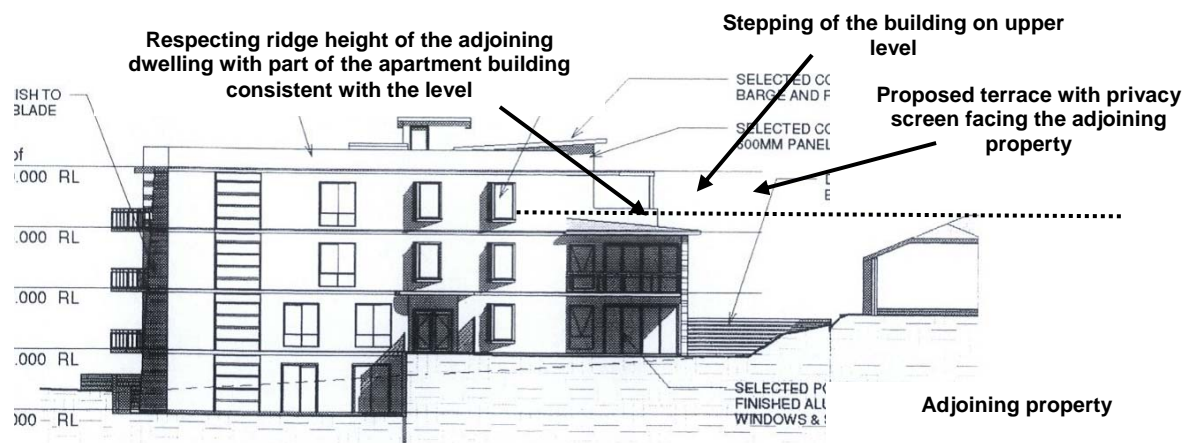
The site has been the subject of detailed built form character debate with a smaller built form outcome proposed and approved within Development Consent 1557/2007/HB.

The proposal adjoins residential dwelling houses to the east and west, with Norwest Business Park located to the north. Concerns have been raised by the adjoining residents in relation to the appropriateness of the proposed development in terms of its compatibility with the scale, bulk and character of the locality. These concerns were

raised within the preceding site history and have been reiterated in further depth within submissions received to the proposed development application.

As outlined within the previous planning report for Development Application 1557/2007/HB, the existing approved development was considered to provide a more sympathetic transition in building height, bulk and scale to the neighbouring single storey and two storey developments. This is most evident in the existing approved section drawings above, which demonstrated compliance with the DCP building envelope, eave and ridge height controls and provides a built form and height relationship which is similar to the adjacent two storey dwelling houses. The proposed additional building height under the current application has sought to maximise the density permissible under the DCP without sufficient consideration to the history of the site, the circumstances behind the draft R4 zoning and the surrounding existing and future character of the R3 zoned properties within the Draft LEP 2010.

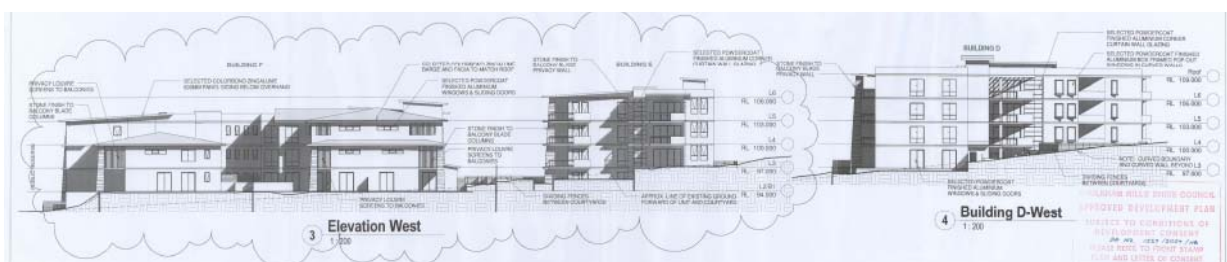
Below is an extracts from the previous planning report highlighting the stepped design of the existing approved development, and what was considered to be at the time, an appropriate integration of the apartment buildings and existing surrounding dwellings.



Building C



Elevation East



Elevation West

Building D-West

As detailed above, the building heights as approved substantially represented two to three storeys above the natural ground level at the property boundaries. While some locations represented a part four storey component, the development was smaller in bulk and scale to that currently proposed and below the maximum eave and ridge height

envelope requirements within the DCP. Furthermore as the future redevelopment of the adjoining sites would be to a maximum two storey height limit for future multi unit housing, an apartment building development similar to that already approved would provide a visual one storey transition from town houses, to apartments and then back to town houses. In this regard the proposed development and additional storey provision is not considered to comply with the first objective detailed above or the standards within the DCP.

The information submitted from the applicant has satisfactorily demonstrated that the streetscape presentation to Barina Downs Road will provide a suitable transition between the front smaller apartment buildings (Building C and D) to the adjacent dwelling houses either side. This smaller built form provides the transition recommended to be incorporated across the entire site (similar to what was previously approved). While the submitted cross site elevations have attempted to demonstrate a one to two storey transition at various selected locations (as per the map reference key on DA16), these section drawings do not adequately represent the resulting bulk and scale presentation to Fairmont Avenue or the visual presentation of Buildings A, B, E and F to the northern and southern adjoining properties. The resulting bulk and scale as viewed from these properties is most evident as reflected within Elevation 4 (Block E and F) and Elevation F (Block E and F). Refer to Attachment 5 for these elevations. Specific attention is drawn to the visual presentation of Blocks C and D as reflected within this drawing, which portrays a more reasonable integration between the intended built form on the subject site and the existing built form either side on adjoining allotments which was the reasoning behind the approval of the preceding application.

Furthermore, a concept master plan is proposed at No. 64 Mackillop Drive, Baulkham Hills (Development Application 6/2012/JP). This proposal (which is the subject of a current Draft DCP amendment and rezoning planning proposal) will result in a maximum building height of 3 storeys on top of parking and includes the provision of three (3) apartment buildings directly opposite the subject site. This foreshadowed building height within the concept masterplan will provide a similar bulk and scale to what is already approved under Development Consent 1557/2007/HB and reinforces the inappropriate building height and character integration proposed for the subject site.

While a minor variation to the eave and height controls in the DCP, may be supportable for a typical apartment building development, the subject site is not a typical R4 zoned allotment and as such greater emphasis on the number of storeys and the visual bulk and scale of the proposal is considered to take precedent over the numerical DCP requirements and indicated plane discrepancies.

In this regard the likely future redevelopment of surrounding properties further reinforces the appropriateness of the existing approved development and the inappropriateness of the proposed new development and increased building heights as outlined within this section and Section 4.1 of this report. It is recommended that the development be amended to remove the additional building height proposed for Buildings A, B, E and F and retain the built form transitions previously approved within the Development Consent 1557/2007/HB.

4.3 Gross Floor Area

The proposed development provides a variation to the gross floor area requirements outlined within BHYDCP Part C, Section 7 – Apartments as detailed within the table of compliance above.

The relevant objectives of the DCP are as follows: -

“(i) To ensure that individual units are of a size suitable to meet the needs of residents.

(ii) To ensure the layout of units is efficient and units achieve a high level of residential amenity.

(iii) To ensure designs utilise passive solar efficient layouts and maximise natural ventilation."

The applicant has sought to justify this identified non compliance by referencing the SEPP provisions and note that compliance with the SEPP gross floor area requirements is sufficient and if compliant, a DCP non compliance cannot be relied upon to refuse the application. The applicant has also sought to draw attention to the Carlingford precinct which has a reduction in gross floor area requirements being less than that reflected within the apartment DCP as well as references to affordable rental housing incentives to enable further housing opportunities and a mix of residential accommodation in the area.

Comment

The identified DCP non compliances have been responded to by the applicant through references to the SEPP requirements as well as other examples of reduced floor area requirements in specific precincts (such as Carlingford).

The applicant has been advised that Carlingford is a separate precinct with site specific DCP sections which have a reduced gross floor area requirement. As such comparison with the Carlingford precinct is not considered sufficient grounds to justify the proposed variations.

In addition the proposed development has not been lodged as an affordable rental housing proposal and has not sought to rely on the provisions of SEPP (Affordable Rental Housing) 2009 for infill housing opportunities. If the applicant was seeking to pursue an affordable rental housing proposal, then the proposal would need to be designed to these SEPP standards and would require the imposition of restrictions on title ensuring affordable rental pricing was adhered to for a 10 year duration. As such reliance on affordable rental housing to justify the proposed DCP gross floor area variation is not considered appropriate or applicable in this instance.

It is however acknowledged that Clause 30(A) of SEPP 65 – Design Quality of Residential Flat Developments does prevent the refusal of a development application on the grounds of inadequate gross floor area if the floor areas are consistent with the SEPP. However it is still noted that the proposed gross floor areas are out of character with general apartment housing and town housing developments approved within the immediate locality.

4.5 Density

The assessment of the proposed dual key units as separate domiciles has resulted in a density variation to the DCP requirements as outlined within the table of compliance above. While the applicant has repeatedly stated that the dual key units should be assessed as one single unit, the units will function as completely separate domiciles with separate kitchen and laundry facilities and as such are considered separate units for the purposes of calculating the density yield across the site.

The classification of the dual key units as separate domiciles would result in a total density across the development site of 184 persons. This has been calculated considering the dual key units as 2 x 1 bedroom domiciles which is the functional capability of the proposed dual key units once occupied. In this regard the proposed development is considered to exceed the maximum density allowance within the DCP being 175 persons

per hectare. The additional information submitted from the applicant also references the previous approved density of 146.5 persons being well below the recommended density for a high density residential development and relies upon the Court judgement which supported a development with a higher density than the surrounding lots. As outlined within Section 4.1 above, the site is not a typical R4 zoned allotment and given that the DCP stipulates a density between 150 and 175 persons per hectare, it is considered more appropriate that a reduced density is more appropriate given the surrounding R3 zoned allotments and medium density future character of the area. The adoption of the highest density capability within the DCP (which is considered to be further exceeded by the proposed dual key units) is considered to be an overdevelopment of the site and should be amended as per the recommendations outlined within Section 4.1 of this report being retention of the existing heights previously approved with the inclusion of the proposed dual key units, if desired.

4.6 Setbacks

The proposed provides a minor variation to the setback requirements to Barina Downs Road as basement parking areas are not permitted to extend into the setback zones. In this regard parking underneath Building C is setback 9.630m from the front property boundary representing a 370mm variation to the DCP.

The relevant objectives of the DCP are as follows:-

- “(i) To provide setbacks that complement the setting and contribute to the streetscape and character of the street while allowing flexibility in siting of buildings.*
- (ii) To ensure that the space in front of the building is sufficient to permit landscaping that will complement the building form and enhance the landscape character of the street.*
- (iii) Side and rear setbacks are to be proportioned to the slope of the site having regard to the height and relationship of the buildings on adjoining properties.*
- (iv) The setbacks of proposed buildings are to minimise any adverse impacts such as overshadowing and privacy on adjacent and adjoining properties.*
- (v) To ensure placement of buildings takes into account the retention and protection of existing trees. ”*

Comment

The proposed minor basement setback encroachment is associated with a small corner of the basement and results from the curvilinear alignment of the front property boundary and Barina Downs Road. The encroachment is contained underground and doesn't compromise streetscape presentation or front landscaping opportunity. As a result the minor variation is considered satisfactory.

4.7 Common Open Space Area

The assessment of the proposed dual key units as separate domiciles has resulted in a common open space variation to the DCP requirements as outlined within the table of compliance above. While the applicant has repeatedly advised that the dual key units should be assessed as one single unit, the units will function as completely separate domiciles with separate kitchen and laundry facilities and as such are considered separate units for the purposes of common open space requirements across the site. If the dual key units are assessed as separate domiciles then the development proposes 177 units requiring the provision of 3,540m² of common open space area. This equates to a variation of 712.3m².

The relevant objectives of the DCP are as follows:-

- “(i) To provide a functional open space area within the development for the informal recreation of all apartment building residents and children’s play.”

Comment

While the dual key units are considered to function as separate domiciles for the purposes of the DCP separate, the floor area of these units are less than the DCP requirements for one bedroom dwellings and as such their consideration as 1 x 2 bedroom units instead (when calculating common open space only) is more consistent with the intent of the common open space area calculation requirement. The DCP standard does not differentiate a common open space breakdown between one, two and three bedroom dwellings, instead requiring a standardised area per dwelling irrespective of scale of occupancy. The provision of 2,827.7m² is considered sufficient for residents to utilise these areas for recreational activities. Furthermore it is noted that the adjoining public reserve recently dedicated to Council was originally part of the subject site and will still be able to provide recreational opportunities for the residents if the development were to be approved.

As a result the interpretative variation to the DCP for common open space provision is considered satisfactory.

5. Compliance with BHDCP Part D, Section 1 – Parking

The proposal has been assessed against the parking requirements within the DCP as detailed below:-

APT BEDROOM NO.	NO. OF UNITS	DCP PARKING RATE	REQUIRED
Studio	2 x studios proposed	1 parking space per studio	2 spaces
1 X BEDROOM	17 X 1 bed units (includes 1 x bed units with media rooms)	1 parking space per 1 x bed unit	17 spaces
2 X BEDROOM	87 X 2 bed units (includes dual key units being 1 bed per domicile and 2 x bed with media rooms)	2 parking spaces per 2 bed unit	174 spaces
3 x bedroom	31 x 3 bed units (includes 3 x bed units with media rooms)	2 parking spaces per 3 bed unit	62 spaces
TOWN HOUSES	NO. OF UNITS	DCP PARKING RATE	REQUIRED
-	4 X Town Houses	2 spaces per dwelling	8 spaces
TOTAL RESIDENTIAL PARKING REQUIRED: 254 spaces (apartments) plus 8 spaces (town houses) = 262 spaces		TOTAL RESIDENTIAL PARKING PROPOSED: 258 (apartments) + 8 (town houses) = 266 spaces (being a surplus of 4 spaces)	
VISITOR PARKING	DCP RATE	DCP REQUIRED	PROPOSED
Town Houses	2 spaces per 5 dwellings	2 visitor spaces	Nil as stacked visitor spaces are not included in the assessment as per Clause 2.1 of BHDCP Part D, Section 1 – Parking.

Apartments	2 spaces per 5 dwellings	If dual key units are considered to be individual units then based on 177 dwellings, 71 visitor spaces are required. If the dual key units are considered as one domicile (but with separate living and kitchen facilities), then 55 visitor spaces are required.	67 visitor spaces.
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5.1 Visitor Parking

The applicant has repeatedly outlined that the dual key units should not be treated as separate domiciles as they are capable of functioning as one dwelling being under one future strata titled allotment. The design of dual key units however includes two separately functional kitchens and living areas which would at the very least be considered dual occupancy dwellings (but contained within a unit configuration). In this regard, the assessment of the application has maintained consideration of the dual key units as separate domiciles (being the worst case scenario for future living intensity). In response a DCP variation to apartment visitor parking requirements was raised with the applicant for further consideration.

The applicant has responded by advising that an additional thirteen 13 parking spaces have been incorporated into the design resulting in the provision of 67 apartment visitor spaces. The addition provision however still results in a deficit of four spaces as the 71 spaces is an apartment visitor parking requirement (separate from the town house requirement) in addition to the fact that the town house visitor parking is stacked and is excluded from a parking calculation as per BHDCP Part D, Section 1 - Parking.

Nonetheless the proposed visitor parking is considered satisfactory to cater for the needs of the development without adverse overflow into the surrounding local road network. The applicant has increased visitor parking allocation to substantially address the DCP short fall originally proposed and it is noted that the development provides a surplus of four spaces to the residential parking allocation which could be transferred to visitor parking if the need arose. As such the proposed minor variation is considered satisfactory.

6. Multi Unit Housing Guidelines

The application has been assessed with regard to the design quality principles outlined in the Multi-Unit Design Guidelines. The merits of the application in terms of urban design and its relationship to the site constraints are as follows:

i. Character of the Area

The development is not considered to appropriately integrate with the future built form character of surrounding area which is zoned R3 under the Draft LEP for future multi unit housing opportunity. The subject site whilst zoned R4 has an existing consent with a lower and more integrated built form outcome which is considered to be a more appropriate design alternative than the proposal under assessment within this application. As a result the proposal is considered unsatisfactory.

ii. Site Analysis and Design

The development has provided satisfactory private open space areas maximising solar access where possible. The dwellings therefore have been designed having regard to the contours and orientation of the site. The built form (height) however is not considered satisfactory as detailed above.

iii. Building Envelope and Siting

The massing of the built form provides a development which is considered inappropriate both to the surrounding residential properties and future residential character of the locality.

iv. Setbacks

The buildings are articulated on the ground floor and the upper floor setbacks are increased to provide visual interest when viewed from side boundaries.

v. Building Height

The built form (height) is not considered satisfactory as outlined within Section 3 and 4 of this report.

vi. Communal and Private Open Space

Private open space is provided to all dwellings and is located so as to be an extension of the living area of the dwelling either at ground or by way of balconies.

vii. Landscaping

The proposal provides landscaping for the enjoyment of future residents. Council's Tree Management Co-ordinator has reviewed the landscape plan, and has raised no objection, subject to conditions.

viii. On-Site Car Parking and Access

A double garage is provided for each dwelling. In addition, adequate visitor parking spaces are provided for use by visitors.

ix. Solar Access

The proposed development ensures acceptable levels of solar access are provided to all private open space areas within the site and ensures that the proposed development does not result in adverse overshadowing for adjoining properties.

x. Resource, Energy and Water Efficiency

The development application was accompanied by a Basix Certificate meeting the thermal comfort, water and energy rating requirements in accordance with the requirements of the Department of Planning.

xi. Security

The location of buildings with entries along the driveway provides an opportunity for informal surveillance to improve the safety of future residents.

xii. Ecological Sustainable Design

The development will provide a high energy efficiency rating for each dwelling. The dwellings will be constructed of brick to improve the thermal efficiency of the dwellings and adequate cross-ventilation will be achieved.

xiii. Building Design

The development provides a high level of amenity to future residents by means of the provision of private and common open space, and visual and acoustic privacy.

7. SEPP 65 – Design Quality of Residential Flat Buildings

The proposal has been assessed against the relevant controls prescribed by SEPP 65 and the following table shows the development's performance against the relevant considerations of the Policy.

DEVELOPMENT STANDARD	SEPP 65 REQUIREMENTS (Rules of Thumb)	PROPOSED DEVELOPMENT	COMPLIANCE
Part 1 – Local Context – Primary Development Controls			
Building Height	Where there is an FSR requirement, test height controls against it to ensure a good fit	The proposed building height is considered unsatisfactory when considered against the local character of the area and the built form potential for adjoining properties zoned R3. Refer to Sections 1, 2 and 4 of this report further detail.	No – unsatisfactory building height and built form integration with the surrounding future character of the area.
Building Depth	In general, apartment building depth of 10-18 metres is appropriate. Developments that propose depth greater than 18 metres must demonstrate how satisfactory day lighting and natural ventilation are to be achieved.	While the building depths exceed the SEPP suggested depths, the design of the buildings are articulated with all units provided with adequate sunlight and ventilation through dual aspect orientations where possible.	Yes
Street Setback	Identify the desired streetscape character, the common setback of buildings in the street, the accommodation of street tree planting and the height of buildings and daylight access controls. Identify the quality, type and use of gardens and landscaped areas facing the street.	The proposed streetscape presentation (excluding height) and associated building setbacks is considered satisfactory and consistent with that approved within the preceding consent.	Yes
Side and rear setback	Relate side setback to existing streetscape patterns. Test side and rear setback with building separation, open space and deep soil zone requirements (see Building Separation, Open Space and Deep Soil	The proposed side setbacks for the town houses and apartment blocks are consistent with the existing consent issued and enacted. Landscaped area and solar access is also	Yes

DEVELOPMENT STANDARD	SEPP 65 REQUIREMENTS (Rules of Thumb)	PROPOSED DEVELOPMENT	COMPLIANCE
	<p>Zones).</p> <p>Test side and rear setbacks for overshadowing of other parts of the development and/or adjoining properties, and of private open space.</p>	considered satisfactory and appropriately considered by the applicant in the design of the development.	
Floor Space Ratio	<p>Test the desired built form outcome against proposed floor space ratio to ensure consistency with:</p> <ul style="list-style-type: none"> - Building height - Building footprint - The three dimensional building envelope - Open space requirements 	There is no specific floor space ratio within the DCP however it is noted that non compliant building height, built form and density has been identified as outlined within Section 4 of this report and as such the proposed additional height is considered unsatisfactory.	No – unsatisfactory building height and built form integration with the surrounding future character of the area.
Deep Soil Zones	A minimum of 25% of the open space area of a site should be a deep soil zone.	The submitted Design Verification Statement confirms that 37.7% of the site is provided with deep root zone planting.	Yes
Open Space	<p>The area of communal open space required should generally be at least 25-30% of the site area.</p> <p>The minimum recommended area of private open space for each apartment at ground level or similar space on a structure (i.e. podium, car park) is 25m²</p>	The proposed common open space area ensures compliance with the DCP requirements even though the area is only approximately 15% of the site area. The spatial separation between the buildings, the adjacent and now dedicated public reserve immediately adjacent and the general provision of parks and reserves in the locality is considered more than sufficient to provide recreational	No – however the proposed common open space area is considered satisfactory when assessed on merit noting compliance with the DCP requirements and consistency with the issued consent 1557/2007/HB .

DEVELOPMENT STANDARD	SEPP 65 REQUIREMENTS (Rules of Thumb)	PROPOSED DEVELOPMENT	COMPLIANCE
		opportunities for residents within the development. The proposed private open space areas of ground floor units ensures compliance with the SEPP requirements.	
Pedestrian Access	Identify the access requirement from the street or car parking area to the apartment entrance. Provide barrier free access to at least 20% of dwellings in the development.	Ensures compliance. Access is provided by way of ramps and lifts throughout the development and from the basement car parking areas to the units themselves.	Yes
Vehicular Access	Generally limit the width of driveways to a maximum of 6m. Locate vehicle entries away from main pedestrian entries and on secondary frontages.	The driveway widths are compliant with the Australian Standards and ensure sufficient manoeuvring is available within the site. The basement access is not in direct conflict with pedestrian paths of travel.	Yes
Apartment Layout	Single aspect apartments should be limited to 8 metres from a window.	The majority of the proposed units are provided with dual aspect orientations and where a dual aspect is not available, sufficient separation has been demonstrated with adequate window provision for light and ventilation.	Yes
Apartment Mix	Provide a diversity of apartment types to cater for different household	Mixed apartment sizes and bedroom capacities proposed.	Yes

DEVELOPMENT STANDARD	SEPP 65 REQUIREMENTS (Rules of Thumb)	PROPOSED DEVELOPMENT	COMPLIANCE
	requirements.		
Balconies	Provide primary balconies for all apartments with a minimum depth of 2 metres	All balconies comply as per the DCP requirements.	Yes
Ceiling heights	Minimum floor to ceiling height for habitable rooms is 2.7m and 2.4m for non-habitable.	All units ensure compliance with the 2.7m floor to ceiling height requirements as per the BCA.	Yes
Ground floor apartments	<p>Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units.</p> <p>Provide ground floor apartments with access to private open space (i.e. terrace, garden).</p>	<p>Accessible unit provision is compliant with the DCP requirements.</p> <p>While shared entry points are proposed, this is considered appropriate for an apartment building development of this nature.</p> <p>Where possible ground floor units are provided with ground floor private open space access.</p>	Yes
Internal Circulation	In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to eight.	The number of units accessed off dual loaded corridors is 8 when the dual key units are not considered independent of each other. When considered individual domiciles the general corridor access is approximately 10 units which is still considered satisfactory.	Yes
Storage	<p>In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:</p> <ul style="list-style-type: none"> - Studio – 6m³ - 1 bed – 6m³ - 2 bed – 8m³ 	Accessible storage is provided to all units within the unit floor area and within designated storage areas within the basement.	Yes

DEVELOPMENT STANDARD	SEPP 65 REQUIREMENTS (Rules of Thumb)	PROPOSED DEVELOPMENT	COMPLIANCE
	- 3 bed+ - 10m ³		
Daylight Access	Living rooms and private open spaces for at 70% of apartments in a development should receive a minimum of three hours direct sunlight between 9am and 3pm in mid winter.	Sufficient solar access has been provided / demonstrated as outlined within the submitted shadow diagrams and Design Verification Statement	Yes
Natural Ventilation	Building depths, which supports natural ventilation typically range from 10 to 18 metres. 60% of residential units should achieve natural cross flow ventilation.	The majority of the apartments provide cross floor ventilation and the articulation and irregular building design ensures sufficient lighting, ventilation and privacy is maintained between the apartment units.	Yes
Waste Management	Supply waste management plans as part of the DA as per the NSW Waste Board.	Waste Management Plans have been submitted, assessed by Council's Resource Recovery Section and considered satisfactory.	Yes
Water Conservation	Rainwater is not to be collected from roofs coated with lead or bitumen-based paints or from asbestos-cement roofs. Normal guttering is sufficient for water collections.	Satisfactory rainwater collection, re-use and disposal proposed. Note that there are no offensive or hazardous roofing materials proposed.	Yes

8. Issues Raised in Submissions

The Development Application was placed on public exhibition for a period of 14 days with 28 submissions received to the proposed development as a result of this notification period. Following the submission of amended plans and details, the application was renotified for a further 14 days with nine submissions received.

The issues raised within the received submissions are summarised and addressed below:-

FIRST NOTIFICATION PERIOD (28 submissions received)		
ISSUE	RESPONSE	OUTCOME
<p>The proposed apartments will invade my privacy. A lower built form such as town houses is more appropriate.</p> <p>This development is so out of character with the residences within the local area being single and two storey dwellings. It is a development that would fit in near the Castle Hill or Baulkham Hills shopping precinct, not in the proposed area.</p>	<p>The proposed additional building height is not considered appropriate as outlined within Section 1, 2 and 4 of this report.</p> <p>While an apartment building development is considered appropriate rather than just a town house development, the bulk and scale of the development should be consistent with the bulk and scale approved within Development Consent 1557/2007/HB as this is considered to be the maximum built form outcome appropriate for the site given it is an isolated R4 zoned allotment surrounding by R3 zoned properties capable of a lower built form outcome when redeveloped in the future.</p>	<p>Issue addressed. The Development Application is recommended to be refused.</p>
<p>The proposed additional units are a greedy move.</p>	<p>The applicant has not provided any evidence that the additional building height and increased density is required to make the proposal viable however the applicant is entitled to propose a development under the EP& A Act, 1979 and profit margins are not a consideration in the assessment of the application.</p>	<p>Issue addressed.</p>
<p>Having vehicles exit onto Barina Downs Road is a recipe for disaster and having our local streets being used as well makes no sense at all.</p>	<p>The proposed ingress and egress points proposed are consistent with those approved within the preceding Development Consent 1557/2007/HB and are considered satisfactory.</p>	<p>Issue addressed.</p>
<p>The proposal will devalue my property.</p>	<p>No evidence of property devaluation has been submitted and devaluation</p>	<p>Issue addressed.</p>

	is not a consideration under Section 79C of the EP& A Act, 1979.	
<p>The proposed building height is unacceptable as it will destroy the privacy of my dwelling.</p> <p>I have great concerns regarding the safety of vehicles leaving and entering the proposed site. There will be several hundred cars probably using the development each day. With the location of being on a corner, and the speed that some drivers use Barina Downs Road now, I feel there is the high chance of car accidents happening.</p> <p>The access proposed to Barina Downs Road is on a dangerous bend and the additional vehicles will further add to existing road safety concerns.</p>	<p>The proposed building height and additional window and balcony provision is considered unsatisfactory as outlined within Section 1,2 and 4 of this report.</p> <p>The location of the driveway is consistent with the existing approval and is not considered to comprise sight lines or ingress / egress traffic safety.</p> <p>The additional units and additional traffic generation resulting from the increased density was referred to Council's Traffic Management Section and the NSW Roads and Maritime Services. The NSW RMS have advised that insufficient information has been submitted from the applicant to adequately assess the cumulative implications of the proposed development when coupled with existing and proposed development along Barina Downs Road and the functionality of the Windsor Road and Barina Downs Road intersection.</p>	Issue addressed. The Development Application is recommended to be refused.
There are excessive windows and balconies facing directly into my property and the building is closer to our fence line being 6.7m instead of 10.0m	<p>The proposed buildings provide the same side boundary setbacks as the original proposal which is permitted to be set back 6.0m from the side boundary. A 10.0m setback is only a requirement to the front property boundary.</p> <p>The applicant amended the proposal following the conciliation conference to address window and balcony screening concerns.</p>	Issue addressed. The Development Application is recommended to be refused.

	While these measures are considered to have partially addressed the issue of privacy loss, the additional building height and resulting additional window and balcony provision is not considered satisfactory as outlined within Section 1, 2 and 4 of this report.	
I have also been informed that an apartment building is proposed opposite which is 2 levels high and not the 5 levels planned in this application.	Development Application 6/2012/JP includes a master plan component for three future apartment buildings to be constructed opposite the subject site. These buildings are foreshadowed as being three (3) storeys in height above parking which is consistent with the existing approved built form on the subject site and reinforces the concerns that the proposal additional building height will not integrated with the desired future character of the locality.	Issue addressed. The Development Application is recommended to be refused.
The inclusion of dual key units will further erode available parking. Fairmont Avenue is not wide enough for extra parking to be accommodated.	The additional of dual key units are provided with satisfactory resident and visitor parking provision as per the DCP requirements. This is outlined within Section 5 of this report. The provision of compliant parking is not considered to necessitate reliance on the local street network for overflow parking.	Issue addressed.
<p>Fairmont Avenue is a narrow street with no pavements and increased traffic could impact upon pedestrian safety.</p> <p>The developers have not provided enough parking spaces within the complex for the number of residents proposed. The local streets cannot accommodate overflow parking. Existing</p>	<p>Traffic access to Fairmont Avenue is limited to the four town houses only. Vehicular access to the apartments is via Barina Downs Road with compliant resident and visitor parking provided to these units by way of basement parking.</p> <p>The provision of compliant parking is not considered to necessitate reliance on the</p>	Issue addressed.

residents will not be able to parking out the front of their own homes.	local street network for overflow parking.	
The design and proposed colours of the building are unattractive.	The proposed external colours and finishes are considered appropriate for this type of development.	Issue addressed.
The applicant is circulating a for sale advertisement before the proposal is even approved. Is selling units prior to DA lodgement legal?	A copy of an advertisement flyer was submitted along with the submission. The advertisement flyer could be considered to pre-empt approval of the current application however it is noted that there is an existing approved apartment building development capable of being constructed on the site and as such the advertisement can be attributed to this approved scheme.	Issue addressed.
The applicant commenced works on the site without notifying the Council's planning department.	Advice was received from the applicant in March 2012 confirming that demolition works were to commence.	Issue addressed.
The applicant has ignored the NSW Land and Environment Courts decision to reject a previous overly large development application with specific regard to restricting height on this block of land.	<p>The previous determination by the NSW Land and Environment Court refused a development application due to internal amenity concerns rather than external amenity concerns.</p> <p>The assessment and determination of Development Application 1557/2007/HB gave specific regard to limiting building height to ensure satisfactory interfaces with adjoining smaller residential development. The applicant has sought to maximum the development potential of the allotment under the LEP but is not considered to have satisfactorily addressed these existing building height and character concerns and as</p>	Issue addressed. The Development Application is recommended to be refused.

	such the application is not supported.	
Unlike the previous developer, the new applicant has not communicated with the residents about the revised and massively larger design at all.	There is no requirement for the applicant to independently approach neighbouring residents. The neighbours have been advised of the proposal through the required advertising and notification process.	Issue addressed.
The developer took hundreds of photographs inside and outside of our adjoining properties about October last year and a copy of the required dilapidation reports are yet to be received by these neighbours.	The applicant has advised Council officers that reprinted and signed Dilapidation Reports have now been circulated to the affected residents.	Issue addressed.
The proposal provides an inappropriate population density and is considered an overdevelopment of the site.	<p>The proposed additional building height is not considered appropriate as outlined within Section 1.2 and 4 of this report.</p> <p>While an apartment building development is considered appropriate rather than just a town house development, the bulk and scale of the development should be consistent with the bulk and scale approved within Development Consent 1557/2007/HB as this is considered to be the maximum built form outcome appropriate for the site given it is an isolated R4 zoned allotment surrounded by R3 zoned properties capable of a lower built form outcome when redeveloped in the future.</p>	Issue addressed. The Development Application is recommended to be refused.
The proposal will potentially flood with insufficient drainage allocated.	The proposal provides satisfactory drainage infrastructure which has been assessed by Council's Engineers and is considered supportable.	Issue addressed.
The plans and the SEPP 65	As outlined within Section 4	Issue addressed. The

Design Verification Statement do not appear to be consistent. The plans do not appear to correctly reflect the height of dwellings and their relationship of adjoining residential houses.	of this report, the proposed elevations and indicated building height plane does not appear to be accurate on all elevations. While minor building height variations have been identified, these variations result from the steep topographic cross fall. The resulting height and built form character is not supported as outlined above.	Development Application is recommended to be refused.
The proposed development will cause overshadowing of its neighbours.	The proposal provides overshadowing of the southern adjoining allotments at 9.00am but ensures compliance at 12 noon and 3.00pm which complies with the DCP requirements.	Issue addressed.
The developer has again ignored Council process by attempting to start work without providing the adjoining home owners copies of their dilapidation reports.	The applicant has advised Council officers that reprinted and signed Dilapidation Reports have now been circulated to the affected residents.	Issue addressed.
The development will provide excessive air conditioning units which will result in noise issues for neighbours.	The proposal was accompanied by an Acoustic Report which was referred to Council's Environmental Health and Sustainability Team who have confirmed that the proposed acoustic impacts on the development and resulting from the development are considered satisfactory.	Issue addressed.
How will delivery vans or the garbage truck service access the streets if the roads are congested with parked cars?	The extent of parking provided is not considered to necessitate reliance on the local street network for overflow parking. As such garbage truck access and delivery van access is not considered to be compromised by overflow parking.	Issue addressed.
It is my opinion that the	Finished floor / roof level	Issue addressed. The

scaling of the plans is not proportionate to the actual situation. RL 108.26 (top of ridge of No. 38 Barina Downs Road) to the top of the ridge and RL 108.7 are not relative to each other in fact it shows RL 108.7 lower than 108.26.	<p>discrepancies were identified with the applicant and amended plans submitted to address this concern.</p> <p>As outlined within Section 4 of this report, the proposed elevations and indicated building height plane does not appear to be accurate on all elevations. While minor building height variations have been identified, these variations result from the steep topographic cross fall.</p> <p>The resulting height and built form character is not supported as outlined above.</p>	Development Application is recommended to be refused.
<p>The development should be amended as follows:-</p> <ul style="list-style-type: none"> • Reduction in building height to a maximum of 4 storeys • All external windows on eastern and western elevations to high sill windows • Resign balconies on external walls so that they face the northern boundary and are screened on their eastern and southern side. 	<p>The applicant has been repeatedly requested to reduce the proposed building height as suggested in the submission. The applicant has declined to amend the development as requested.</p> <p>The applicant has amended window and balcony provision on the side elevations as a result of suggestions at the conciliation conference.</p>	Issue addressed. The Development Application is recommended to be refused.
<p align="center">SECOND NOTIFICATION PERIOD – ADDITIONAL ISSUES (9 submissions received)</p>		
ISSUE	RESPONSE	OUTCOME
It is clear that there has been little to no effort in attempting to correct the chief concerns of the alarming development. Particularly after a lengthy conciliation conference, to see that such little effort had been made to the re-	<p>The proposed additional building height is not considered appropriate as outlined within Section 1, 2 and 4 of this report.</p> <p>The bulk and scale of the development should be consistent with the bulk and</p>	Issue addressed. The Development Application is recommended to be refused.

<p>design of the ungainly buildings was most unfortunate, disappointing even. It was evident from the beginning that the chief concern regarding the development was the fact that a major high density development is completely out of character of the low-mid density area once known as the Garden Shire.</p> <p>The introduction of trees in attempt to hide many large ungainly apartment blocks are clearly band-aids, attempting to hide a very expensive mistake</p>	<p>scale approved within Development Consent 1557/2007/HB as this is considered to be the maximum built form outcome appropriate for the site given it is an isolated R4 zoned allotment surrounding by R3 zoned properties capable of a lower built form outcome when redeveloped in the future.</p>	
<p>It is clear that the essential larger picture regarded the concerns of the development has been overlooked by both the Council and the Developer. If change is not performed, the media would prove the only solution to providing that which is right to the community.</p>	<p>The applicant has been requested by Council staff to amend the development and lower the proposed building height to that previously approved. To date the applicant has pursued the building height as lodged. As this height is not considered satisfactory, the Development Application is recommended for refusal.</p>	<p>Issue addressed. The Development Application is recommended to be refused.</p>
<p>The developer promised to provide us with the working hours that their staff and contractors would adhere to. Surely prior to 7am is unacceptable in a quiet residential area?</p>	<p>Development Consent 1557/2007/HB requires hours of work between 7.00am and 5.00pm Monday to Saturday only. Any work outside these hours should be reported to Council's Development Monitoring Team for investigation and enforcement.</p>	<p>Issue addressed.</p>
<p>In addition to the many objections already lodged at the conciliation meeting, I object to the building height and the lack of building integration with the surrounding area. Buildings of 5, 6 and 7 levels are grossly out of character with the surrounding area which comprises of quiet,</p>	<p>The proposed building height (being a maximum of five (5) storeys) and associated character impacts are addressed within Section 1, 2 and 4 of this report. The application is recommended for refusal.</p>	<p>Issue addressed. The Development Application is recommended to be refused.</p>

low density single and double storey homes.		
The window changes on the upper levels were regarding by the applicant at the Conciliation Conference as having "no view of adjoining homes" but this is the only change and windows with direct views have not been altered.	The proposed window and privacy screening measures adopted by the applicant following the conciliation conference are considered to in part address the privacy concerns raised however the provision of additional building height, additional windows and additional balcony elements to that previously approved is not considered satisfactory.	Issue addressed. The Development Application is recommended to be refused.
This site has been reported as being ideal for development because it is serviced by existing public transport routes. The presence of public transport alone does not make a site ideal. The existing bus services, especially city services, are already overloaded and do not have capacity for additional users. The 613 and 614 services are hardly sufficient to support increases in the number of residents there are only 5 613 services and 8 614 services each week day. Similarly, the potential north west rail link should not be taken into consideration when assessing this development given expected timeframes for completion and the likelihood of it being constructed.	<p>The development as already approved (1557/2007/HB) is considered to be an appropriate density yield for the site without additional adverse impact on the local street network and excessive reliance on public transport.</p> <p>The proposed additional building height and density is not considered satisfactory.</p>	Issue addressed. The Development Application is recommended to be refused.

ENGINEERING COMMENTS

No objection is raised to the proposed development subject to conditions of consent if the application is favourably determined.

TREE MANAGEMENT COMMENTS

No objection is raised to the proposed development subject to conditions of consent if the application is favourably determined.

ENVIRONMENTAL HEALTH & SUSTAINABILITY COMMENTS

No objection is raised to the proposed development subject to conditions of consent if the application is favourably determined.

RESOURCE RECOVERY COMMENTS

No objection is raised to the proposed development subject to conditions of consent if the application is favourably determined.

LAND AND PROPERTY INFORMATION COMMENTS

No objection is raised to the proposed development subject to conditions of consent if the application is favourably determined.

HERITAGE COMMENTS

No heritage item is located on the site however a heritage item of local significance is located on the adjacent property No.64 Mackillop Drive, Baulkham Hills. In this instance no objection is raised to the development proposal given the significant separation between the item and the development site (approximately 335m), and the vegetation on the adjacent site which screens the heritage item. In addition, it is noted that the future development of No.64 Mackillop Drive will effectively remove the ability to see the heritage item from Barina Downs Road.

No objection is raised to the proposed development if the application is favourably determined.

TRAFFIC COMMENTS

i) Existing Traffic Environment

This Development Application proposes to increase the number of dwellings previously approved by Council. A traffic report prepared by Varga Traffic Planning has been submitted in support of the application.

Barina Downs Road is approximately 1.2km long and 10.0m wide. It is classified as a major collector road within Council's Road Hierarchy and links Windsor Road (a State Arterial Road) north-east of the site with Reston Grange to the south-west. Reston Grange is classified as a local road under Council's Road Hierarchy.

The *Residential Traffic Analysis* report prepared for Council by Cardno Eppell Olsen in 2009 states that Barina Downs Road, between Windsor Road and Reston Grange, carries traffic volumes in the vicinity of 619 vehicle per peak hour, or 6190 daily vehicle movements. The volumes provided in the Cardno report were validated by Council's traffic surveys undertaken in July 2008 and September 2011. The traffic report prepared by Varga Traffic Planning provides AM and PM intersection surveys at Barina Downs Road/Evesham Court/Coorumbene Court. The intersection surveys indicate that Barina Downs Road north of Evesham Court carried traffic volumes of 480 vehicles per hour in the AM peak and 554 vehicles per hour in the PM peak. The intersection survey was undertaken by an independent traffic survey company and the variation (11% for the PM peak) with Council's and Cardno's surveys can be attributed to daily and seasonal variations which occur on roads within the metropolitan area.

There are no Environmental Capacity (EC) calculations for Barina Downs Road provided as part of the *Residential Development and Traffic Study* undertaken by TAR

Technologies in August 2005. The Cardno report, however, calculates an EC for Barina Downs Road, east of Mackillop Drive, of 467 vtpm and 366 vtpm west of Mackillop Drive. The existing traffic volumes on Barina Downs Road in front of the site exceed the EC by 69%.

ii) Proposed Development - Traffic Generation

The Roads and Maritime Services (RMS) *Guide to Traffic Generating Developments* provides average traffic generation rates for a range of different land uses. The guidelines provide peak hour vehicle trips (phvt) generated by residential developments as:

Dwelling houses	= 0.85 phvt per dwelling
Medium density residential flat buildings (up to two bedrooms)	= 0.4 phvt – 0.5 phvt
Medium density residential flat buildings (three or more bedrooms)	= 0.5 phvt – 0.65 phvt
High density residential flat buildings	= 0.24 phvt (CBD centres) – 0.29 (sub-regional centres)

The traffic report uses RMS traffic generation rates for high density residential flat buildings (0.29 phvt) in the calculation of vehicle trips generated by the proposed development. It is noted that the traffic report for the previously approved proposal used a generation rate of 0.5 phvt which is considered more appropriate for the mixture of one, two and three bedroom units proposed. In this regard, it is considered that the traffic report underestimates the vehicle trips generated by the proposed development by 72% or 38 phvt. The traffic report estimates the total traffic generated by the proposed development as 53 phvt using a generation rate of 0.29 phvt per dwelling, however, it is expected that the proposal will generate 91 phvt using the more appropriate rate of 0.5 phvt per dwelling.

The adoption of the 0.29 vehicle trips per hour (vtpm) as opposed to the higher rate of 0.5 vtpm however is not particularly significant (91 vtpm v's 53 vtpm) in terms of overall numbers, however the impact the additional traffic will have on the operational performance of the Windsor Road/Barina Downs intersection needs to be examined more closely. This is referred to in the RMS letter dated 20 August 2012. Previously reports for other developments in the vicinity indicate from SIDRA modelling that the level of service for the Barina Downs approach in the afternoon peak falls to Level of Service F with queue lengths extending back 118m.

In addition to the underestimation of traffic generated by the proposed development the traffic report has not taken into consideration the combined impact of the residential development at 64 Mackillop Drive which has frontage to Barina Downs Road directly opposite the subject site. The combined impact of these two sites will significantly increase traffic volumes on Barina Downs Road.

iii) Cumulative Impact in Locality – Barina Downs Road and Mackillop Drive

The following table contains traffic volumes for Barina Downs Road and the increase attributed to the proposed development (14.7%) in the PM peak

Traffic Movements	Environmental Capacity	Existing Volumes Varga Traffic Planning	Existing Volumes Council & Cardno	Proposed Increase	% Increase

Barina Downs Road Vehicle volume: PM Peak Hour	366	554	619	91	14.7%
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The net increase in traffic generated by the proposed development is relatively moderate both in terms of overall numbers and the impact these numbers have on the operational efficiencies of nearby intersections. However, the combined impact of this development with the proposed development at 64 Mackillop Drive may affect the operation of nearby intersections, especially the capacity of left turn movements onto Windsor Road from Barina Downs Road. The Environmental Capacity of Barina Downs Road is currently exceeded by a substantial margin and the additional traffic generated by this development will further reduce the environmental amenity of this road.

iv) Need for Traffic Improvements in the Locality

It may be necessary to install Local Area Traffic Management devices such as slow points and mini roundabouts to improve environmental amenity

v) Traffic egress/ingress to arterial/sub-arterial roads

Barina Downs Road is located to the west of Windsor Road (State Road) and to the east of Reston Grange (local road) within the suburb of Baulkham Hills. Access to Windsor Road is restricted to left out only whilst access to Reston Grange is controlled by a roundabout.

vi) Sight distance and other safety issues

Sight distance when entering or exiting the proposed access roadways for the property exceeds the minimum safe intersection sight distance standards required under the Austroads Standards for vehicles traveling at 50km/h.

vi) Conclusion and Recommendation

The applicant be requested to carry out further modelling of the Windsor Road / Barina Downs Road intersection as per the requirements of the NSW RMS taking into account the additional traffic from this development and that likely to result from No. 64 Mackillop Drive to determine the expected delays and queue lengths which may result.

ROADS AND MARITIME SERVICES

The Development Application was referred to the NSW Roads and Maritime Services and comments were received dated 29 March 2012 requesting the following additional information:-

- "1. *Traffic and Parking Assessment Report submitted with the development application did not analyse the traffic impact of the proposed development at the intersection of Windsor Road and Barina Downs Road. An assessment of the intersection should be undertaken and the findings are to be submitted to Council RMS for review. The traffic assessment should include all known developments in the vicinity including the development at 64 Mackillop Drive.*"

In response the applicant submitted additional information which was re-referred to the NSW Roads and Maritime Services for further consideration and comment. Further

comments were received dated 20 August 2012 confirming that the additional information requested was not satisfactorily addressed as detailed below:-

"RMS has reviewed the additional information as supplied by the applicant and whilst the majority of the issues previously raised have been addressed to the satisfaction of RMS, the amended report fails to adequately address the combined traffic impact of all known developments in the vicinity, including the development at 64 Mackillop Drive.

The SIDRE modelling supplied by the applicant fails to address these cumulative impacts as there is concern that these impacts may result in deterioration in the operating performance of the Windsor Road / Barina Downs Road intersection.

Having regard to the foregoing, it will be necessary for SIDRA modelling to be undertaken in line with the above, and the results forwarded to RMS, including electronic copies, to allow further consideration of this matter."

As the requested information is yet to be satisfactorily addressed by the applicant, and the proposed built form is not supported, the application is recommended for refusal and the omission of this required information is recorded as a reason for refusal.

NSW POLICE SERVICE

The Development Application was referred to the NSW Police Service and comments have been received dated 19 April 2012 which have requested the following measures be adopted as conditions of consent:-

- The car parking area in the basement is to be painted white;
- 3 – 5 metres of appropriately maintained vegetation is to be located either side of residential pathway and bicycle routes;
- Lighting is to meet Australian Standards;
- CCTV is to be incorporated to monitor common open spaces throughout the development as well as monitoring access / exit driveways and entrances to the unit blocks
- An alarm system should be installed in garage and storage areas that connect to the relevant unit.
- Magnetic door locking systems linked to fire sprinkler alarms are recommended to ensure that fire exits are used for emergencies only

SYDNEY WATER

The Development Application was referred to Sydney Water in accordance with Sydney Waters referral Guidelines dated 18 April 2012. Comments received dated 30 April 2012 raise no objection to the proposal subject to conditions of consent if successfully determined.

CONCLUSION

The Development Application has been assessed against Section 79C of the Environmental Planning and Assessment Act, 1979, State Environmental Planning Policy No. 65 – Design of Residential Flat Buildings, Local Environmental Plan 2005, Draft The Hills Local Environmental Plan 2010, Baulkham Hills Development Control Plan and the Council's Multi Unit Urban Design Guidelines and is considered unsatisfactory and unsupportable.

The site is an isolated R4 zoned allotment under the Draft LEP, surrounded by an R3 zone (multi unit housing capability) of a considerably lower built form outcome than that capable on the subject site. The surrounding properties are also single and two storey

dwelling of good quality which are unlikely to be redeveloped in the foreseeable future. Refer to Attachment 2.

Preceding Development Application 1557/2007/HB was approved on the subject site with a maximum building height of four (4) storeys, generally resulting in a two (2) storey interface with neighbouring residential properties. This proposal also included a building height well below the maximum height envelope permitted by the DCP. This development was approved as it was considered to appropriately respond to the constraints of the allotment and provide a satisfactory interface and integration to the adjacent single and two storey residential dwelling houses.

The current proposal provides additional building height, dwelling yield and increased density which is considered to result in an unsatisfactory building height, bulk, scale and interface when considered against the existing character of the area and existing built form on surrounding residential properties. The proposed additional building height will result in a stepped five storey presentation as viewed from these properties, which is not considered to appropriately respond to the lower density character of the surrounding area. Therefore the proposed development is considered to be an overdevelopment of the site.

The proposal is also not considered to have sufficiently considered or addressed the cumulative impacts of the proposed development and associated traffic yield with respect to existing and future traffic volumes within the local road network. In particular insufficient information has been submitted to adequately assess impacts on the functionality of the Windsor Road and Barina Downs Road intersection as outlined within comments received from the NSW Roads and Maritime Services and Council's Traffic Management Section.

The issues raised within the received submissions have been assessed within the body of this report and in part are considered sufficient to warrant outright refusal of the application.

IMPACTS

Financial

The refusal of this Development Application may result in a class 1 appeal being lodged in the NSW Land and Environment Court.

Hills 2026

The social and environmental impacts have been identified and addressed in the report. The proposal provides housing choice which is an environmentally sustainable form of residential development but the resulting built form and additional proposed building height is not considered compatible within the character of the locality.

RECOMMENDATION

The Development Application be refused on the following grounds:-

1. The proposed development is not considered to comply with Part 1, Clause 2(2)(a)(v) of BHLEP 2005 as the additional building height, bulk and scale is not considered appropriate when considered in conjunction with the future character of the area.
(Section 79C(1)(a)(i), (b), (c) and (e) of the Environmental Planning and Assessment Act, 1979)

2. The proposed development is not considered to comply with Part 1, Clause 2(2)(b)(v) of BHLEP 2005 as the additional building height, bulk and scale is considered to adversely impact upon social amenity and privacy.
(Section 79C(1)(a)(i), (b), (c) and (e) of the Environmental Planning and Assessment Act, 1979)
3. The proposed development is not considered to comply with Part 1, Clause 2(2)(c)(i) of BHLEP 2005 as the proposal is considered to be an inappropriate development when considered in conjunction with the future character of the area.
(Section 79C(1)(a)(i), (b), (c) and (e) of the Environmental Planning and Assessment Act, 1979)
4. The proposed development has not adequately demonstrated compliance with the height requirements contained within Draft The Hills Local Environmental Plan 2010.
(Section 79C(1)(a)(ii), (b), (c) and (e) of the Environmental Planning and Assessment Act, 1979)
5. The proposed development does not comply with Baulkham Hills Development Control (BHDCP) which includes variations to gross floor area, density and building height requirements.
(Section 79C(1)(a)(iii), (b), (c) and (e) of the Environmental Planning and Assessment Act, 1979)
6. The proposed development is not considered to appropriately integrate with the adjoining single and two storey dwellings and the future two storey development potential of the adjoining R3 zoned allotments under the Draft LEP.
(Section 79C(1)(b) and (c), (d) and (e) of the Environmental Planning and Assessment Act, 1979)
7. The applicant has submitted insufficient information to adequately address issues raised by the NSW Roads and Maritime Service and Council's Traffic Management Section concerning cumulative traffic impacts within the surrounding area.
(Section 79C(1)(b) and (c) of the Environmental Planning and Assessment Act, 1979)
8. The proposed development is not considered to be in the public interest as reflected within the issues raised within the received submissions.
(Section 79C(1)(d) and (e) of the Environmental Planning and Assessment Act, 1979)

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. Draft LEP Zoning Plan
4. Site Plan
5. Elevation Drawings
6. Section Drawings
7. Fencing and Bin Storage Details
8. Landscape Plans
9. Colour Montage Drawings
10. Schedule of External Colours and Finishes
11. Shadow Diagrams
12. Comments from the NSW RMS

13. Comments from the NSW Police Service
14. Comments from Sydney Water
15. Conciliation Conference Notes
16. Prelodgement Notes

ATTACHMENT 1 – LOCALITY PLAN



□ SUBJECT SITE

✓ PROPERTIES NOTIFIED

NOTE: 3 SUBMISSIONS RECEIVED
OFF THE SCOPE OF THIS MAP
THE HILLS HISTORICAL
SOCIETY AND RMS ALSO NOTIFIED

THE HILLS SHIRE COUNCIL

● SUBMISSIONS RECEIVED -
(1ST NOTIFICATION)

▲ SUBMISSIONS RECEIVED -
(2ND NOTIFICATION)

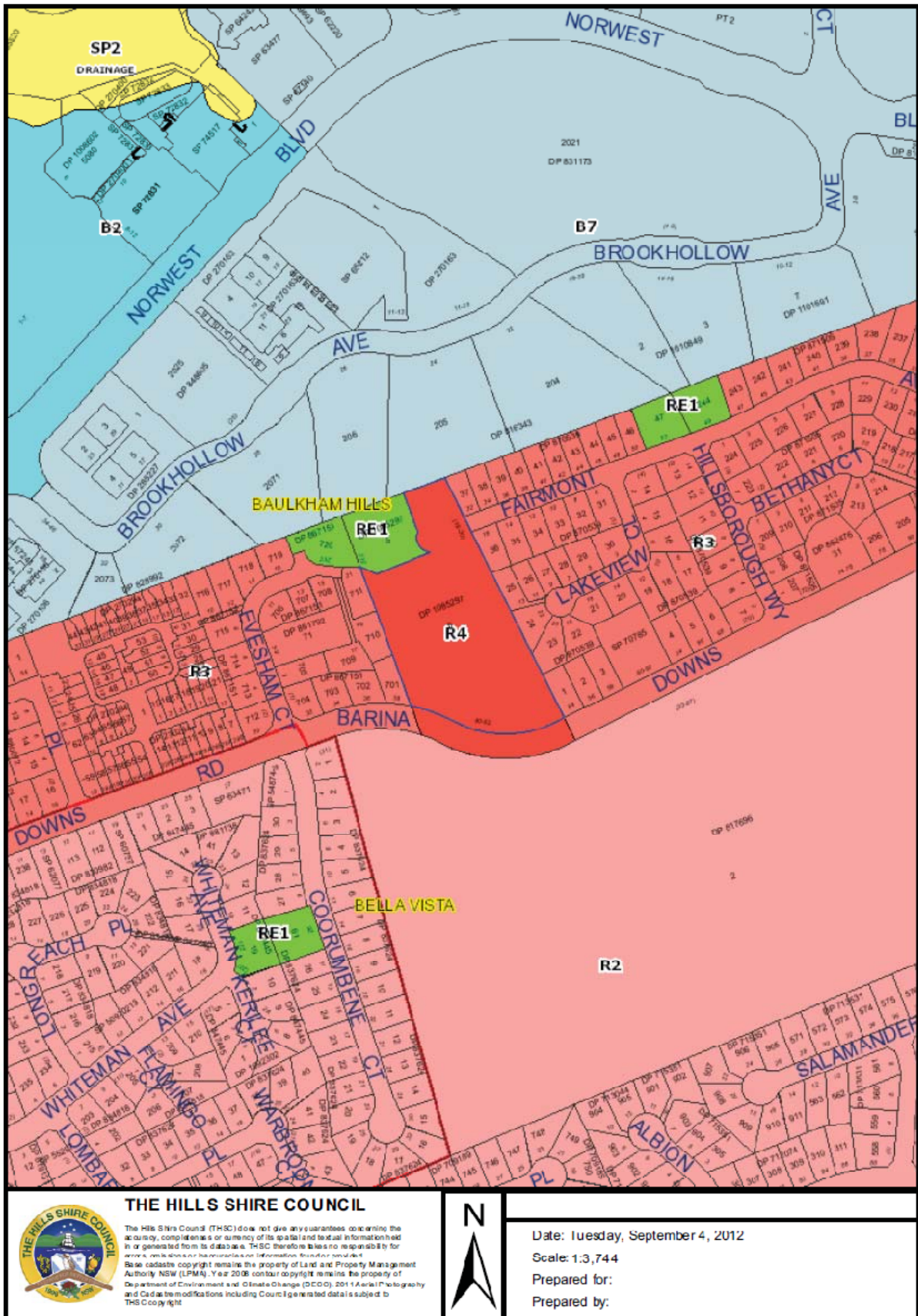


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BASED CADASTRE COPYRIGHT LAND & PROPERTY INFORMATION NSW (LP), CADASTRE UPDATE INCLUDING COUNCIL GENERATED DATA IS SUBJECT TO THSC COPYRIGHT.

ATTACHMENT 2 – AERIAL PHOTOGRAPH



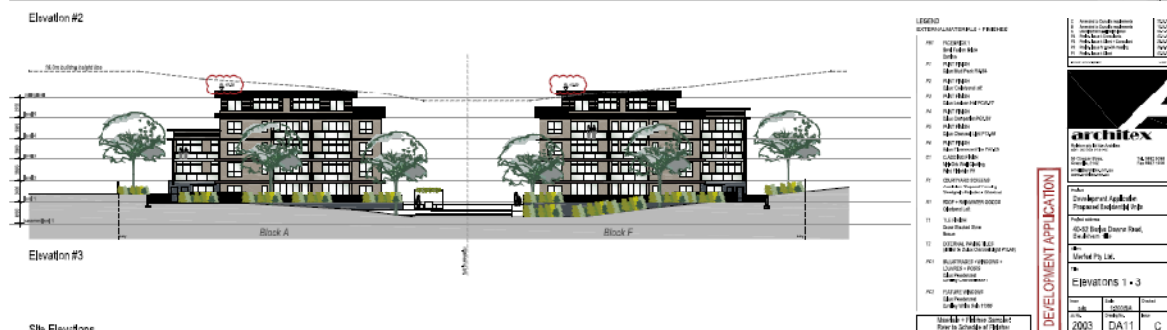
ATTACHMENT 3 – DRAFT THLEP ZONING PLAN



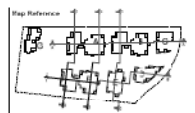
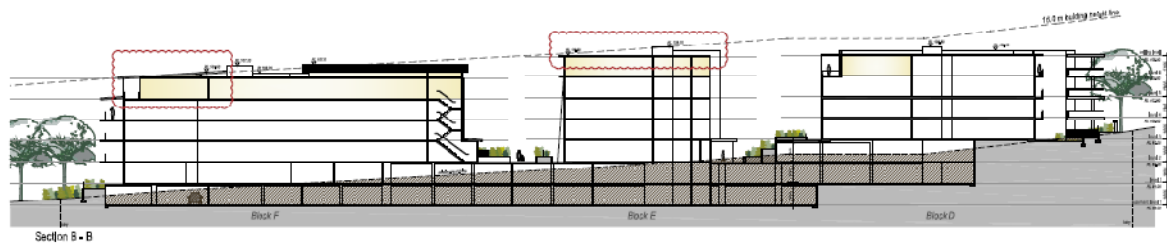
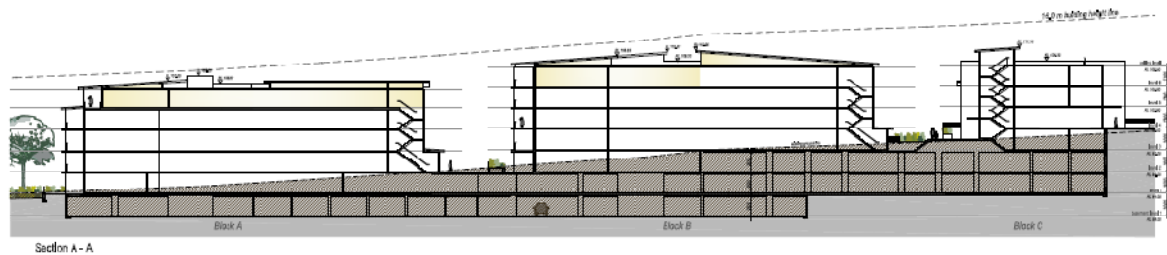
ATTACHMENT 4 – SITE PLAN



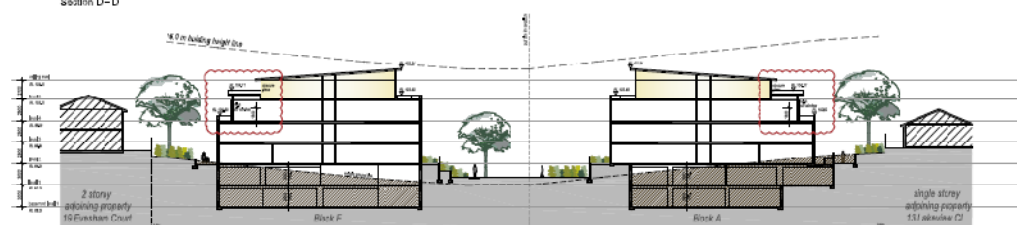
ATTACHMENT 5 – ELEVATION DRAWINGS



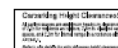
ATTACHMENT 6 – SECTION DRAWINGS



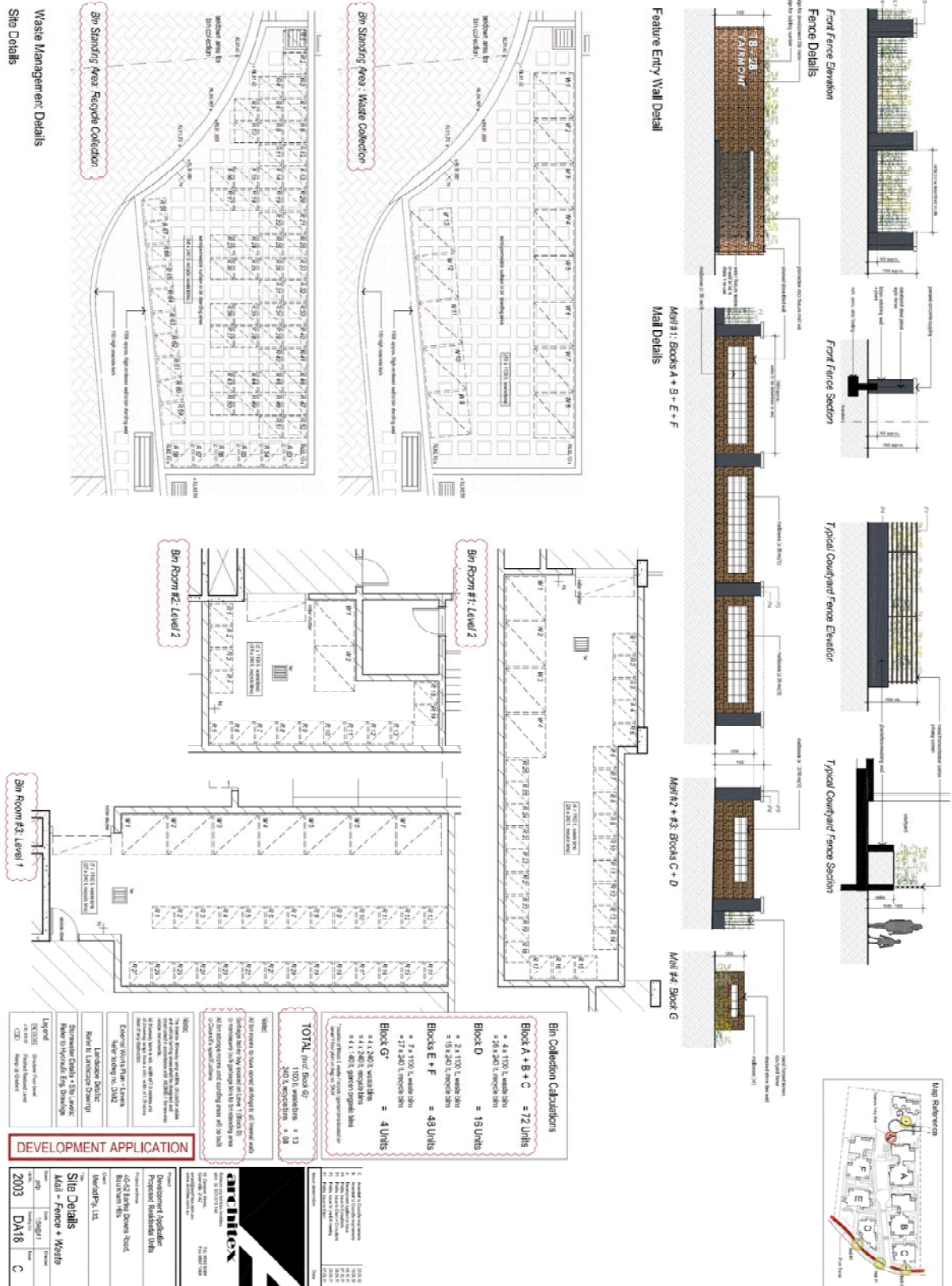
Ste Sections



Site Sections



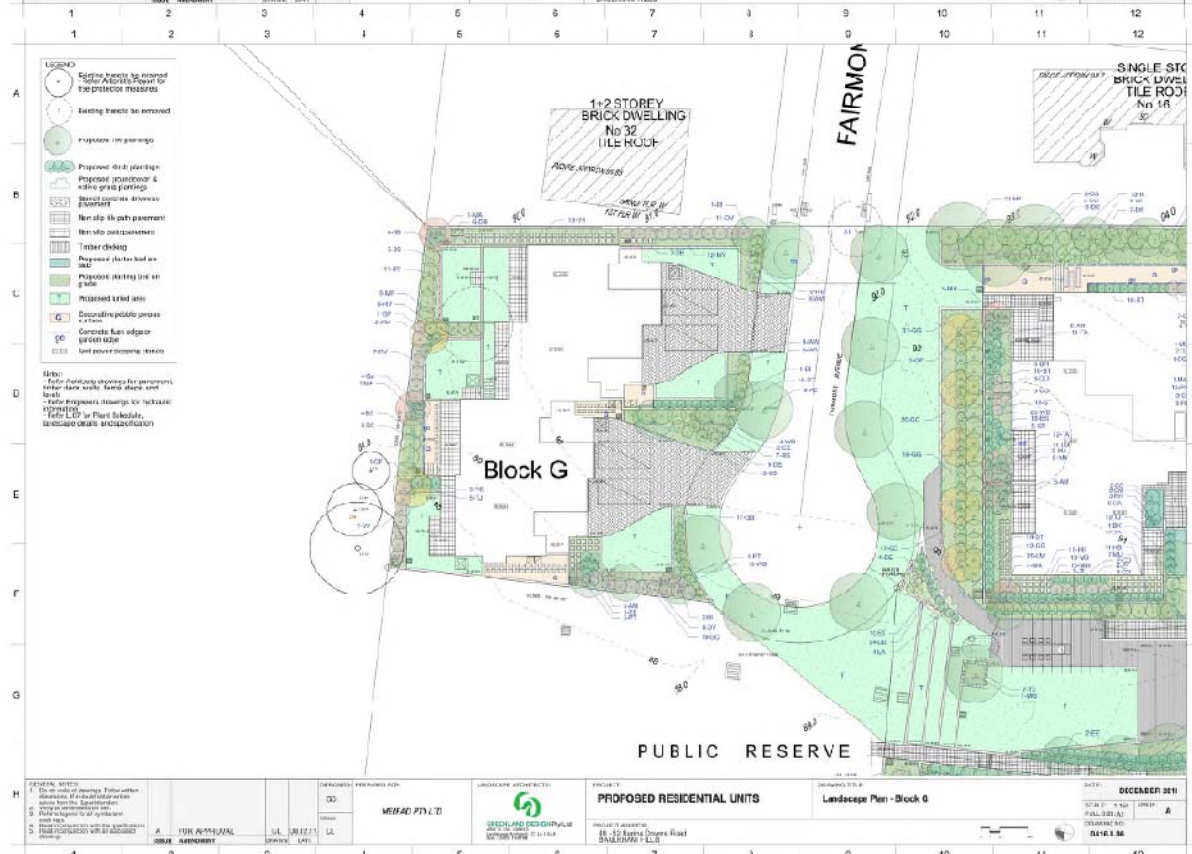
ATTACHMENT 7 – FENCING DETAILS AND BIN STORAGE



ATTACHMENT 8 –LANDSCAPE PLAN









ATTACHMENT 9 – COLOUR MONTAGE DRAWING



ATTACHMENT 10 – SCHEDULE OF COLOURS AND FINISHES



	Facebrick 1 Boral Fusion Bricks Domino		Paint Finish 4 Dulux Companion PG1.B7		Tile Finish 1 Decor Stacked Stone Bisque
	Paint Finish 1 Dulux Mud Pack P14.B4		Paint Finish 5 Dulux Charcoal Light P13.A6		Roof + Rainwater Goods Colorbond Loft
	Paint Finish 2 Dulux 'Colorbond Loft'		Paint Finish 6 Dulux Fluorescent Fire P07.E9		Handrails + Pergolas + Louvres + Windows Dulux Powdercoat Duralloy Charcoal 88351
	Paint Finish 3 Dulux Lexicon Half PCW.F7		Courtyard Fence Aluminium 'Supaslat' Woodgrain - Chestnut		Feature Windows Dulux Powdercoat Duralloy White Satin 11395

Schedule of Finishes: Block A
40-52 Barina Downs Road, Baulkham Hills

architex
architects and planners



	Facebrick 1 Boral Fusion Bricks Domino		Paint Finish 4 Dulux Companion PG1.B7		Tile Finish 1 Decor Stacked Stone Bisque
	Paint Finish 1 Dulux Mud Pack P14.B4		Paint Finish 5 Dulux Charcoal Light P13.A6		Roof + Rainwater Goods Colorbond Loft
	Paint Finish 2 Dulux 'Colorbond Loft'		Paint Finish 6 Dulux Fluorescent Fire P07.E9		Handrails + Pergolas + Louvres + Windows Dulux Powdercoat Duralloy Charcoal 88351
	Paint Finish 3 Dulux Lexicon Half PCW.F7		Courtyard Fence Aluminium 'Supaslat' Woodgrain - Chestnut		Feature Windows Dulux Powdercoat Duralloy White Satin 11395


Schedule of Finishes: Block G
40-52 Barina Downs Road, Baulkham Hills

architex
architects and planners

ATTACHMENT 11 – SHADOW DIAGRAMS



ATTACHMENT 12 – COMMENTS FROM NSW RMS

<p>Your Reference: DA 870/2012 Our Reference: SYD12/00276 Contact: Hans Pilly Mootanah Telephone: 8849 2076</p>	 <div style="display: inline-block; vertical-align: middle;"> Transport Roads & Maritime Services </div>

The General Manager
 The Hills Shire Council
 DX 8455
 CASTLE HILL

DOC. No.:
BOX No.:
24 APR 2012
THE HILLS SHIRE COUNCIL

Attention: Gavin Cherry

**APARTMENT BUILDING & TOWNHOUSE DEVELOPMENT
 40-52 BARINA DOWNS ROAD, BAULKHAM HILLS**

Dear Sir/Madam,

I refer to your letter of 7 march 2012 (Council's Reference DA 870/2012) with regard to the abovementioned development proposal, which was referred to Roads and Maritime Services (RMS) for comment.

RMS has reviewed the application and provides the following comments to council for its consideration in the determination of the development application.

1. Traffic and Parking Assessment Report submitted with the development application did not analyse the traffic impact of the proposed development at the intersection of Windsor Road and Barina Downs Road. An assessment of the intersection should be undertaken and the findings are to be submitted to Council and RMS for review. The traffic assessment should include all known developments in the vicinity including the development at 64 Mackillop Drive.
2. The proposed 327 car parking spaces are well above the RMS requirements of 190 car parking spaces for this development. Providing unrestrained car parking spaces will discourage the use of sustainable transport modes. Council should be satisfied with the car parking provision for this development.
3. It is noted that the dimensions of the parking spaces, aisle widths and ramp grades cannot be read from the plans submitted for the subject development application. Council should ensure that the layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) are in accordance with AS 2890.1 - 2004 and AS 2890 - 2002 for heavy vehicles.
4. The circulation ramps should be to Council's satisfaction and in accordance with AS 2890.1 - 2004.
5. Consideration should be given to installing speed humps at regular intervals within the car park to improve safety.

LEVEL 11, 27-31 ARGYLE STREET PARRAMATTA NSW 2150
 PO BOX 973 PARRAMATTA CBD NSW 2124 DX 28555
www.rms.nsw.gov.au | 13 22 13

6. The internal aisle ways are to be marked with pavement arrows to direct traffic movements in/ out of the site and guide traffic circulation through the car park.
7. The minimum available headroom clearance is to be signposted at all entrances and clearance is to be a minimum of 2.2 metres (for cars and light vans, including all travel paths to and from parking spaces for people with disabilities) measured to the lowest projection of the roof (fire sprinkler, lighting, sign and ventilation), according to AS 2890.1 - 2004.
8. The proposed turning areas within the car park are to be kept clear of any obstacles, including parked cars, at all times.
9. All vehicles are to enter and leave the site in a forward direction.
10. The swept path of the longest vehicle entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard a plan shall be submitted to the DoP for approval, which shows that the proposed development complies with this requirement.
11. The required sight lines to pedestrians and / or other vehicles in or around the entrances are not to be compromised by landscaping, signage, fencing or other materials.
12. Clear sight lines shall be provided at the property boundary line to ensure adequate visibility between vehicles leaving the car park and pedestrians along the frontage road footpath in accordance with Figure 3.3 of AS 2890.1 - 2004 for light vehicles and AS 2890.2 - 2002 for heavy vehicles.
13. The developer shall be responsible for all public utility adjustments/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.
14. All works/regulatory signposting associated with the proposed development are to be at no cost to the RMS.

Yours faithfully,



Owen Hodgson
Senior Land Use Planner
Transport Planning, Sydney Region

29 March 2012

Our Reference: SYD 12/00276
Your Reference: 870/2012/JP
Contact: Chris Goudanas
Telephone: 8849 2965



Transport
Roads & Maritime
Services

The General Manager
Hills Shire Council
PO Box 75
CASTLE HILL NSW 1765

Attention: Gavin Cherry

**CONSTRUCTION OF APARTMENT BUILDING AND TOWN HOUSE DEVELOPMENT
40 – 52 BARINA DOWNS ROAD, BAULKHAM HILLS**

Dear Sir/Madam,

I refer to Council's letter of 2 July 2012 (ref: DA870/2012/JP) with regard to the abovementioned development application, which was referred to the Roads and Maritime Services (RMS) for comment.

As you would be aware this matter has been the subject of previous correspondence (RMS letter dated 29 March 2012) which requested additional information to be supplied by the applicant in order to enable a comprehensive assessment of the development application.

RMS has reviewed the additional information as supplied by the applicant and whilst the majority of the issues previously raised have been addressed to the satisfaction of RMS, the amended report fails to adequately address the combined traffic impact of all known developments in the vicinity, including the development at 64 MacKillop Drive.

The SIDRA modeling supplied by the applicant fails to address these cumulative impacts as there is concern that these impacts may result in a deterioration in the operating performance of the Windsor Road/Barina Downs Road intersection.

Having regard to the foregoing, it will be necessary for SIDRA modelling to be undertaken in line with the above, and the results forwarded to RMS, including electronic copies, to allow further consideration of this matter.

Any inquiries in relation to this development application can be directed to the contact officer listed at the top of this letter.

Yours sincerely,

A handwritten signature in dark ink, appearing to read "Chris Goudanas", written over a horizontal line.

Chris Goudanas
Land Use Planning and Assessment Manager
Transport Planning Section, Roads & Maritime Services

20 August 2012



NSW POLICE FORCE

THE HILLS LOCAL AREA COMMAND

Castle Hill Police Station
Cnr Castle & Pennant St
Castle Hill NSW 2154
Ph. 9680 5399
Fax: 9680 5303

Thursday 19th April 2012

Gavin CHERRY
Town Planning Co-ordinator
Baulkham Hills Shire Council
P.O. Box 75
Castle Hill NSW 1765

Dear Mr CHERRY,

**Subject: Development Application No. 870/12/JP Proposed Demolition of
Dwelling and Construction of 140 Units with Basement Car Parking and
Strata Sub-Division**

**Property: Lot 6 DP 1085297
40-52 Barina Downs Road, Baulkham Hills, NSW 2153**

Police Ref: 2012/51761

We refer to your development application which seeks approval for the demolition of existing dwelling and construction of 140 units with basement car parking. After perusing the paperwork and plans associated with this proposal, Police have several concerns with the development and there are a number of Crime Prevention Through Environmental Design (CPTED) factors that should be considered.

Surveillance

The attractiveness of crime targets can be reduced by providing opportunities for effective surveillance, both natural and technical. Good surveillance means that people can see what others are doing. People feel safe in public areas when they can easily see and interact with others. Would-be offenders are often deterred from committing crime in areas with high levels of surveillance. This can be achieved by having clear sightlines between public and private places, and effective lighting of public places.

Car Park

Internal car park structures such as concrete columns, solid internal walls, service rooms and enclosed fire exits can create significant visual obstruction in car parks. From a criminal's perspective, obstructions reduce risk and provide opportunities for cover and entrapment. This needs to be considered in the car park which is situated in the basement.

Also Police recommend that the car parking area in the basement be painted white to greatly help to reflect light. Painted facilities not only look larger and more spacious than unpainted car parks, but can greatly reduce the number of lights required to illuminate the car park and on-going energy costs.

Vegetation

The safety objective of "to see and be seen" is important in landscaped areas. Vegetation is commonly used by criminals to aid concealment and entrapment opportunities. As this development proposes to have significant vegetation throughout the site, it must be emphasised that the vegetation, especially the shrubs and shade trees, be kept trimmed at all times. Lower tree limbs should be above average head height and shrubs should not provide easy concealment.

Vegetation closest to pedestrian pathways requires close attention. It is recommended that 3-5 metres of cleared space be located either side of residential pathways and bicycle routes. Thereafter, vegetation can be stepped back in height to maximise sightlines.

Bicycle Parking

Bicycle parking areas should be located within view of capable guardians. The provision of covered, lockable racks to secure bicycles increases the effort required to commit crime.

Lighting and Technical Supervision

Lighting should meet minimum Australian standards. Effective lighting can reduce fear, increase community activity, improve visibility and increase the likelihood that offenders will be detected and apprehended. Special attention should be made to lighting the entry and exit points from the buildings, car park and access/exit driveways.

The access/exit driveways need to be adequately lit to improve visibility and increase the likelihood that offenders will be detected and apprehended. At the same time throughout the site transition lighting is needed to reduce vision impairment, i.e. reducing a person walking from dark to light places.

CCTV

Police suggest the use of a CCTV system to monitor the common open spaces throughout the development, especially if no access control to the area is provided.

Police would also suggest the use of CCTV to monitor access/exit driveways of the underground car parks and entrances to the unit blocks.

Based on information received from the Australian Federal Police, CCTV footage is effective in criminal matters when the images display shots of an alleged offender from the shoulder upwards. CCTV cameras need to be able to zoom in on a person of interest without loss of focus.

Territorial Reinforcement

With few exceptions, criminals do not want to be detected, challenged or apprehended. For offenders, the capability of a guardian to detect, challenge or apprehend is an important consideration. The strategic location of supervisors and employees increases the risk to offenders and crime effort. It is argued that employees are more effective as guardians (crime deterrents) than passing members of the community.

Territorial reinforcement can be achieved through:

- ✓ Design that encourages people to gather in public space and to feel some responsibility for its use and condition
- ✓ Design with clear transitions and boundaries between public and private space
- ✓ Clear design cues on who is to use space and what it is to be used for.

Confusion resulting from ambiguous entry design can legitimise exploration, trespassing and excuse making by opportunistic criminals. It is recommended that all public access points are well marked and inviting.

Environmental Maintenance

Clean, well-maintained areas often exhibit strong territorial cues. Rundown areas negatively impact upon perceptions of fear and may affect community confidence to use public space and ultimately, it may affect crime opportunity. Vandalism can induce fear and avoidance behaviour in a public space, therefore the rapid repair of vandalism and graffiti, the replacement of car park lighting and general site cleanliness is important to create a feeling of ownership. Ownership increases the likelihood that people will report or attempt to prevent crime.

Access Control

Physical and symbolic barriers can be used to attract, channel or restrict the movement of people. They minimise opportunities for crime and increase the effort required to commit crime. By making it clear where people are permitted to go or not go, it becomes difficult for potential offenders to reach and victimise people and their property. Illegible boundary markers and confusing spatial definition make it easy for criminals to make excuses for being in restricted areas. All areas of the development not open to the public need to have clear indications of this.

Security / Entry Control System

One of the major issues that have been brought to Police attention in this Local Government Area is the prevalence of offenders breaching the security access to unit blocks, particularly the car park areas, and breaking into the units' garages and storage areas. Offenders often gain access to commit these offences despite the presence of a security shutter restricting unauthorised access at the entrance to the car park area. Due to the isolation of the garages and storage areas these offences are not usually noticed by the residents until much later. It is obvious to attending Police that a better quality of construction between garages, improved strength to garage doors and better quality locking mechanism would reduce the incidence of this type of crime.

The proposals states that access and egress control involves the use of mechanical and electrical measures, however there is no specific information about the measures. Police therefore recommend the use of roller shutters placed at the vehicular entrance to the residential parking areas and further access control both into the grounds of the development or the residential buildings. Police recommend separate shutters restricting access to each of the basement levels and an intercom system to restrict both pedestrian and vehicular access to the building. A similar system should be in place to restrict access to the grounds of the development as most break ins occur at the side and rear of buildings.

Police would also suggest that an allowance be made that would permit the residents or developer to install an alarm system in their garages/storage areas that would be connected to the relevant unit (i.e. the developer either installs the alarm system throughout the site or provides cabling or wireless connectivity between the unit and the garage/storage area). The alarm would alert the residents in a timely manner to any unauthorised access to their garages/storage areas so that Police can be called as soon as possible.

Fire Exits and Stairs

Research has shown that fire exits and fire stairs in buildings and car parks often contravene regulations. In one Sydney study, self-closing and self-locking street level egress doors were commonly found to be chocked open, vandalised and/or unsupervised.

Upon gaining access to fire exits at street level (via egress doorways), some offenders use stairs as conduits and cover to commit theft from vehicles, theft of motor vehicles and armed robbery. Magnetic door locking systems linked to Fire Sprinkler alarms ensure that fire exits are used for emergencies only.

Natural Ladders

Natural ladders are design features, trees or nearby structures that help criminals to climb on to balconies, rooftops, ledges and windows. Current design trends in multi-story apartment blocks are making it easy for "Spiderman" type burglars to target residences.

Police recommend that the development avoid creating outer ledges capable of supporting hands/feet and balustrades should not provide anchor points for ropes.

Other Matters

Unfortunately, offenders target this type of development, both in its construction phase and when the building/s are occupied. Police would support the use of security sensor lights and a security company to monitor the site while construction is in progress.

Traffic Report

The Traffic Officer, Senior Constable Alison LILLY has prepared a report in relation to the development which states:

I have reviewed the document by VARGA Traffic Planning Pty Ltd. A previous application has been submitted and subsequently approved by Council for the proposed development of new residential apartment/ townhouse development comprising of 118 dwellings and 284 off street parking spaces. This new application seeks to increase the number of dwellings on the site to a potential maximum of 181 and the provision of an additional 43 off street parking spaces (327 spaces in total).

In considering the traffic implications of the proposed *additional* development I have read the traffic and parking assessment report. The conclusion of the report provided to police states that the projected increase in traffic activity as a consequence of the *additional* development proposal is minimal and will clearly not have any unacceptable traffic implications in terms of road network capacity.

I note that the report outlines that the proposed development will result in an increase in the traffic generation potential of approximately 18vph with the Level of Service being deemed "A" – good operation with an average delay in the order of 1-2 seconds per vehicle. This projected increase in traffic activity as a consequence of the additional residential development is minimal and I can not foresee this to cause an unacceptable traffic impact.

Additionally, the proposed parking facilities satisfy the relevant requirements specified by both the Councils Parking Code as well as the Australian Standards and therefore concluded that the proposed development will not have unacceptable parking implications.

Overall, as seen in the attached SIDRA analysis of the affected areas, the projected increase in traffic activity as a consequence of the *additional* residential development will not have any unacceptable traffic implications in terms of the operational performance of the nearby road network nor will it have any unacceptable parking implications.

If there are any questions in relation to this report please contact me at Castle Hill Police Station on 9680 5399.

Respectfully yours,



Constable Jodie SUTERS
Crime Prevention Officer
Castle Hill Police

The NSW Police Force (NSWPF) has a vital interest in ensuring the safety of members of the community and their property. By using recommendations contained in this evaluation, any person who does so, acknowledges that:

- *It is not possible to make areas evaluated by the NSWPF absolutely safe for the community and their property*
- *Recommendations are based upon information provided to, and observations made by the NSWPF at the time the evaluation was made*
- *The evaluation is a confidential document and is for use by the council or organisation referred to on page one*
- *The contents of this evaluation are not to be copied or circulated otherwise than for the purpose of the council or organisation referred to on page one.*
- *The NSW Police Force hopes that by using recommendations contained within this document, criminal activity will be reduced and the safety of members of the community and their property will be increased. However, it does not guarantee that the area evaluated will be free from criminal activity if its recommendations are followed.*

ATTACHMENT 14 – COMMENTS FROM SYDNEY WATER

From: UrbanGrowth [UrbanGrowth@sydneywater.com.au]
Sent: Monday, 30 April 2012 10:35:36 AM
To: The Hills Shire Council
Subject: Att: Gavin Cherry - DA 870/2012/JP

RE: DA 870/2012/JP

Dear Gavin,

Thank you for your letter of 24 April 2012 requesting comment on the proposed apartment building and town house development at 40-52 Darina Downs Road, Baulkham Hills.

Sydney Water has previously assessed the capacity of this site under DA 1557/2007/HB and considers the demands generated by the current proposal substantially the same. Sydney Water considers prior advice still applicable. Please find prior response attached.

Due to the type and scale of development proposed, the proponent will still be required to obtain a Section 73 Certificate under the Sydney Water Act 1994. We request that Council includes the following condition in the development consent.

Requirement for a Section 73 Certificate

Sydney Water will assess the impact of the development when the proponent applies for a Section 73 Certificate. This assessment will enable Sydney Water to specify any works required as a result of the development and to assess if amplification and/or changes to the system are applicable. The proponent must fund any adjustments needed to Sydney Water infrastructure as a result of any development.

The proponent should engage a Water Servicing Coordinator to get a Section 73 Certificate and manage the servicing aspects of the development. The Water Servicing Coordinator will ensure submitted infrastructure designs are sized & configured according to the Water Supply Code of Australia (Sydney Water Edition WSA 03-2002) and the Sewerage Code of Australia (Sydney Water Edition WSA 02-2002).

Sydney Water requests Council to continue to instruct proponents to obtain a Section 73 Certificate from Sydney Water. Details are available from any Sydney Water Customer Centre on 13 20 92 or Sydney Water's website at www.sydneywater.com.au

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Sydney Water e-planning

Sydney Water has created a new email address for planning authorities to use to submit statutory or strategic planning documents for review. This email address is urbangrowth@sydneywater.com.au. The use of this email will help Sydney Water provide advice on planning projects faster, in line with current planning reforms. It will also reduce the amount of printed material being produced. This email should be used for:

- Section 62 consultations under the Environmental Planning and Assessment Act 1979
- consultations where Sydney Water is an adjoining land owner to a proposed development
- consultations and referrals required under any Environmental Planning Instrument
- draft LEPs, SEPPs or other planning controls, such as DCPs
- any proposed development or rezoning that will be impacted by the operation of a Sydney Water Wastewater Treatment Plant
- any proposed planning reforms or other general planning or development inquiries

If you require any further information, please contact the Urban Growth Branch on 02 8849 4004 or e-mail urbangrowth@sydneywater.com.au

Yours sincerely,

Ainsley Rotgans | **Student Town Planner**
Urban Growth Strategy | Sydney Water
Level 6, 1 Smith Street Parramatta NSW 2150

ATTACHMENT 15 – CONCILIATION CONFERENCE NOTES

- 1 -

CONCILIATION CONFERENCE

THURSDAY, 24 May 2012

PROPOSAL:	Proposed Apartment Building and Town House Development
PROPERTY:	Lot 6 DP 1085297, Nos. 40 – 52 Barina Downs Road, Baulkham Hills
FILE NO:	870/2012/JP
ATTENDEES:	Councillor Greg Burnett (Mayor) Councillor Michelle Byrne (Deputy Mayor) Councillor Andrew Jefferies Councillor Barbara Burton Paul Osborne – Manager Development Assessment (Chairperson) Gavin Cherry – Development Assessment Coordinator Applicant's Representatives (4) Residents (15)
APOLOGIES	Councillor Taunton
START:	7.00 pm
FINISH:	9.00 pm

COMMENTS

Following a brief welcome and introduction, the Chairperson highlighted the purpose of the Conciliation Conference and explained the process which would be undertaken. The chairperson also confirmed that the proposal was subject to determination by the Joint Regional Planning Panel.

Council's Development Assessment Coordinator outlined the nature of the Development Application and the relationship of the proposal to the current Local Environmental Plan (2005) and Draft Local Environmental Plan 2010). It was also outlined that the draft LEP has been referred to the Department of Planning and is awaiting gazettal.

Residents were then invited to put forward their concerns for discussion. Three (3) resident speakers began discussion. The applicant responded to the issues raised and a question and answer session commenced.

The following issues were raised throughout the course of the evening:-

1. Permissibility (LEP and Draft LEP)

During the outline of the proposal by Council's Development Assessment Coordinator, a resident questioned the permissibility of the proposal with respect to the current and Draft Local Environment Plans.

In response Council's Development Assessment Coordinator explained that the current zoning of the property (and properties north of Barina Downs Road) is Residential 2(a) which permits dwelling houses, dual occupancies, villa housing, town houses and apartment buildings. It was noted that properties south of Barina Downs Road in this location (excluding No. 64 Mackillop Drive) are currently zoned Residential 2(b) being a

low density zone. It was explained that the Draft LEP seeks to rezone properties north of Barina Downs Road (excluding the subject site) to R3 – Medium Density Residential. This zoning would prohibit an apartment building development. This zoning however does not apply to the subject site as this site is proposed to be zoned R4 – High Density Residential. This zoning results in part from the existing development consent issued on the site for apartments under Development Application 1557/2007/HB. Properties south of Barina Downs Road generally retain a low density zone of R2 – Low Density Residential with the exception of No. 64 Mackillop Drive which is the subject of a separate Development Application (6/2012/JP).

The status of the Draft LEP was also questioned. It was subsequently confirmed that the Draft LEP is awaiting gazettal.

2. Integration with Local Character and Building Height

Residents raised concern that the proposed development is not compatible with the surrounding low density character of the area being predominantly single and double storey dwellings. It was also noted that residents had purchased properties on the basis that only low density housing was permitted in the area and that the existing character of the area would be adversely impacted upon by the proposed development. It was also mentioned that this type of development would not be approved in another local government area (specifically reference to Waverly Local Government Area was given) and that it would set a dangerous precedent for the area removing the “garden shire” perception of the area.

One of the residents questioned the representative for the developer as to why the principles of the Land and Environment Court and the previous consent determination were being ignored and whether neighbouring residents would be compensated financially if the development was to proceed. This included a direct quotation from the applicants Statement of Environment Effects referencing Senior Commissioner Roseth (refer to Page 24 of the Statement of Environmental Effects).

Concern was also raised that the elevation and section drawings provided a misrepresentation of the height transitions between neighbouring properties and the proposed development with an indication that there may be level discrepancies between the plans submitted.

The applicant in response outlined their rationale for the design of the proposed development including locating and orientated the majority of the buildings / driveway within the centre of the site. It was confirmed that the proposed buildings retain the same locations as previously approved and the proposal primarily included 1 to 2 storeys of additional height which is stepped back from the property boundaries with setbacks from 7.0m to approximately 15.0m. It was also confirmed that the floor to ceiling heights have been amended to ensure compliance with the 16m height requirement for the site.

The chairperson requested if consideration could be given to amending the height of the development to address the character and integration concerns raised. The applicant responded by confirming that high sill window, window deletion and balcony screening measures could be considered but a reduction in levels was unlikely.

3. Building Setbacks and Separation

Concern was raised with the proposed development and a reduction in property setbacks (in particular to the eastern and western property boundaries). Residents considered that the proposed building height being set back only 7.0m, would result in privacy loss,

excessive noise generation and a potential for things to be thrown into neighbouring properties.

The applicant responded by confirming that the proposed setbacks were retained from that previously approved and in places increased to approximately 15.0m. The applicant confirmed that approximately 60% of the site was landscaped, with deep root zone landscaping comprising approximately 30% of the site. The applicant outlined that screen planting was proposed along the property boundaries to address potential privacy concerns with the building heights transitioned away from the property boundaries to provide greater setbacks and separation as the buildings increase in height.

The chairperson in response also acknowledged that it is extremely difficult to regulate human behaviour and the potential for things being thrown from balconies could only be addressed by potential screening measures. The applicant also considered that the proposed setbacks would make it extremely difficult to throw an object into a neighbouring property from one of the balconies.

4. Section 94 Contributions and Infrastructure Provision

Residents asked if the applicant has foreshadowed the payment of Section 94 Contributions and what those contributions would be put towards. It was also requested that confirmation on likely infrastructure be provided such as road upgrades, improved traffic calming measures, park and recreational space provision and footpath construction.

Council staff and the Mayor confirmed that a Section 94 Contribution Plan is applicable to the proposed development which outlines the contribution requirements for the development as well as the potential infrastructure works which may be funded from the contributions paid. The Chairperson confirmed that in the event consent was granted a condition of consent which would outline the Section 94 Contribution amount required to be paid for the development.

The Mayor also outlined that the Section 94 Contributions Plans are publicly available on Council's website. The applicable Section 94 Contributions plan for the site is Section 94A Shire Wide Contribution Plan.

5. Amenity Impacts (Privacy and Overshadowing)

Concern was raised that the proposed development provides an excessive number of windows and balconies facing directly into neighbouring properties primary living areas and private open space areas. In addition concern was raised that the additional building height would result in further adverse overshadowing of neighbouring properties.

The applicant outlined that the design of the development had sought to minimise direct viewing / privacy loss by way of landscape screening, building orientation, building articulation and building setbacks which included in some locations, views towards neighbouring roofs rather than living areas. The applicant in response also confirmed that window locations, window design and balcony screening measures could be reconsidered and requested any residents with specific unit or locational concerns to send them to Council Officers for referral to the applicant to further review.

With respect to overshadowing, the applicant confirmed that shadow modelling information was submitted with the Development Application which indicated that only 1 hour of overshadowing was evident and that the development was not considered to result in additional adverse overshadowing impacts.

6. Noise Impacts and Air Conditioning

Concern was raised with the potential for excessive air conditioning units and the resulting acoustic impacts of them situated on balconies. The applicant confirmed that an air conditioning unit was proposed for all dwellings which will service the living areas only. The unit will generally be located on the balcony but will be correctly installed with appropriate sound proofing / acoustic treatments. The applicant confirmed the noise level requirements of these units (being an addition 5 decibels above ambient background noise levels and confirmed that all units would comply with this requirement.

The chairperson also confirmed that the development was subject to BASIX Certificate requirements which would regulate energy efficiency and air conditioning design. Both the chairperson and the applicant confirmed that it is not possible to predict if future residents would separately install additional air conditioning units however it was noted that this would be difficult to accommodate given future strata by law requirements.

7. Traffic and Parking Impacts

Numerous concerns were raised regarding the existing traffic problems experienced within Barina Downs Road and the surrounding road network. These concerns related to traffic congestion, traffic speed, insufficient traffic calming devices, inadequate roundabouts and sight lines. A question was also asked if the Roads and Maritime Services had been advised of the proposal and if any traffic calming measures were proposed or required.

Council's Development Assessment Coordinator advised that the proposed development has been referred to Council's Traffic Management Section as well as the Roads and Maritime Services (formerly known as the NSW Roads and Traffic Authority). It was also confirmed that at present, additional traffic calming measures are not proposed. This was then confirmed by the applicant.

In addition concern was raised that the proposed development provides insufficient parking provision to cater for future families within the development. It was considered that excessive parking will result in the surrounding street network which may impact on garbage service or emergency service access.

The applicant responded by confirming that the proposed parking provision exceeds the Council's Development Control Plans requirements which are considered stricter than other Councils that have a lower parking requirement. The applicant confirmed that the development provided parking spaces and not isolated garages to ensure spaces are not used for storage. The applicant also confirmed that the proposed visitor parking provision exceeds the DCP requirements and that anyone parking in the local streets would have a considerable walk to the units given the site of the site.

The chairperson confirmed that either conditions of consent or strata By-law restrictions could be imposed to ensure the parking spaces are not enclosed by chain wire fencing or the like.

The Mayor also outlined that the Local Traffic Committee is established to consider issues concerning road traffic safety, traffic calming measures, parking restrictions and the like and any issues raised concerning these matters should be directed to the Local Traffic Committee for consideration.

8. Stormwater Drainage and Potential Flooding

Concern was raised that the proposed development may worsen the existing drainage situation which was evident with recent heavy storm events.

The applicant responded by confirming that on site detention tanks are proposed to be constructed. These tanks are proposed to collect and control the dispersal of stormwater and mitigate potential flooding impacts.

9. Waste Storage and Collection

A question was asked regarding who would be responsible for garbage collection and garbage storage.

The applicant confirmed that garbage collection would be from within the site accessed from the centralised driveway and the proposed internal cul-de-sac head. The bins will be stored in basements on site and moved by a caretaker to the designated collection point indicated on the Site Plan. The bins will not be lined up along Barina Downs Road.

While concerns were subsequently raised with the inadequacy of the turning head within Fairmont Avenue, the developer confirmed that the development was designed to comply with the relevant engineering / truck access requirements.

The chairperson also confirmed that Council's Waste Management Section would specifically review this concern in the assessment of the application.

10. Service Authority Requirements

Various concerns were raised with respect to electricity provision and grid impacts, water and sewer servicing, potential infrastructure upgrading requirements and potential undergrounding of electricity supply.

The applicant responded by confirming that all developments of this nature require approval by the relevant service authorities such as Australia Post, Sydney Water and the relevant Energy Provider. This is done by way of notice of requirements, Section 73 Certificates and conditions imposed on any consent issued. It was noted that undergrounding of power will likely be required (and will be instigated for this development) and that a substation would need to be constructed on the site to service a development of this scale. It was noted that all other infrastructure requests would be the responsibility of the service authority to stipulate.

The chairperson subsequently confirmed that all service authority requirements would need to be satisfied prior to the issue of any Occupation Certificate.

11. Devaluation

Concern was raised that the proposed development will definitely devalue neighbouring properties.

The Mayor confirmed that property devaluation was not a planning consideration as established by the NSW Land and Environment Court and that this concern could not be grounds for refusal of the application. This was then confirmed by the chairperson.

12. Accountability for Decision Making

Concern was raised that the Development Application would be determined by an independent panel (being the Joint Regional Planning Panel) and that they will not be familiar with the area or the community. It was also noted that the Council provides two (2) nominated representatives being the minority of the panel members. It was noted by the chairperson that it was State legislation that determined that the application will be determined by the Joint Regional Planning Panel (JRPP) and that the concerned residents would be invited to attend the determination meeting and raise their concerns to the panel when the time comes.

13. Conclusion

The Chairperson concluded the Conciliation Conference by confirming that a decision was yet to be made on the proposal and that the matter would be reported to the Joint Regional Planning Panel for determination.

Residents would be advised when a report to determine the application had been prepared and would have an opportunity to participate in the Joint Regional Planning Panel proceedings.

14. Outcomes

- Restrictions are to be implemented on title (or as conditions of consent if approved) ensuring basement parking spaces are not enclosed as garages.
- The applicant was requested to review window locations, window design and potential balcony screening measures to address privacy concerns raised.
- The applicant was requested to review the potential to address the building heights concerns raised (which could include a reduction in levels).
- Council Officers will further consider garbage truck access and waste collection from within the site.
- Council Officers will further consider the traffic concerns raised in conjunction with any comments from the Roads and Maritime Services.
- Council Officers will investigate site security fencing which is encroaching into the nature strip affecting pedestrian access along Barina Downs Road.



**DEVELOPMENT ASSESSMENT
PRE-LODGE MENT MEETING NOTES
23 September 2011**

APPLICANT: Merfad Pty Ltd
TELEPHONE: 0419 464 422
PROPERTY:. Lot 6, DP 1085297
40-52 Barina Downs Road Baulkham Hills

ZONING: Residential 2(a)
SITE AREA: 17,470sqm
SUBJECT: Residential Apartment Building and Town House Development

OFFICERS IN ATTENDANCE:

Paul Osborne (Manager – Development Assessment)
Gavin Cherry (Development Assessment Co-ordinator)
Amanda Hawkins (Town Planner)
Ben Hawkins (Subdivision Co-ordinator)
Jaye Hawkins (Waste Management Officer)

Proposal:

- Seven buildings (Blocks A-G)
- 136 Residential Units (18 x 1 bedroom, 80 x 2 bedroom, 38 x 3 bedroom) and 4 x 3 bedroom townhouses (each with a double garage) and 4 visitor spaces
- 257 residential car spaces and 55 visitor car spaces are provided for blocks A-F
- The proposal includes additional storeys to that approved under Development Consent 1557/2007/HB including an increase in height adjoining existing single and two storey neighbouring dwellings.
- The height of approved Buildings C and D fronting Barina Downs Road are not amended within the proposed development.
- The proposal includes the provision of dual key units.

Waste Management Comments:

- A Waste Management Plan is required to be submitted.
- The same bin servicing would be provided for this development as that provided under Development Consent 1557/2007/HB.

- The design of waste management areas is required to comply with Council's specifications (see attached).

Engineering Comments:

- Fairmont Drive is to be extended into a cul-de-sac.
- The drainage channel through the centre of the development is to be retained.
- Reconstruction of Barina Downs Road is required.
- The design and circulation of the basement car parking areas as well as all resident and visitor car spaces are to be compliant with the Australian Standard.

Planning Comments:

- The NSW Land and Environment Courts Determination for Appeal No. 10418 of 2003 (DA No. 1699/2003/HB) provides bulk and scale interface principles which are not being met by the proposed development. In particular, the developments ability to transition and integrate with the adjoining residential developments is not considered satisfactory. The bulk and scale proposed for buildings directly adjoining the existing single and two storey neighbouring dwellings should not be increased from that already approved under Development Consent 1557/2007/HB.
- The site is proposed to be zoned R4 under Draft THLEP 2010 but will be surrounded by properties zoned R3 and R2. Any increase in density on the site, even if DCP compliance is achieved, is of concern considering the lower density restrictions surrounding the site. As a result the proposed increased building height throughout the centre of the site is to be justified giving specific consideration to bulk and scale presentation, the resulting interface with neighbouring properties, and the objectives of the LEP 2005, Draft LEP 2010 and DCP.
- The proposal is over the maximum height permitted by the Baulkham Hills Development Control Plan (BHDCP). The proposal is to be amended to ensure compliance with this control.
- All other variations to the DCP are to be addressed in detail within the application. This includes variations approved under the preceding approved application and replicated within the amended proposed application. Examples include, but are not respective to, the rear and side setbacks of Block G (Townhouses).
- It is noted that 39 dual key units are proposed. This component of the proposal has been further considered following the prelodgement meeting and you are advised that any proposed dual key units will be assessed and development contributions calculated, as though each were a separate unit. This is because

the dual key units are separated by internal dividing walls, with completely separate facilities and will function as two separate domiciles.

- While the resulting dual key units within the proposed development will provide a variation to the minimum floor areas within the DCP, the parking provision for each individual dual key unit is required to comply with the applicable DCP rates. This may require additional parking provision in excess of the indicated 257 parking spaces.
- The submitted Statement of Environmental Effects is to provide a detailed table of compliance assessing Blocks A – F under BHDCP Part C, Section 7 – Apartment Buildings, Block G under BHDCP Part C, Section 6 – Town Houses and the entire development against BHDCP Part D, Section 1 – Parking and BHDCP Part C, Section 3 – Landscaping.
- A SEPP 65 Assessment Report addressing the Part 2 Design Quality Principles is required as per SEPP 65 – Design Quality of Residential Flat Development.
- If the proposal includes a Capital Investment Value in excess of \$20 million, the application will be determined by the Joint Regional Planning Panel as per SEPP (Major Development) 2005 which requires additional copies of documents for lodgement as detailed within the submissions requirements.

PLEASE NOTE THAT THE APPLICATION WILL NOT BE ACCEPTED UNLESS ALL THE REQUIRED INFORMATION IS SUBMITTED.

FURTHER MEETING REQUIRED: **NO** - Subject to an amended plan being submitted via email which addresses the above concerns.

Finally, it should be acknowledged that the above advice is preliminary only and is based on the information provided to date and limited research into the sites history and constraints. Any application submitted would be subject to a more thorough assessment that could potentially add to or amend the above advice. This advice does not bind Council to a decision should an application be received.

Development Applications presented to the Duty Planner at Customer Service for lodgement will not be accepted after 4PM

Applicants lodging large Development Applications should provide a PDF copy of all documents on disc.

PRELODGEEMENT


Paul Osborne
MANAGER – DEVELOPMENT ASSESSMENT
 28 September 2011

DOCUMENTATION REQUIRED FOR DEVELOPMENT APPLICATION LODGEMENT

REQUIRED (Yes √ /No -)	DOCUMENTATION	NO. OF COPIES
√	Development Application Form The Development Application form is required will all necessary components completed including Lot, DP, Address, Development Description, Applicant and Owners Details and Cost of Works (or CIV)	1 copy
√	Quantity Surveyors Report Required for all proposals with a construction value or capital investment value of \$2 million or greater.	1 copy
√	Owner's Consent (If a Company, then written consent must be under Company Seal indicating the capacity of the signatory)	1 copy
√	Development Application Fee	N/A
√	Advertised Development – Requires Additional Fees	N/A
	Integrated Development – Requires Additional Fees	N/A
√	PDF Disc Copy of all Documents (large DA's only)	1 disc except JRPP matters where 2 discs are required.
√	Required Plans <ul style="list-style-type: none"> • Survey Drawing • Site Plan • Site Analysis Plan • Floor Plans • Elevation Drawings • Section Drawings (including Longitudinal Sections of the Driveway / Parking Areas) • Roof Plans • Landscape Plans and Landscape Sections including Fencing Details • Shadow Diagrams (as per DCP requirements) • Concept Stormwater Drainage Plans with Associated Hydraulic Calculations • Subdivision Plans (if subdivision is included) • Indication of Basix Certificate Commitments 	8 copies of all plans (except Landscape Plans and Stormwater Plans where only 4 copies are required) Note: JRPP matters required 12 sets of all drawings except Landscape Plans and Stormwater Plans where only 6 copies are required)
√	Solar Access Table (An example of a satisfactory Solar Access Table is	N/A – To be included within the SEE or on the

	detailed below)	Shadow Diagrams
✓	SEE Requirements / Considerations <ul style="list-style-type: none"> • Section 79C of the EP&A Act, 1979 • SFPP 65 - Design Quality of Residential Flat Buildings • SEPP (Major Development) 2005 • BHLEP 2005 • Draft THLEP 2010 • BHDCP Part C, Section 7 – Apartment Buildings • BHDCP Part C, Section 6 – Town Houses • BHDCP Part D, Section 1 – Parking • BHDCP Part D, Section 3 – Landscaping • Detailed Table of Compliance's against all relevant EPI's and DCP's • 88b Instrument and Deposited Plan 	N/A – To be included within the SEE
✓	Waste Management Plan <ul style="list-style-type: none"> • Addressing demolition, construction and on-going waste generation and removal 	4 copies Note: JRPP matters require 6 copies
✓	Speciality Consultant Reports <ul style="list-style-type: none"> • Acoustic Report • Access and Adaptability Report • Arborist Report • SEPP 65 Design Statement • Traffic and Parking Assessment Report • Basix Certificate 	4 copies Note: JRPP matters require 6 copies
✓	Scale Model (Required for Villa Housing, Town Houses and Apartment Building Developments in excess of 10 dwellings)	1 x Model
✓	Coloured Perspectives / Photomontage	4 copies
✓	Schedule of Colours and Finishes <ul style="list-style-type: none"> • External brick work or cement render (including colour and manufacturer); • Garage door treatment (colour and design detail); • Driveway surface (colour and treatment); • Window frames (colour); • Roof (construction material and colour); and • Gutter, down pipes and the like (colour) 	4 copies

SOLAR ACCESS TABLE									
POS = "Private Open Space"			M ² of Private Open Space and % of Private Open Space with Solar Access						
Unit	POS Proposed	POS Required	9am	10am	11am	12 noon	1pm	2pm	3pm
1			7m ²						
			7%						