

## JRPP PLANNING REPORT

<b>JRPP No:</b>	2012SYW088
<b>DA Number:</b>	DA 215/2013/JP
<b>Local Government Area:</b>	THE HILLS SHIRE COUNCIL
<b>Proposed Development:</b>	SENIORS LIVING DEVELOPMENT UNDER THE PROVISIONS OF SEPP HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY (2004) CONSISTING OF 160 BEDS, 39 SELF CARE UNITS, PARKING AND ASSOCIATED BUILDINGS
<b>Street Address:</b>	LOT 101 DP 1129876, NO. 6 FAIRWAY DRIVE, KELLYVILLE AND LOT 2 DP 1160957 BAULKHAM HILLS
<b>Applicant/Owner:</b>	CRANBROOK CARE RACF PTY LIMITED
<b>Number of Submissions:</b>	NIL
<b>Recommendation:</b>	APPROVAL SUBJECT TO CONDITIONS
<b>Report by:</b>	SENIOR TOWN PLANNER SANDA WATTS

### BACKGROUND

### MANDATORY REQUIREMENTS

Owner:	Cranbrook Care RACF Pty Limited and Castle Hill Country Club Limited	1.	<u>Section 79C (EP&amp;A Act)</u> - Satisfactory
Zoning:	LEP 2005 – Residential 2(b1) and part Special Uses 5(a) Trunk Drainage LEP 2012 – R2 Low Density Residential and SP2 Stormwater Management System	2.	<u>SEPP Housing for Seniors or People with a Disability 2004</u> – Variations, refer report.
Area:	20,719m <sup>2</sup>	3.	<u>SEPP State and Regional Development 2011</u> – Satisfactory.
Existing Development:	Single dwelling house and part of Castle Hill Golf Course.	4.	<u>LEP 2005</u> - Satisfactory.
		5.	<u>LEP 2012</u> – Satisfactory.
		6.	<u>The Hills DCP 2012</u> – Variation, refer report.
		7.	<u>Section 94 Contribution</u> – Yes, \$1,104,696.42

**SUBMISSIONS****REASONS FOR REFERRAL TO JRPP**

1. Exhibition:	Yes, 30 days	1.	Cost of Works exceed \$20 million
2. Notice Adj Owners:	Yes, 30 days		
3. Number Advised:	14		
4. Submissions Received:	Nil		

**HISTORY**

<b>19/04/2011</b>	Consent granted for a two lot subdivision excising the trunk drainage land (DA 1258/2011/ZA). The purpose of the DA was to relocate the trunk drainage corridor to the western boundary to facilitate future residential development.
<b>16/12/2011</b>	Prelodgement meeting held at Council in relation to the proposed seniors living development.
<b>23/08/2012</b>	Subject Development Application lodged.
<b>12/09/2012</b>	Letter sent to the applicant requesting additional information including; a copy of the Compatibility Certificate, outline of 8 metre height limit line on the plans, density calculations, further engineering details, vehicle access/parking details, updated landscape plan, assessment of microchiropteran bat identified on site and details of street and internal unit numbers.
<b>29/10/2012</b>	Requested additional information submitted.
<b>15/11/2012</b>	JRPP Briefing held at Council.
<b>04/12/2012</b>	Letter received from the Office of Water requesting additional information forwarded to the applicant.
<b>07/12/2012</b>	Response from the applicant in relation to information requested by the Office of Water.
<b>14/12/2012</b>	Further response received from the applicant in relation to the information requested by the Office of Water.
<b>22/01/2013</b>	Response received from the Office of Water in relation to the information received from the applicant.
<b>30/01/2013</b>	Response received from the applicant in relation to Office of Water comments.
<b>04/03/2013</b>	Further information provided by the applicant as requested by the Office of Water.
<b>12/03/2013</b>	General Terms of Approval issued by the Office of Water.
<b>27/03/2013</b>	Meeting held at Council with Council staff, the applicant, owner and Sydney Water representative to discuss stormwater and flooding issues.
<b>23/04/2013</b>	Additional information received including amended architectural plans and landscape plan from the applicant in response to engineering issues raised at meeting held at Council on

27/03/2013.

<b>15/05/2013</b>	General Terms of Approval received from Office of Water in relation to the amended proposal.
<b>07/06/2013</b>	Letter sent to the applicant requesting additional engineering information, updated landscape plan and updated BASIX Certificate.
<b>25/06/2013</b>	Amended Floodplain Management Report and engineering details received from the applicant.
<b>17/07/2013</b>	Additional driveway access details requested from the applicant.
<b>22/07/2013</b>	Driveway access details received from the applicant.

### **SITE AND SURROUNDS**

The subject site is known as 6 Fairway Drive, Kellyville being Lot 101 DP 1129876 and is located on the southern side of Fairway Drive. A single dwelling house is located on the site, which has a site area of 20,719m<sup>2</sup>. A dam straddles the south-western property boundary with Castle Hill Country Club. Stormwater drainage works are also proposed within the Lot 2 DP 1160957 being Castle Hill Country Club as part of the Development Application. The property has a gentle slope down in a north-western direction.

The topography of the site is influenced by the creek system that traverses the centre and southern section of the property. The drainage system is part of the eastern branches of the Strangers Creek which commences in the upstream catchment of the golf course and travels north-west across Fairway Drive towards Memorial Avenue. The property is transversed by two drainage lines that run from the golf course to the north-west of the subject site, with one line being through the centre of the site, and the other following the side boundary adjoining the golf course.

The subject site is located within the Balmoral Road Release Area which is currently undergoing transformation from rural-residential style lot into residential subdivision including single dwelling, multi-dwellings and residential flat buildings.

The subject site is largely surrounded by undeveloped land, with land to the south and south-east of the site being occupied by the Castle Hill Country Club. To the north of the site, across Fairway Drive is land that has been recently approved for a residential subdivision for detached dwellings. Adjoining the site to the east is single dwelling houses. To the west of the site at No. 8 Fairway Drive a Seniors Living Development consisting of 119 units has been approved. At No. 10-14 Fairway Drive another Seniors Living Development has been approved containing 148 dwellings.

### **PROPOSAL**

The applicant seeks approval for the construction of a seniors living development and associated works. Specifically the works include the following:

- The construction of a residential aged care facility accommodating 160 beds over two levels. The facility will have 40 staff, 42 car parking spaces including 38 in the basement level and 4 at ground level. The facility is to be located at the north-eastern end of the site.
- A wellness centre is proposed in association with the residential aged care facility which includes a hydro pool, activities room, salon and craft/exhibition room.

- The construction of 39 self-care units on the western portion of the site within four buildings over 2 and 3 storeys. The self-care units consist of 31 x 2 bedroom units and 8 x 3 bedrooms units. The self-care units are provided with 92 basement car parking spaces.
- Common facilities including a café, gym, cinema, multi-purpose room and library for use by residents.
- Stormwater management works associated with the relocation of the water course include re-directing and formalising a drainage easement, extension of culverts under Fairway Drive into an existing weir structure, and the construction of a new culvert.
- The works at the Castle Hill Country Club include reconstruction of the existing dam that straddles the western property boundary and are associated with the stormwater management works.

## **ISSUES FOR CONSIDERATION**

### **1. SEPP State and Regional Development 2011**

Clause 20 of SEPP (State and Regional Development) 2011 and the Schedule 4A of the Environmental Planning and Assessment Act, 1979 provides the following referral requirements to a Joint Regional Planning Panel: -

*Development that has a capital investment value of more than \$20 million.*

The proposed development has a capital investment value of \$51,000,000 thereby requiring referral to, and determination by, a Joint Regional Planning Panel. In accordance with this requirement the application was referred to, and listed with, the JRPP for determination.

### **2. SEPP No. 1 Objection to SEPP Housing for Seniors or People with a Disability 2004**

Clause 40 of the SEPP contains height restrictions which relate to development in residential zones where residential flat buildings are not permitted. Clause 40(4) is outlined below.

*"Height in zones where residential flat buildings are not permitted if the development is proposed in a residential zone where residential flat buildings are not permitted:*

- (a) *the height of all buildings in the proposed development must be 8 metres or less, and*

*Note: Development consent for development for the purposes of seniors housing cannot be refused on the ground of the height of the housing if all of the proposed buildings are 8 metres or less in height.*

- (b) *a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and*

*Note: The purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape.*

- (c) *a building located in the rear 25% area of the site must not exceed 1 storey in height."*

There is a two storey encroachment into the "rear 25% area of the site" as the height of the buildings adjoining the rear property boundary are 2 storeys. The adjoining property to the proposed development is the Castle Hill Country Club.

As such, a SEPP 1 Objection is required to address Clauses 40(4)(c) of the SEPP.

SEPP 1 Development Standards aims to *"provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) of the Act"*. In this respect in order to satisfy the requirements of the SEPP the applicant is required to justify why a development standard is unreasonable or unnecessary in the circumstances of the case.

Accordingly, the applicant has submitted a SEPP 1 Objection to Clause 40(4)(c) of the SEPP.

**Comment:**

In accordance with Planning Circular B1 issued 17 March 1989 by the Department of Planning (known as the Department of Urban Affairs and Planning when the circular was released) an assessment of the applicant's SEPP 1 Objections has been carried out. In assessing the applicant's SEPP 1 Objections the following matters are addressed: -

**(a) Whether or not the planning control is a development standard**

Clause 40(4)(c) – 1 storey height within rear 25% of the site

The building height must not exceed 1 storey in the rear 25% area of the site as contained in Clause 40(4)(c) within the SEPP is considered a numerical development standard.

**(b) The underlying objective of the development standard**

Clause 40(4)(c) – 1 storey height within rear 25% of the site

The underlying objective of the development standard is considered to relate to the scale of development on adjoining properties and impacts on amenity and privacy.

The proposal does not conflict with the zone objectives and is consistent with the underlying objectives of the development standard. See further comments below.

**(c) Consistency of the development with the aims of the policy and the objectives of the Environmental Planning & Assessment Act, 1979 (EPA Act)**

The proposal for a residential aged care facility is considered to be a compatible form of development with the residential development of the area. The development as proposed would assist in attaining the objectives specified in Section 5 (a)(i) and (ii) of the EPA Act, in particular the proper management and co-ordination of the orderly and economic use and development of land.

**(d) Whether compliance with the development standard is unreasonable or unnecessary in the circumstances of the case**

Chief Justice Preston set out five alternative ways of establishing that compliance is unreasonable or unnecessary in the preparation of a SEPP 1 objection in *Wehbe v Pittwater Council* (2007) NSW LEC 827, albeit only one of these 5 ways needs to apply in order for the objection to be well founded.

1. *Establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achievable notwithstanding non-compliance with the standard.*
2. *Establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*
3. *Establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.*
4. *Establish that the development standard has been virtually abandoned or destroyed by Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*
5. *Establish that "zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to the land" and that "compliance with the standard in that case would also be unreasonable or unnecessary."*

Clause 40(4)(c) – 1 storey height within rear 25% of the site

The applicant has provided the following justification as to why the underlying objective is not relevant to the development:

- *The proposed height of 2 storeys does not result in adverse impacts on the adjoining rear property, being Castle Hill Country Club golf course. There are no dwellings on the Country Club golf course adjoining this shared property boundary therefore no overshadowing or privacy issues concerned with a 2 storey building on this rear boundary;*
- *The proposed development includes significant landscaping on the rear property, which adjoins existing tees on the Country Club golf course. This combination of landscaping will minimise any adverse impacts associated with the proposed development and ensure a transition from the Seniors Living development to the golf course is achieved;*
- *The circumstances of the proposed development are not consistent with the circumstances for which this development standard was created. The building height standard in clause 40(4)(c) implies that the proposed Seniors Living development would immediately adjoin the rear of the site. However, in this circumstance, the Seniors Living development does not adjoin residential development to the rear of the property;*
- *There are no considerable benefits for the adjoining property if the proposal was to strictly comply with the building height standards specified in clause 40(4)(c). There are no adverse impacts that would be avoided by restricting the building height to one storey in this instance. A development that strictly complies with the standard is therefore unnecessary and unreasonable in this circumstance.*

The proposed encroachment of the 2 storey structure into the rear 25% of the site is minor and does not result in any adverse amenity impacts such as overshadowing or overlooking as the rear of the site is the golf course. There are no impacts of the non-compliance with the development standards in terms of privacy, amenity, solar access or visual impact.

The justification provided by the applicant demonstrates that the variation to the 1 storey height limit within the rear 25% of the site does not contravene the objectives of the standard and is considered satisfactory.

**(e) Whether the SEPP 1 objection is well founded**

Compliance with the above development standards is considered unnecessary in the circumstances where the variation is minor and the circumstances of the site render the standard irrelevant. Strict application of the development standards would hinder the attainment of the objectives of the EP & A Act pertaining to the orderly and economic use and development of the land.

Therefore, the SEPP 1 objections are considered to be well founded and are considered satisfactory.

**3. SEPP 1 Objection to LEP 2005**

Clause 25(2) of LEP 2005 states as follows: -

*"Despite any other provision of this plan, development (other than development for the purpose of bridges, demolition of existing structures, environmental protection works, public open space and storm water drainage) must not be carried out on land within 20 metres of the centreline of a creek, as shown on the map marked "Baulkham Hills Local Environmental Plan 2005 (Amendment No. 5)."*

The seniors living development is proposed 12.5 metres from the centre line of a creek.

SEPP 1 Development Standards aims to *"provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) of the Act"*. In this respect in order to satisfy the requirements of the SEPP the applicant is required to justify why a development standard is unreasonable or unnecessary in the circumstances of the case.

The applicant has accordingly submitted a SEPP 1 objection to the provisions of Clause 25(2) within LEP 2005 and has stated the following as justification that the standard is unnecessary and unreasonable:

*The proposal complies with the most recent State Government policy which demonstrates that the proposed development is consistent with the intent of this LEP clause being, protection of the environment and protection of riparian land near creeks. This development standard ensures that development is compatible with the environmental characteristics of the locality.*

*The proposed development does not conflict with the zone objectives and is consistent with the underlying objectives and intent of the development standards. This variation does not set an undesirable precedent for development along drainage lines as it is in accordance with recent State Government policy.*

*A development that complies with the setback standard specified in clause 25(2) is unnecessary and unreasonable in this circumstance as this standard is out dated. The most recent policy regarding development that adjoins watercourse was published on the 1 July 2012 by the Department of Primary Industries – Office of Water. This Department issued guidelines for riparian corridors on waterfront land which amended riparian corridor widths that apply to watercourses. These guidelines dictate a 10m wide VRZ each side of the watercourse is sufficient for the protection and preservation of a watercourse. As this is the latest State Policy for the treatment of watercourses, this supersedes the development standards outlined in clause 25(2) of the BHLEP 2005.*

**Comment:**

In accordance with Planning Circular B1 issued 17 March 1989 by the Department of Planning (known as the Department of Urban Affairs and Planning when the circular was released) an assessment of the applicant's SEPP 1 objection has been carried out. In assessing the applicant's SEPP 1 objection the following matters are addressed:-

**a. Whether or not the planning control is a development standard**

The setback to the centreline of a creek is a development standard as contained in Clause 25(c) of LEP 2005.

**b. The underlying objective of the development standard**

The underlying objectives of the development standard is considered to be contained with the LEP clause headings which are 'protection of the environment' and subclause 'protection of riparian land near creeks'.

These objectives relate to the provision of a satisfactory setback to creek areas, protection of the natural environment and compatibility with the environmental characteristics of the locality. The proposal does not conflict with the zone objectives and is consistent with the underlying objectives of the development standard.

**c. Consistency of the development with the aims of the policy and the objectives of the Environmental Planning & Assessment Act, 1979 (EPA Act)**

The proposal for a seniors living development is considered to be a compatible form of development with the future residential development of the area. The proposed landscape works within the riparian zone have been reviewed by the Office of Water and are considered to be satisfactory. The development as proposed would assist in attaining the objectives specified in Section 5 (a)(i) and (ii) of the EPA Act, in particular the proper management and co-ordination of the orderly and economic use and development of land.

**d. Whether compliance with the development standard is unreasonable or unnecessary in the circumstances of the case**

Strict compliance with the development standard is considered unreasonable and unnecessary in this case as the development standard has been formulated to accommodate development compatible with the environmental characteristics of the locality. The proposed development does not conflict with zone objectives or undermine the intent of LEP 2005, nor does it set an undesirable precedent for development along the creek.

**e. Whether the SEPP 1 objection is well founded**

The LEP clause is contained under the heading of 'protection of the environment' and subclause 'protection of riparian land near creeks'. The proposal has been assessed in relation to the headings and the following is considered relevant:

- The proposal was referred to the Office of Water who have raised no objection to the proposal and have granted General Terms of Approval (refer to Condition No. 6);
- Issues relating to the flood affectation of the site have been reviewed by Council's Waterways Team who have advised that no objection is raised to the proposal subject to the imposition of suitable conditions of consent;



- Appropriate landscape works will be undertaken within the riparian zone in order to ensure that the area remains one of diversity and value.

Accordingly the SEPP 1 objection is supported and no objection is raised to the proposal.

#### **4. Compliance with LEP 2005**

The development application was lodged before the Hills LEP 2012 came into force on 5 October 2012, therefore the application benefits from the LEP savings provision. The development site was zoned part Residential 2(b1) and part Special Uses 5(a) Trunk Drainage. The golf course was zoned Open Space 6(b) Private Recreation under LEP 2005.

The zoning table of the 5(a) special uses land, Part 3(a) states that development is permissible with consent within the 5(a) zone, if the development is permissible in the land adjoining the 5(a) land is permissible with consent.

#### **5. Compliance with SEPP Housing for Seniors or People with a Disability 2004**

The provisions of Chapter 3 of the SEPP state that the objective of this chapter is to *“create opportunities for the development of housing that is located and designed in a manner particularly suited to both those seniors who are independent, mobile and active as well as those who are frail, and other people with a disability regardless of their age”*.

Clause 15 of the SEPP allows the following development despite the provision of any other environmental planning instrument if the development is carried out in accordance with this Policy:

- (a) *Development on land zoned primarily for urban purposes for the purpose of any form of seniors housing, and*
- (b) *Development on land that adjoins land zoned primarily for urban purposes for the purposes of any form of senior housing consisting of a hostel, a residential care facility or self-serviced housing.*

The land is zoned primarily for urban purposes and therefore the Seniors Living development is permissible under the SEPP on the subject land.

Clause 17(1) of the SEPP restricts development on land that adjoins land zoned primarily for urban purposes unless the proposed development is for the purpose of any of the following:

- (a) a hostel,
- (b) a residential care facility,
- (c) serviced self-care housing.

The applicant seeks approval for a residential care facility under the provisions of the SEPP given the site is Residential 2(b1) zoned land which supports residential development, it is considered that the proposal is acceptable.

A Residential Care Facility is defined within Clause 11 as: -

#### ***‘residential care facility’***

*In this Policy, a residential care facility is residential accommodation for seniors or people with a disability that includes:*

- (a) meals and cleaning services;*
- (b) personal care or nursing care, or both, and*

(c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care, not being a dwelling, hostel, hospital or psychiatric facility.

The proposed residential care facility will provide meals, cleaning and nursing services to residents and it is considered that adequate staffing, furniture and equipment will be provided in accordance with the definition.

Self-contained dwellings is defined within Clause 13(1) as:-

***'self contained dwelling'***

*In this Policy, a self-contained dwelling is a dwelling or part of a building (other than a hostel), whether attached to another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis.*

The proposed self-contained dwellings provide private facilities for cooking, sleeping and washing for their residents in accordance with the definition.

As such it is considered that the proposal complies with the requirements of the SEPP in respect to the definition of a residential care facility and self-contained dwellings.

**a. Clause 24 and 25 - Site Compatibility Certificate**

Clauses 24 and 25 refer to the requirement for a site compatibility certificate to be obtained for developments which are proposed upon land that adjoins land zoned primarily for urban purposes, land identified as 'special uses' and land that is used for the purposes of an existing registered club. As the subject site comprises a section of land zoned Special Uses 5(a) Trunk Drainage a site compatibility certificate is required. Council, as the consent authority, is not able to grant consent for a development unless a site compatibility certificate has been provided. The applicant has provided a Site Compatibility Certificate from the Department of Planning dated 26 October 2012. Accordingly Clauses 24 and 25 have been addressed.

**b. Clause 26 - Location and Access to Facilities**

The table below provides an assessment of the location and access requirements to facilities for the proposed development. As indicated, the proposal complies.

DEVELOPMENT STANDARD	SEPP REQUIRES	PROPOSED DEVELOPMENT	COMPLIANCE
Facilities	(a) Shops, banks and other retail and commercial services (b) Community services and recreational facilities (c) General medical practitioner	The applicant has indicated that the facility will provide a mini-bus service to transport residents to shops, recreation facilities, medical practitioners, etc.	Yes
Location and access	Access is considered to comply if:  (a) the facilities and services listed above are located at a	As discussed above, the applicant has indicated that the facility will provide a mini-bus service to transport residents to shops, recreation facilities,	Yes

DEVELOPMENT STANDARD	SEPP REQUIRES	PROPOSED DEVELOPMENT	COMPLIANCE
	<p>distance of not more than 400m from the site and the overall gradient is no more than 1:14, with alternate acceptable gradients for short distances, or</p> <p>(b) there is a public transport service available to the residents who will occupy the development:</p> <p>(i) that is located at a distance of not more than 400 metres from the site of the development, and</p> <p>(ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the relevant facilities or services, and</p> <p>(iii) that is available both to and from the development during daylight hours at least once between 8am and 12pm and at least once between 12pm and 6pm from Monday – Friday (both days inclusive).</p> <p>Grades of pathway to public transport to comply – 1:8 or less.</p>	<p>medical practitioners, etc.</p> <p>The mini-bus service will provide door-to-door service therefore satisfying the location and access requirements of the SEPP.</p>	

**c. Clause 28 - Water and Sewer Services**

The SEPP states that Council must not consent to a development application unless the Council is satisfied that the development will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage. In this respect, regard must be given to the suitability of the site and availability of services.

A feasibility letter from Sydney Water dated 28 August 2012 has been received by Council regarding the works required to be undertaken for this development in order for the development to receive a Section 73 Certificate from Sydney Water. This letter states that

the following works are to be undertaken in regard to sewerage facilities and water provision:

- (i) construction of a drinking water main extension;
- (ii) construction of a recycled water main extension;
- (iii) construction of a sewer main extension.

Appropriate conditions of consent have been imposed requiring the submission of a "Notice of Requirements" from Sydney Water prior to the issue of a Construction Certificate, and the submission of a Section 73 Certificate prior to issue of the Occupation Certificate (See Conditions Nos. 38 and 82).

**d. Clause 32 – Design of residential development**

Clause 32 states that a consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2 (Clauses 33 - 39), discussed below.

**e. Clause 33 - Neighbourhood Amenity and Streetscape**

The proposed development has been designed to ensure that the proposed development does not dominate the streetscape or appear obtrusive or overbearing within the surrounding development. The development's bulk and scale from Fairway Drive does not appear overbearing in the low to medium density residential area. The proposed development's heights are sympathetic to the site's orientation and topography.

Views from the adjoining residences in Country Club Circuit have been considered in the design of the aged care facility. It is considered that the development accommodates sufficient setbacks and landscape screening from these residents.

**f. Clause 34 - Visual and Acoustic Privacy**

The setbacks included in the proposed development ensure a level of visual and acoustic privacy for adjoining residents, in particular residents to the east on Country Club Circuit. A minimum eastern side setback of 4.5 metres has been proposed, with the majority of the development enjoying a greater setback than the minimum proposed. The closest dwelling on Country Club Circuit is located approximately 14 metres from the eastern elevation of the aged care facility. The second storey east facing elevation is to have blinds to reduce mutual overlooking between the subject site and dwellings to the east.

Additionally, the development is to be heavily landscaped with provides additional screening and mutual privacy between the occupants of the facility and neighbouring properties.

**g. Clause 35 - Solar Access and Design for Climate**

The design for the aged care facility featuring a centre core with four wings orientated on an east-west axis ensures that each wing will receive good levels of light and ventilation. The open spaces between the wings will also receive good balance of light and shade.

Shadow diagrams and a solar access schedule for the proposed development demonstrate that the proposed buildings will not impact detrimentally impact the solar access enjoyed within the living rooms or private open space areas associated with the units within the proposed development. The shadow diagrams for December and June, provided with the Development Application and a solar access schedule confirms that the minimum solar

access requirement stipulated by the SEPP Housing for Seniors or People with a Disability 2004 is achieved in the proposed development.

#### **h. Clause 36 - Stormwater**

The site is traversed by 2 natural water courses, one along the western boundary (western tributary) and the second one along the middle of the property (eastern tributary). The Development Application proposes to merge the two watercourses with the development, which involves diverting the eastern tributary along the south-eastern boundary to merge with the western catchment. The merged flow is then directed towards the existing dam through a reconstructed water way and riparian corridor, to be completed to the requirements of NSW Office of Water. Construction of waterway is proposed within both properties Lot 101 DP 1129876 (6 Fairway Drive) and Lot 2 DP 1160957 (Castle Hill Country Club).

Currently stormwater runoff fills the dam during heavy storm events, and when it reaches its full capacity the overflow from the dam currently spreads across overland and floods Fairway Drive. The development proposes to redirect this overflow from the dam towards an existing culvert under Fairway Drive. The culvert is proposed to be widened to ensure the conveyance of additional runoff from the western tributary, which has also been agreed to in principle by Sydney Water. The proposed diversion has been initiated by Sydney Water as part of 'Review of Stranger's Creek Trunk Drainage Strategy in Balmoral Road Release Area' which is still progressing. However, the processes of finalising the extent of trunk drainage land and acquisition of land by Sydney Water has not been completed at this stage. In this respect, the proposed diversion and subsequent change in flood behavior affecting downstream properties of Fairway Drive as a result of the development is considered unacceptable at this stage and therefore an interim strategy is required.

The development, therefore proposes drainage construction works split into two stages, being interim and ultimate, ensuring no adverse impact on existing flood behavior at interim stage and compliance with Sydney Water's final strategy for the local catchment at ultimate stage. The interim strategy includes construction of major drainage structures required to be constructed at ultimate stage, however, proposes to limit the out flow from the dam through the culvert to equivalent pre developed flow rate along the eastern tributary. Once the extent of trunk drainage land and revised Sydney Water Strategy is completed, the entire overflow from the dam will be conveyed through culvert. The proposed Trunk Drainage Concept Plan Report Ref:X11076 and the Final Addendum dated 17 July 2013, and associated documentation including flood modelling and reports prepared by Brown Consulting Pty Ltd. detail the interim works required under interim and ultimate stages of the development.

In addition, the development including finish floor levels of the buildings and the basements access are required to be protected to the Flood Planning Level (500mm freeboard above the 1 in 100 year ARI flood level). The strategies and associated reports have been reviewed in consultation with Council's Waterways section and are considered satisfactory. Appropriate conditions including a positive covenant requiring the development to complete the works proposed under ultimate strategy within 3 months upon Council's written notice have been recommended.

Further, the development is required to reconstruct the existing Fairway Drive and to provide associated infrastructure including kerb and gutter, and stormwater drainage. The requirements have been recommended appropriately under necessary engineering conditions.

#### **i. Clause 37 - Crime Prevention**

The proposed development included measures to ensure the safety and sense of security for the residents such as passive surveillance provided by windows overlooking common areas, a security fence on the property boundaries and the use of outdoor lighting within the development.

**j. Clause 38 - Accessibility**

An Accessibility Report by Accessible Building Solutions was prepared for the Seniors Living development. The report concludes that the proposal will provide appropriate access for people with disabilities throughout the development as the following features are incorporated into the development:

- Footpaths providing an accessible path to each building from the street;
- Basement car parking and street parking in accordance with AS 2890.6;
- Separate pedestrian and vehicular traffic routes;
- Kerb ramps to AS 1428.1 to provide access from the road to the footpath level;
- Access to all levels of each building by way of a lift complying with BCA 2012; and
- Access to communal facilities.

**k. Clause 39 - Waste Management**

For the aged care facility, waste will be collected by a commercial contractor. Access to the waste area will be via the loading dock within the basement level. The self contained residential units will have their waste collected by Council's waste contractors. Bins are to be stored at the basement level. The Development Application is accompanied by a detailed waste management plan which has been deemed satisfactory by Council.

**l. Clause 40 - Development standards—minimum sizes and building height**

A consent authority must not consent to a Development Application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.

DEVELOPMENT STANDARD	SEPP REQUIRES	PROPOSED DEVELOPMENT	COMPLIANCE
Site size	The size of the site must be at least 1,000m <sup>2</sup>	20,719m <sup>2</sup>	Yes
Site frontage	The site frontage must be at least 20 metres wide at the building line.	Site width (frontage to Fairway Drive) is 187m <sup>2</sup>	Yes
Height in zones where residential flat builds are not permitted.	(a) 8 metre maximum	(a) The development does not exceed 8 metres.	Yes
	(b) 2 storeys where adjacent to a boundary	(b) 2 storeys adjacent to boundary.	Yes
	(c) building within the rear 25% not be greater than 1 storey	(c) Development is 2 storeys within the rear 25%	No. The application has been accompanied by a SEPP No. 1 Objection that has been prepared in response to the

DEVELOPMENT STANDARD	SEPP REQUIRES	PROPOSED DEVELOPMENT	COMPLIANCE
			variation (refer Section 3).

**m. Clause 48 – Standards that cannot be used to refuse development consent for residential care facilities**

A consent authority must not refuse consent to a Development Application made pursuant to this chapter for the carrying out of development for the purpose of a residential care facility on any of the following grounds: building height, density and scale, landscaping and parking.

DEVELOPMENT STANDARD	SEPP REQUIRES	PROPOSED DEVELOPMENT	COMPLIANCE
Density and Scale	Maximum FSR 1:1	1:1	Yes
Landscaped area	Minimum 25m <sup>2</sup>	4000m <sup>2</sup> required (25 x160), 4868m <sup>2</sup> proposed.	Yes
Parking 1 per 10 beds 1 space per 2 employees on duty 1 parking space suitable for ambulance	160/10=16 spaces 40/2 = 20 spaces Total = 36 spaces  Ambulance parking is available at the front entrance.	Proposed 42 spaces  Ambulance parking can be accommodated at the front of the building as well as within the basement parking area.	Yes  Yes

**n. Clause 50 – Standards that cannot be used to refuse development consent for self-contained dwellings**

A consent authority must not refuse consent to a Development Application made pursuant to this chapter for the carrying out of development for the purpose of a self-contained dwelling on any of the following grounds: building height, density and scale, landscaping, solar access and parking.

DEVELOPMENT STANDARD	SEPP REQUIRES	PROPOSED DEVELOPMENT	COMPLIANCE
Building Height	8 metres or less.	8 metres to the ceiling of the topmost floor.	Yes
Density and Scale	Maximum FSR 0.5:1	0.5:1	Yes
Landscaped area	Minimum 30% of the site.	3420m <sup>2</sup> required, 5950m <sup>2</sup> proposed.	Yes
Deep Soil Landscaping	Minimum 15% deep soil landscaping to support growth of trees and shrubs.	1701m <sup>2</sup> required, 4720m <sup>2</sup> proposed.	Yes
Solar Access	Living rooms and private open spaces for 70% of dwelling receive a minimum of 3 hours sunlight between 9am and	28 of the 39 units or 72% meet the solar access requirement.	Yes

	3pm at the winter solstice.		
Parking	Parking is to be provided at a rate of 0.5 spaces per bedroom.	31 x 2 bedroom units 8 x 3 bedroom units Total bedroom = 86 x 0.5 = 43 spaces required, 94 provided.	Yes

## 6. Compliance with The Hills DCP 2012

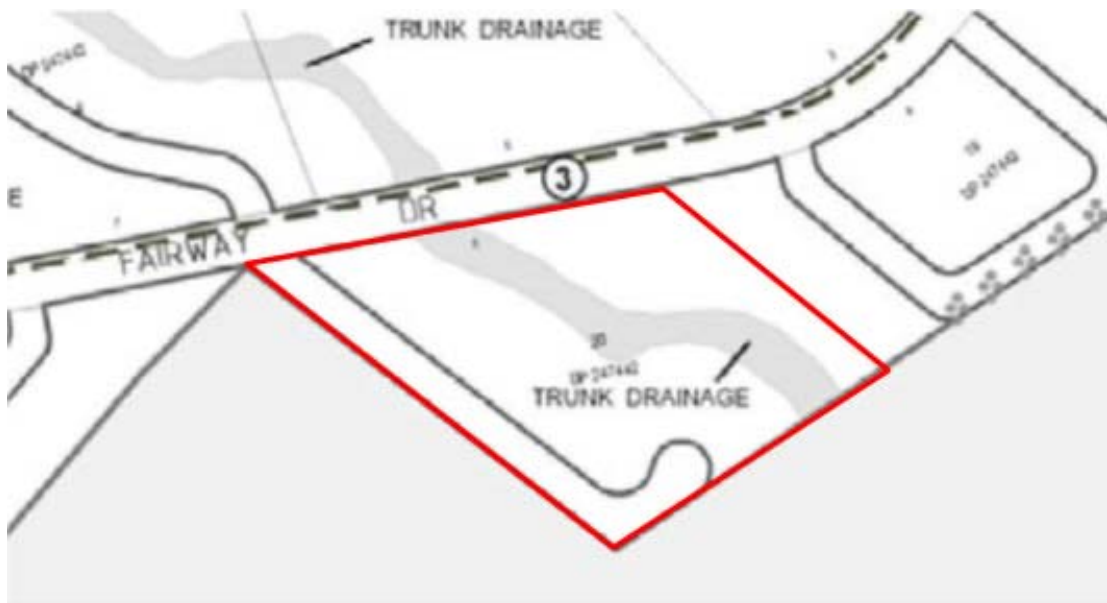
### a. Part D Section 7 Balmoral Road Release Area

The proposal has been assessed against the relevant provisions of Part D Section 7 Balmoral Road Release Area and is generally consistent with the provision, apart from the road layout.

Section 4.1(a) Local Road Hierarchy which states:

*"The street and road network should conform to the pre-planned road layout as shown on the accompanying development control plan map."*

Below is an excerpt from the DCP illustrating the road layout for the subject site.



The applicant seeks a variation to the DCP in relation to road layout, and has provided the following justification:

*The proposed Seniors Living development seeks a variation from this road layout, as the entire property is being developed by a single developer. This pre-planned road is not providing access to any other property as it adjoins the Castle Hill Country Club golf course. This access arrangement would have caused problems in providing vehicular access on the eastern part of the property, adjoining the trunk drainage corridor. As such, a variation to the DCP map would have been necessary.*



*A proposed access point to the Seniors Living development is not too dissimilar to Council's pre-planned road layout, with the proposed access point intersecting Fairway Drive at the western property boundary.*

*Under the provision of the Balmoral Road Release Area Section 8 – Building Design, a 6 metre setback is required from the road frontage for residential development including dwelling houses, villas and town house development. The proposed Seniors Living development has adopted the setback provision of 6 metres from the road frontage to ensure a compatible streetscape and surrounding area. In two areas, there are minor encroachments for the edges of the buildings into the 6 metre setback which have no adverse impacts on adjoining properties.*

**Comment:**

A variation to a pre-determined road pattern can be generally considered where it is demonstrated that the proposed variation will not affect the development potential of adjoining properties whilst also providing for orderly development. As the proposed road adjoins the golf course and purely services the subject site, the variation is supported in this instance. The elimination of the road will not result in unorderly development as the subject site is being developed as a whole. No access to the subject site from the golf course is required.

**b. Part B Section 5 Residential Flat Buildings**

Although Part B Section 5 Residential Flat Buildings DCP does not specifically apply to the subject proposal, the development has been assessed against the DCP and is considered to be satisfactory to relevant objectives and provisions within the DCP in terms of unit building design and streetscape, layout and design etc.

**7. Office of Water Comments**

The proposal is defined as Nominated Integrated Development under the provisions of the Environmental Planning & Assessment Act, 1979 as approval is required from the NSW Office of Water under the provisions of the Water Management Act, 2000. The Office of Water have advised that they raise no objection to the proposal and have issued General Terms of Approval (refer Condition No. 6 and Appendix 1).

**8. Roads and Maritime Services (RMS) Comments**

The proposal was referred to RMS for review. The following comments were provided for consideration:

- a. Council should consider access to Block 2 via the main entry rather than the proposed direct access to Fairway Drive. The close proximity of the two driveways may cause confusion and could result in crashes.
- b. 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.
- c. 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.
- d. 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.

- e. Council should request the applicant to provide turning areas at dead-end isles within the basement car park. These turning areas are to be kept clear of any obstacles, including parked cars, at all times.
- f. All vehicles are to enter and leave the site in a forward direction.

**Comment:**

A condition has been recommended requiring compliance with the RMS requirements with the deletion of 'a' (refer to Condition No. 7). In terms of point (a), this was not included in the condition, as the driveway location could not be amended, or merged due to the proposed development connecting to the drainage culvert on Fairway Drive which is located between the two driveways servicing the self-care units.

**9. Police Comments**

The NSW Police Castle Hill LAC have reviewed the proposal and raised no objection to the proposal and have made the following comments for consideration:

- a. Natural surveillance is to be maximised and physical barriers installed to secure the property from trespassers.
- b. High resolution CCTV is to be installed to monitor common open spaces and the car park access/egress points and entrances to the unit blocks.
- c. Lighting is required to meet Australian Standards. In particular, lighting is to be installed at the entry and exit points of the buildings, driveways and within the carparking areas.
- d. All landscape works are to be maintained to ensure adequate sight lines are available and reduce opportunity for concealment and entrapment. Pedestrian pathways are to be maintained with low landscaping for 3-5m either side to prevent concealment.
- e. Bicycle parking is to be lockable and covered and be within sight of capable guardians.
- f. All public access points are to be clearly marked.
- g. The site is to be maintained at all times, including repair of vandalism and graffiti, the replacement of lighting and general site cleanliness.
- h. The installation of gates or a similar form of access control within the carparking areas to restrict access to the residential carparks after hours and further access control both into the grounds of the development or the residential buildings. Ensure that security shutters cannot be easily manipulated.
- i. Security sensor lights and a security company to monitor the site is to be used while construction is in progress. Offenders often target this type of development, including in the construction phase.
- j. The installation of signage at fire exits and stairs to ensure that these exits/stairs are kept closed.
- k. Avoid the creation of 'natural ladders' such as ledges, capable of supporting hands/feet and use of balustrades that will not provide an anchor point for ropes.

A condition has been recommended requiring compliance with the NSW Police requirements (refer to Condition No. 8).

## **10. Sydney Water Comments**

A feasibility letter from Sydney Water dated 28 August 2012 has been received by Council regarding the works required to be undertaken for this development in order for the development to receive a Section 73 Certificate from Sydney Water. This letter states that the following works are to be undertaken in regard to sewerage facilities and water provision:

- (i) construction of a drinking water main extension;
- (ii) construction of a recycled water main extension;
- (iii) construction of a sewer main extension.

Appropriate conditions of consent have been imposed requiring the submission of a "Notice of Requirements" from Sydney Water prior to the issue of a Construction Certificate, and the submission of a Section 73 Certificate prior to issue of the Occupation Certificate (refer to Conditions Nos. 38 and 82).

Sydney Water reviewed the proposed development and stated that the development layout is inconsistent with the intended provision of trunk drainage services as identified on the site, and requested a major revision to effectively integrate with their current trunk drainage plans to maintain continuity of the natural water course. Their concerns were discussed in detail in a meeting held at Council with the applicant, Sydney Water staff and Council's staff, where the applicant proposed an alternative construction strategy involving interim and ultimate drainage works. The staging of construction works addressed Council's concerns regarding flood behaviour downstream of Fairway Drive, however, the staged solution has not addressed Sydney Water's design intents.

Sydney Water further reviewed the proposal upon receipt of NSW Office of Water's General Terms of Approval and commented the following:

- a) The NSW Officer of Water is supportive of the culvert extension with the development on the basis that there is no natural creek in the centre of the site now to be destroyed.
- b) Sydney Water is in the design stage for trunk drainage works in this area; however, time is imperative in finalising the required works.
- c) Sydney Water as a trunk drainage authority would commence on the downstream side of Fairway Drive and any zoning requirement by Sydney Water for trunk drainage over the subject site (6 Fairway Drive) would be rescinded upon Council's request.
- d) It is Council's future responsibility to ensure the catchment flows are appropriately directed into the No. 6 Fairway Drive culverts instead of along Fairway Drive, which is subject to flooding presently, notwithstanding whether the subject development proceeds or not. Therefore the consequence of issuing a development approval for the subject site may result in Sydney Water rescinding any trunk drainage works through the subject property.

The above concerns, and in particular the consequences as detailed under item (d) raised by Sydney Water were consulted in detail with Council's Principal Waterways Coordinator and other Council staff members. It was agreed to support the proposed development and associated trunk drainage works as detailed under in Section H - Stormwater of this report subject to appropriate conditions.

## **SUBDIVISION ENGINEERING COMMENTS**

Council's Senior Subdivision Engineer has reviewed the proposal and no objection is raised, subject to relevant conditions of consent which have been recommendation and are included with this report (refer to Section 5(h) of the report for further details).

### **WATERWAYS COMMENTS**

Council's Principal Coordinator Waterways has reviewed the proposal in regard to the potential flood impact of the development and no objection is raised, subject to relevant conditions of consent which have been provided by Council's Senior Subdivision Engineer and have been recommended for inclusion with this report.

### **TRAFFIC MANAGEMENT COMMENTS**

Council's Principal Traffic and Transport Co-Ordinator has reviewed the proposal and has provided the following comments:

#### Existing Traffic Environment

This application proposes to construct 160 bed residential aged care units and 39 self care housing units comprising 3 and 2 bedroom villas/apartment at 6 Fairway Drive Kellyville that is part of the proposed Balmoral Road release area.

A traffic impact statement prepared by Transport and Traffic Planning Associates has been submitted in support of the application. Fairway Drive in its current configuration is a local road constructed to a two lane rural road standard with a 7.0m sealed carriageway and 2.0m wide unsealed shoulders servicing approximately 30 rural allotments and an estimated 300 daily or 30 peak hour vehicle movements.

Under the future release area configuration when Fairway Drive is connected to Solent Circuit the carriageway is to be widened to 12.0m and the road reclassified as an enhanced collector road. It is expected that daily vehicle movements will possibly increase to around 12,000 vehicles.

#### Proposed Development - Traffic Generation

The Roads and Traffic Authority Guide to Traffic Generating Developments nominates a specific traffic generation rate for aged and disabled housing (residential care) of 1-2 daily and 0.1-0.2 peak hour trip generation. The guidelines also specify for medium density residential flat buildings a trip generation rate of 4-5 daily and 0.4-0.5 peak hourly trips/dwelling and 5-6.5 daily and 0.5-0.65 peak hourly for larger three + bedroom units. The traffic report indicates that based on previous studies undertaken by the consultant RACF's and SCH's tend to generate around 2 daily trips or 0.2 peak hour trips per dwelling.

On this basis the consultant has calculated that 160 bed RACF and 39 SCH Apartments will generate around 40 peak hourly trips in the morning and afternoon peak hours.

#### Need for Traffic Improvements in the Locality

It is expected that the relatively low total traffic volume generated by this proposal will have minimal impact on service levels of Fairway Drive both in its current two lane rural and its ultimate 12.0m wide enhanced collector road carriageway configuration. Similarly the operational performance of nearby intersections such as Windsor Road currently operating at Level of Service A during peak periods should not be significantly affected.

#### Traffic egress/ingress to arterial/sub-arterial roads

As indicated above Fairway Drive is a currently a no through two lane rural local access road intersecting with the arterial road network of Windsor Road.

In its ultimate guise as the Balmoral Road Release Area precinct develops Fairway Drive will be constructed to 12.0m wide carriageway configuration to suite future application as an enhanced collector road and the current intersection with Windsor Rd will be closed when the signalized intersection of Wrights/Windsor Rd's is completed.

#### Sight distance and other safety issues

The site is located on the southern side of Fairway Drive approximately 600m west of the Windsor Road intersection. Access is proposed via several combined ingress and egress driveways along the 180m property frontage. The driveway locations provides sufficient sight distance exceeding the recommended minimum Safe Intersection Sight Distance requirement of 80m for a 50km/h urban road as required under the Austroads Guidelines.

#### **Parking Provision**

The proposed development provides for a total of 136 off street parking spaces exceeding the minimum 79 spaces required under SEPP (Seniors Living) 2004.

There are no objections raised from a traffic engineering perspective to the proposed development

#### **TREE MANAGEMENT COMMENTS**

Council's Tree Management Team have reviewed the proposal and no objection is raised, subject to relevant conditions of consent which have been recommendation and are included with this report.

#### **ECOLOGY COMMENTS**

Council's Sustainability Officer has reviewed the proposal in relation to the vegetation and microchiropteran on site and no objection is raised, subject to relevant conditions of consent which have been recommended and are included with this report.

#### **HEALTH & ENVIRONMENTAL PROTECTION COMMENTS**

Council's Health and Environmental Protection Department have reviewed the proposal and no objection is raised, subject to relevant conditions of consent which have been recommended and included in this report.

#### **WASTE MANAGEMENT COMMENTS**

Council's Waste Recovery Team have reviewed the proposal and no objection is raised, subject to relevant conditions of consent which have been recommended and included in this report.

#### **COMMUNITY SERVICES COMMENTS**

Council's Community Services Team have reviewed the proposal and no objection is raised to the Seniors Living Development. The proposal provides for a range of staged care services and on site amenities and meets the current population expectations for aged care residential.

#### **ABORIGINAL HERITAGE COMMENTS**

Based on the Aboriginal cultural heritage assessment undertaken by the Deerubbin Local Aboriginal Land Council and the letter provided from the Deerubbin Local Aboriginal Land Council raising no objection to the proposed development, there is no objection to the proposal on Aboriginal heritage grounds. Notwithstanding, conditions of consent have been recommended to ensure any potential unearthing of relics is appropriately managed.

#### **FORWARD PLANNING – SECTION 94 CONTRIBUTION COMMENTS**

Council's Forward Planning Team has reviewed the proposal and has provided the following comments:

Cranbrook Care (the applicant) has requested (4/09/2012) consideration be given to varying the application of Contributions Plan No.12 – Balmoral Road Release Area on the following grounds:

- Contributions Plan No.12 does not have a rate that explicitly applies to senior living development; and
- Council have previously agreed to apply an alternative rate of 1% to another senior living development at 8-14 Fairway Drive, Kellyville.

Cranbrook Care has offered a contribution of \$3,716 per self-care unit or \$144,924, excluding CPI (\$3,176.00 per Self Care Unit x 39) in lieu of the normal contribution levied under Contributions Plan No.12. The applicant argued that this contribution is consistent with Council's approach to calculating Section 94 Contributions for seniors living developments in the Balmoral Road Release Area based on the rate applied to the seniors living development approved at 8-14 Fairway Drive, Kellyville.

Contribution Plan No.12 relates to the provision of infrastructure and services based on the need generated by incoming population. The Plan applies to all residential development and does not include a specific rate for senior living development.

The incoming population arising from the proposed development will demand a range of facilities and services prescribed by Contributions Plan No.12. While it may be argued that facilities are used differently by the population generated through a conventional subdivision, senior living developments are a more intense use of the land and still utilise the same infrastructure although in a different manner. It is noted that under a conventional subdivision, of approximately 20 lots, a population of 65 additional persons would be generated. Therefore, it is considered appropriate that contributions be levied towards the provision of these facilities and services as follows:

<b>Aged Care Facility Contribution</b>	<b>Purpose: 1 person</b>	<b>No. of 1 person: 160</b>	<b>No. of Credits: 0</b>	<b>Total \$94</b>
Transport Facilities - Capital	\$ 1,879.72	\$ 300,755.20	\$ -	\$ 300,755.20
Drainage Facilities - Capital	\$ 210.49	\$ 33,678.40	\$ -	\$ 33,678.40
Administration	\$ 138.06	\$ 22,089.60	\$ -	\$ 22,089.60
<b>Total</b>	<b>\$ 2,228.27</b>	<b>\$ 356,523.20</b>	<b>\$ -</b>	<b>\$ 356,523.20</b>

<b>Self Care Accommodation Contribution</b>	<b>Purpose: 1 bedroom unit</b>	<b>No. of 1 Bedroom units: 39</b>	<b>No. of Credits: 1</b>	<b>Total \$94</b>
Open Space - Land	\$ 12,930.96	\$ 504,307.44	\$ 33,819.43	\$ 470,488.01
Open Space - Capital	\$ 3,431.83	\$ 133,841.37	\$ 8,975.56	\$ 124,865.81
Transport Facilities - Capital	\$ 2,443.64	\$ 95,301.96	\$ 6,391.05	\$ 88,910.91
Community Facilities - Land	\$ 255.72	\$ 9,973.08	\$ 668.81	\$ 9,304.27
Community Facilities - Capital	\$ 1,047.63	\$ 40,857.57	\$ 2,739.96	\$ 38,117.61
Administration	\$ 179.48	\$ 6,999.72	\$ 469.40	\$ 6,530.32
Drainage Facilities - Capital	\$ 273.64	\$ 10,671.96	\$ 715.67	\$ 9,956.29
<b>Total</b>	<b>\$20,562.90</b>	<b>\$ 801,953.10</b>	<b>\$ 53,779.88</b>	<b>\$ 748,173.22</b>

The following assumptions were made in relation to this application:

1. Self-care units (31 X 2 Bedrooms Units / 8 X 3 Bedroom Units / 92 parking spaces) were assessed at a 1 Bedroom Unit rate, which when based on an occupancy of 1.3 persons per unit would generate an additional 51 persons.
2. Aged Care Facility (160 beds / 40 staff / 42 parking spaces) was assessed at a per person occupancy rate and excluded contributions for open space and community facilities categories due to different demand generated by occupants.

In support of an alternative contribution rate, Council has previously agreed to a modified monetary contribution, under Contributions Plan No13 – North Kellyville for a residential aged care facility at 71–83 Samantha Riley Drive, Kellyville (DA 1902/2008/HB). The application of a reduced rate related matters considered in an L&E Court appeal - *Moran Australia (Rouse Hill) Pty Ltd v The Hills Shire Council* in 2010.

The case related in part to the nexus between the Residential Aged Care facility and the requirement to pay monetary contributions towards facilities such as open space or community facilities. The applicant argued that Contribution Plan specifically related to seniors "housing" rather than aged care or nursing home facilities and therefore residents do not generate a demand for the range of facilities envisaged by the Plan such as open space and recreation facilities, community facilities and pedestrian/cycle ways. The Court determined the development did create demand for infrastructure although monetary contributions were only required towards traffic, water management and administration costs.

Cranbrook Care was advised on 7 November 2012 that their offer of \$144,927 was not acceptable. It was explained that the 1% rate applied to 8-14 Fairway Drive was a result of the particular circumstances of that application and the pre-lodgement advice, given at that time that Contribution Plan No.12 did not apply.

It is considered appropriate to apply a reduced Section 94 Contribution rate to the proposed seniors living development. A condition of consent has been recommended requiring a contribution payment of \$1,104,696.42 (refer to Condition No.39).

## **CONCLUSION**

The proposal has been assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, SEPP Housing for Seniors or People with a Disability 2004, The Baulkham Hills Local Environmental Plan 2005, The Hills Local Environment Plan 2012 and The Hills Development Control Plan 2012 and is considered satisfactory.

## **IMPACTS:**

### **Financial**

This matter has no direct financial impact upon Council's adopted budget or forward estimates.

### **Hills 2026**

The social and environmental impacts have been addressed in the report. The proposal will provide additional accommodation for senior citizens of the Shire.

## **RECOMMENDATION**

The Development Application be approved subject to the following conditions.

## **GENERAL MATTERS**

### **1. Development in Accordance with Submitted Plans**

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

#### **REFERENCED PLANS AND DOCUMENTS**

<b>DRAWING NO.</b>	<b>DESCRIPTION</b>	<b>ISSUE</b>	<b>DATE</b>
DA-0000A	Cover Sheet & Location Plan	B	18/04/2013
DA-0000C	Density Calculation Drawing	B	18/04/2013
DA-0001	Site Plan – Basement Level Plan	B	18/04/2013
DA-0002	Site Plan – Ground Floor Plan	B	18/04/2013
DA-0003	Site Plan – Level 1	B	18/04/2013
DA-0004	Site Plan – Level 2	B	18/04/2013
DA-0005	Site Plan – Roof Plan	B	18/04/2013
DA-1101	Residential Care Facility – Basement Floor Plan	A	16/08/2012

DA-1102	Residential Care Facility – Ground Floor Plan	A	16/08/2012
DA-1103	Residential Care Facility – Level 1 Floor Plan	A	16/08/2012
DA-1104	Residential Care Facility – Roof Plan	A	16/08/2012
DA-1201	SCH – Block 1 & 2 Floor Plan – Basement Level	B	18/04/2013
DA-1202	SCH – Block 1 & 2 – Ground Floor Plan	B	18/04/2013
DA-1203	SCH – Block 1 & 2 – Level 1 Floor Plan	B	18/04/2013
DA-1204	SCH – Block 1 & 2 – Level 2 Floor Plan	B	18/04/2013
DA-1205	SCH – Roof Plan	B	18/04/2013
DA-1301	SCH – Block 3,4 & RCF South Wing Basement Floor Plan	A	16/08/2012
DA-1302	SCH – Block 3.4 & RCF (part) Ground Floor Plan	A	16/08/2012
DA-1302	SCH – Block 3.4 & RCF (part) Level 1 Floor Plan	A	16/08/2012
DA-1304	SCH – Block 3.4 & RCF Level 2 Floor Plan	A	16/08/2012
DA-1305	SCH – Block 3,4 & RCF Roof Plan	A	16/08/2012
DA-5320	Contextual Elevations	B	18/04/2013
DA-5321	Contextual Elevations	A	16/08/2012
DA-5322	Contextual Elevations	B	18/04/2013
DA-5323	Fairway Drive Fence Elevations	B	18/04/2013
DA-6101	RACF – Site Section Sheet 1	B	18/04/2013
DA-9104	Part Basement Section Adjacent to culvert under Fairway Drive	E	18/07/2013
SK DA01	Landscape Master Plan	C	18/04/2013
SK DA02	Landscape Master Plan – Pond and Drainage Channel	C	18/04/2013
002	Figure 2 Plan of Proposed Interim 100Y ARI Flood Extents	02	17/07/2013
003	Figure 3 Plan of Proposed Ultimate 100Y ARI Flood Extents	02	17/07/2013

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. 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.

## **3. 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.

## **4. SEPP (Housing for Seniors or People with a Disability) 2004**

The self-care dwellings shall be restricted to the housing of older people and / or people with a disability in accordance with the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability)2004.

## **5. Provision of Parking Spaces**

The development is required to be provided with a total of 136 off-street car parking spaces, being 42 for the residential aged care facility and 94 for the self-contained dwellings. These car parking spaces shall be available for off street parking at all times.

## **6. Compliance with Office of Water Requirements**

Compliance with the requirements of the Office of Water attached as Appendix 1 to this consent and dated 12 March 2013.



## **7. Compliance with Roads and Maritime Services (RMS) Requirements**

The following condition is required by Roads and Maritime Services (RMS) or as otherwise agreed by RMS and Council in writing:

- a. 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 to be in accordance with AS 2890.1 - 2004 and AS 2890 - 2002 for heavy vehicles.
- b. 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.
- c. 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.
- d. Turning areas at dead-end isles within the basement car park are to be kept clear of any obstacles, including parked cars, at all times.
- e. All vehicles are to enter and leave the site in a forward direction.

## **8. Compliance with NSW Police Requirements**

The following condition is required by NSW Police or as otherwise agreed by NSW Police and Council in writing:

- a. Natural surveillance is to be maximised and physical barriers installed to secure the property from trespassers.
- b. High resolution CCTV is to be installed to monitor common open spaces and the car park access/egress points and entrances to the unit blocks.
- c. Lighting is required to meet Australian Standards. In particular, lighting is to be installed at the entry and exit points of the buildings, driveways and within the carparking areas.
- d. All landscape works are to be maintained to ensure adequate sight lines are available and reduce opportunity for concealment and entrapment. Pedestrian pathways are to be maintained with low landscaping for 3-5m either side to prevent concealment.
- e. Bicycle parking is to be lockable and covered and be within sight of capable guardians.
- f. All public access points are to be clearly marked.
- g. The site is to be maintained at all times, including repair of vandalism and graffiti, the replacement of lighting and general site cleanliness.
- h. The installation of gates or a similar form of access control within the carparking areas to restrict access to the residential carparks after hours and further access control both into the grounds of the development or the residential buildings. Ensure that security shutters cannot be easily manipulated.
- i. Security sensor lights and a security company to monitor the site is to be used while construction is in progress. Offenders often target this type of development, including in the construction phase.
- j. The installation of signage at fire exits and stairs to ensure that these exits/stairs are kept closed.
- k. Avoid the creation of 'natural ladders' such as ledges, capable of supporting hands/feet and use of balustrades that will not provide an anchor point for ropes.

## **9. Separate application for signs**

A separate application is to be submitted to, and approved by, Council prior to the erection of any advertisements or advertising structures.

## **10. Property Numbering for Integrated Housing, Multi Unit Housing, Commercial Developments and Industrial Developments**

The responsibility for property numbering is vested solely in Council.

Please refer to approved numbering correspondence and marked plan.

The following table provides the approved unit numbers to be allocated on site for the Self Care Units. These unit numbers below, unless otherwise approved by Council in writing, are to be displayed clearly on all unit door entrances.

<b>Approved Unit Numbers for Self Care Units</b>	<b>Description On Drawing Numbers DA1202-DA1204 &amp; DA1302–DA1304</b>	<b>Building &amp; Lift Description</b>
Unit 1	B1.0.01	Building 1 Lift 1
Unit 2	B1.0.02	Building 1 Lift 1
Unit 3	B1.0.03	Building 1 Lift 1
Unit 4	B1.1.01	Building 1 Lift 1
Unit 5	B1.1.02	Building 1 Lift 1
Unit 6	B1.1.03	Building 1 Lift 1
Unit 7	B1.2.01	Building 1 Lift 1
Unit 8	B1.2.02	Building 1 Lift 1
Unit 9	B1.0.04	Building 1 Lift 2
Unit 10	B1.0.05	Building 1 Lift 2
Unit 11	B1.0.06	Building 1 Lift 2
Unit 12	B1.1.04	Building 1 Lift 2
Unit 13	B1.1.05	Building 1 Lift 2
Unit 14	B1.1.06	Building 1 Lift 2
Unit 15	B1.2.03	Building 1 Lift 2
Unit 16	B1.2.04	Building 1 Lift 2
Unit 17	B2.0.01	Building 2 Lift 3
Unit 18	B2.0.02	Building 2 Lift 3
Unit 19	B2.1.01	Building 2 Lift 3
Unit 20	B2.1.02	Building 2 Lift 3
Unit 21	B2.1.03	Building 2 Lift 3
Unit 22	B2.1.04	Building 2 Lift 3
Unit 23	B2.2.01	Building 2 Lift 3
Unit 24	B2.2.02	Building 2 Lift 3
Unit 25	B2.2.03	Building 2 Lift 3
Unit 26	B3.0.01	Building 3 Lift 4
Unit 27	B3.0.02	Building 3 Lift 4
Unit 28	B3.1.01	Building 3 Lift 4
Unit 29	B3.1.02	Building 3 Lift 4
Unit 30	B3.2.01	Building 3 Lift 4
Unit 31	B3.2.02	Building 3 Lift 4
Unit 32	B4.0.01	Building 4 Lift 5
Unit 33	B4.0.02	Building 4 Lift 5
Unit 34	B4.0.03	Building 4 Lift 5
Unit 35	B4.1.01	Building 4 Lift 5
Unit 36	B4.1.02	Building 4 Lift 5
Unit 37	B4.1.03	Building 4 Lift 5
Unit 38	B4.2.01	Building 4 Lift 5
Unit 39	B4.2.02	Building 4 Lift 5

Fairway Drive will be renumbered in the future with the number 6 being allocated to a different property within Fairway Drive. Individual street numbers will be allocated to the Self Care Units and the Residential Care Facility. Until such time that Fairway Drive is renumbered no street number can be allocated to the Self Care Units or the Residential Care Facility. As a result of this NO reference is to be made to the number 6 in regards to street number or signage within the site.

A diagrammatic plan is to be erected on site at driveway entry points. Clear and accurate external directional signage is to be erected on all buildings, stairways, lift shafts, units 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.

### **11. 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/m<sup>2</sup>.

### **12. Construction and Fit-out of Food Premises**

To ensure that adequate provision is made for the cleanliness and maintenance of all food preparation areas, all work involving construction or fitting out of the premises shall comply with the requirements of *Australian Standard AS 4674-2004 – Design, construction and fit-out of food premises* and the provisions of the Food Standards Code (Australia).

Note: Copies of AS 4674-2004 may be obtained from SAI Global on telephone 1300 654 646 or by visiting the website: [www.saiglobal.com](http://www.saiglobal.com)

Copies of the Food Safety Standards Code (Australia) may be obtained by contacting the Food Standards Australia New Zealand Authority on Telephone: (02) 6271-2222, or by visiting the website: [www.foodstandards.gov.au](http://www.foodstandards.gov.au).

### **13. Acoustic Requirements**

The findings and recommendations of the Acoustic Assessment and Report prepared by PKA Acoustic Consulting Pty Ltd, referenced as 212 108 R01 DA Stage Acoustic Report v1.2 final issue, dated August 2012 and submitted as part of the Development Application are to be implemented as part of this approval. In particular: Ensuring compliance with the established Project Specific Noise Criteria as per the table below.

Receiver	Time of Day	Project Specific Criteria – dB(A)
Nearest Residences	Day	46.1
	Evening	39.0
	Night	35.8

### **14. Contamination Assessment & Site Remediation**

The recommendations of the Site Assessment and Report prepared by Douglas Partners Pty Ltd, referenced as Project 73002, dated August 2012 and submitted as part of the Development Application are to be implemented as part of this approval. In particular:

That the unauthorised fill be sampled and tested to confirm site suitability and finalise waste classification for any off-site disposal if required.

### **15. Adherence to Waste Management Plan**

The Waste Management Plan submitted to and approved by Council forms part of the development consent and must be adhered to at all stages in the demolition, construction, design of facilities and ongoing use phases except where amended by other conditions of consent. 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.

### **16. Waste Storage and Separation – Demolition and Construction**

The reuse and recycling of waste materials must be maximised during demolition and construction. 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 onsite. 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.

### **17. 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.

### **18. Commencement of Domestic Waste Services refers to the Self Care Housing (SCH)**

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.

### **19. Garbage Collection – Commercial/Industrial**

Collection of waste and recycling material, generated by the premises, must not cause nuisance or interference with the amenity of the surrounding area.

### **20. Waste Collection**

Waste and recycling material, generated by the premises, must only be collected between the hours of 6am and 10pm except for Sundays and public holidays, where collection shall be between 8am and 10pm.

### **21. Waste Management- Commercial/Industrial**

To ensure the adequate storage and collection of waste from the occupation or use of the premises, all garbage and recyclable materials emanating from the premises must be stored in a designated waste storage area. Arrangement must be in place in all areas of the development for the separation of recyclable materials from general waste and for the movement of recyclable materials and general waste to the main waste/recycling storage room/area.

The waste storage area must be:

- i) provided with a hose tap connected to the water supply;
- ii) paved with impervious floor materials;
- iii) graded and drained to a waste disposal system in accordance with the requirements of the relevant regulatory authority (Sydney Water);
- iv) adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour as defined by the *Protection of the Environment Operations Act 1997*;
- v) fitted with appropriate interventions to meet fire safety standards in accordance with the Building Code of Australia.

### **22. Medical Waste Storage and Disposal**

A separate waste bin is to be provided for the disposal of clinical and sharps waste. Clinical and sharps waste must be collected and disposed of by an authorised contractor in accordance with the Protection of the Environment Operations (Waste) Regulation 2005.

### **23. 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.

### **24. 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.

### **25. 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.

### **26. 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.

### **27. Street Trees (Balmoral Road)**

Street trees must be provided for the section of Fairway Drive fronting the development site at a spacing of between 7m and 10m with a minimum of one tree per lot frontage. The location of street trees must compliment driveway locations. The species and size of all street trees must comply with Council's DCP requirements. Street trees can be provided by Council subject to payment of the applicable fee as per Council's Schedule of Fees and Charges.

Street tree planting adjacent to the golf course must be in accordance with the DCP requirements.

### **28. Vehicular Access and Parking**

The formation, surfacing and drainage of all driveways, parking modules, circulation roadways and ramps is required, with their design and construction complying with:

- a) AS/ NZS 2890.1:2004
- b) AS/ NZS 2890.6:2009
- c) AS 2890.2:2002
- d) DCP Part C Section 1 – Parking
- e) Council's Driveway Specifications

Where conflict exists the Australian Standard must be used.

The following must be provided:

- i. The driveway basement access for SCH 1 and SCH 2 must be designed to provide crest to a minimum RL 63.9m AHD in accordance with the Flood Study requirements.
- ii. All driveways and car parking areas must be prominently and permanently line marked, signposted and maintained to ensure entry and exit is in a forward

direction at all times and that parking and traffic circulation is appropriately controlled.

- iii. All driveways and car parking areas must be separated from landscaped areas by a low level concrete kerb or wall.
- iv. In urban areas, all driveways and car parking areas must be concrete or bitumen. The pavement design must consider the largest design service vehicle expected to enter the site.
- v. All driveways and car parking areas must be graded, collected and drained by pits and pipes to a suitable point of legal discharge.

### **29. 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.

### **30. Separate Application for Strata Subdivision**

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

### **31. Process for Council Endorsement of Legal Documentation**

Where an encumbrance on the title of the property is required to be released or amended and Council is listed as the benefiting authority, the relevant release or amendment documentation must be submitted along with payment of the applicable fee as per Council's Schedule of Fees and Charges. This process includes the preparation of a report and the execution of the documents by Council. Sufficient time should be allowed before lodging a Subdivision Certificate application.

### **32. Tree Removal & Fauna Protection**

During the vegetation clearance for construction works the applicants Project Ecologist is to be present to re-locate any displaced fauna that may be disturbed during this activity.

Trees shall be lopped in such a way that the risk of injury or mortality to fauna is minimised, such as top-down lopping, with lopped sections gently lowered to the ground, or by lowering whole trees to the ground with the "grab" attachment of a machine.

An experienced wildlife handler/ecologist shall be in attendance during the felling of trees on this site in order to rescue any injured wildlife.

Potential hollows in lowered trees or sections of trees shall be searched by an experienced ecologist and any fauna shall be removed and, if uninjured, either released into roost boxes on the site or fed, warmed and released in the evening, or, if injured, transferred to the care of a wildlife carer and released on the site when re-habilitated. (Please note that microbats should only be handled by an appropriate wildlife carrier).

Details prepared by the project ecologist in writing demonstrating compliance is to be submitted to the Principal Certifying Authority.

### **33. Microchiropteran Bat Management**

The immediate area in proximity to the culvert entrance (within -6m) is to be treated as a sensitive area for microchiropteran bats. This area is to have temporary fencing consistent with section 4.3 of *Australian Standard: protection of trees on development sites*, AS 4970 and be sufficient to exclude unauthorised entry. The area is also to be marked with sign(s) that state "Sensitive Area". There is to be no intrusion into this area without prior approval from the site manager".

Prior to works commencing within the bat sensitive area the following is to occur:

- a. No works within the bat sensitive area are to occur while bats are hibernating (mid May – mid September) without additional referral to Council's Sustainability Team.

- b. The project ecologist is to inspect the culvert for roosting bats. If this is during the maternity season (October – March) a comprehensive inspection for breeding bats is to be carried out. If breeding bats are encountered all works within the sensitive area are to STOP immediately and a detailed Mitigation Plan is to be submitted to Council for approval prior to the recommencement of work.
- c. Bats are to be temporarily excluded from the culvert by temporarily blocking off all the crevices or gaps that exists within the culvert. This must follow the methods outlined in the Microchiropteran Bat Assessment Prepared by Ecological Australia and dated October 2012 and be supervised by the project ecologist.
- d. Final pre-clearance surveys are to be carried out immediately prior to first construction works within the bat sensitive area. This final check by the project ecologist is to ensure that no bats are present within the culvert. These surveys must follow the methods outlined in the Microchiropteran Bat Assessment Prepared by Ecological Australia and dated October 2012.
- e. Upon completion of construction within the bat sensitive area, the project ecologist is to ensure that all temporary exclusion measures are completely removed so that bats can again utilise the culvert.

Details prepared by the project ecologist in writing demonstrating compliance is to be submitted to the Principal Certifying Authority.

#### **34. Weeds**

No noxious or environmental weeds, as listed on the Hills Shire Council's website are to be imported on to the site. Any noxious weeds or environmental weeds on the site are to be managed continuously, in accordance with the Noxious Weeds Act 1993 and the Vegetation Management Plan for this development. All weeds cleared during the course of building works should be removed off site to an appropriate facility. Mitigation measures should be put in place to prevent the spread of weeds as a result of soil disturbance during earthworks. Piling of soil that may contain seeds of exotic species must be located at least 20m away from the creek and other areas of native vegetation to prevent transportation to adjacent areas during rainfall or wind events.

#### **35. Erosion**

Measures must be implemented to prevent indirect impacts from the proposal such as runoff and sedimentation and potential spread of weeds into adjacent areas, the creek and the riparian corridor. For example: installation of sediment detention basins, or similar, to prevent runoff and sediment entering the adjacent waterbodies.

All erosion and sedimentation control devices should be regularly monitored, cleared and repaired, particularly after periods of heavy rainfall.

#### **36. External Finishes**

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

### **PRIOR TO THE ISSUE OF CONSTRUCTION CERTIFICATE**

#### **37. Notice of Requirements**

The submission of documentary evidence to the Certifying Authority, including a Notice of Requirements, from Sydney Water Corporation confirming that satisfactory arrangements have been made for the provision of water and sewerage facilities.

Following an application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-

ordinator, since building of water / sewer extensions can be time consuming and may impact on other services and building, driveway and landscape design.

### **38. 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](http://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.

### **39. Section 94 Contribution – Balmoral Road Release Area**

The following monetary contributions must be paid to Council in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979, to provide for the increased demand for public amenities and services resulting from the development.

Payments comprise of the following: -

<b>Aged Care Facility Contribution</b>	<b><i>Purpose: 1 person</i></b>	<b><i>No. of 1 person: 160</i></b>	<b><i>No. of Credits: 0</i></b>	<b><i>Total S94</i></b>
Transport Facilities - Capital	\$ 1,879.72	\$ 300,755.20	\$ -	\$ 300,755.20
Drainage Facilities - Capital	\$ 210.49	\$ 33,678.40	\$ -	\$ 33,678.40
Administration	\$ 138.06	\$ 22,089.60	\$ -	\$ 22,089.60
<b>Total</b>	<b>\$ 2,228.27</b>	<b>\$ 356,523.20</b>	<b>\$ -</b>	<b>\$ 356,523.20</b>

<b>Self Care Accommodation Contribution</b>	<b><i>Purpose: 1 bedroom unit</i></b>	<b><i>No. of 1 Bedroom units: 39</i></b>	<b><i>No. of Credits: 1</i></b>	<b><i>Total S94</i></b>
Open Space - Land	\$ 12,930.96	\$ 504,307.44	\$ 33,819.43	\$ 470,488.01
Open Space - Capital	\$ 3,431.83	\$ 133,841.37	\$ 8,975.56	\$ 124,865.81
Transport Facilities - Capital	\$ 2,443.64	\$ 95,301.96	\$ 6,391.05	\$ 88,910.91
Community Facilities - Land	\$ 255.72	\$ 9,973.08	\$ 668.81	\$ 9,304.27
Community Facilities - Capital	\$ 1,047.63	\$ 40,857.57	\$ 2,739.96	\$ 38,117.61
Administration	\$ 179.48	\$ 6,999.72	\$ 469.40	\$ 6,530.32
Drainage Facilities - Capital	\$ 273.64	\$ 10,671.96	\$ 715.67	\$ 9,956.29
<b>Total</b>	<b>\$20,562.90</b>	<b>\$ 801,953.10</b>	<b>\$ 53,779.88</b>	<b>\$ 748,173.22</b>

**NOTE:** The amount payable to Council is the combined total of both the Aged Care Facility and the Self Care Accommodation Contribution rates which is \$1,104,696.42

Prior to payment of the above contributions, the applicant is advised to contact Council's Development Contributions Officer on 9843 0268. Payment must be made by cheque or credit/debit card. Cash payments will not be accepted.

This condition has been imposed in accordance with Contributions Plan No.12.

Council's Contributions Plans can be viewed at [www.thehills.nsw.gov.au](http://www.thehills.nsw.gov.au) or a copy may be inspected or purchased at Council's Administration Centre.

### **40. Street Numbering Identification**

Prior to any Construction Certificate being issued Council's Land Information Section is to be contacted to determine if street numbers are available for the Self Care Units or the Residential Care Facility.

### **41. Construction and Fit-out of Hairdressing Premises**



To ensure the adequate provision is made for the cleanliness, hygiene and maintenance of all hairdressing premises, all work associated with the fit out shall be designed and carried out in accordance with the requirements of:

- a) *The local Government (General) Regulation 2005,*
- b) *The Building Code of Australia*

Plans are to be submitted to Council for review prior to the issuing of the construction Certificate.

#### **42. 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.

#### **43. 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.

#### **44. Concept Engineering Design Approval**

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

#### **45. Engineering Works and Design**

The design and construction of the engineering works listed 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
- c) Trunk Drainage Strategy

Variation from these documents can only be approved by Council's Manager – Subdivision and Development Certification.

Engineering works can be classified as either "subdivision works" or "building works" as categorised below:

1. Works within an existing or proposed public road, or works within an existing or proposed public reserve. These works can only be approved, inspected and certified by Council in accordance with the Roads Act 1993 and the Local Government Act 1993 respectively. For Council to issue this approval 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.
2. Works within the development site, or an adjoining private property, that relates to existing or proposed Council infrastructure assets, such as the laying of a stormwater pipeline or the formation of an overland flowpath within a public drainage easement. These works can only be approved, inspected and certified by Council because Council will have an ongoing risk exposure and management/maintenance liability with respect to these assets once completed.

A "compliance certificate" as per Section 109(1)(a)(ii) of the Environmental Planning and Assessment Act 1979 can be issued certifying that the detailed design for these works complies with the requirements listed and the above documents. This "compliance certificate" can be issued by Council's Manager – Subdivision and Development Certification and not a private certifier, as discussed. Once approved,

the works must be carried out under the supervision of Council's Construction Engineer in accordance with the terms attached to the issued "compliance certificate". Post construction, a further "compliance certificate" as per Section 109(1)(a)(i) of the Environmental Planning and Assessment Act 1979 can be issued certifying that the as-built infrastructure and associated works have been carried out to the satisfaction of Council's Construction Engineer. Alternatively, these works can be incorporated into any construction approval granted under category (1) above.

3. Works within the development site, or adjoining private properties, that do not relate to existing or proposed Council infrastructure assets, such as water sensitive urban design elements or inter-allotment drainage pipelines. Such works can be approved, inspected and certified by either Council or a private certifier, so long as the private certifier is accredited to do so.

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.

The following engineering works are required:

#### **i. Partial Width Road Reconstruction**

The partial width reconstruction of the existing road listed below is required, including any necessary service adjustments and ancillary work required to make the construction effective.

Road Name:	Formation: (Footpath/ Carriageway/ Footpath) (m)	Traffic Loading: N(ESA)
Fairway Drive	Road Type: Enhanced Collector Road 4.5m/12m/3.5m (Total width 20m) (Verge/Carriageway/Verge)	5x10 <sup>6</sup> .

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

Where partial width reconstruction exists opposite, the completed road must comply with the overall requirements outlined in the table above. Where partial width reconstruction does not exist opposite, you will be responsible for the formation of the footpath verge, kerb and gutter and the reconstruction of 6m of road pavement. This new road pavement must transition into the existing road pavement opposite to provide for a total minimum carriageway width of 10m. Additional pavement reconstruction may be necessary to provide for this carriageway width.

Any requirements relating to partial width road reconstruction from the relevant section of Council's DCP must also be complied with. All works must be carried out in accordance with the submitted traffic safety statement.

Where the existing road reserve width exceeds that required to be provided, the additional width is to be evenly distributed on either side of the road carriageway to provide for a wider footpath verge.

A pavement design prepared by a suitably qualified civil/ geotechnical engineer must be submitted with the engineering drawings. The pavement design must be based on soil tests performed by a registered NATA soils laboratory and the required traffic loadings for each road.

#### **ii. Stormwater Drainage – Pipe Extension**

Construction of street drainage along Fairway Drive frontage must be extended on both sides of the existing culvert. The drainage extension shall include:

- Connection to the existing street drainage, to the east of the site. This includes removal and reconstruction of existing temporary drainage structures which were built as part of the DA 808/2008/ZA and subsequent Engineering Construction Certificate 29/2008/EC issued for the adjoining property to the east.
- Provision of stormwater drainage of the western frontage of the site. This shall require connection to existing culvert or to the drainage structures required to be built as part of the DA 1158/2008/HC, to be determined in accordance with the final road design of Fairway Drive as required under this consent.

### **iii. 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 driveways must be built to Council's heavy duty standard.

The driveway must be **6m** wide at the boundary splayed to **8m** wide at the kerb. The driveway must be a minimum of 6m wide for the first 6m into the site, measured from the boundary.

The driveways proposed on both sides of the proposed widening and existing culverts across Fairway Drive must be crested to Flood Planning Level **RL 63.9** that is 500mm above the 1 in 100 year ARI flood level in the vicinity.

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

### **iv. Concrete Footpath Paving**

A 1.5m wide concrete footpath must be provided on the southern side of Fairway Drive fronting the development site in accordance with the DCP and the above documents.

### **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. 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.

### **vii. Painted Centreline Relocation**

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

### **viii. Stormwater Management**

In order to ensure the proposed development does not have adverse impact on the existing flood behaviour and provision of adequate flood protection measures to the development based on best engineering practices on river management and floodplain risk management principles and infrastructure assets, detailed design and construction drawings shall include:

#### **a) Diversion of Watercourses:**

Submission of detailed design and construction work with regards to proposed diversion of existing watercourses, must be designed and constructed generally in accordance with the Trunk Drainage Concept Plan Report Ref: X11076 and the Final

Addendum dated 17 July 2013, and associated documentation including flood modeling and reports prepared by Brown Consulting Pty Ltd.

The construction works within the development sites Lot 101 DP 1129876 (6 Fairway Drive) and Lot 2 DP 1160957 (Castle Hill Country Club) must be in accordance with the interim strategy and the ultimate strategy as detailed in the reports and as illustrated in the Figure 2 and Figure 3 Drawings 002 and 003 (Revision 02 dated 17/07/2013) respectively of the project X11076.

The construction works at interim stage must ensure retaining the existing flood behavior, and shall include:

- Construction of an additional culvert across full width of Fairway drive;
- Modification to the existing dam;
- Limiting the flow through to the culvert from the dam to 6.8Cum/sec (current flow) restricted by appropriate temporary structures, while allowing the remaining flow overland along the northwestern corner of the dam as currently exists.
- Construction of the water course and riparian corridor along the south western boundary of 6 Fairway Drive to the requirements of NSW Office of Water;
- Construction of a box culvert along the south eastern boundary of 6 Fairway Drive;
- Regrading works within Castle Hill Country Club to divert the eastern tributary towards the western catchment;
- All other design measures to maintain the existing flood behavior as recommended by the Flood Report.

Note: A flood certification confirming the design compliance in accordance with the flood analysis must be submitted with the Construction Certification application.

#### **b) Proposed Culvert Across Fairway Drive and within the site**

The applicant is responsible for the design and construction of the new widening of existing culvert across Fairway Drive along the length of the existing road.

If the design of the proposed road bridge is as per the NSW Roads and Maritime Services' typical/ standard road bridge design, the design will not have to be peer reviewed. Any other non-standard road bridge design will have to be peer reviewed by a third party (chosen by Council) at the detailed design stage at the applicant's expense.

Prior to the issuing of a Construction Certificate, the applicant must submit to Council, for approval, detailed design plans and specifications for the road bridge prepared by a suitability qualified structural engineer with demonstrated experience and knowledge of road bridge design and construction. The design must be accompanied by certification from the design engineer confirming that the design complies with:

- Any requirements of the NSW Office of Water;
- Any requirements of Sydney Water;
- All relevant or applicable NSW Roads and Maritime Services' road bridge design standards;
- All relevant or applicable Australian Standards;
- Council's Design Guidelines Subdivisions/ Developments;
- Council's Works Specifications Subdivisions/ Developments; and
- Any other relevant design or construction considerations.

The design engineer must nominate all necessary critical stage inspections. These inspections are to be carried out by a suitability qualified structural engineer with demonstrated experience and knowledge of road bridge design and construction as the bridge construction progresses, with a copy of the results submitted to Council as soon as

practicable after the inspection. Additionally, Council, as the PCA for this project, must be notified of any upcoming inspections a minimum of 24 hours beforehand.

#### **c) Maintenance Plan - Proposed Culverts**

An operations and maintenance plan must be prepared for the proposed road bridge. The operations and maintenance plan must include:

- i. The location and type of the road bridge, including details of its operation and design;
- ii. The method and frequency of any necessary inspections;
- iii. The method and frequency of any necessary maintenance actions;
- iv. Estimated life-cycle costs;
- v. Site access details, including access limitations etc;
- vi. Description of optimum maintenance methods and alternatives, including equipment and personnel requirements;
- vii. A work method statement; and
- viii. A standard inspection and maintenance form.

The proposed road bridge must be transferred into Council ownership at the end of the project. The following is required in order to facilitate this handover process:

- ix. The operations and maintenance plan for the bridge (above) is submitted to Council for review/ revision and subsequent approval.
- x. Council staff inspects the bridge.
- xi. A whole of life assessment is provided for the bridge and documentation is provided to confirm the expenses nominated.
- xii. WAE drawings and all required as-built structural engineering certifications and inspection results are provided to Council.

If Council determines that the bridge is not complying with the conditions of this approval, Council may request that alterations be made to the bridge prior to transfer.

#### **d) Dewatering the Dam**

Dewatering the existing dam must be carried out in a manner consistent with the Prevention of Cruelty to Animals Act 1979 and to be directly supervised by an appropriately qualified aquatic ecologist to ensure that native species (such as eels and eastern snake-necked turtles) are captured and relocated to a suitable waterway and pest species (e.g. carp and mosquito fish) are humanely removed and euthanased. This shall include:

- Once pest species are removed from the dam, the bottom of the dam must be thoroughly dried out to ensure that no carp eggs or juvenile pests survive.
- A fine mesh should be placed around intake pumps used to drain dam water to prevent the uptake and spread of carp eggs, juvenile pest species and the eggs into the catchment.
- To relocate a species of amphibian, reptile or mammal a Permit must be obtained from the NSW Parks and Wildlife Service (NPWS).
- To relocate native fish, a permit from DTIRIS (under section 216 of the FM Act) to authorise a person to release live fish (relocate) into waters of New South Wales must be obtained.

The Aquatic Ecologist is to submit details demonstrating compliance with the above conditions to the Certifying Authority prior to the issue of the construction certificate.

#### **e) Maintenance Plan**

A maintenance plan for the waterway to ensure the completion and ongoing maintenance of the waterway. This is to be inclusive of the riparian and in-stream zones of the waterway and to be undertaken in line with NSW Office of Water Requirements.

#### **f) Flooding Flood Planning Level**

The finished floor levels of all habitable dwellings and the driveway crest of the basement carpark adjoining the culvert are to be at or above the Flood Planning Level, being the 100 year ARI flood level experienced at the site and Fairway Drive plus 0.5m.

All building materials construction standards below the Flood Planning Level must be compatible to ensure the flood protection from the adjoin waterway.

#### **g) Stormwater Outlets and Scour protection.**

Erosion protection works are to be provided at all discharge points into the waterway within the site and at the downstream of the culvert. Stormwater outlets are to be designed and constructed, as a minimum, in accordance with the requirements of the following documents, while applying sound river engineering principles:

- Managing Urban Stormwater – Soils and Construction, published by the NSW Government
- other design methodology approved by Council

#### **h) Structural Assessment and Certification**

Structural Certification issued by a specialist structural engineer, experienced in riverine hydraulic processes for all the structures including relating to watercourse must be provided.

Certification is to be based on assessment against predicted 100 year ARI flood flow behaviour expected to be experienced at the site and having regard to the following parameters for design (as a minimum);

- *Hydraulic loadings (flow depth, flow velocity)*
- *Shear stress and scour forces*
- *Scour impacts around and downstream of the structure*
- *Debris impact loadings*
- *Saturated ground conditions*
- *Any other relevant design considerations*

#### **i) External Stormwater Management**

Stormwater runoff entering the site from adjoining properties shall be collected and discharged into Council's drainage system bypassing the site stormwater drainage system.

#### **j) Water Sensitive Urban Design Elements**

Water sensitive urban design elements, are to be provided with the development in accordance with the DCP requirements.

Detailed plans for the water sensitive urban design elements must be submitted for approval. The detailed plans must be suitable for construction, and include detailed and representative longitudinal and cross sections of the proposed infrastructure. The design must be accompanied, informed and supported by detailed water quality and quantity modelling. The modelling must demonstrate a reduction in annual average pollution export loads from the development site in line with the following environmental targets:

- 90% reduction in the annual average load of gross pollutants
- 85% reduction in the annual average load of total suspended solids
- 65% reduction in the annual average load of total phosphorous
- 45% reduction in the annual average load of total nitrogen

All model parameters and data outputs are to be provided.

These elements must be designed and constructed in accordance with best practice water sensitive urban design techniques and guidelines. Such guidelines include, but are not limited to, the following:

- Water Sensitive Urban Design – Technical Guidelines for Western Sydney, 2004, <http://www.wsud.org/tools-resources/index.html>
- Australian Runoff Quality – A Guide to Water Sensitive Urban Design, 2005, <http://www.ncwe.org.au/arq/>

#### **46. 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.

#### **47. 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 to the value of \$50,000.00 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 50 metres on either side and the road width from the back of kerb on both sides, or \$10,000.00 (whichever is the greater).

The bond shall 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.

#### **48. 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.

#### **49. 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 **215/2013/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.

## **50. Western Sydney Growth Areas – Payment of Special Infrastructure Contribution**

A special infrastructure contribution is to be made in accordance with the Environmental Planning and Assessment (Special Infrastructure Contribution – Western Sydney Growth Areas) Determination 2011, as in force when this consent becomes operative.

Information about the special infrastructure contribution can be found on the NSW Department of Planning and Infrastructure website:

<http://www.planning.nsw.gov.au/PlanningSystem/DevelopmentContributionsSystem/tabid/75/language/en-US/Default.aspx>

Please contact the NSW Department of Planning and Infrastructure regarding arrangements for the making of a payment.

## **51. Vegetation Management Plan**

A Vegetation Management Plan is to be prepared for the 10 metre riparian corridor (from the top of the bank) on both sides of the identified first order watercourse and submitted to Council for approval prior to issue of the Construction Certificate. This plan is to address rehabilitation and management of the Cumberland Plain Woodland within this zone.

Species included in any plantings are to be of local provenance and from the Cumberland Plain Woodland Critically Endangered Ecological Community.

The Vegetation Management Plan is to outline:

- The management actions to increase biodiversity values of the retained Cumberland Plain Woodland riparian corridor.
- Planting of groundcovers, climbers, shrubs and canopy species planted to a total density of 5 plants per metre squared including trees at 4 metre spacings (i.e. 1 tree per 16m<sup>2</sup>), shrubs at 1 per 2m<sup>2</sup>, and ground layer plants and grasses installed at 4 plants per m<sup>2</sup>. Plants will be of local provenance and consist of those species listed on the Cumberland Plain Woodland NSW scientific committee - final determinations.
- Maintenance visits are to be conducted at 2-monthly intervals for the first year after planting and 6-monthly intervals for the second year after planting, however, weed control and landscape maintenance will be undertaken by the applicant & at no cost to Council or any other authorities for a minimum of 60 months from the Council endorsed date of completion.
- The whole of the riparian zone is to be rehabilitated.
- No slashing or mechanical works are to be undertaken.
- Weed control is to be restricted to hand removal or cut-and-paint to reduce exotic flora to less than 5% cover by the conclusion of each visit.
- Four (4) microchiropteran bat boxes are to be installed at selected locations as part of the riparian zone rehabilitation. Boxes must be of an approved design and are to be installed on posts approximately 3 to 5m above ground level (or otherwise installed in a way suitable for microchiropteran bat use).

Lodgement of a security bond in the amount of \$50,000.00 to ensure satisfactory completion and maintenance of the all revegetation works is to be lodged with Council prior to issue of the Construction Certificate.

- Submission of progress reports at (annual) intervals within the 5 year maintenance period. The progress reports shall indicate compliance with the Council-approved Vegetation Management Plan. The progress reports shall be prepared by a professional ecologist/bush regenerator.
- Progressive release of the security bond at various stages subject to submission of satisfactory completion in accordance with the Council approved Vegetation



Management Plan detailing progress & maintenance from a professional ecologist/bush regenerator & Council verification as per the following criteria:

- Release of 25%, 12 months after Council certified completion;
- Release of a further 25%, 24 months after Council certified completion;
- Final release of 50%, 60 months after Council certified completion.

## **52. Landscape Plan**

A landscape plan is to be submitted to Council's satisfaction prior to issue of the Construction Certificate.

The Landscape Plan is to include:

- At least 80% of all plants used in landscaping (excluding lawn) for this development must be grown from local provenance seed and cuttings of species as nominated under the NSW scientific committee – final determination for Cumberland Plain Woodland.
- Cumberland Plain Woodland Species incorporated into all levels of planting (i.e. trees, shrubs, ground covers).
- Cumberland Plain Woodland Canopy trees are to be planted at a minimum 5:1 replacement ratio across the site.

Lodgement of a landscape bond in the amount of \$50,000 to ensure satisfactory completion is to be lodged with Council prior to issue of the Construction Certificate. It shall be refunded six months following issue of the Final Occupation Certificate and the submission to Council of certification from a qualified Landscape Architect or Council's Sustainability Team that works have been completed in accordance with the approved landscape plan.

## **PRIOR TO WORK COMMENCING ON THE SITE**

### **53. Principal Certifying Authority**

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

### **54. 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.

### **55. Consultation with Service Authorities**

Applicants are advised to consult with Telstra, NBN Co and Australia Post regarding the installation of telephone conduits, broadband connections and letterboxes as required.

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.

### **56. 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.

## **57. Site Water Management Plan for Protection of Water ways during construction**

A Site water management plan is to be prepared and submitted to Council prior to the commencement of works on site. The plan is to be developed with consideration to "Soils and Construction – Managing Urban Stormwater" prepared by Landcom NSW.

The plan is to include:

- sedimentation and erosion controls,
- Control of surface flows of storm water,
- Extent of land disturbance at any one time,
- Consideration of the need for a sediment basin,
- Management and protection of the waterway during construction, grading and landscaping works.

## **58. 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.

## **59. 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 2601-2001: 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. 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 retained and presented to Council if required.

## **60. Discontinuation of Domestic Waste Service**

Prior to the commencement of any demolition works, Council must be notified to collect any garbage, recycling and garden organics bins from the property 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 waste service for the disposal of waste. Please contact Council's Resource Recovery Team on (02) 9843 0310 for the discontinuation of waste services.

## **61. 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 RMS Traffic Control and Work Sites Manual and submitted to Council for approval. The person preparing the plan must have the relevant RMS accreditation to do so. Where amendments to the approved plan are required, they must be submitted to Council for approval prior to being implemented.

## **DURING CONSTRUCTION**

### **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. 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. 439791M\_03 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.

### **64. 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.**

### **65. 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.

### **66. Demolition of Septic Tank and Effluent Disposal Area**

The existing subsurface effluent disposal area is to be demolished and back filled with Virgin Excavated Natural Material (VENM).

Any septic tank collection well or aerated waste water treatment system is to be destroyed, removed or reused in accordance with NSW Advisory Note 3 – Destruction, Removal or Reuse of Septic Tanks, Collection Wells and Aerated Wastewater Treatment Systems (AWTS) available from the NSW Health website ( [www.health.nsw.gov.au](http://www.health.nsw.gov.au) ).

### **67. 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.

### **68. Walls and Partitions in Food Premises**

All walls are to be solid construction.

Solid construction is defined as brick, concrete blocks, structural fibrous cement or preformed panels that are filled with suitable material.

### **69. Hand Wash Basin/s in Food Premises**

Taps that only operate hands free shall be provided to all hand wash basins. Hand wash basins must be located within five (5) metres of where food handlers are handling open food.

Hand wash basins shall be located at staff entrance to areas where open food is handled and shall be at bench height either permanently fixed to wall to a supporting frame or set in a bench top.

#### **70. 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 dockets and paper work for the disposal shall be retained and made available to Council upon request.

#### **71. 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.

#### **72. Filtration Motor**

The swimming pool filter and pump shall be fully enclosed in a purpose built acoustic enclosure to attenuate noise emitted by the swimming pool equipment. The acoustic enclosure shall reduce the sound pressure level of the swimming pool filter and pump equipment to a level not greater than 5dB (A) above the background noise level in accordance with Protection of the Environmental Operations Act 1997.

#### **73. Pool Discharge Water**

Discharge and/or overflow pipe from the swimming pool and filtration unit to be connected to the sewer where available.

All backwash water from the filtration unit is to be similarly disposed, or alternatively, must be piped to an absorption trench.

The pool excavations not to conflict with the position of household drainage trenches or lines, the position of which must be ascertained before pool excavation commences.

#### **74. Swimming Pool Safety Fencing**

All pools and safety barriers are to comply with the Swimming Pools Act 1992, the Swimming Pools Regulation 2008 and Australian Standard 1926.1-2012. A fact sheet titled *Swimming Pool Fencing Requirements* is available from [www.thehills.nsw.gov.au](http://www.thehills.nsw.gov.au).

#### **75. Resuscitation Warning Notice**

In accordance with the Swimming Pools Regulation 2008, a Warning Notice is to be displayed in a prominent position, in the immediate vicinity of the swimming pool. The notice is to contain a diagrammatic flow chart of resuscitation techniques, the words:

(i) "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL",

and

(ii) "POOL GATES MUST BE KEPT CLOSED AT ALL TIMES", and

(iii) "KEEP ARTICLES, OBJECTS AND STRUCTURES AT LEAST 900 MILLIMETRES CLEAR OF THE POOL FENCE AT ALL TIMES",

and all other details required by the Regulation.

#### **76. Pool not to be Filled Until Occupation**

The pool is not to be filled with water until the dwelling is occupied.

#### **77. 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.

#### **78. Engineering Construction Inspections**

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

- a) Prior to commencement of work;
- b) Traffic control to AS 1742-3;
- c) Bedding of pipes in trenches;
- d) Trench backfill within roads;
- e) Formwork for concrete structures;
- f) Sub-grade proof roller test;
- g) Proof roller test for kerb;
- h) Sub-base course proof roller test;
- i) Base course proof roller test;
- j) Prior to placing of fill;
- k) Road crossing;
- l) Final inspection; and
- m) 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.

#### **79. Aboriginal Archaeological Sites or Relics**

If, during activities involving earthworks and soil disturbance, any evidence of an Aboriginal archaeological site or relic is found, all works on the site are to cease and the Office of Environment and Heritage must be notified immediately.

#### **80. European Sites or Relics**

If, during the earthworks, any evidence of a European archaeological site or relic is found, all works on the site are to cease and the Office of Environment and Heritage be contacted immediately. All relics are to be retained in situ unless otherwise directed by the Office of Environment and Heritage.

#### **81. National Parks and Wildlife Act 1974**

Should any artefacts be uncovered in the course of any works, all works should cease and comply with Part 6 of the National Parks and Wildlife Act 1974, in particular section 90 regarding permits to destroy.

### **PRIOR TO ISSUE OF AN OCCUPATION AND/OR SUBDIVISION CERTIFICATE**

#### **82. Section 73 Certificate must be submitted to the Principal Certifying Authority before the issuing of an Occupation Certificate**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Building and developing > Developing your land > water Servicing Coordinator or telephone 13 20 92.

**The Section 73 Certificate must be submitted to the Principal Certifying Authority before occupation of the development/release of the plan of subdivision.**

### **83. Landscaping Prior to Issue of Occupation Certificate**

The landscaping of the site shall be carried out prior to issue of the Final Occupation Certificate (within each stage if applicable) 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 landscape plan.

### **84. Food Shop Registration requirements**

Occupation of the premises shall not occur until:

- a) The food business is registered with Council by completing and submitting the Registration of Food Business form available from Council's website; and
- b) Notification to the NSW Food Authority under Food Safety Standard 3.2.2 Division 2 Section 4 Notification is completed. This requirement is to be met by notifying through the following website [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au)

Evidence of notification is to be submitted to Council prior to commencement of business.

### **85. Hair/Beauty/Skin Penetration Premises Registrations**

Occupation of the premises shall not occur until the business is registered with Council by completing and submitting either:

- a) Registration of hair dressing premises; or
- b) Annual registration of Skin Penetration Premises.

Both forms are available on Council's website [www.thehills.nsw.gov.au](http://www.thehills.nsw.gov.au).

### **86. Food Premises Final Inspection**

Prior to the issuing of an Occupation Certificate, the food premises shall be inspected by an authorised officer of The Hills Shire Council under the Food Act 2003, to determine compliance with the *Food Act 2003, Food Safety Standards and Australian Standard 4674:2004: Design Construction and Fit-out of Food Premises*.

### **87. Hairdressing Premises Final Inspection**

Prior to issuing an Occupation Certificate, the premises shall be inspected by an authorised Officer of the Hills Shire Council under the Local Government Act 1993 to determine compliance with the *Local Government (General) Regulation 2005*.

### **88. Public Pool/Spa Registration**

The premise is to be registered with Council by completing and submitting a *Registration of Public Swimming and Spa Pools*, available on Council's website, prior to commencement of operation.

### **89. Safety Glazing for Pool Fencing**

If glazing is chosen to be incorporated into the pool safety fencing system, a safety glazing certificate is to be provided to Council, or the Principal Certifying Authority, indicating all materials and installation are in accordance with AS 1288.

### **90. 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.

### **91. 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.

### **92. 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.

### **93. 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.

### **94. 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.

### **95. 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.

### **96. 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.

### **97. WSUD Elements Certification**

Water Sensitive Urban Design Elements (WSUD) must be completed to the satisfaction of the Principal Certifying Authority (PCA) prior to the issuing of an Occupation Certificate.

The following documentation is required to be prepared and submitted upon completion of the above works and prior to a final inspection:

- a) Works As Executed (WAE) plans prepared on a copy of the approved plans;
- b) A certificate from a suitably accredited engineer verifying that the WSUD system (as constructed) will function to achieve the design targets;
- c) A certificate from a suitably accredited engineer verifying that the structures associated with the WSUD system (as constructed) are structurally adequate and capable of withstanding all loads likely to be imposed on them during their lifetime (a certificate of structural adequacy).

**NOTE:** Where Council is not the PCA for the development a copy of the above documentation must be submitted to Council.

### **98. Flood Certification & 1 in 100 Year (1% AEP) Plan (Stages 1, 2 & 3)**

Flood protection measures must be completed to the satisfaction of the Principal Certifying Authority (PCA) prior to the issuing of an Occupation Certificate.

The following documentation is required to be prepared and submitted upon completion of the above works and prior to a final inspection:

- a) A plan of survey prepared by a registered surveyor that shows the 1:100 year ARI storm flood levels associated with the adjacent drainage system. The plan must reflect the works carried out as shown on the WAE plans for the development and clearly indicate the extent of inundation for the above storm event(s).
- b) A certificate from a suitably accredited engineer verifying that the building levels and the driveway crests comply with the freeboard requirements;

**NOTE:** Where Council is not the PCA for the development a copy of the above documentation must be submitted to Council.

## **99. Flood Emergency Response Plan**

Prior to the issue of an Occupation Certificate the applicant is to prepare and submit to Council for approval a site specific Flood Emergency Response Plan. The Flood Emergency Response Plan is to be specifically focused on the proposed landuse and the site conditions in conjunction with flood behaviour up to and greater than the 100 year ARI flood event experienced at the site.

Preparation of the Flood Emergency Response Plan is to utilise information provided within the draft Rouse Hill Integrated Stormwater Strategy Review, January 2009 (available through Sydney Water Corporation) and rely on the State Emergency Service (SES) Floodsafe Toolkit for Business, available at the SES website <http://www.ses.nsw.gov.au/topics/6471.html>, addressing specific actions in regard to:

- Preparing for a flood;
- Responding when a flood is likely;
- Responding during a flood; and
- Recovery after a flood.

**NOTE:** The site specific Flood Emergency Response Plan is to be certified by a suitably qualified emergency management specialist, experienced in emergency urban flash flooding response prior to submission to Council.

## **100. 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. Restriction – Waterway & Riparian Corridor**

A restriction as to user restricting development over or the varying of the finished waterway and associated structures including the modified dam, drainage culverts, watercourse, retaining structures, riparian corridor and associated components as constructed.

#### **ii. Positive Covenant – Waterway & Riparian Corridor**

A positive covenant to ensure the maintenance of the completed waterway and associated structures including the modified dam, drainage culverts, watercourse, retaining structures, riparian corridor and associated components as constructed.

#### **iii. Easement – Drainage Easement**

Creation of reciprocal drainage easements over the titles Lot 101 DP 1129876 (6 Fairway Drive) and Lot 2 DP 1160957 (Castle Hill Country Club) to over the constructed waterway and associated structures.

#### **iv. Positive Covenant – Flood Emergency Response Plan**

A positive covenant to ensure the implementation of the Flood Emergency Response Plan required under this consent.

#### **v. Restriction – Water Sensitive Urban Design Elements Modification**

A restriction as to user restricting development over or the varying of the finished Water Sensitive Urban Design Elements and associated components as constructed.

#### **vi. Positive Covenant – Maintenance of Water Sensitive Urban Design Elements**

A positive covenant to ensure the on-going maintenance of the Water Sensitive Urban Design Elements and associated components as constructed.



**vii. Positive Covenant – Stormwater Pump Maintenance (Stage 1)**

A positive covenant to ensure on-going maintenance of the stormwater pump-out system is carried out at six (6) monthly intervals (minimum). The wording must specifically indemnify Council from all costs associated with the maintenance of the system.

**viii. 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.

**ix. Restriction – Driveway Access**

A restriction must be created restricting the finished driveway levels as completed in accordance with the consent.

**x. Positive Covenant – Ultimate Drainage Strategy**

A positive covenant to ensure the completion of ultimate drainage strategy as detailed under the condition titled 'Engineering Works and Design' within 3 months from the time of Council's written advice.

**b) Registration of Request Documents**

The endorsed request documents must be lodged with the NSW Department of Lands

**THE USE OF THE SITE**

**101. Final Acoustic Report**

Within three months from the issue of an Occupation Certificate, an acoustical compliance assessment is to be carried out by an appropriately qualified person, in accordance with the EPA's (DECCW) - *Industrial Noise Policy* and submitted to Council for consideration.

This report should include but not be limited to, details verifying that the noise control measures as recommended in the acoustic report submitted with the application are effective in attenuating noise to an acceptable noise level and that activity does not give rise to "offensive noise" as defined under the *Protection of the Environment Operation Act 1997*.

**102. Offensive Noise**

The use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to "offensive noise" as defined under the provisions of the *Protection of the Environment Operation Act 1997*.

**103. Operation of Public Pool/Spas**

The operation of the pool/spa is to comply with the requirements of the:

- a) Public Health Act 2010
- b) Public Health Regulation 2012; and
- c) NSW Health Department Public Swimming Pool Guidelines 1996 and the Australian Standard AS3633 – Private Swimming Pools – Water Quality

An application to register any public pool/spa must be made with Council prior to commencement of operation.

**104. Waste Storage and Collection – Commercial/Industrial**

To ensure the adequate storage and collection of waste from the occupation or use of the premises, all garbage and recyclables emanating from the premises must be stored in the designated waste storage area. Arrangement must be in place in all areas of the development for the separation of recyclable materials from general waste.

**105. Servicing of Bins**

Private garbage and recycling contract 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.

**106. Agreement for Onsite 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. The waste service will not commence and bins will have to be taken to the public road for collection if the Indemnity Agreement has not been received.

**107. Servicing of bins**

A caretaker is to be responsible for the placement of domestic waste bins for the Self Care Housing (SCH) residents to the kerb on the allocated collection evening and returning the emptied bins as soon as possible on the same day as collection occurs.

**108. Provision of a Private Bus Service**

Until there is a public bus service on Fairway Drive (with a bus stop being within 400 metres from the site with suitable travel grades as required within the SEPP), the applicant/developer is to provide a shuttle bus to local centres which satisfies the requirements of the SEPP. At a minimum the shuttle bus is required to travel to Norwest and Castle Hill Town Centres. The bus service must provide a service that is available both to and from the proposed development at least once between 8am and 12 midday per day and at least once between 12 midday and 6pm each day from Monday to Friday (both days inclusive).

## APPENDIX 1 – OFFICE OF WATER - GENERAL TERMS OF APPROVAL



Department of  
Primary Industries  
Office of Water

Contact: Gina Potter  
Phone: 02 8838 7566  
Fax: 02 8838 7554  
Email: gina.potter@water.nsw.gov.au  
Our ref: 10 ERM2012/0732  
Our file: 9056275  
Your ref: DA 2013/215/JF

The General Manager  
The Hills Shire Council  
PO Box 75  
Castle Hill NSW 1765

Attention: Sanda Svedas

12 March 2013

Dear Sir/Madam

**Re: Integrated Development Referral – General Terms of Approval**  
**Dev Ref: DA 2013/215/JF**  
**Description of proposed activity: Seniors living development housing for seniors or people with disability**  
**Site location: 6 Fairway Drive Kellyville**

I refer to your recent letter regarding an integrated Development Application (DA) proposed for the subject property. Attached, please find the Office of Water's General Terms of Approval (GTA) for works requiring a controlled activity approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 91A (3) of the *Environmental Planning and Assessment Act 1979* (EPA Act) which requires a consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, the Office of Water requests that these GTA be included (in their entirety) in Council's development consent. Please also note the following:

**Temporary dewatering of an amount above 3 ML may require a water licence to be obtained from the Office of Water before construction commences.**

- The Office of Water should be notified if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works on waterfront land (which includes (i) the bed of any river together with any land within 40 metres inland of the highest bank of the river, or (ii) the bed of any lake, together with any land within 40 metres of the shore of the lake, or (iii) the bed of any estuary, together with any land within 40 metres inland of the mean high water mark of the estuary).
- Once notified, the Office of Water will ascertain if the amended plans require review or variation/s to the GTA. This requirement applies even if the proposed works are part of Council's proposed consent conditions and do not appear in the original documentation.

[www.water.nsw.gov.au](http://www.water.nsw.gov.au)

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170912

- The Office of Water should be notified if Council receives an application to modify the development consent and the modifications change any activities on waterfront land.
- The Office of Water requests notification of any legal challenge to the consent.

As the controlled activity to be carried out on waterfront land cannot commence before the applicant applies for and obtains a controlled activity approval, the Office of Water recommends the following condition be included in the development consent:

"The Construction Certificate will not be issued over any part of the site requiring a controlled activity approval until a copy of the approval has been provided to Council".

**The attached GTA are not the controlled activity approval.** The applicant must apply (to the Office of Water) for a controlled activity approval **after consent** has been issued by Council **and before** the commencement of any work or activity on waterfront land.

Finalisation of a controlled activity approval can take up to eight (8) weeks from the date the Office of Water receives all documentation (to its satisfaction). Applicants must complete and submit (to the undersigned) an application form for a controlled activity approval together with any required plans, documents, the appropriate fee and security deposit or bank guarantee (if required by the Office of Water) and proof of Council's development consent.

Application forms for the controlled activity approval are available from the undersigned or from the Office of Water's website:

[www.water.nsw.gov.au](http://www.water.nsw.gov.au)    [Water licensing](#)    [Approvals](#)    [Controlled activities](#)

The Office of Water requests that Council provide a copy of this letter to the applicant.

The Office of Water also requests that Council provides the Office of Water with a copy of the determination for this development application as required under section 91A (6) of the EPA Act.

Yours Sincerely



Gina Potter  
Water Regulation Officer  
Office of Water - Hunter, Sydney & South Coast

## General Terms of Approval

for work requiring a controlled activity approval  
under s91 of the Water Management Act 2000

**Our Reference:** 10 ERM2012/0732 **File No:** 9056275  
**Site Address:** 6 Fairway Drive Kellyville  
**DA Number:** DA 2013/215/JP  
**LGA:** The Hills Shire Council

Number	Condition
<b>Plans, standards and guidelines</b>	
1	<p>These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA 2013/215/JP and provided by Council:</p> <p>(i) Site plan, map and/or surveys</p> <p>Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.</p>
2	<p>Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.</p>
3	<p>The consent holder must prepare or commission the preparation of:</p> <p>(i) Vegetation Management Plan  (ii) Works Schedule  (iii) Erosion and Sediment Control Plan  (iv) Soil and Water Management Plan  (v) Amendments to Plans - VMP is to include the area of the agreed easement</p>
4	<p>All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with the NSW Office of Water's guidelines located at <a href="http://www.water.nsw.gov.au/Water-Licensing/Approvals/default.aspx">www.water.nsw.gov.au/Water-Licensing/Approvals/default.aspx</a></p> <p>(i) Vegetation Management Plans  (ii) Laying pipes and cables in watercourses  (iii) Riparian Corridors  (iv) In-stream works  (v) Outlet structures  (vi) Watercourse crossings</p>
5	<p>The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water.</p>

[www.water.nsw.gov.au](http://www.water.nsw.gov.au)

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170912

**Our Reference:** 10 ERM2012/0732  
**Site Address:** 6 Fairway Drive Kellyville  
**DA Number:** DA 2013/215/JF  
**LGA:** The Hills Shire Council

**File No:** 9056275

Number	Condition
<b>Rehabilitation and maintenance</b>	
6	The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the NSW Office of Water.
7	The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the NSW Office of Water.
<b>Reporting requirements</b>	
8	The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the NSW Office of Water as required.
<b>Security deposits</b>	
9	The consent holder must provide a security deposit (bank guarantee or cash bond) - equal to the sum of the cost of complying with the obligations under any approval - to the NSW Office of Water as and when required.
<b>Access-ways</b>	
10	The consent holder must design and construct all ramps, stairs access ways, cycle paths, pedestrian paths or other non-vehicular form of access way so that they do not result in erosion, obstruction of flow, destabilisation, or damage to the bed or banks of the river or waterfront land, other than in accordance with a plan approved by the NSW Office of Water.
11	The consent holder must not locate ramps, stairs, access ways, cycle paths, pedestrian paths or any other non-vehicular form of access way in a riparian corridor other than in accordance with a plan approved by the NSW Office of Water.
<b>Bridge, causeway, culverts, and crossing</b>	
12	The consent holder must ensure that the construction of any bridge, causeway, culvert or crossing does not result in erosion, obstruction of flow, destabilisation or damage to the bed or banks of the river or waterfront land, other than in accordance with a plan approved by the NSW Office of Water.
13	The consent holder must ensure that any bridge, causeway, culvert or crossing does not obstruct water flow and direction, is the same width as the river or sufficiently wide to maintain water circulation, with no significant water level difference between either side of the structure other than in accordance with a plan approved by the NSW Office of Water.
<b>Disposal</b>	
14	The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by the NSW Office of Water.
<b>Drainage and Stormwater</b>	
15	The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by the NSW Office of Water; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by the NSW Office

[www.water.nsw.gov.au](http://www.water.nsw.gov.au)

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**Our Reference:** 10 ERM2012/0732  
**Site Address:** 6 Fairway Drive Kellyville  
**DA Number:** DA 2013/215/JF  
**LGA:** The Hills Shire Council

**File No:** 9056275

Number	Condition
	of Water.
16	The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by the NSW Office of Water.
<b>Erosion control</b>	
17	The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.
<b>Excavation</b>	
18	The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the NSW Office of Water.
19	N/A
<b>Maintaining river</b>	
20	The consent holder must ensure that (i) river diversion, realignment or alteration does not result from any controlled activity work and (ii) bank control or protection works maintain the existing river hydraulic and geomorphic functions; and (iii) bed control structures do not result in river degradation other than in accordance with a plan approved by the NSW Office of Water.
21	N/A
<b>River bed and bank protection</b>	
22	N/A
23	The consent holder must establish a riparian corridor along the watercourse in accordance with a plan approved by the NSW Office of Water.
<b>END OF CONDITIONS</b>	

[www.water.nsw.gov.au](http://www.water.nsw.gov.au)

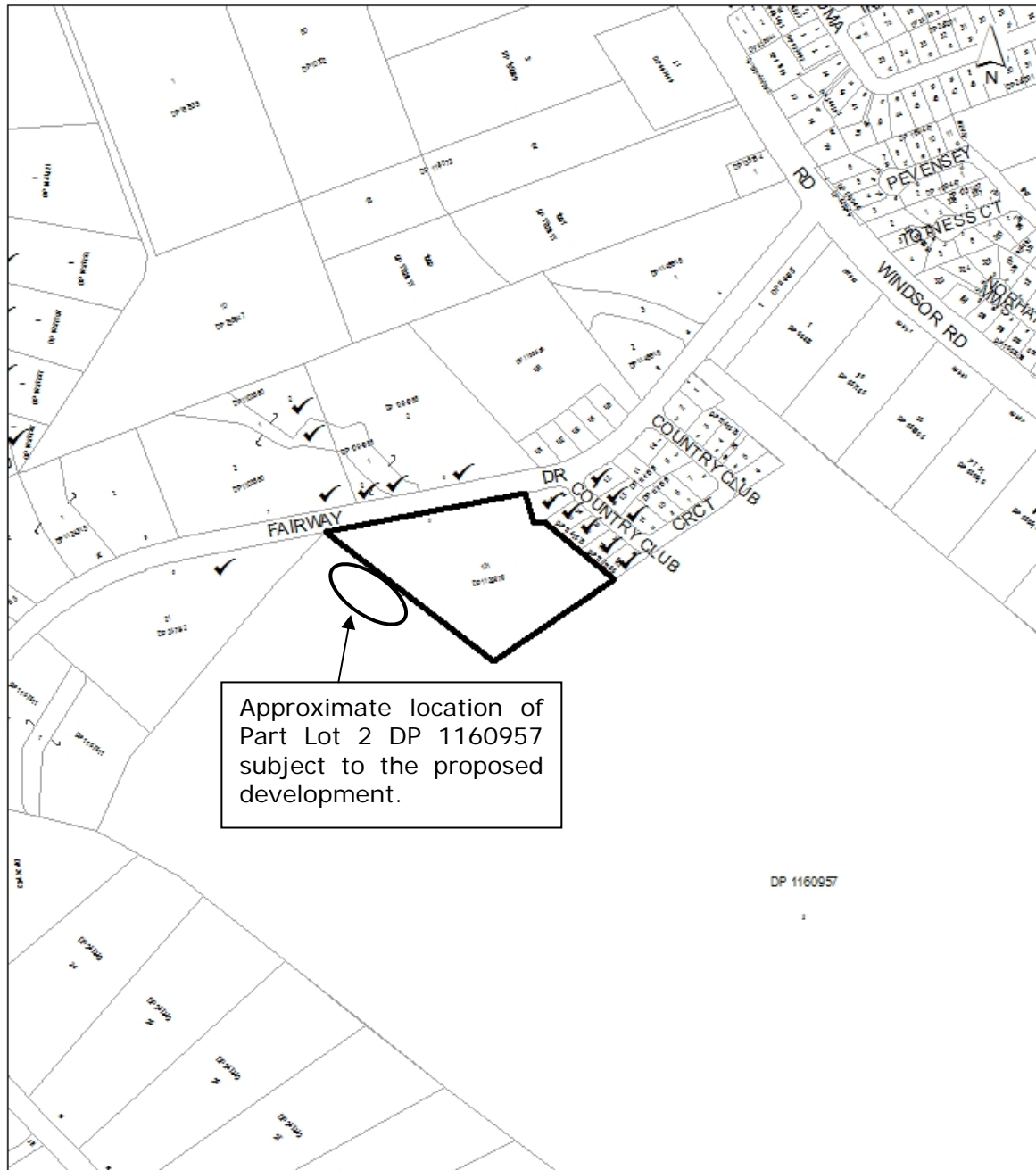
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**ATTACHMENTS**

1. Site Locality Plan
2. Aerial Photograph
3. Zoning Maps
4. Site Plan
5. Elevations
6. Shadow Diagrams
7. Landscape Plan
8. Schematic Flood Diagrams



## ATTACHMENT 1 – LOCALITY PLAN



Approximate location of  
Part Lot 2 DP 1160957  
subject to the proposed  
development.

**SUBJECT SITE**

✓ PROPERTIES NOTIFIED

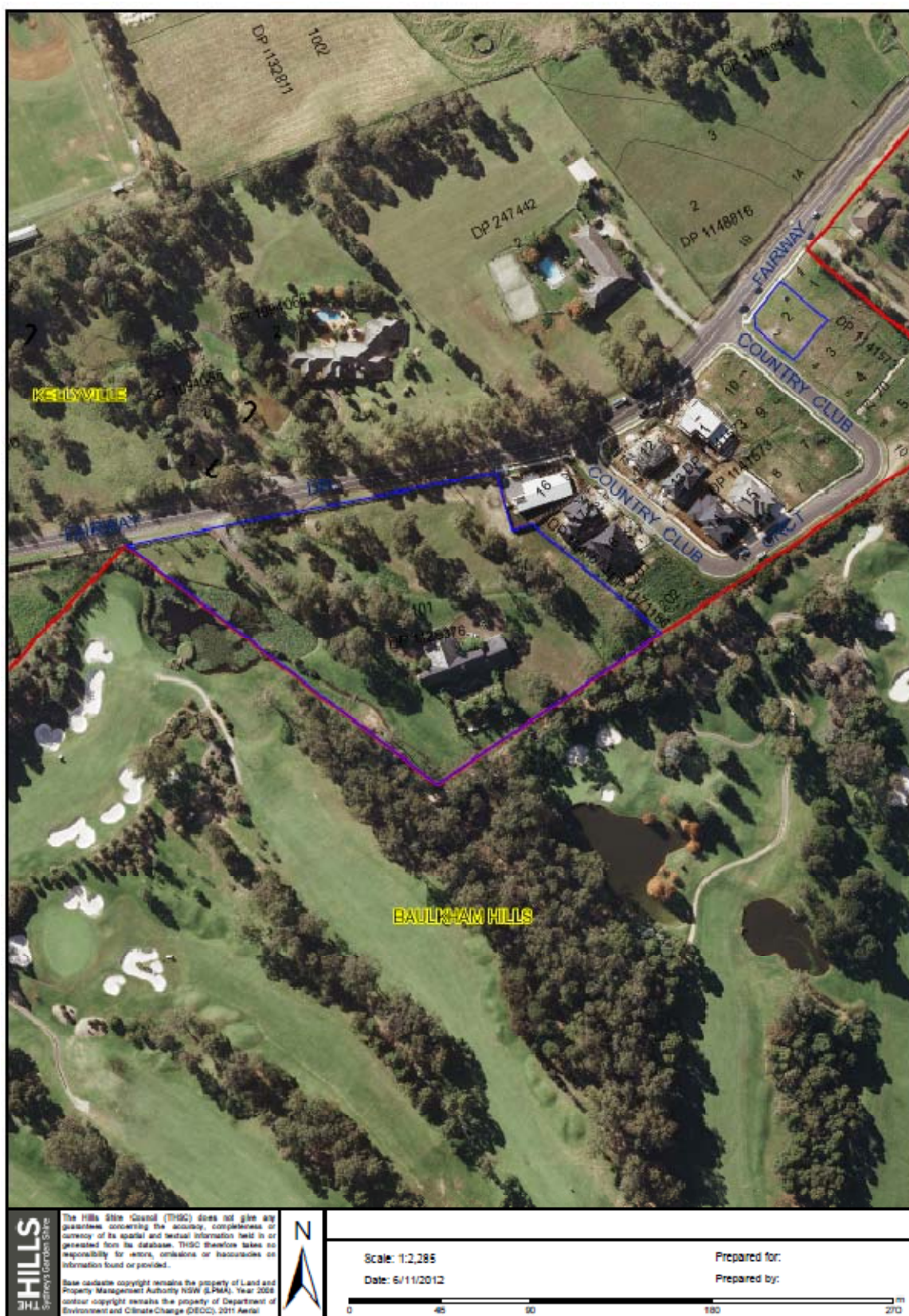
**THE HILLS**  
Sydney's Garden Shire

**THE HILLS SHIRE COUNCIL**

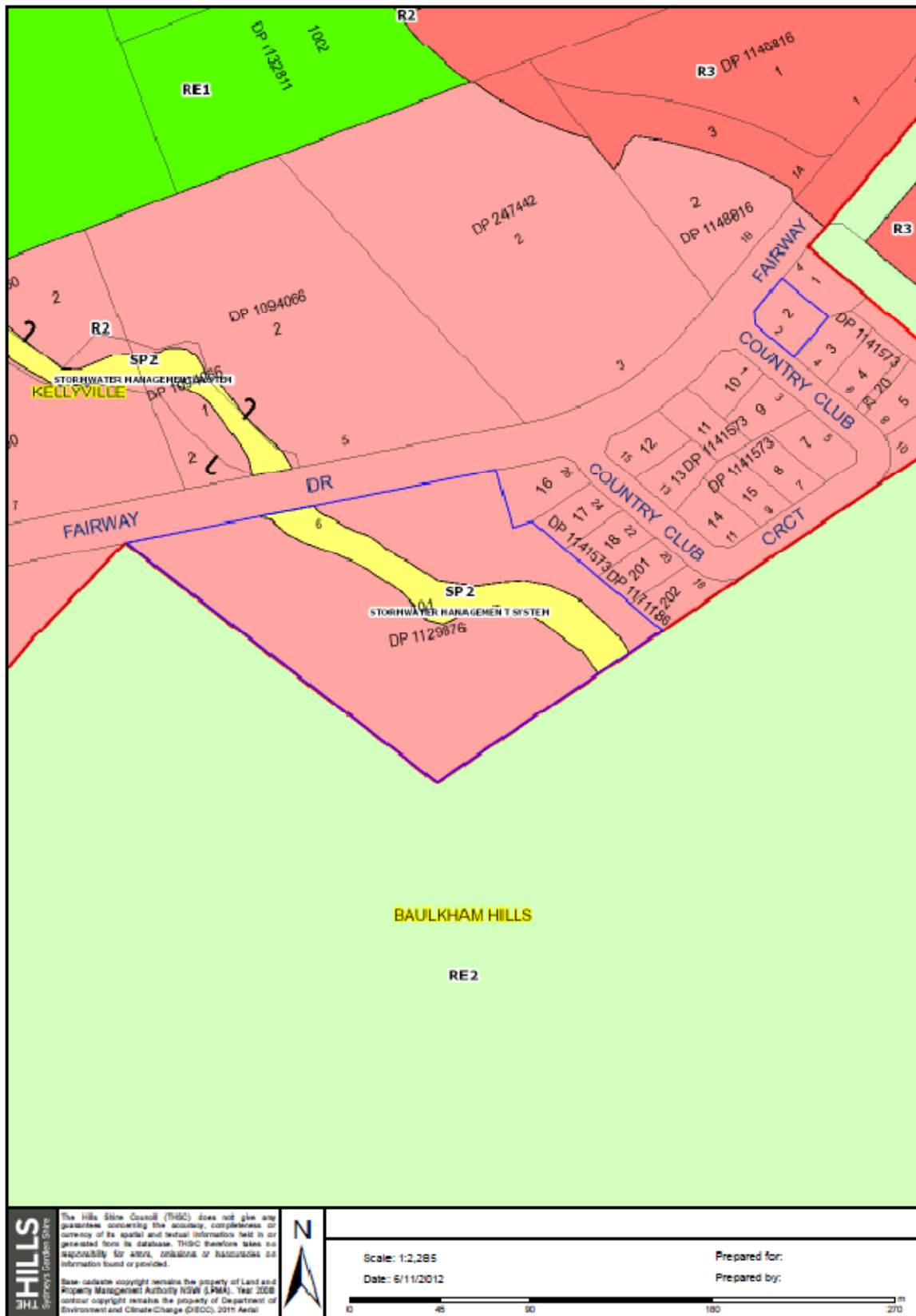
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## ATTACHMENT 2 – AERIAL PHOTOGRAPH

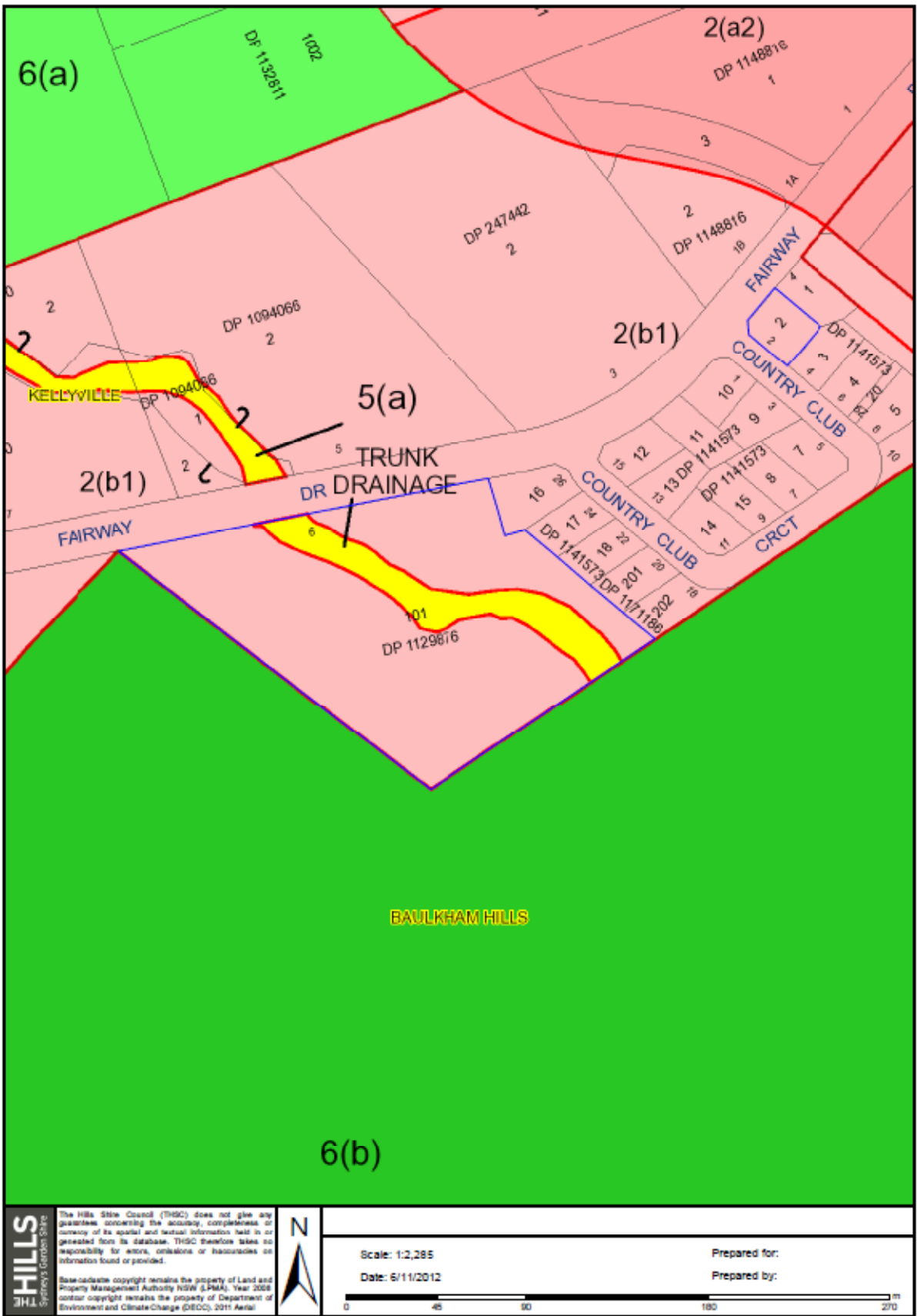


# ATTACHMENT 3 – ZONING MAP LEP 2012

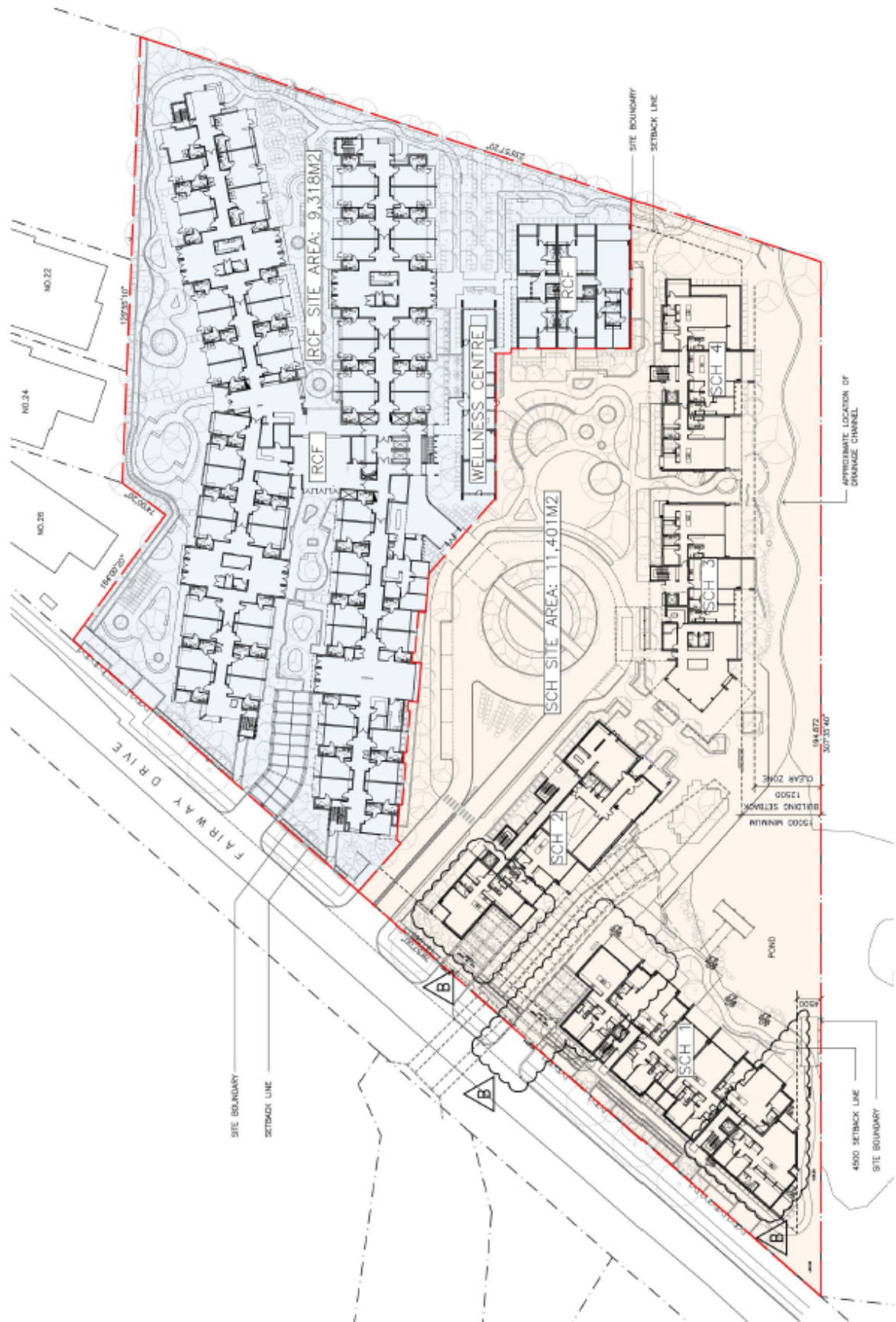




ZONING MAP – BHLEP 2005

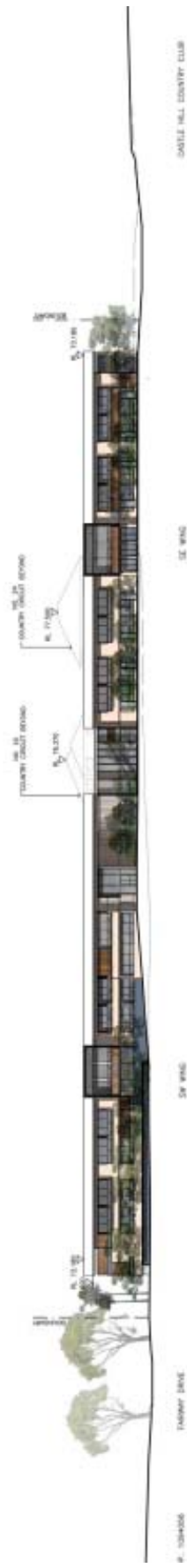


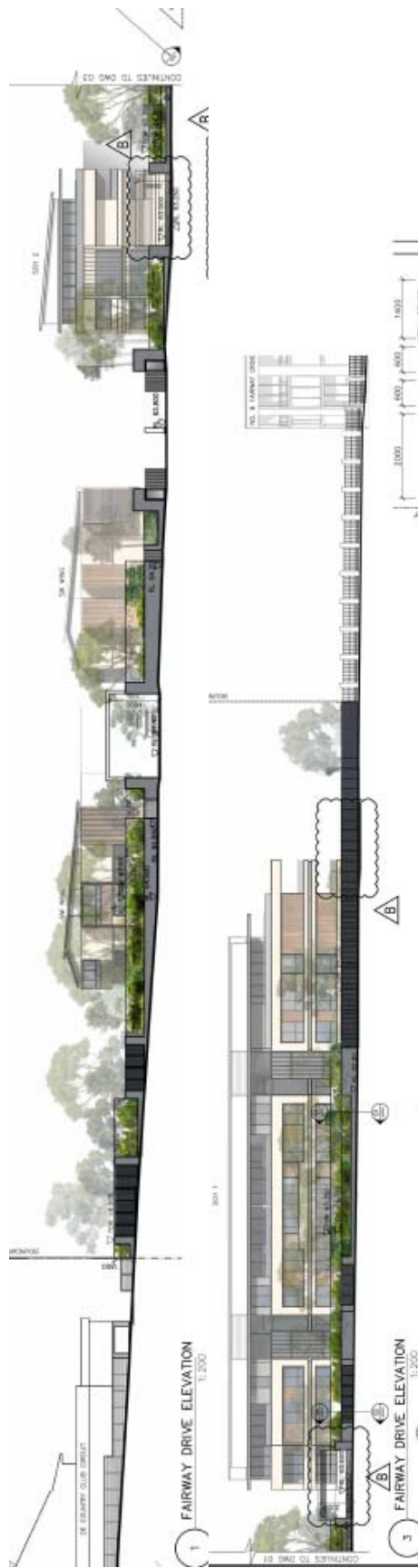
## ATTACHMENT 4 – SITE PLAN



# ATTACHMENT 5 – ELEVATIONS









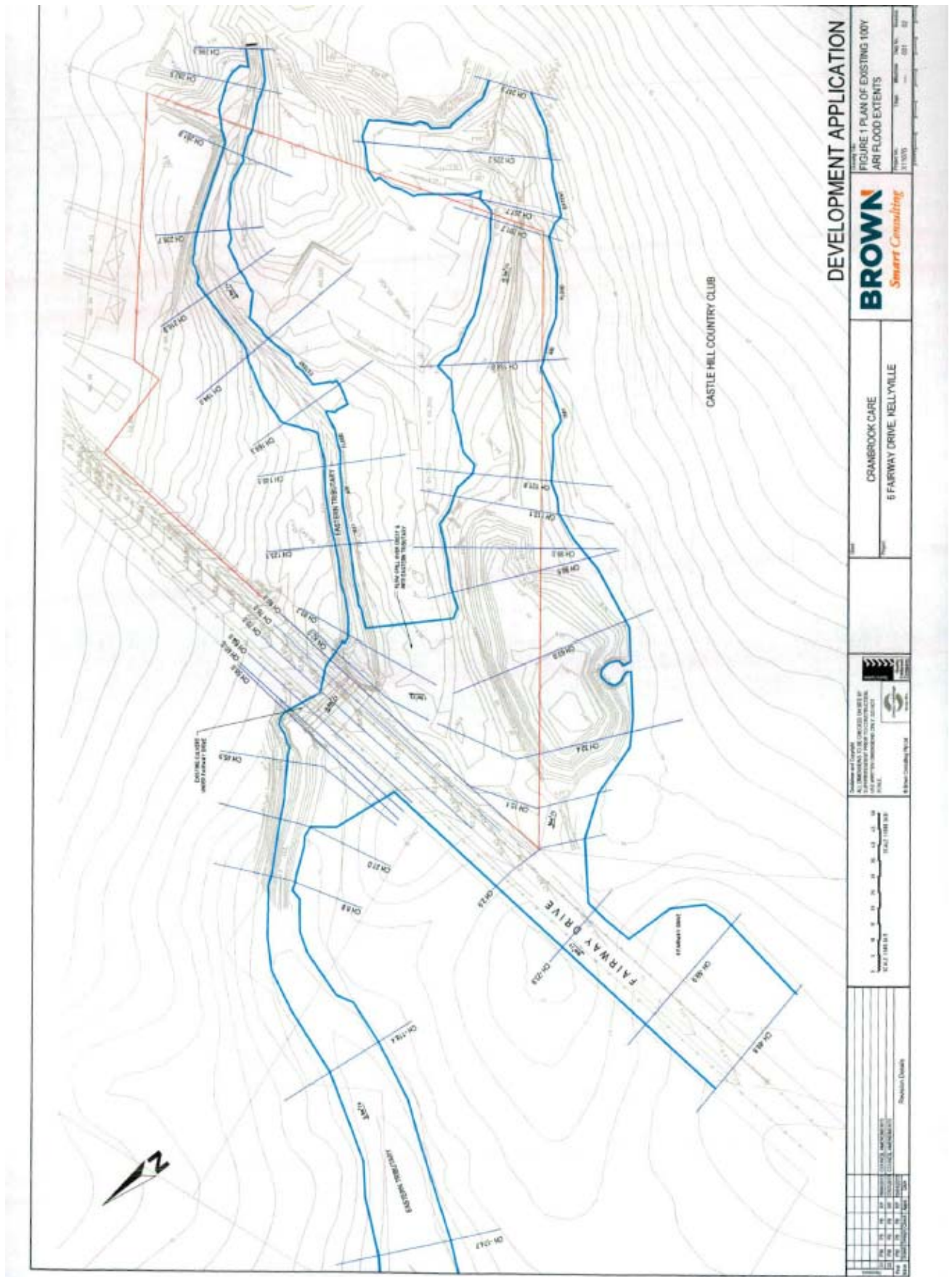
2014-10-10



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# ATTACHMENT 7 – SCHEMATIC FLOOD DIAGRAMS





# DEVELOPMENT APPLICATION

FIGURE 2 PLAN OF PROPOSED  
INTERIM 100Y ARI FLOOD EXTENTS

**BROWN**  
Smart Consulting

CRANBROOK CARE  
6 FAIRWAY DRIVE, KELLYVILLE

DESIGNED BY: BROWN CONSULTING  
CHECKED BY: BROWN CONSULTING  
DATE: 10/10/2019

Station	1+00	1+25	1+50	1+75	2+00	2+25	2+50	2+75	3+00	3+25	3+50	3+75	4+00	4+25	4+50	4+75	5+00	5+25	5+50	5+75	6+00	6+25	6+50	6+75	7+00	7+25	7+50	7+75	8+00	8+25	8+50	8+75	9+00	9+25	9+50	9+75	10+00
Station	1+00	1+25	1+50	1+75	2+00	2+25	2+50	2+75	3+00	3+25	3+50	3+75	4+00	4+25	4+50	4+75	5+00	5+25	5+50	5+75	6+00	6+25	6+50	6+75	7+00	7+25	7+50	7+75	8+00	8+25	8+50	8+75	9+00	9+25	9+50	9+75	10+00

Station	1+00	1+25	1+50	1+75	2+00	2+25	2+50	2+75	3+00	3+25	3+50	3+75	4+00	4+25	4+50	4+75	5+00	5+25	5+50	5+75	6+00	6+25	6+50	6+75	7+00	7+25	7+50	7+75	8+00	8+25	8+50	8+75	9+00	9+25	9+50	9+75	10+00
Station	1+00	1+25	1+50	1+75	2+00	2+25	2+50	2+75	3+00	3+25	3+50	3+75	4+00	4+25	4+50	4+75	5+00	5+25	5+50	5+75	6+00	6+25	6+50	6+75	7+00	7+25	7+50	7+75	8+00	8+25	8+50	8+75	9+00	9+25	9+50	9+75	10+00



