

## FURTHER JRPP PLANNING REPORT (Sydney West Region)

<b>JRPP No</b>	2013SYW029
<b>DA Number</b>	824/2013/JP
<b>Local Government Area</b>	THE HILLS SHIRE COUNCIL
<b>Proposed Development</b>	RESIDENTIAL DEVELOPMENT INCLUDING SIX (6) RESIDENTIAL FLAT BUILDINGS (174 APARTMENTS), AT-GRADE AND BASEMENT CAR PARKING, LANDSCAPING AND COMMUNAL FACILITIES.
<b>Street Address</b>	LOT 31 DP 247442, NO. 28 FAIRWAY DRIVE, KELLYVILLE
<b>Applicant/Owner</b>	ARDEN CH (NSW) PTY LTD
<b>Number of Submissions</b>	TWO (2) – AMENDED PLANS
<b>Regional Development Criteria (Schedule 4A of the Act)</b>	CAPITAL INVESTMENT VALUE EXCEEDS \$20 MILLION
<b>List of All Relevant s79C(1)(a) Matters</b>	<ul style="list-style-type: none"> <li>• The Hills LEP 2012</li> <li>• The Hills DCP 2012</li> <li>• SEPP No. 65 – Design Quality of Residential Flat Development</li> <li>• Residential Flat Design Code</li> </ul>
<b>Recommendation</b>	APPROVAL
<b>List all documents submitted with this report for the panel's consideration</b>	NIL
<b>Report by</b>	DEVELOPMENT ASSESSMENT COORDINATOR ROBERT BUCKHAM

### BACKGROUND

### MANDATORY REQUIREMENTS

Owner:	Arden CH (NSW) Pty Ltd	1.	<u>Section 79C (EP&amp;A Act)</u> - Satisfactory
Zoning:	R4 High Density Residential and SP2 Infrastructure	2.	<u>The Hills LEP 2012</u> - Satisfactory
Area:	19,693m <sup>2</sup>	3.	<u>SEPP 65 – Design Quality of Residential Flat Development</u> - Satisfactory
Existing Development:	Dwelling house	4.	<u>DCP Part D Section 7 – Balmoral Road Release Area</u> - Satisfactory
		5.	<u>DCP Part B Section 5 – Residential Flat Buildings</u> - Satisfactory
		6.	<u>DCP Part C Section 1 – Parking</u> - Satisfactory
		7.	<u>BHSC Multi Unit Housing Guidelines</u> Satisfactory
		8.	<u>Section 94 Contribution</u> - Currently

			\$4,440,570.69
		9.	Capital Investment Value: \$71,400,000

## SUBMISSIONS

## REASONS FOR REFERRAL TO JRPP

1. Exhibition:	1 <sup>st</sup> - Yes, 31 days. 2 <sup>nd</sup> - N/A 3 <sup>rd</sup> - N/A	1.	Capital Investment Value in excess of \$20 million pursuant to SEPP (Major Development) 2005.
2. Notice Adj Owners:	1 <sup>st</sup> - Yes, 31 days. 2 <sup>nd</sup> - Yes, 14 days 3 <sup>rd</sup> - Yes, 14 days		
3. Number Advised:	Nine		
4. Submissions Received:	1 <sup>st</sup> - Six 2 <sup>nd</sup> - One (After the notification period) 3 <sup>rd</sup> (Amended Plans) – Two, one in support, one against.		

## EXECUTIVE SUMMARY

The Development Application is for the construction of a residential development including 7 x four storey residential flat buildings with a total of 174 units consisting of 65 x 1 bedroom units, 89 x 2 bedroom and 20 x 3 bedroom units. Three hundred and seventy (370) off-street car parking spaces are proposed. The Capital Investment Value is \$71,400,000.

The proposed development includes variations to The Hills DCP Part B Section 5 – Residential Flat Buildings in respect to parking, building setbacks, and building length.

On 7 August 2014 the Joint Regional Planning Panel considered the matter. The Panel unanimously decided that the matter be deferred pending finalised plans and further notification.

The applicant was requested to amend the proposal to provide increased setbacks to Horatio Avenue. The amended plans were renotified to adjoining owners including those of a recently completed integrated housing development to the north. Two submissions were received, one in support of the modifications and another raising concern with the development as a whole.

As addressed in the previous report to the JRPP, an assessment of the proposal against the recently adopted DCP controls finds that 100% of the 174 units comply with the type 3 apartment size categories. In addition, 65 out of the 174 units (37%) comprise one bedroom, 89 units comprise 2 bedroom (51%) and 20 out of the 174 units (12%) comprise apartments with three or more bedrooms. Only the mix of one bedroom units exceeds the 25% mix control but all these units are 75m<sup>2</sup> in area or greater. It is considered that the level of compliance is satisfactory when considered on merit and given when the application was lodged.

The development was previously considered acceptable with the exception of the setbacks to Horatio Avenue. The amendments to the design now provide a 10 metre building setback and an eight metre balcony setback which affords an appropriate transition to the R3 zoned land to the north. The proposal is now recommended for approval.

In the absence of the JRPP process the matter would be determined by Council's Development Assessment Unit.

## HISTORY

<b>07/08/2014</b>	Joint Regional Planning Panel meeting held. The Panel unanimously decided that the matter be deferred pending finalised plans and further notification.
<b>22/08/2014</b>	Amended Plans received detailing an increased setback to Horatio Avenue. A 10m building setback and 8m balcony setback provided in lieu of a 6m setback.
<b>26/08/2014</b>	Application notified for 14 days.
<b>09/09/2014</b>	New DCP controls for Residential Flat Buildings adopted by Council.

## REPORT

As identified in the history section of this report, at the JRPP meeting on 7 August 2014 the panel resolved to defer the application pending finalised plans and further notification.

The applicant has provided additional information on 22 August 2014 and Council staff have reviewed the information (refer Attachment 2).

The amended proposal has been assessed against the relevant planning controls and remains consistent with the assessment outlined in the previous report to the JRPP with the exception of building setbacks.

The amendments provide a 10m building setback and 8m balcony setback provided in lieu of a 6m setback to Horatio Avenue. This remains a variation to the DCP which is addressed below.

### (i) Building Setbacks

The following table summarises the proposed Residential Flat Building Setbacks against the setback requirements of Clause 3.3 of The Hills DCP Part B Section 5 – Residential Flat Buildings:

APARTMENT	REQUIRED	PROPOSED	COMPLIANCE
<b>Apartment Block 1</b> (one street frontage to Fairway Drive)	Front (one street frontage = 10 metres Side = 6 metres	Front = 11.2 metres Side = 7.8 metres	Yes Yes
<b>Apartment Block 2</b> (one street frontage to Fairway Drive)	Front (one street frontage = 10 metres Side = 6 metres	Front = 11.9 metres Side = 6 metres	Yes Yes
<b>Apartment Block 3</b> (internal to the site)	Side = 6 metres	Side = 6.8 metres	Yes
<b>Apartment Block 4</b> (one street frontage to Horatio Avenue)	Front (one street frontage = 10 metres	Front = <b>10m building and 8m balcony setback from Horatio Avenue</b>	<b>No.</b>

<b>Apartment Block 5</b> (internal to the site)	Side = 6 metres	Side = 6 metres	Yes
<b>Apartment Block 6</b> (primary street frontage to Horatio Avenue and secondary street frontage to Lucinda Avenue)	Front (primary frontage to Horatio Avenue) = 10 metres  Front (secondary frontage to Lucinda Avenue) = 6 metres	Front = <b>10m building and 8m balcony setback form Horatio Avenue</b>  Front = 6 metres	<b>No</b>
<b>Apartment Block 7</b> (primary street frontage to Lucinda Avenue and secondary street frontage to Horatio Avenue)	Front (primary frontage to Horatio Avenue) = 10 metres  Front (secondary frontage to Lucinda Avenue) = 6 metres  Side = 6 metres	Front = <b>10m building and 8m balcony setback form Horatio Avenue</b>  Front = 7.2 metres  Side (south) = 6m	<b>No</b>  Yes  Yes

The objectives for setbacks under Clause 3.3 of The Hills DCP Part B Section 5 – Residential Flat Building are as follows:

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

In support of the variation, the applicant has provided the following justification:

- *The proposed encroachments are minor and relate to articulated building components and balconies and will enable sufficient landscaping to be established around the site perimeter.*
- *There is no unreasonable impact on the privacy or solar access of adjoining properties and will not result in adverse amenity impacts on surrounding development.*

- *The proposed setback to Horatio Avenue is consistent with the setbacks approved along the opposite side of Horatio Avenue at No. 24 – 26 Fairway Drive which approved townhouses setback 5m to 7m from Horatio Avenue.*
- *The proposed landscaping across the site exceeds Council's requirements and will be provided within the setbacks, improving visual amenity and privacy.*
- *Internal separation distances between buildings have been provided.*

The amended plans provide an increased setback to Horatio Avenue which was originally 6m. The amendments provide a main building setback of 10 metres and a setback of 8 metres to balconies fronting Horatio Avenue.

The amendments to the design now provide an appropriate transition to the R3 zoned land to the north and the proposal can now be recommended for approval.

## ii. Issues Raised in Submissions

The amended plans were renotified to adjoining owners including those of a recently completed integrated housing development to the north who have not previously been notified as the property at that time had not been subdivided. Two submissions were received, one in support of the amendments and another raising concern with the development concept as a whole.

The following issues raised in the objection are addressed in the following table:

ISSUE/OBJECTION	COMMENT	OUTCOME
Concern is raised about noise and privacy issues. It is suggested that the proposed development be amended to townhouses, free standing dwellings or low density apartments.	The proposed development is permissible on land zoned R4 High Density Residential under The Hills LEP 2012. The proposed development is consistent with the aims and objectives of the R4 High Density Residential zone. The development provides adequate separation from adjoining properties.	Issue addressed.
One of the entry/exits via Horatio Avenue will substantially increase vehicular volume of this internal feeder road. All entry/exit should be via ramp across creek to Fairway Drive.	The applicant is permitted to provide access to public roads fronting the site. A bridge crossing over the creek would be cost impracticable.	Issue addressed.

## CONCLUSION

The Development Application has been assessed against the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, The Hills Local Environmental Plan 2012, The Hills Development Control Plan 2012, and State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development.

The applicant provided amended plans with an increased setback to Horatio Avenue. The applicant has provided a main building setback of 10 metres and a setback of 8 metres to balconies fronting Horatio Avenue. The amended plans were renotified to adjoining

owners. One objection was received. The issues raised in the submissions have been addressed in the report.

The application is recommended for approval subject to conditions.

## **RECOMMENDATION**

The Development Application be approved subject to the following conditions of consent.

## **GENERAL MATTERS**

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

The development being carried out in accordance with the approved plans and details submitted to Council, as amended in red, stamped and returned with this consent. 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

The amendments in red include:

- Deletion of bridge across SP2 zoned land in accordance with Sydney Water Requirements.

## **REFERENCED PLANS AND DOCUMENTS**

DRAWING NO.	DESCRIPTION	REVISION	DATE
DA-1.05	Site Plan	H	13 August 2014
DA-02.01	Basement Plan (West)	G	1 April 2014
DA-02.02	Basement Plan (East)	H	13 August 2014
DA-02.03	Ground Floor Plan (West)	G	1 April 2014
DA-02.04	Ground Floor Plan (East)	H	13 August 2014
DA-02.05	Typical Floor Plan (West)	G	1 April 2014
DA-02.06	First Floor Plan (East)	H	13 August 2014
DA-2.07	Typical Floor Plan 2-3 (West)	G	1 April 2014
DA-2.07	Typical Floor Plan 2-3 (East)	H	13 August 2014
DA-3.01	North Elevation	H	13 August 2014
DA-3.02	South Elevation	H	13 August 2014
DA-3.03	East and West Elevation	H	13 August 2014
DA-4.01	Section A-A	H	13 August 2014
DA-4.02	Section B-B and C-C	H	13 August 2014
DA-4.03	Section D-D	H	13 August 2014
DA-1.03	Proposed Riparian Zone	D	15 August 2013

### **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. Compliance with NSW Office of Water**

Compliance with the requirements of the NSW Office of Water as outlined in their letter dated 14 March 2013 Ref: 10 ERM2012/0981 attached to this consent as Appendix A.

#### **5. Compliance with NSW Police Force Requirements**

The following is required by the Police, unless otherwise agreed by the Police and Council in writing:

- i. Fencing should be vertical style to stop unauthorised access to ground floor units;
- ii. Materials chosen should have regard to the potential for graffiti.
- iii. There is potential for unauthorised access to car parks and tenant storage areas. Police suggest a use of a swipe card or keypad access for residents to access these areas. Each garage door should be secured and it is recommended that an alarm system be installed.
- iv. It is recommended that during the construction phase security sensor lights be used and security guards monitor the site.

#### **6. Liquid Storage - Pool Chemicals**

All liquids onsite are to be stored within bunded areas so as to prevent water pollution. All secondary and site containment mechanisms are to be implemented as per Appendix 2: Technical Considerations within the Storing and Handling Liquids: Environmental Protection – Participants Manual prepared by the Department of Environment and Climate Change NSW dated May 2007.

#### **7. Salinity Assessment & Site Salinity Management Plan**

The recommendations of the Salinity Assessment and Management Plan prepared by Environmental Investigation Service, referenced as E26168KBrpt2-sal, dated November 2012 and submitted as part of the Development Application are to be implemented as part of this approval. In particular:

##### *8.5 Surface-water, Stormwater and Drainage*

*Surface water, storm water and drainage design should include the following:*

- *The disturbance of natural drainage patterns should be avoided;*
- *Where the drainage patterns are altered, appropriate, alternative artificial drainage should be installed;*
- *Slabs, foundations and retaining walls should be designed with subsoil drains and good drainage to avoid water logging;*
- *Stormwater should be managed appropriately in order to reduce infiltration. Stormwater infrastructure should be designed to minimise leakage;*
- *Guttering and down pipes should be properly connected and maintained;*
- *Subsoil drains should be provided in areas where seepage discharge from the underlying natural soil may occur, such as retained cuts, cut slopes, low lying areas or significant changes in grade, etc; and*
- *Surface water runoff should be directed around all stockpiles and work areas.*

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

The responsibility for property numbering is vested solely in Council.

Buildings 1, 2 & 3 will be addressed to Fairway Drive with one letterbox bank to be located at this frontage to accommodate units 1-84. Due to development that will occur along Fairway Drive in the future, current street numbers will be changed. As a result of this the site **will not** have an address of 28 Fairway Drive. The new street number cannot be allocated at this time.

Buildings 4-6 will be addressed to the proposed new road Lucinda Avenue and will be allocated the street number one (1). One bank of letterboxes is to be located at the Lucinda Avenue frontage to accommodate units 85-176.

Unit numbers are allocated as follows

Building 1	-	Units 1-24 Fairway Drive Kellyville
Building 2	-	Units 24-44 Fairway Drive Kellyville
Building 3	-	Units 45-84 Fairway Drive Kellyville
Building 4	-	Units 85-124 / 1 Lucinda Avenue Kellyville
Building 5	-	Units 125-152 / 1 Lucinda Avenue Kellyville
Building 6	-	Units 153-174 / 1 Lucinda Avenue Kellyville

Please refer to approved numbering correspondence and marked plan numbers DA-1.05 (Revision D) & DA-2.03 to DA-2.09 (revision D). These numbers, unless otherwise approved by Council in writing, are to be displayed at street frontages and on all door entrances.

If this development is subdivided in stages and given different strata numbers, this will have an impact on the proposed unit numbers.

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.

#### **9. Australia Post Mail Box Requirements**

The number of mail boxes to be provided is to be equal to the number of residences and one (1) for the proprietors. Mail boxes are to have a minimum internal dimension of 230mm wide x 160mm High x 330mm long and are to be provided with an opening of 230mm x 30mm for the reception of mail.

#### **10. Subdivision Certificate Pre-Lodgement Meeting/ Check**

Prior to the submission of a Subdivision Certificate application a draft copy of the final plan, administration sheet and Section 88B instrument (where included) must be submitted in order to establish that all conditions have been complied with.

#### **11. Approved Street Naming**

Street naming must comply with Council's approved map which can be found on Council's website.

#### **12. Street Trees**

Street trees must be provided for the section of Fairway Drive, Horatio Avenue and Lucinda Avenue within or fronting the development site spaced between 7m and 10m apart. The location of street trees must be considerate of driveways, services, drainage pits and sight lines at intersections. The species and size of street trees must comply with the requirements of Council. Details demonstrating compliance with the above must be submitted for approval before any street trees are planted.

A performance/ maintenance bond is required to be submitted to Council once the street trees are planted. The bond will be held for one year and may be extended if replacement street trees are required to be planted. The bond is refundable upon written application to Council. Alternatively, street trees can be planted by Council subject to payment of the applicable fee as per Council's Schedule of Fees and Charges.

#### **13. Recycled Water**

The subject site must be connected to Sydney Water's Rouse Hill Recycled Water Scheme, unless written evidence from Sydney Water is submitted advising that this service is not available.

#### **14. Water Sensitive Urban Design Handover Process**



An operations and maintenance plan must be prepared for all WSUD proposals. The operations and maintenance plan must include:

- a) The location and type of each WSUD element, including details of its operation and design;
- b) A brief description of the catchment characteristics, such as land uses, areas etc;
- c) Estimated pollutant types, loads and indicative sources;
- d) Intended maintenance responsibility, Council, landowner etc;
- e) Inspection method and estimated frequency;
- f) Adopted design cleaning/ maintenance frequency;
- g) Estimate life-cycle costs;
- h) Site access details, including confirmation of legal access, access limitations etc;
- i) Access details for WSUD measure, such as covers, locks, traffic control requirements etc;
- j) Description of optimum cleaning method and alternatives, including equipment and personnel requirements;
- k) Landscape and weed control requirements, noting that intensive initial planting is required upfront to reduce the requirement for active weed removal;
- l) A work method statement;
- m) A standard inspection and cleaning form.

For the purposes of complying with the above a WSUD treatment system is considered to include all functional elements of the system as well as any landscaped areas directly surrounding the system.

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

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

#### **16. 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.

#### **17. Vehicular Access and Parking**

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

- a) AS/ NZS 2890.1
- b) AS/ NZS 2890.6
- c) AS 2890.2
- d) Council's 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. 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.

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

### **18. Detailed Design Requirements – Car Parking**

The detailed design/ Construction Certificate plans must comply with the following requirements:

- f) Drawing DA-C-305 Issue B dated 12 February 2014 prepared by LP Consulting shows a gradient of 34.8% for the driveway/ basement ramp "Lucinda Avenue Basement East". This must be reduced to 25% (maximum), being the maximum driveway gradient permitted for passenger vehicles as per AS/ NZS 2890.1. Also, access to this driveway/ basement ramp will be limited to passenger vehicles only as a result of this steep grade. AS 2890.2 includes more stringent requirements relating to service vehicles, including waste collection.
- g) All visitor parking spaces must be 2.5m wide (minimum).
- h) All resident parking spaces must be 2.4m wide (minimum).
- i) Blind aisles that include visitor parking spaces require a dedicated turning area as per AS/ NZS 2890.1.
- j) No security gates/ roller shutters or the like are permitted unless the design also includes a dedicated turning area in front of any such gate/ shutter, so that a person is able to turn and leave the site if access is not available. Also, the gradient of this queuing/ turning area in front of the gate/ shutter must have a gradient no steeper than 6%.

### **19. Gutter and Footpath Crossing Application**

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

### **20. Minor Engineering Works**

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

Any variance from these documents requires separate approval from Council.

Works on existing public roads or any other land under the care and control of Council must be approved and inspected by Council in accordance with the Roads Act 1993 or the Local Government Act 1993. A separate minor engineering works application and inspection fee is payable as per Council's Schedule of Fees and Charges.

#### **i. Driveway Requirements**

The design, finish, gradient and location of all driveway crossings must comply with the above documents and Council's Driveway Specifications.

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

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

#### **ii. Site Stormwater Drainage**

The entire site area must be graded, collected and drained by pits and pipes to a suitable point of legal discharge.

### **21. Excavation/ Anchoring Near Boundaries**

Earthworks near the property boundary must be carried out in a way so as to not cause an impact on adjoining public or private assets. Where anchoring is proposed to sustain excavation near the property boundary, the following requirements apply:

- Written owner's consent for works on adjoining land must be obtained.
- For works adjacent to a road, anchoring that extends into the footpath verge is not permitted, except where expressly approved otherwise by Council, or the RMS in the case of a classified road.
- Where anchoring within public land is permitted, a bond must be submitted to ensure their removal once works are complete. The value of this bond must relate to the cost of their removal and must be confirmed by Council in writing before payment.
- All anchors must be temporary. Once works are complete, all loads must be removed from the anchors.
- A plan must be prepared, along with all accompanying structural detail and certification, identifying the location and number of anchors proposed.
- The anchors must be located clear of existing and proposed services.

Details demonstrating compliance with the above must be submitted to the Principal Certifying Authority and included as part of any Construction Certificate or Occupation Certificate issued.

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

All commitments of the Waste Management Plan submitted as part of the Development Application must be implemented during construction of the development. The information submitted can change provided that the same or a greater level of reuse and recycling is achieved as detailed in the plan. 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. Receipts of all waste/ recycling tipping must be kept on site at all times and produced in a legible form to any authorised officer of the Council who asks to see them.

### **23. Management of Construction and Demolition Waste**

Waste materials must be appropriately stored and secured within a designated waste area on site at all times, prior to its reuse on site or being sent off site. Building waste containers are not permitted to be placed on the public way at any time unless a separate application is approved by Council to locate a building waste container in a public place. Any material moved off site must be transported to a place that can lawfully be used as a waste facility or to facilities that can otherwise lawfully receive waste. The separation and recycling of the following waste materials is required: metals, timber, masonry products, clean waste plasterboard and mixed plastics and cardboard. This can be achieved by source separation on site, that is, a bin for metal waste, a bin for timber, a bin for bricks and so on. Alternatively, mixed waste may be stored in one or more bins and sent to a waste contractor or transfer/ sorting station that will sort the waste on their premises for recycling. Receipts of all waste/ recycling tipping must be kept on site at all times and produced in a legible form to any authorised officer of the Council who asks to see them.

### **24. Surplus Excavated Material**

The disposal of surplus excavated material, other than to a licenced waste facility, is not permitted without formal approval from Council, prior to works commencing on site. 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. Receipts of all waste/ recycling tipping must be kept on site at all times and produced in a legible form to any authorised officer of the Council who asks to see them.

### **25. Commencement of Domestic Waste Service**

The property owner or agent acting for the owner must ensure to arrange the commencement of a domestic waste service with Council no later than two days after occupancy and no earlier than two days prior to occupancy of the development. The service is to be arranged by telephoning Council on (02) 9843 0310. All requirements of Council's waste collection service must be complied with at all times.

#### **26. Construction of Waste Storage Areas (Buildings One-Six)**

All work involving construction of the waste storage areas is required to comply with the requirements of Council's Bin Storage Facility Design Specifications. Storage facility is to be provided for a minimum of:

**Buildings One-Three:** Nine (9) 1100 litre bulk garbage bins and forty (40) 240 litre mobile recycling bins.

**Buildings Four-Six:** Nine (9) 1100 litre bulk garbage bins and forty-two (42) 240 litre mobile recycling bins.

#### **27. Construction of Waste Storage Area (Building 7)**

All work involving construction of the waste storage area is required to comply with the requirements of Council's Bin Storage Facility Design Specifications. The storage area is required to be sized to comfortably store and manoeuvre a minimum of two (2) 660 litre bulk garbage bins and six (6) 240 litre mobile recycling bins. The waste servicing door to the storage area is required to open directly to the street, and have a direct access path leading to the street, with a maximum gradient of 5%, including kerb crossing.

#### **28. Restricted Development Area Fencing**

The Restricted Development Area, being the area labelled on the riparian zone plan (Reference: DA-1.03, revision D) is to be delineated with an appropriate fence (post and rail or similar) to distinguish the riparian zone from the landscaped areas. No barbed wire is to be used.

#### **29. Vegetation Bond**

Lodgement of a security bond of \$40,000.00 to ensure satisfactory completion and maintenance of the vegetation works.

The security bond will be progressively released at the following stages subject to the submission of progress reports and the satisfactory completion of works in accordance with the Council-approved Vegetation Management Plan (VMP):

- Release of 25%, 12 months after the initial planting;
- Release of a further 25%, 36 months after the initial planting;
- Final release of 50%, 60 months after the initial planting.

Progress reports are required to be submitted prior to each progressive partial bond release demonstrating compliance with the Council-approved VMP. The progress reports shall be prepared by a professional ecologist/bush regeneration specialist and certified by Council's Manager – Environment and Health.

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

#### **30. Erosion & Sediment Control Plan**

Submission of an Erosion and Sediment Control Plan to the Principal Certifying Authority, including details of:

- a) Allotment boundaries
- b) Location of the adjoining roads
- c) Contours
- d) Existing vegetation
- e) Existing site drainage
- f) Critical natural areas
- g) Location of stockpiles
- h) Erosion control practices
- i) Sediment control practices

- j) Outline of a maintenance program for the erosion and sediment controls  
(NOTE: For guidance on the preparation of the Plan refer to 'Managing Urban Stormwater Soils & Construction' produced by the NSW Department of Housing).

### **31. 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:-

	Purpose: 1 bedroom unit	Purpose: 2 bedroom unit	Purpose: 3 bedroom unit	Purpose: Credit	No. of 1 Bedroom units: 65	No. of 2 Bedroom units: 89	No. of 3 Bedroom units: 20	Sum of Units	No. of Credits: 1	Total S94
Open Space - Land	\$ 12,930.96	\$ 17,904.40	\$ 18,865.47	\$ 18,865.47	\$ 840,512.40	\$ 1,593,491.60	\$ 377,309.40	\$ 2,811,313.40	\$ 18,865.47	\$ 2,792,447.93
Open Space - Capital	\$ 3,431.83	\$ 4,751.77	\$ 5,006.83	\$ 5,006.83	\$ 223,068.95	\$ 422,907.53	\$ 100,136.60	\$ 746,113.08	\$ 5,006.83	\$ 741,106.25
Transport Facilities - Capital	\$ 2,443.64	\$ 3,383.50	\$ 3,565.11	\$ 3,565.11	\$ 158,836.60	\$ 301,131.50	\$ 71,302.20	\$ 531,270.30	\$ 3,565.11	\$ 527,705.19
Community Facilities - Land	\$ 255.72	\$ 354.08	\$ 373.09	\$ 373.09	\$ 16,621.80	\$ 31,513.12	\$ 7,461.80	\$ 55,596.72	\$ 373.09	\$ 55,223.63
Community Facilities - Capital	\$ 1,047.63	\$ 1,450.57	\$ 1,528.43	\$ 1,528.43	\$ 68,095.95	\$ 129,100.73	\$ 30,568.60	\$ 227,765.28	\$ 1,528.43	\$ 226,236.85
Administration	\$ 179.48	\$ 248.51	\$ 261.85	\$ 261.85	\$ 11,666.20	\$ 22,117.39	\$ 5,237.00	\$ 39,020.59	\$ 261.85	\$ 38,758.74
Drainage Facilities - Capital	\$ 273.64	\$ 378.88	\$ 399.22	\$ 399.22	\$ 17,786.60	\$ 33,720.32	\$ 7,984.40	\$ 59,491.32	\$ 399.22	\$ 59,092.10
<b>Total</b>	<b>\$ 20,562.90</b>	<b>\$ 28,471.71</b>	<b>\$ 30,000.00</b>	<b>\$ 30,000.00</b>	<b>\$ 1,336,588.50</b>	<b>\$ 2,533,982.19</b>	<b>\$ 600,000.00</b>	<b>\$ 4,470,570.69</b>	<b>\$ 30,000.00</b>	<b>\$ 4,440,570.69</b>

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.

### **32. Underground of Overhead Services**

A Construction Certificate cannot be issued until an agreement has been reached with Endeavour Energy, confirmed in writing, in relation to the undergrounding/ relocation of the existing high voltage overhead power lines and the removal of the associated easement from the title of the property.

### **33. Bank Guarantee Requirements**

Any bank guarantee submitted in lieu of a cash bond must comply with the following:

- Have no expiry date;
- Be sent to Council direct from the bank;
- Reference the development application, condition and matter to which it relates;
- The amount must match that required to be paid;
- If a single bank guarantee is used for multiple bonds, it must be itemised.

Should Council need to uplift the bank guarantee, notice in writing will be forwarded to the applicant 14 days beforehand.

### **34. Controlled Activity Authority – NSW Office of Water**

A copy of the Controlled Activity Authority required to be obtained from the NSW Office of Water must be submitted to Council before a Construction Certificate is issued.

### **35. Separate Approval for WIK/ MPB Agreement**

Separate approval is required where a works in kind (WIK) or material public benefit (MPB) is proposed in lieu of the part or full payment of either a monetary contribution or the dedication of land. Any WIK or MPB application must be made in writing. Contact Council to ascertain the information required to accompany any such application.

The WIK or MPB agreement must be finalised before a Construction Certificate is issued.

Once the WIK or MPB agreement has been finalised an application must be submitted to modify the Section 94 Contribution amount identified in this consent, unless it is agreed that the difference can be reimbursed after payment is made.

### **36. Sediment and Erosion Control Plan**

A sediment and erosion control plan prepared in accordance with Council's Works Specification Subdivision/ Developments must be submitted. The plan must include:

- a) Allotment boundaries;
- b) Adjoining roads;
- c) Contours;
- d) Existing vegetation;
- e) Existing site drainage;
- f) Critical natural areas;
- g) Location of stockpiles;
- h) Erosion control practices;
- i) Sediment control practices; and
- j) A maintenance program for the erosion and sediment controls.

### **37. Stormwater Pump/ Basement Car Park Requirements**

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

- a) A holding tank sized to store the runoff from a 12 hour, 1 in 100 year design storm event;
- b) An alternating two pump system capable of emptying the holding tank at either the Permissible Site Discharge rate or the rate of inflow for a five hour, 1 in 5 year design 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 along with the remaining site runoff, under gravity.

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

### **38. 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.

### **39. Security Bond – Road Pavement and Public Asset Protection**

In accordance with Section 80A(6)(a) of the Environmental Planning and Assessment Act 1979, a security bond of \$118,320.00 is required to be submitted to Council to guarantee the protection of the road pavement and other public assets in the vicinity of the site during construction works. The above amount is calculated at the rate of \$85.00 per square metre based on the road frontage of the subject site plus an additional 50m on either side (174m) multiplied by the width of the road (8m).

The bond must be lodged with Council before a Construction Certificate is issued.

The bond is refundable upon written application to Council 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 costs.

### **40. 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 amount must be confirmed with Council prior to payment.

The bond must be lodged with Council before a Construction Certificate is issued.

The bond is refundable upon written application to Council and is subject to all work being completed to Council's satisfaction.

#### **41. 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

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) An electronic copy of the design plans and accompanying documentation.
  - 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 flow path 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. Full Width Road Construction**

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

Road Name:	Formation: (Footpath/ Carriageway/ Footpath) (m)
Lucinda Avenue	Road Type: DCP Access Street (1) 3.5m/ 8.5m/ 3.5m (15.5m total) Pavement Design: Access (Design Guidelines Section 3.12)

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

## ii. Partial Width Road Construction

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

Road Name:	Formation: (Footpath/ Carriageway/ Footpath) (m)
Horatio Avenue	Road Type: DCP Access Street (1) 3.5m/ 8.5m/ 3.5m (15.5m total) Pavement Design: Access (Design Guidelines Section 3.12)

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

As partial width construction exists opposite, the completed road must comply with the overall requirements outlined in the table above.

## iii. Partial Width Road Reconstruction

The partial width reconstruction of the existing roads 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)
Fairway Drive	Road Type: DCP Enhanced Collector Road with Cycleway (3C) 4.5m/ 12m/ 3.5m (20m total) Pavement Design: Enhanced Collector (Design Guidelines Section 3.12)

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, which may require additional pavement reconstruction.

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.

The wider 4.5m verge must be located on the eastern side of Fairway Drive correlating with the cycleway required by the DCP at this location.

#### **iv. Temporary Turning Heads**

A temporary cul-de-sac turning head must be provided at the end of all roads that will be extended into adjoining properties if/ when they are developed. The cul-de-sac must have a diameter of 19m measured from the edge pavement.

A temporary turning head is required at the southern end of Lucinda Avenue extending into the development site.

#### **v. Street Names Signs**

Street name signs and posts are required in accordance with the above documents and Council's Standard Drawing 37. Details for all signage and line-marking must be submitted to Council for checking prior to works commencing.

#### **vi. Concrete Footpath**

A 1.2m wide concrete footpath, including access ramps at all intersections, must be provided on one side of Lucinda Avenue and Horatio Avenue in accordance with the DCP and the above documents.

#### **vii. Concrete Cycleway**

A 2.5m wide concrete cycleway, including access ramps at all intersections, must be provided on the eastern side of Fairway Drive in accordance with the DCP and the above documents.

#### **viii. Disused Layback/ Driveway Removal**

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

#### **ix. Service Conduits**

Service conduits to the development site, laid in strict accordance with the relevant service authority's requirements, are required. Services must be shown on the engineering drawings.

#### **x. Stormwater Drainage – Temporary Works**

Grassed swale drains or temporary piped drainage must be installed to intercept, control and redirect surface stormwater runoff from upstream undeveloped properties.

#### **xi. Stormwater Drainage – Creek Outlets**

The two piped stormwater outlets/ connections to Strangers Creek must comply with the requirements of Council and the NSW Office of Water as well as Sydney Water, in the case of stormwater management zoned land.

#### **xii. Water Sensitive Urban Design Elements**

Water sensitive urban design elements, being those shown on the plans prepared by LP Consulting, are to be located generally in accordance with the plans and information

submitted with the application. With respect to rainwater reuse, a 20,000 litre rainwater tank is required for each building (or an equivalent combined volume across the development site as a whole).

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/>

#### **42. Design of Waste Storage Area (Buildings One, Two and Three)**

Prior to a Construction Certificate being issued, amended plans are required to be submitted to Council to the satisfaction of the Resource Recovery Project Officer. The plans must demonstrate that the waste storage room is sized to comfortably store and manoeuvre a minimum of nine (9) 1100 litre bulk garbage bins and forty-two (40) 240 litre mobile recycling bins. Additionally, the bay width of the waste servicing area is to be increased to be at least 4m, and the bay is not permitted to have a dog leg angle.

#### **43. Design of Waste Storage Area (Buildings Four, Five and Six)**

Prior to a Construction Certificate being issued, amended plans are required to be submitted to Council to the satisfaction of the Resource Recovery Project Officer. The plans must demonstrate that the waste storage room is sized to comfortably store and manoeuvre a minimum of nine (9) 1100 litre bulk garbage bins and forty-two (42) 240 litre mobile recycling bins. Additionally, the bay width of the waste servicing area is to be increased to be at least 4m.

#### **44. Relocation of Waste Storage Area (Building 7)**

Prior to a Construction Certificate being issued, amended plans are required to be submitted to Council to the satisfaction of the Resource Recovery Project Officer. The waste storage room is required to be relocated to be within 8m of the street, unless it is within the building footprint, where the maximum distance is 12m.

#### **45. Internal Pavement Structural Design Certification**

Prior to a Construction Certificate being issued, a Certified Practising Engineer (CPEng) must submit a letter to Council confirming the structural adequacy of the internal pavement design (porte-cochere and rubbish collection areas). The pavement design must be adequate to withstand the loads imposed by a loaded heavy rigid waste collection vehicle (i.e. 28 tonne axle load) from the boundary to the waste collection point including any manoeuvring areas.

#### **46. Landscape Plan**

A site specific Landscape Plan is to be submitted to Council's satisfaction prior to any works commencing on site. This plan is to show how landscaping will incorporate the use of local provenance plants native to the local vegetation communities being River-flat Eucalypt Forest and Cumberland Plain Woodland. Eighty percent of the plants used in the

street tree planting and in common areas are to be of local provenance groundcovers, shrubs and trees (excluding turf and the riparian zone).

#### **47. Biodiversity Offsetting Requirements**

To offset the loss of biodiversity from the site including the removal of Cumberland Plain Woodland, the development must purchase and retire seven (7) HN528 or HN529 ecosystem credits. A retirement certificate from the NSW BioBanking Office to demonstrate compliance with this condition is to be provided to The Hills Shire Council's Manager – Environment and Health prior to issue of a Construction Certificate.

#### **48. Landscape Plan Bond**

Lodgement of a landscape bond in the amount of \$10,000 to ensure satisfactory completion is to be lodged with Council. It shall be refunded six months following issue of the Final Occupation Certificate provided works are to the satisfaction of Council's Manager – Environment and Health. Works are to be certified by a qualified Landscape Architect via the submission of appropriate documentation demonstrating compliance with the approved landscape plan.

#### **49. Landscape Plan Plant Procurement**

The bush regeneration contractor shall order all local provenance plants that are required to be planted as part of the Council approved Landscape Plan. Invoices detailing the procurement shall be submitted to Council.

#### **50. Vegetation Management Plan**

A Vegetation Management Plan is to be submitted to Council prior to the release of the construction certificate. The Vegetation Management Plan must be prepared to the satisfaction of Council's Manager Environment and Health. The Vegetation Management Plan is required to include information regarding how the RDA will be rehabilitated and then managed into the future past the first 5 year rehabilitation plan.

#### **51. Special Infrastructure Contribution – Growth Centres**

The applicant is to make special infrastructure contribution in accordance with any determination by the Minister administering the Environmental planning and Assessment Act 1979 under Section 94EE of the Act that is in force on the date of this consent, and must obtain a certificate to that effect from the Growths Centres Commission before a Construction certificate or subdivision certificate is issued in relation to any part of the development to which this consent relates

More information on the Special Infrastructure Contribution can be found at the Growth Centres Commission's website at [www.gcc.nsw.gov](http://www.gcc.nsw.gov)

To obtain an estimate of the Special Infrastructure Contribution that may be payable for the application please email [infrastructurecontribution@gcc.nsw.gov.au](mailto:infrastructurecontribution@gcc.nsw.gov.au)

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

#### **52. Principal Certifying Authority**

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

#### **53. 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.

#### **54. 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.

#### **55. Erosion and Sedimentation Controls – Minor Works**

Erosion and sedimentation controls shall be in place prior to the commencement of site works; and maintained throughout construction activities until the site is landscaped and/or suitably revegetated. The controls shall be in accordance with the details approved by Council and/or as directed by Council Officers. These requirements shall be in accordance with Managing Urban Stormwater – Soils and Construction produced by the NSW Department of Housing (Blue Book).

#### **56. Stabilised Access Point**

A stabilised all weather access point is to be provided prior to commencement of site works, and maintained throughout construction activities until the site is stabilised. The controls shall be in accordance with the requirements with the details approved by Council and/or as directed by Council Officers. These requirements shall be in accordance with Managing Urban Stormwater – Soils and Construction produced by the NSW Department of Housing (Blue Book).

#### **57. Site Water Management Plan**

A Site Water Management Plan is to be submitted to Council for approval. The plan is required to be site specific and be in accordance with "Managing Urban Stormwater - Soils and Construction" (The Blue Book) produced by the NSW Department of Housing.

#### **58. Erosion & Sediment Control Plan Kept on Site**

A copy of the Erosion and Sediment Control Plan must be kept on site at all times during construction and made available to Council officers on request.

#### **59. Traffic Control Plan**

A Traffic Control Plan is required to be prepared and submitted to Council for approval. The person preparing the plan must have the relevant accreditation to do so. Where amendments to the plan are required post approval, they must be submitted to Council for further approval prior to being implemented.

A plan that includes full (detour) or partial (temporary traffic signals) width road closure requires separate specific approval from Council. Sufficient time should be allowed for this to occur.

#### **60. Sediment and Erosion Control**

The approved sediment and erosion control measures, including a stabilised all weather access point, must be in place prior to works commencing and maintained during construction and until the site is stabilised to ensure their effectiveness. For major works, these measures must be maintained for a minimum period of six months following the completion of all works.

#### **61. Service Authority Consultation – Subdivision Works**

Before subdivision works commence:

- a) Documentary evidence must be submitted confirming that satisfactory arrangements have been made for the relocation, undergrounding and/ or provision of electrical services for the non-residue lots created by the subdivision.
- b) Documentary evidence, including a notice of requirements from Sydney Water, must be submitted confirming that satisfactory arrangements have been made for the provision of water and sewerage facilities.
- c) Consultation with the relevant telecommunications provider authorised under the Telecommunications Act regarding the installation of telephone conduits is required. The design and construction of these works must comply with current NBN standards, where applicable.

## **62. Public Infrastructure Inventory Report**

A public infrastructure inventory report must be prepared and submitted to Council recording the condition of all public assets in the direct vicinity of the development site. This includes, but is not limited to, the road fronting the site along with any access route used by heavy vehicles. If uncertainty exists with respect to the necessary scope of this report, it must be clarified with Council before works commence. The report must include:

- a) Planned construction access and delivery routes; and
- b) Dated photographic evidence of the condition of all public assets.

## **63. Demolition Works and Asbestos Management**

The demolition of any structure is to be carried out in accordance with the Occupational Health and Safety Regulations 2001 Part 8 and AS 2601-2001. All vehicles transporting demolition materials offsite are to have covered loads and are not to track any soil or waste materials on the road. Should 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 hoard or fence. All demolition works involving the removal and disposal of asbestos must only be undertaken by a licenced asbestos removalist who is licenced to carry out the work. Asbestos removal must be carried out in accordance with the WorkCover, Environment Protection Authority and Office of Environment and Heritage requirements. Asbestos to be disposed of must only be transported to waste facilities licenced to accept asbestos. No asbestos products are to be reused on the site.

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

Prior to the commencement of demolition works, and where the site ceases to be occupied during works, the property owner or site manager must ensure to notify to Council to collect any garbage and recycle bins from any dwelling that is to be demolished. Trade workers are not permitted to use Council supplied bins for the disposal of any waste. The service is to be discontinued by telephoning Council on (02) 9843 0310.

## **65. Landscaping/ Planting – Seed Collection**

Prior to clearance of the vegetation in the development area, all collectable floristic material shall be harvested for use in future landscaping on site. Seed and other genetic material collected from the site is to be placed in the care of a Council recognised bush regeneration specialist for use in bush rehabilitation projects in the local area.

Details prepared by the project ecologist (in writing) demonstrating compliance is to be submitted to The Hills Shire Council.

## **66. Tree Removal and Fauna Protection**

A pre-construction survey is to be undertaken by a qualified ecologist to confirm no bats are roosting in buildings on the site. Any individuals found should be captured and released. A bat management plan shall be prepared to the satisfaction of Council to detail how this will be undertaken if the bats are present.

If hollow-bearing tree removal is unavoidably to occur during August to February in the hollow-dependant fauna breeding seasons, the following is required. A fauna breeding season action plan prepared by a suitably qualified and experienced ecologist prior to tree removal being undertaken is required. The plan must be to the satisfaction of Council and submitted and approved prior to tree removal works being undertaken.

Prior to the clearing of any trees, a pre-clearing fauna survey will be conducted by a qualified ecologist to identify and minimise impacts to resident fauna. All trees containing hollows are to be clearly marked as habitat trees.

During any tree removal a Project Ecologist is to be present to re-locate any displaced fauna that may be disturbed during this activity.

Trees marked as habitat trees will be shaken by machinery prior to clearing to encourage any fauna remaining to leave the hollows and move on.

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 (microbats bats should only be handled by appropriately vaccinated persons).

Details prepared by the project ecologist (in writing) demonstrating compliance is to be submitted to The Hills Shire Council.

## **DURING CONSTRUCTION**

### **67. 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.

### **68. Survey Report**

Survey Certificate to be submitted to the Principal Certifying Authority at footings and/or formwork stage. The certificate shall indicate the location of the building in relation to all boundaries, and shall confirm the floor level prior to any work proceeding on the building.

### **69. 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.'s 460254M\_02 (Building 1), 460269M\_02 (Building 2), 460021M\_02 (Building 3), 460276M\_02 (Building 4), 460339M\_02 (Building 5), 460342M\_02 (Building 6), and 460344M\_02 (Building 7) be complied with. Any subsequent version of these BASIX Certificates will supersede all previous versions of the certificate.

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

### **70. Roof Water Drainage**

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

### **71. 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.**

## **72. 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.

## **73. 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.

## **74. Construction Noise**

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

## **75. 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.

## **76. 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.

## **77. 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).

## **78. 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.

**79. Pool not to be Filled Until Occupation**

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

**80. Temporary Fencing of Pools**

***This condition applies to unoccupied land.***

On excavation and prior to installation of the pool shell or placement of the steel reinforcement, a fence is to be provided around the pool excavation, so as to isolate and prevent access to it.

The fence provided is to be 1.8m high and to no less a standard than correctly joined and secured, temporary fence panels or chainmesh. The fence is to remain in place until the site (dwelling) has been approved for occupation.

**81. Critical Stage Inspections – Subdivision Works**

The subdivision works must be inspected by Council in accordance with the schedule included in Council's Works Specification Subdivisions/ Developments. A minimum of 24 hour's notice is required for inspections. No works are to commence until the first inspection has been carried out.

**82. Standard of Works**

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

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

**83. 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.

**84. Compliance with NSW Office of Water Requirements**

A letter from the NSW Office of Water must be submitted confirming that all works associated with the Controlled Activity Authority have been completed to their satisfaction.

**85. Completion of Subdivision Works**

A Subdivision Certificate cannot be issued prior to the completion of all subdivision works covered by this consent.

**86. Compliance with Sydney Water Requirements**

A letter from Sydney Water must be submitted confirming that the works have been completed to their satisfaction.

**87. 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 subdivision works are completed. The WAE plans must be prepared in accordance with Council's Design Guidelines Subdivisions/ Developments.

The plans must be accompanied by pavement density results, pavement certification, concrete core test results, site fill results, structural certification, CCTV recording, signage details and a public asset creation summary, where relevant.

**88. Performance/ Maintenance Security Bond**

A performance/ maintenance bond of 5% of the total cost of the subdivision 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/ bonded works. The minimum bond amount is \$5,000.00. The bond is refundable upon written application to Council and is subject to a final inspection.

#### **89. Confirmation of Pipe Locations**

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

#### **90. Removal of Sediment and Erosion Control Measures**

Where the sediment and erosion control measures are required to be retained post construction to allow the site to establish, as directed by Council's Construction Engineer, a \$5,000.00 bond must be submitted to ensure their eventual removal, along with any collected debris.

#### **91. Section 73 Compliance Certificate**

A Section 73 Compliance Certificate issued under the Sydney Water Act 1994 must be obtained from Sydney Water confirming satisfactory arrangements have been made for the provision of water and sewer services. Application must be made through an authorised Water Servicing Coordinator. The certificate must refer to this development consent and all of the lots created.

Sydney Water's guidelines provide for assumed concurrence for the strata subdivision of a development approved by an earlier consent covered by a compliance certificate.

#### **92. Provision of Electrical Services**

Submission of a notification of arrangement certificate confirming satisfactory arrangements have been made for the provision of electrical services. This must include the under-grounding of the existing electrical services fronting the site and removal of all redundant poles and cables, unless otherwise approved by Council in writing. The certificate must refer to this development consent and all of the lots created.

#### **93. Provision of Telecommunication Services**

Submission of a telecommunications infrastructure provisioning confirmation certificate issued by the relevant telecommunications provider authorised under the Telecommunications Act, or a design compliance certificate and an as-built compliance certificate from the company engaged to design and construct the pit and pipe infrastructure, confirming satisfactory arrangements have been made for the provision, or relocation, of telecommunication services including telecommunications cables and associated infrastructure. This must include the under-grounding of the existing telecommunication services fronting the site and removal of all redundant poles and cables, unless otherwise approved by Council in writing. The certificate must refer to this development consent and all of the lots created.

#### **94. Subdivision Certificate Application**

When submitted, the Subdivision Certificate application must include:

- a) Three copies of the final plan.
- b) The original administration sheet and Section 88B instrument, along with one copy of each.
- c) All certificates and supplementary information required by this consent.
- d) An AutoCAD copy of final plan (GDA 1994 MGA94 Zone56).

#### **95. Stormwater CCTV Recording**

All piped stormwater drainage systems and ancillary structures which will become public assets must be inspected by CCTV. A copy of the actual recording must be submitted electronically for checking.

#### **96. Public Asset Creation Summary**

A public asset creation summary must be submitted with the WAE plans. A template is available on Council's website.

#### **97. Building Adjacent to Proposed Boundary**

Where any part of an existing/ partially constructed building is located within 2m of a proposed boundary the location of such must be determined by a registered surveyor and shown on the final plan.

#### **98. Building Services**

A letter from a registered surveyor must be submitted certifying that all facilities servicing the existing/ partially constructed buildings are located wholly within their respective lot or are otherwise contained within a suitable easement.

#### **99. Final Plan and 88B Instrument**

The final plan and Section 88B Instrument must provide for the following. Council's standard recitals must be used.

##### **i. Dedication – New Road**

The dedication of the proposed public roads must be included on the final plan in accordance with the undertaking submitted relating to dedication.

##### **ii. Easement – Temporary Public Access**

A temporary public access easement must be created over the temporary cul-de-sac turning head at the southern end of Lucinda Avenue using the "temporary public access easement" terms included in the standard recitals.

##### **iii. Easement – Private Stormwater Drainage**

Inter-allotment drainage easements must be created to ensure each and every lot is provided with a legal point of discharge. Easement widths must comply with Council's Design Guidelines Subdivisions/ Developments.

##### **iv. Restriction/ Positive Covenant – Riparian Corridor**

The site must be burdened with a restriction and a positive covenant using the "riparian corridor requirements/ restricted development area" terms included in the standard recitals.

#### **100. Creation of Restrictions / Positive Covenants**

Before an Occupation Certificate is issued the following restrictions/ positive covenants must be registered on the title of the subject site via a request document, Section 88B instrument associated with a plan or the like. Council's standard recitals must be used.

##### **i. Restriction – Bedroom Numbers**

The subject site must be burdened with a restriction using the "bedroom numbers" terms included in the standard recitals.

##### **ii. Restriction/ Positive Covenant – Water Sensitive Urban Design**

The subject site must be burdened with a restriction and a positive using the "basement stormwater pump system" terms included in the standard recitals.

##### **iii. Positive Covenant – Stormwater Pump**

The subject site must be burdened with a positive covenant that refers to the WSUD elements referred to earlier in this consent using the "water sensitive urban design elements" terms included in the standard recitals.

#### **101. Security Bond – Temporary Turning Head**

A \$20,000.00 security bond must be provided in order to guarantee the maintenance and subsequent removal of the temporary cul-de-sac turning head. The bond is refundable upon written application to Council and is subject to a final inspection. If Council is required to maintain or remove the temporary cul-de-sac turning head these costs will be

deducted from the security bond. If these costs exceed the value of the bond Council will issue an invoice for the recovery of the outstanding amount.

This bond is not required if the temporary cul-de-sac turning head is not required to be constructed.

#### **102. 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.

#### **103. Public Infrastructure Inventory Report - Post Construction**

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 and the means of rectification for the approval of Council.

#### **104. Public Road/ Road Widening Dedication**

An Occupation Certificate must not be issued until the proposed public roads/ road widening have been dedicated in accordance with the undertaking submitted relating to dedication.

#### **105. 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.

#### **106. Water Sensitive Urban Design Certification**

An Occupation Certificate must not be issued prior to the completion of the WSUD elements conditioned earlier in this consent. The following documentation must be submitted in order to obtain an Occupation Certificate:

- a) WAE drawings and any required engineering certifications;
- b) Records of inspections;
- c) An approved operations and maintenance plan; and
- d) A certificate of structural adequacy from a suitably qualified structural engineer verifying that any structural element of the WSUD system are structurally adequate and capable of withstanding all loads likely to be imposed on them during their lifetime.

Where Council is not the PCA a copy of the above documentation must be submitted to Council.

#### **107. Internal Pavement Construction**

Prior to an Occupation Certificate being issued, a Certified Practicing Engineer (CPEng) must submit a letter to Council confirming that the internal pavement has been constructed in accordance to the approved plans, and is suitable for use by a loaded heavy rigid waste collection vehicle.

#### **108. Final Inspection of Waste Storage Areas**

Prior to an Occupation Certificate being issued, a final inspection of the waste storage areas and all other waste facilities must be arranged by the Principal Certifying Authority and must be undertaken by Council. This is to ensure compliance with Council's design specifications. The time for the inspection must be arranged with Council at least 48 hours prior to the Principal Certifying Authority's suggested appointment time.

#### **109. Agreement for Onsite Waste Collection**

Prior to an Occupation Certificate being issued, an Indemnity Agreement is to be obtained from Council, completed, signed and two original copies returned to Council for approval. This is to enable Council and its contractor to enter onto private property with its collection vehicles to enable it to service bins.

### **110. Planting Local Provenance plants for Landscaping purposes**

Planting of the required local provenance plants is to be completed in accordance with the Council-approved Landscape Plan.

Invoices detailing the source of the local provenance plant species used for Landscaping shall be submitted to Council.

### **111. Final Plan and 88B Instrument**

#### **a) Restriction/ Positive Covenants – Restricted Development Area**

A restriction must be placed on the title to ensure that any built form on the affected lot is located outside of the restricted development area, which must be shown on the final plan, in accordance with the requirements of Council.

#### **b) Restriction/ Positive Covenants – Vegetation Management Plan**

A positive covenant must be placed on the title of the property to ensure the ongoing maintenance of the restricted development area (see above) in accordance with the (approved) vegetation management plan, in accordance with the requirements of Council.

## **THE USE OF THE SITE**

### **112. 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*. Ventilation systems, car park exhausts and pumps and filters associated with the swimming pool shall be treated to minimise noise so that the noise is not more than 5 dB above the background noise level when measured at the boundary of any adjoining premise or at the window or balcony of any unit within the site.

### **113. Lighting**

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

### **114. Waste and Recycling Collection**

Engagement of a caretaker responsible for the movement of all bins provided to the development to and from the waste storage and collection points (as nominated by Council) on the day allocated by Council. Bins presented to the street for servicing must be removed from the street within 6 hours of servicing.

### **115. Landscaping**

Landscaping is to be maintained in accordance with the Council-approved Landscape Plan in perpetuity.

### **116. Vegetation Management Plan**

The Riparian Corridor is to be maintained in accordance with the Council-approved Vegetation Management Plan in perpetuity.

## **ATTACHMENTS**

1. Locality Plan
2. Amended Site Plan
3. Office of Water General Terms of Approval
4. Previous Report

## ATTACHMENT 1 – LOCALITY PLAN



□ SUBJECT SITE

✓ PROPERTIES NOTIFIED

● SUBMISSION RECEIVED

\* SUBMISSION RECEIVED  
IN SUPPORT

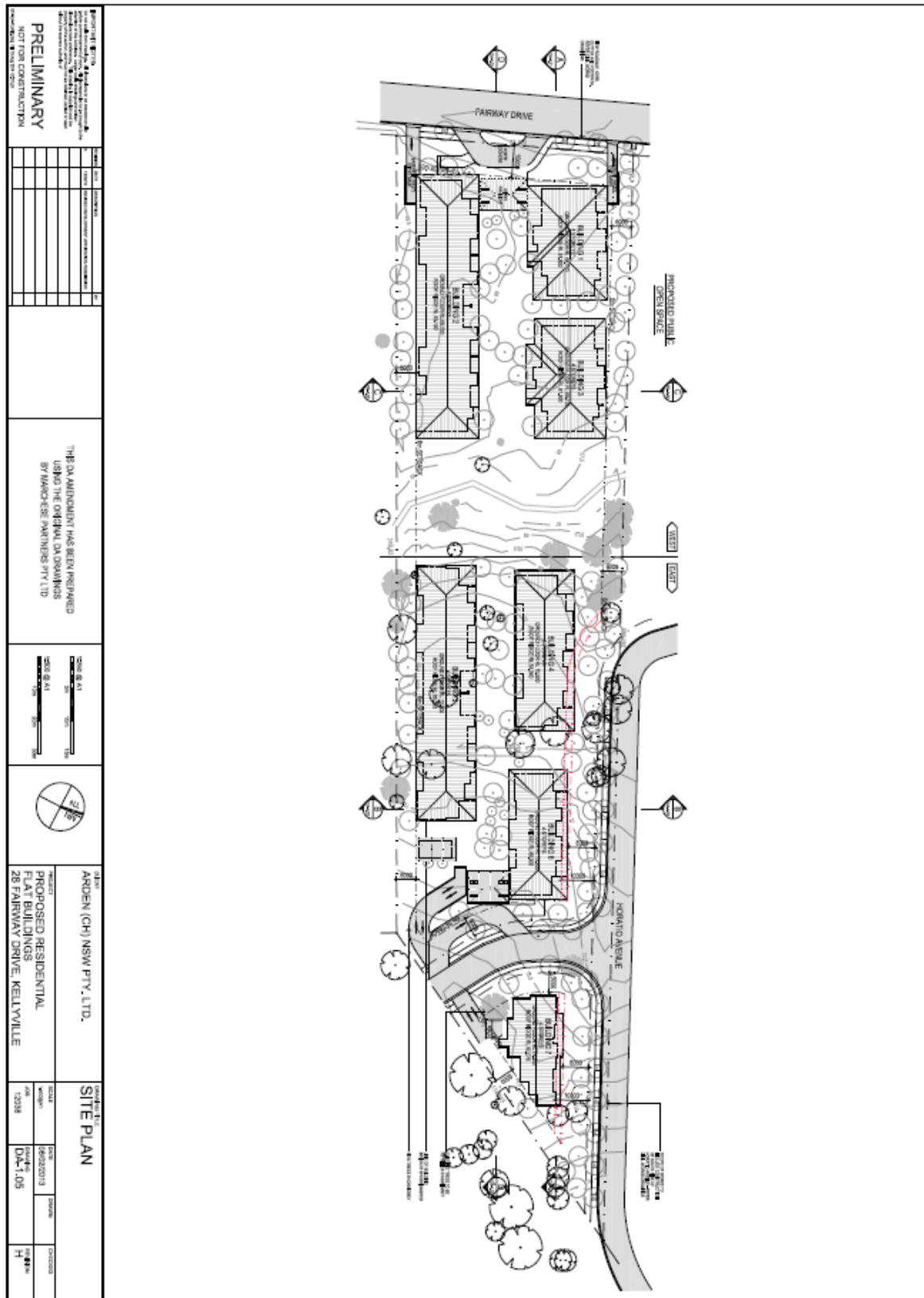
**THE HILLS**  
Sydney's Garden Shire

### THE HILLS SHIRE COUNCIL

THE HILLS SHIRE COUNCIL DOES NOT GIVE ANY GUARANTEES CONCERNING THE ACCURACY, COMPLETENESS OR CURRENCY OF THE TEXTUAL INFORMATION HELD IN OR GENERATED FROM ITS DATABASE

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## ATTACHMENT 2 – AMENDED SITE PLAN





## ATTACHEMNT 3 – 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 ERM2012/0981  
Our file: 322  
Your ref: DA2013/824/JP

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

Attention: Sophia Chin



14 March 2013

Dear Sir/Madam

**Re: Integrated Development Referral – General Terms of Approval**  
**Dev Ref: DA2013/824/JP**  
**Description of proposed activity: pre DA advice**  
**Site location: 28 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.**

**Please note that the proposal must not incorporate provision for the permanent or semi-permanent pumping of groundwater seepage from below-ground areas. A fully tanked structure must be used.**

- 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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- 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 ERM2012/0981 **File No:** 322  
**Site Address:** 28 Fairway Drive Kellyville  
**DA Number:** DA2013/824/JP  
**LGA:** The Hills Shire Council

Number	Condition
<b>Plans, standards and guidelines</b>	
1	These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA2013/824/JP and provided by Council:  (i) Site plan, map and/or surveys  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.
2	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.
3	The consent holder must prepare or commission the preparation of:  (i) Vegetation Management Plan (ii) Erosion and Sediment Control Plan (iii) Soil and Water Management Plan (iv) <b>Amendments to plans: basement can not extend into riparian offset area</b>
4	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>  (i) Vegetation Management Plans (ii) Riparian Corridors (iii) Outlet structures (iv) Watercourse crossings
5	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.
<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.

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

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170912

**Our Reference:** 10 ERM2012/0981  
**Site Address:** 28 Fairway Drive Kellyville  
**DA Number:** DA2013/824/JP  
**LGA:** The Hills Shire Council

**File No:** 322

Number	Condition
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	N/A
<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	N/A
<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 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.

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

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**Our Reference:** 10 ERM2012/0981 **File No:** 322  
**Site Address:** 28 Fairway Drive Kellyville  
**DA Number:** DA2013/824/JP  
**LGA:** The Hills Shire Council

Number	Condition
<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	The consent holder must ensure that any excavation does not result in (i) diversion of any river (ii) bed or bank instability or (iii) damage to native vegetation within the area where a controlled activity has been authorised, other than in accordance with a plan approved by the NSW Office of Water.
20-21	N/A
<b>River bed and bank protection</b>	
22	N/A
23	The consent holder must establish a riparian corridor along Strangers Creek in accordance with a plan approved by the NSW Office of Water.
<b>END OF CONDITIONS</b>	



## ATTACHMENT 4 – PREVIOUS REPORT TO JRPP MEETING 7 AUGUST 2014

JOINT REGIONAL PLANNING PANEL

07 AUGUST 2014

**ITEM-4 JRPP REPORT - DA NO. 824/2013/JP  
(Sydney West Region)**

<b>JRPP No</b>	2013SYW029
<b>DA Number</b>	824/2013/JP
<b>Local Government Area</b>	THE HILLS SHIRE COUNCIL
<b>Proposed Development</b>	RESIDENTIAL DEVELOPMENT INCLUDING SIX (6) RESIDENTIAL FLAT BUILDINGS (174 APARTMENTS), AT-GRADE AND BASEMENT CAR PARKING, LANDSCAPING AND COMMUNAL FACILITIES.
<b>Street Address</b>	LOT 31 DP 247442, NO. 28 FAIRWAY DRIVE, KELLYVILLE
<b>Applicant/Owner</b>	ARDEN CH (NSW) PTY LTD
<b>Number of Submissions</b>	SEVEN (7)
<b>Regional Development Criteria (Schedule 4A of the Act)</b>	CAPITAL INVESTMENT VALUE EXCEEDS \$20 MILLION
<b>List of All Relevant s79C(1)(a) Matters</b>	<ul style="list-style-type: none"> <li>• The Hills LEP 2012</li> <li>• The Hills DCP 2012</li> <li>• SEPP No. 65 - Design Quality of Residential Flat Development</li> <li>• Residential Flat Design Code</li> </ul>
<b>Recommendation</b>	DEFERRAL
<b>List all documents submitted with this report for the panel's consideration</b>	NIL
<b>Report by</b>	SENIOR TOWN PLANNER SOPHIA BROWN

### BACKGROUND

### MANDATORY REQUIREMENTS

Owner:	Arden CH (NSW) Pty Ltd	1.	<u>Section 79C (EP&amp;A Act) - Satisfactory</u>
Zoning:	R4 High Density Residential and SP2 Infrastructure	2.	<u>The Hills LEP 2012 - Satisfactory</u>
Area:	19,693m <sup>2</sup>	3.	<u>SEPP 65 - Design Quality of Residential Flat Development - Satisfactory</u>
Existing Development:	Dwelling house	4.	<u>DCP Part D Section 7 - Balmoral Road Release Area - Satisfactory</u>
		5.	<u>DCP Part B Section 5 - Residential Flat Buildings - Satisfactory</u>

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		6.	DCP Part C Section 1 – Parking – Satisfactory
		7.	BHSC Multi Unit Housing Guidelines Satisfactory
		8.	Section 94 Contribution – Currently \$3,419,959.66
		9.	Capital Investment Value: \$71,400,000

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

1. Exhibition:	1 <sup>st</sup> - Yes, 31 days. 2 <sup>nd</sup> - N/A	1.	Capital Investment Value in excess of \$20 million pursuant to SEPP (Major Development) 2005.
2. Notice Adj Owners:	1 <sup>st</sup> - Yes, 21 days. 2 <sup>nd</sup> - Yes, 14 days		
3. Number Advised:	Nine		
4. Submissions Received:	1 <sup>st</sup> - Six 2 <sup>nd</sup> - One (After the notification period)		

**EXECUTIVE SUMMARY**

The Development Application is for the construction of a residential development including 7 x four storey residential flat buildings with a total of 174 units consisting of 65 x 1 bedroom units, 89 x 2 bedroom and 20 x 3 bedroom units. Three hundred and seventy (370) off-street car parking spaces are proposed. The Capital Investment Value is \$71,400,000.

The Development Application initially sought approval for 8 x four and five storey residential flat buildings with a total of 233 units consisting of 79 x 1 bedroom units, 139 x 2 bedroom and 15 x 3 bedroom units, and three hundred and fifty nine (359) off-street car parking spaces. The applicant modified the proposal to be more compliant with the relevant DCP controls and the Residential Flat Design Code.

The proposed development includes variations to The Hills DCP Part B Section 5 – Residential Flat Buildings in respect to parking, building setbacks, and building length.

The proposal was exhibited and notified to adjoining property owners on two occasions. In response to the first notification period, six (6) submissions were received. One (1) submission was received in response to the second notification period.

The applicant recently provided amended concept plans with an increased setback to Horatio Avenue (see Attachment No. 7). These amendments are being formalised.

It is recommended that the matter be deferred to allow the applicant to provide amended plans and for the application to be renotified to adjoining owners and assessed.

**HISTORY**

<b>13/02/2013</b>	Subject Development Application lodged.
<b>21/02/2013 to 26/03/2013</b>	Proposal was advertised and notified to adjoining and surrounding properties. Six submissions were received.
<b>04/04/2013</b>	Letter sent to applicant seeking additional information regarding access engineering and stormwater matters, waste, sediment and erosion, survey and ecological assessment, assessment of significance and a recovery plan.
<b>24/04/2013</b>	Letter sent to the applicant seeking additional information regarding the road layout, density and car parking.
<b>24/05/2013</b>	Letter sent to the applicant requesting that the additional information be submitted within 14 days.
<b>25/06/2013</b>	Letter sent to the applicant requesting that the additional information be submitted within 7 days.
	Applicant requested a time extension to submit additional information. A 21 day time extension was granted.
<b>04/07/2013</b>	Meeting held with applicant regarding Council's letters dated 4 and 24 April 2013.
<b>15/07/2013</b>	Letter received from applicant indicating an undertaking to submit amended plans complying with density and car parking. A 30 day time extension was requested and granted.
<b>26/08/2013</b>	Applicant transferred from Belinda Lewis, RPS Group, to Arden CH NSW LTD.
<b>29/08/2013</b>	Additional information received.
<b>03/09/2013 to 18/09/2013</b>	Amended plans notified to adjoining and surrounding properties.
<b>13/12/2013</b>	Letter sent to the applicant seeking additional information regarding car parking, unit layout and design, road layout, Water Sensitive Urban Design, Sydney Water requirements, survey and ecological assessment, assessment of significance, recovery plan, cycleway, waste management, BASIX Certificate and revised architectural plans and a SEPP 65 Design Verification Statement.
<b>13/01/2014</b>	Meeting with the applicant regarding Council's letter dated 13 December 2013.
<b>26/02/2014</b>	Correspondence sent to the applicant requesting them to advise of an indicative date for lodgement of the additional and amended information.
<b>11/03/2014 to 12/05/2014</b>	Draft plans submitted from applicant for Council's review.

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<b>13/05/2014</b>	Ecological report received.
<b>30/05/2014</b>	Additional information received.
<b>26/06/2014</b>	Meeting with the applicant to discuss outstanding flora and fauna issues. Applicant advised that they would proceed with a biobanking agreement given the impact on the ecological community on site.
<b>08/07/2014</b>	<p>Report considered at Council's Ordinary Meeting which recommend amendments to Council's DCPs to insert amended/additional criteria regarding apartment sizes and mix of unit sizes.</p> <p>It was resolved that:</p> <p><i>The Draft The Hills Development Control Plan 2012 (Part B Section 5 – Residential Flat Buildings, Part D Section 6 – Rouse Hill Regional Centre, Part D Section 8 – Norwest Residential Precinct, Part D Section 12 – Carlingford Precinct, Part D Section 14 – Target Site Corner Windsor Road and Seven Hills Road, Baulkham Hills) be publicly exhibited.</i></p>
<b>22/07/2014</b>	Correspondence sent to applicant requesting increased setbacks to Horatio Avenue.
<b>23/07/2014</b>	Amended Concept Plan received detailing an increased setback to Horatio Avenue. A 10m building setback and 8m balcony setback provided in lieu of a 6m setback.

#### PROPOSAL

The proposal is for the construction of 7 x four storey residential flat buildings. Specifically the works include:

- Site preparation including earthworks, removal of trees and infrastructure and service works.
- Construction of 3 x one level basement levels with 161 parking spaces in Carpark 1 (accessible from Buildings 1, 2 and 3), 167 parking spaces in Carpark 2 (accessible from Buildings 4, 5 and 6) and 21 parking spaces in Carpark 3 (accessible from Building 7). Of the 370 car spaces provided, 71 spaces are for visitors and 299 spaces are resident spaces.
- Construction of 7 x four storey residential flat buildings containing a total of 174 units comprising:
  - 65 x 1 bedroom units;
  - 89 x 2 bedroom units; and
  - 20 x 3 bedroom units.
- Construction of Lucinda Avenue to dissect the site from north to south.
- Associated landscaping and infrastructure works.

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**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 \$71,400,000 thereby requiring referral to, and determination by, a Joint Regional Planning Panel.

**2. Compliance with LEP 2012**

The site is zoned R4 High Density Residential and SP2 Infrastructure under The Hills Local Environmental Plan 2012. Under The Hills LEP 2012, the proposed development is defined as 'residential flat building' as follows:

*"residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing."*

The development is wholly located within the portion of the site zoned R4 High Density Residential. Residential flat buildings are a permissible form of development on land zoned R4 High Density Residential under The Hills LEP 2012 subject to consent granted by Council. Accordingly, the proposal is considered satisfactory with regard to The Hills LEP 2012.

In addition to the above, Clause 4.1A of LEP 2012 'Minimum lot sizes for dual occupancy, multi dwelling housing and residential flat buildings' requires a minimum lot size for residential flat buildings of 4000m<sup>2</sup>. The subject site has an area of 19,693m<sup>2</sup>.

**3. Compliance with The Hills Development Control Plan**

The proposal has been assessed against the following provisions of The Hills Development Control Plan 2012:

- Part D Section 7 – Balmoral Road Release Area;
- Part B Section 5 – Residential Flat Buildings;
- Part C Section 1 – Parking; and
- Part C Section 3 – Landscaping.

The concept plans for the proposal have been assessed against the relevant requirements under The Hills DCP 2012, and achieves compliance with Part D Section 7 – Balmoral Road Release Area and Part C Section 3 – Landscaping subject to conditions of consent.

Variations have been identified against the requirements under The Hills DCP Part B Section 5 – Residential Flat Buildings with regards to building setbacks to the street and building length, and Part C Section 1 – Parking with regards to number of parking spaces. The proposed variations are discussed as follows:

**a) Part B Section 5 – Residential Flat Buildings**

The proposed development complies with all of the numerical requirements under The Hills DCP Part B Section 5 – Residential Flat Buildings with the exception of building setbacks. The proposed development complies with the minimum apartment sizes as indicated in the following table:



APARTMENT TYPES	REQUIRED (MIN)	PROPOSED	COMPLIANCE
1 bedroom	75m <sup>2</sup>	75m <sup>2</sup> to 85m <sup>2</sup>	Yes
2 bedrooms	110m <sup>2</sup>	110m <sup>2</sup>	Yes
3 bedrooms	135m <sup>2</sup>	135m <sup>2</sup> to 140m <sup>2</sup>	Yes

It is also noted that the apartment sizes comply with the minimum apartment sizes required under SEPP 65.

It is noted that a report was considered by Council on 8 July 2014 outlining intended amendments to Council's relevant Development Control Plans in relation to unit floor areas. Council resolved as follows:

*"The Draft The Hills Development Control Plan 2012 (Part B Section 5 – Residential Flat Buildings, Part D Section 6 – Rouse Hill Regional Centre, Part D Section 8 – Norwest Residential Precinct, Part D Section 12 – Carlingford Precinct, Part D Section 14 – Target Site Corner Windsor Road and Seven Hills Road, Baulkham Hills) be publicly exhibited."*

The recommended controls are as follows:

Apartment Size Category	Apartment Size	Source
Type 1		
1 bedroom	50m <sup>2</sup>	Affordable Housing (SEPP 65)
2 bedroom	70m <sup>2</sup>	
3 or more bedrooms	95m <sup>2</sup>	
Type 2		
1 bedroom	65m <sup>2</sup>	Mid-Point
2 bedroom	90m <sup>2</sup>	
3 or more bedrooms	120m <sup>2</sup>	
Type 3		
1 bedroom	75m <sup>2</sup>	The Hills DCP 2012
2 bedroom	110m <sup>2</sup>	
3 or more bedrooms	135m <sup>2</sup>	

- Type 1 apartments shall not exceed 30% of the total number of 1, 2 and 3 bedroom apartments.
- Type 2 apartments shall not exceed 30% of the total number of 1, 2 and 3 bedroom apartments.
- All remaining apartments are to comply with the Type 3 apartment sizes.
- No more than 25% of the dwelling yield is to comprise either studio or one (1) bedroom apartments; and
- No less than 10% of the dwelling yield is to comprise apartments with three (3) or more bedrooms.

Council resolved that the amendments be publicly exhibited.

An assessment of the proposal against the draft controls finds that 100% of the 174 units comply with the type 3 apartment size categories. In addition, 65 out of the 174 units (37%) comprise of one bedroom, and 20 out of the 174 units (11.4%) comprise apartments with three or more bedrooms. Whilst these are draft controls only, it is

considered that the level of compliance is satisfactory when considered on merit with the exception of the one bedroom apartment dwelling yield.

As such the proposed apartment sizes are considered satisfactory.

**(i) Building Setbacks**

The following table summarises the proposed Residential Flat Building Setbacks against the setback requirements of Clause 3.3 of The Hills DCP Part B Section 5 – Residential Flat Buildings:

APARTMENT	REQUIRED	PROPOSED	COMPLIANCE
<b>Apartment Block 1</b> (one street frontage to Fairway Drive)	Front (one street frontage = 10 metres Side = 6 metres	Front = 11.2 metres Side = 7.8 metres	Yes Yes
<b>Apartment Block 2</b> (one street frontage to Fairway Drive)	Front (one street frontage = 10 metres Side = 6 metres	Front = 11.9 metres Side = 6 metres	Yes Yes
<b>Apartment Block 3</b> (internal to the site)	Side = 6 metres	Side = 6.8 metres	Yes
<b>Apartment Block 4</b> (one street frontage to Horatio Avenue)	Front (one street frontage = 10 metres	Front = 6 metres	<b>No. The applicant has recently submitted concept plans identifying a 10m building and 8m balcony setback from Horatio Avenue.</b>
<b>Apartment Block 5</b> (internal to the site)	Side = 6 metres	Side = 6 metres	Yes
<b>Apartment Block 6</b> (primary street frontage to Lucinda Avenue and secondary street frontage to Horatio Avenue)	Front (primary frontage to Horatio Avenue) = 10 metres  Front (secondary frontage to Lucinda Avenue) = 6 metres	Front = 6 metres  Front = 6 metres	<b>No. The applicant has recently submitted concept plans identify a 10m building and 8m balcony setback form Horatio Avenue.</b>
<b>Apartment Block 7</b> (primary street frontage to Lucinda Avenue and secondary street frontage to Horatio Avenue)	Front (primary frontage to Horatio Avenue) = 10 metres	Front = 6 metres	<b>No. The applicant has recently submitted concept plans identify</b>

			<b>a 10m building and 8m balcony setback form Horatio Avenue.</b>
	Front (secondary frontage to Lucinda Avenue) = 6 metres	Front = 7.2 metres	Yes
	Side = 6 metres	Side (south) = 6m	Yes

The objectives for setbacks under Clause 3.3 of The Hills DCP Part B Section 5 – Residential Flat Building are as follows:

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

In support of the variation, the applicant has provided the following justification:

- *The proposed encroachments are minor and relate to articulated building components and balconies and will enable sufficient landscaping to be established around the site perimeter.*
- *There is no unreasonable impact on the privacy or solar access of adjoining properties and will not result in adverse amenity impacts on surrounding development.*
- *The proposed setback to Horatio Avenue is consistent with the setbacks approved along the opposite side of Horatio Avenue at No. 24 – 26 Fairway Drive which approved townhouses setback 5m to 7m from Horatio Avenue.*
- *The proposed landscaping across the site exceeds Council's requirements and will be provided within the setbacks, improving visual amenity and privacy.*
- *Internal separation distances between buildings have been provided.*

The applicant has provided amended concept plans with an increased setback to Horatio Avenue. The applicant has provided a concept plan with a main building setback of 10 metres and a setback of 8 metres to balconies fronting Horatio Avenue.

In view of the above, it is considered to defer the application to allow for the amendments to be formalised and renotified.

**ii) Building Length**

Clause 3.7 of The Hills DCP Part B Section 5 – Residential Flat Buildings, prescribes that the maximum linear length of any apartment building is to be 50 metres.

Apartment Block 2 has a building length measuring approximately 81 metres and Apartment Block 5 has a building length measuring approximately 77 metres.

The objectives of Clause 3.7 of The Hills DCP Part B Section 5 – Residential Flat Buildings states:

- "(i) To reduce the visual bulk and scale of apartment building developments.
- (ii) To ensure that developments will enhance and contribute to the streetscape and desired character of the future and existing neighbourhood."

The purpose of the building length control is largely to limit visual bulk and scale. The submitted plans provide stepped treatment and landscape feature planting to assist in screening the development from view and reduce the bulk and scale of the development.

**b) Part C Section 1 – Parking**

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

APT BEDROOM NO.	NO. OF UNITS	DCP PARKING RATE	REQUIRED
1 bedroom	65 x 1 bed units	1 parking space per 1 bed unit	65 spaces
2 bedroom	89 X 2 bed units	2 parking spaces per 2 bed unit	178 spaces
3 bedroom	20 x 3 bed units	2 parking spaces per 3 bed unit	60 spaces
<b>TOTAL RESIDENTIAL PARKING REQUIRED: 303 spaces</b>		<b>TOTAL RESIDENTIAL PARKING PROPOSED: 306 spaces (299 basement spaces, 7 at-grade spaces)</b>	
VISITOR PARKING	DCP RATE	DCP REQUIRED	PROPOSED
Apartments	2 spaces per 5 dwellings	70 visitor spaces for 174 dwellings	71 visitor spaces

In view of the above table, the proposed number of car parking spaces complies with the minimum requirements under The Hills DCP Part C Section 1 – Parking.

The objective for car parking under Clause 2.1 of The Hills DCP Part C Section 1 – Parking states "To provide sufficient parking that is convenient for the use of residents, employees and visitors of the development."

The at-grade car parking to the eastern portion of the site is not supported as it is not in a central and accessible location which is convenient for the use of residents and visitors of the development. Further, it does not provide a 2 metre landscaped setback from the front and side boundaries as required under Clause 2.8 of The Hills DCP Part C Section 1 – Parking and Clause 3.12 of The Hills DCP Part C Section 3 – Landscaping.

A condition of consent will be recommended for the 7 at-grade car spaces to be deleted. As a result, the proposed development will result in a shortfall of four car parking spaces.

The variation is considered supportable given that the provided 299 car spaces and 71 visitor spaces are provided in the basement levels which are in a convenient and accessible location for the use of residents and visitors of the development.

#### **4. Multi Unit Housing Guidelines**

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

##### i. Character of the Area

The development integrates with the future built form character of the surrounding area which is zoned R3 and R4 under The Hills LEP 2012 which provides the opportunity for the future development of multi unit housing and residential flat building. As such, the proposal is considered satisfactory.

##### ii. Site Analysis and Design

The development has provided satisfactory private open space areas maximising solar access where possible. The dwellings therefore have been designed having regard to the contours and orientation of the site. The design of the buildings is considered satisfactory.

##### iii. Building Envelope and Siting

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

##### iv. Setbacks

The buildings are articulated to provide visual interest when viewed from side boundaries. The proposed setbacks in front of the building are sufficient to provide high quality landscaping to complement the building form and enhance the landscape character of the street. The proposed setbacks apart from those adjacent Horatio Avenue are considered satisfactory as outlined within Section 3(b) of this report.

##### v. Building Height

The height of the buildings complies with the requirements under The Hills LEP 2012 and The Hills DCP 2012.

##### vi. Communal and Private Open Space

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

##### vii. Landscaping

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

##### viii. On-Site Car Parking and Access

The proposed car parking is considered satisfactory as outlined within Section 3(b) of this report. Council's Subdivision Coordinator has reviewed the proposal and has no objection to the proposed access subject to recommended conditions of consent.

##### ix. Solar Access

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

x. Resource, Energy and Water Efficiency

The development application was accompanied by a Basix Certificate meeting the thermal comfort, water and energy rating requirements.

xi. Security

The location of buildings with entries along the driveway provides an opportunity for informal surveillance to improve the safety of future residents. It is considered that there is a clear definition of spaces and transition areas. The design of the development encourages passive surveillance with ground floor units open to streets and publicly visible areas.

xii. Ecological Sustainable Design

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

xiii. Building Design

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

**5. SEPP 65 – Design Quality of Residential Flat Buildings**

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

DEVELOPMENT STANDARD	SEPP 65 REQUIREMENTS (Rules of Thumb)	PROPOSED DEVELOPMENT	COMPLIANCE
Part 1 – Local Context – Primary Development Controls			
Building Height	Where there is an FSR requirement, test height controls against it to ensure a good fit.	The proposed building height is considered satisfactory and is consistent with the future character of the area to be zoned R3 Medium Density and R4 High Density.	Yes
Building Depth	In general, apartment building depth of 10-18 metres is appropriate. Developments that propose depth greater than 18 metres must demonstrate how satisfactory day lighting and natural ventilation are to be achieved.	While the building depths exceed the SEPP suggested depths, the design of the buildings are articulated with all units provided with adequate sunlight and ventilation through dual aspect orientations.	Yes
Street Setback	Identify the desired streetscape character, the common setback of	The submitted concept plans identify a 10m	No

DEVELOPMENT STANDARD	SEPP 65 REQUIREMENTS (Rules of Thumb)	PROPOSED DEVELOPMENT	COMPLIANCE
	buildings in the street, the accommodation of street tree planting and the height of buildings and daylight access controls. Identify the quality, type and use of gardens and landscaped areas facing the street.	building and 8m balcony setback form Horatio Avenue.	
Side and rear setback	<p>Relate side setback to existing streetscape patterns.</p> <p>Test side and rear setback with building separation, open space and deep soil zone requirements (see Building Separation, Open Space and Deep Soil Zones).</p> <p>Test side and rear setbacks for overshadowing of other parts of the development and/or adjoining properties, and of private open space.</p>	Landscaped area and solar access is considered satisfactory and appropriately considered by the applicant in the design of the development.	Yes
Floor Space Ratio	<p>Test the desired built form outcome against proposed floor space ratio to ensure consistency with:</p> <ul style="list-style-type: none"> <li>- Building height</li> <li>- Building footprint</li> <li>- The three dimensional building envelope</li> <li>- Open space requirements</li> </ul>	There is no specific floor space ratio within the DCP. However, it is noted the development is satisfactory in regard to building height and built form. The development complies with the required density under The Hills Development Control Plan Part B Section 5 – Residential Flat Buildings.	Yes
Deep Soil Zones	A minimum of 25% of the open space area of a site should be a deep soil zone.	The submitted Design Verification Statement confirms that 25% of the common open space area of the site is provided with deep root zone planting.	Yes

DEVELOPMENT STANDARD	SEPP 65 REQUIREMENTS (Rules of Thumb)	PROPOSED DEVELOPMENT	COMPLIANCE
Open Space	<p>The area of communal open space required should generally be at least 25-30% of the site area.</p> <p>The minimum recommended area of private open space for each apartment at ground level or similar space on a structure (i.e. podium, car park) is 25m<sup>2</sup>.</p>	The proposed common open space area is 25% of the site area.	Yes
Pedestrian Access	<p>Identify the access requirement from the street or car parking area to the apartment entrance.</p> <p>Provide barrier free access to at least 20% of dwellings in the development.</p>	<p>Ensures compliance.</p> <p>Access is provided by way of lifts throughout the development and from the basement car parking areas and ground floor to all units.</p>	<p>Yes</p> <p>Yes</p>
Vehicular Access	<p>Generally limit the width of driveways to a maximum of 6m.</p> <p>Locate vehicle entries away from main pedestrian entries and on secondary frontages.</p>	<p>The driveway widths are compliant with the Australian Standards and ensure sufficient manoeuvring is available within the site.</p> <p>The basement access is not in direct conflict with pedestrian paths of travel.</p>	<p>Yes</p> <p>Yes</p>
Apartment Layout	Single aspect apartments should be limited to 8 metres from a window.	The majority of the proposed units are provided with dual aspect orientations and where a dual aspect is not available, an 8m maximum depth is proposed from window to rear wall.	Yes



DEVELOPMENT STANDARD	SEPP 65 REQUIREMENTS (Rules of Thumb)	PROPOSED DEVELOPMENT	COMPLIANCE
Apartment Mix	Provide a diversity of apartment types to cater for different household requirements.	Mixed apartment sizes and bedroom capacities proposed.	Yes
Balconies	Provide primary balconies for all apartments with a minimum depth of 2 metres	All balconies comply as per the DCP requirements.	Yes
Ceiling heights	Minimum floor to ceiling height for habitable rooms is 2.7m and 2.4m for non-habitable.	All units ensure compliance with the 2.7m floor to ceiling height requirements as per the BCA.	Yes
Ground floor apartments	Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units.  Provide ground floor apartments with access to private open space (i.e. terrace, garden).	Accessible unit provision is compliant with the DCP requirements.  All ground floor units are provided with at grade access and ground floor private open space access.	Yes  Yes
Internal Circulation	In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to eight.	The maximum number of apartments off any single lift and stair lobby is six. No access corridors form part of the development.	Yes
Storage	In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: - Studio – 6m <sup>2</sup> - 1 bed – 6m <sup>2</sup> - 2 bed – 8m <sup>2</sup> - 3 bed+ - 10m <sup>2</sup>	Accessible storage is provided to all units within the unit floor area and within designated storage areas within the basement and unit.	Yes
Daylight Access	Living rooms and private open spaces for at 70% of apartments in a development should receive a minimum of three hours	Sufficient solar access has been provided / demonstrated as outlined within the	Yes

DEVELOPMENT STANDARD	SEPP 65 REQUIREMENTS (Rules of Thumb)	PROPOSED DEVELOPMENT	COMPLIANCE
	direct sunlight between 9am and 3pm in mid winter.	submitted shadow diagrams and Design Verification Statement.	
Natural Ventilation	Building depths, which supports natural ventilation typically range from 10 to 18 metres.  60% of residential units should achieve natural cross flow ventilation and 25% of kitchens should have access to natural ventilation.	72% of units achieve natural cross ventilation and 43% of units have natural ventilation to the kitchen.	Yes
Waste Management	Supply waste management plans as part of the DA as per the NSW Waste Board.	Waste Management Plans have been submitted, assessed by Council's Resource Recovery Section and considered satisfactory.	Yes
Water Conservation	Rainwater is not to be collected from roofs coated with lead or bitumen-based paints or from asbestos-cement roofs. Normal guttering is sufficient for water collections.	Satisfactory rainwater collection, re-use and disposal proposed.  Note that there are no offensive or hazardous roofing materials proposed.	Yes

The subject Development Application has been assessed against the relevant design quality principles contained within the SEPP as follows:

**(i) Context**

The development responds and reflects the context into which it is placed. The site is located along Fairway Drive and the development conforms to the future desired character of the area being zoned for residential flat buildings. The context is likely to change over as adjoining sites are developed in context with the new zonings.

**(ii) Scale**

The height of the development overall is acceptable in terms of solar access and residential amenity impacts. The proposal responds to the existing topography of the site within its context. The height generally ensures that the development responds to the desired future scale and character of the site.

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**(iii) Built Form**

The design of the building elements are of a contemporary style with a number of elements being used to provide an architectural character. The ultimate form of development is achieved in the articulation of the elevations, the selection of colours and materials and high quality landscaped setting.

**(iv) Density**

The proposed development for 174 units complies with Council's maximum density requirements and is considered to be appropriate for the site and locality.

**(v) Resources, Energy and Water Efficiency**

The design achieves natural ventilation and insulation will minimise the dependency on energy resources in heating and cooling. The achievement of these goals then contributes significantly to the reduction of energy consumption, resulting in a lower use of valuable resources and the reduction of costs.

The energy rating of the residential units has been assessed and the accompanying ratings indicate an achievement of the minimum points being scored.

**(vi) Landscape**

The landscape plan indicates that all open spaces will be appropriately landscaped with native trees and shrubs to provide a high quality finish. The proposed landscaping integrates with the overall appearance of the development.

**(vii) Amenity**

The building design has been developed to provide for the amenity of the occupants as well as the public domain. The key elements of the building design incorporates satisfactory access and circulation, apartment layouts, floor areas, ceiling heights, private open space, common open space, energy efficiency rating, adaptability and diversity, safety, security and site facilities.

**(viii) Safety and Security**

The development has been designed with safety and security concerns in mind having regard to the principles of Crime Prevention through Environmental Design. The common open spaces, balconies and windows provide opportunities for passive surveillance. Open spaces are designed to provide attractive areas for recreation and entertainment purposes. These open spaces are accessible to all residents and visitors whilst maintaining a degree of security. Private spaces are clearly defined and screened.

**(ix) Social Dimensions**

The location of this development provides dwellings within a precinct that will provide in the future, a range of support services. The development provides an apartment mix to accommodate a range of budgets.

**(x) Aesthetics**

The building mass is articulated to provide smaller scale forms, with variable setbacks, using colours, and a diversity of material textures which is sympathetic to the future character of the area.

## 6. Issues Raised in Submissions

The proposal was exhibited and notified to adjoining property owners on two occasions. In response to the first notification period, six (6) submissions were received. One (1) submission was received in response to the second notification period. The following issues raised in the submissions are addressed in the following table:

ISSUE/OBJECTION	COMMENT	OUTCOME
The proposal is an overdevelopment of the site, particularly given the proximity to integrated housing at No. 24 - 26 Fairway Drive.	The proposed development is permissible on land zoned R4 High Density Residential under The Hills LEP 2012. The proposed development is consistent with the aims and objectives of the R4 High Density Residential zone.	Issue addressed.
The development will look like an office building and is out of character with the surrounding development which comprises of two storey residences, town houses and small scale apartment buildings.	The residential flat building has the appearance of apartment blocks and is permissible on land zoned R4 High Density Residential. The area has been zoned R4 High Density Residential and R3 Medium Density Residential and it is considered that the development is consistent with the future character of the area.	Issue addressed.
The building length of proposed Apartment Block 2 exceeds the required length permitted under the DCP by 27.5 metres. The size of Apartment Block 2 to the south is disproportionate in size compared to other blocks in the development.	The proposed building length for Apartment Block 2 and 5 are considered satisfactory as discussed under Section 3(a)(ii) of this report. The purpose of the building length control is largely to limit visual bulk and scale. The submitted plans provide stepped treatment and landscape feature planting to assist in screening the development from view and reduce the bulk and scale of the development.	Issue addressed.
All of the apartment sizes are smaller than the permitted sizes under the DCP. The applicant's use of SEPP 65 is typical to inner city locations and cannot be considered within the Bella Vista area.	Amended plans have been received reducing the number of proposed units from 233 to 174 units, with the apartment sizes increased to comply with the minimum size requirements under the DCP.	Issue addressed.
The storage sizes for the apartments do not comply with the DCP.	Sufficient storage spaces have been provided within the basement and units in accordance with the DCP.	Issue addressed.
The development has insufficient car parking and proposes 313 parking spaces for 233 apartments and has only provided 387 parking spaces and Horatio Avenue will become a car parking facility. Existing	The revised development requires 303 car spaces. Amended plans have been submitted providing 306 car spaces (299 basement spaces, 7 at-grade spaces) and 71 visitor spaces. Car parking is considered satisfactory and has been discussed in Section 3(b) of this report.	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
public transport is practically non-existent and the North West Rail Link may not commence until 2017.		
The traffic report is incorrect. The report is inaccurate with regards to the increase in traffic generation, the time delay from Solent Circuit to Norwest Boulevard, and no bus routes servicing the city outside peak times and weekends.	The Roads and Maritime Services and Sydney Regional Development Advisory Committee has assessed the application including the traffic assessment submitted with the application and raised no objection to the proposed development subject to conditions of consent.	Issue addressed.
The proposed 227 persons per hectare density exceeds the required 150 - 175 persons per hectare density under the DCP.	Amended plans have been submitted proposing 174.3 persons per hectare which complies with the maximum density per hectare under The Hills DCP Part B Section 5 - Residential Flat Building.	Issue addressed.
The five storey buildings are higher than what is permitted under the DCP.	Amended plans have been submitted reducing the buildings to a maximum 4 storeys which complies with the maximum 4 storey requirement under The Hills DCP Part B Section 5 - Residential Flat Building.	Issue addressed.
One bedroom apartments would not be desirable in the area. Little information has been provided in relation to the market value of the properties.	No evidence is provided to substantiate this claim. The development provides an apartment mix to accommodate a range of budgets as required under SEPP 65.	Issue addressed.
The easement for transmission line affects the southern part of the site which is to be removed and put underground. The application should have a condition for the southern buildings to be constructed after the power lines are physically relocated.	Subject to consent being granted, a condition of consent is recommended requiring that the Construction Certificate cannot be issued until an agreement has been reached with Endeavour Energy, confirmed in writing, in relation to the undergrounding/ relocation of the existing high voltage overhead power lines and the removal of the associated easement from the title of the property.	Issue addressed (Refer to Condition No. 34)
The area is prestigious and the development will make the area an overcrowded, ghetto style area. The development will create precedence for future development applications on Fairway Drive.	Residential flat buildings are permissible in the zone under The Hills LEP 2012. The development is consistent with the future desired character of the area.	Issue addressed.

**BUILDING COMMENTS**

No objection is raised to the proposal.

**SUBDIVISION ENGINEERING COMMENTS**

No objection is raised to the proposal.

**ECOLOGY COMMENTS**

No objection raised to the proposal. Relevant conditions of consent are included in the recommendation including the requirement of an amended landscape plan and biobanking to offset the loss of biodiversity from the site including the removal of Cumberland Plain Woodland.

**TREE MANAGEMENT COMMENTS**

No objection raised to the proposal.

**HEALTH & ENVIRONMENTAL PROTECTION COMMENTS**

No objection raised to the proposal.

**WASTE MANAGEMENT COMMENTS**

No objection raised to the proposal.

**NSW OFFICE OF WATER**

The proposal is defined as 'Nominated Integrated Development' under the provisions of Section 91 of the Environmental Planning and Assessment Act, 1979. General Terms of Approval dated 14 March 2013 have been received from the Office of Water under the provisions of the Water Management Act 2000.

**ROADS & MARITIME SERVICES COMMENTS**

Comments and recommendations from the Roads and Maritime Services and Sydney Regional Development Advisory Committee are to form part of any recommended conditions of consent.

**SYDNEY WATER COMMENTS**

Comments and recommendations from Sydney Water will form part of any recommended conditions of consent.

**NSW POLICE COMMENTS**

The proposal was referred to The Hills Local Area Command, NSW Police in accordance with the requirements of "Safer by Design Guidelines" prepared by the NSW Police in conjunction with the Department of Planning and the in accordance with the memorandum of understanding between the Hills Shire Council and The Hills Local Area Command, NSW Police.

Comments and recommendations from the NSW Police will form part of any recommended conditions of consent.

**CONCLUSION**

The Development Application has been assessed against the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, The Hills Local Environmental Plan 2012, The Hills Development Control Plan 2012, and State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development.

The applicant has been requested to provide amended plans with an increased setback to Horatio Avenue. The applicant has provided a concept plan with a main building setback of 10 metres and a setback of 8 metres to balconies fronting Horatio Avenue.

In view of the above, it is considered appropriate to defer the application to allow for the amendments to be formalised and renotified.

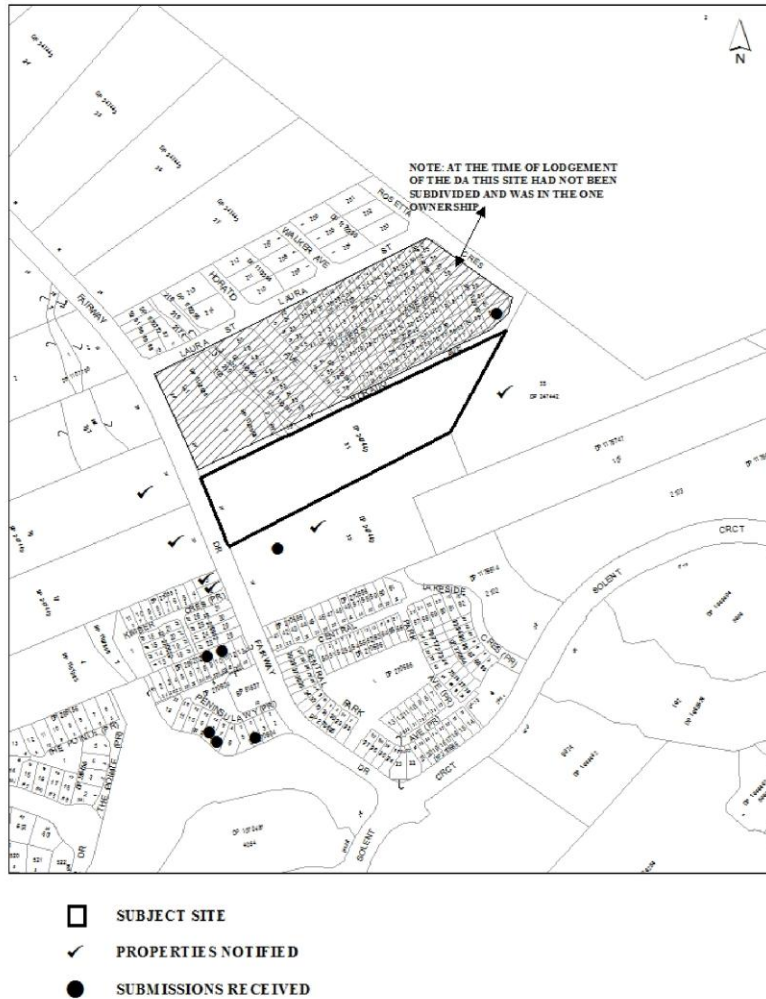
**RECOMMENDATION**

The Development Application be deferred to allow the applicant to finalise their application.

**ATTACHMENTS**

1. Locality Plan
2. Aerial Photograph
3. Zoning Map
4. Site Plan
5. Elevations
6. Office of Water General Terms of Approval
7. Amended Setbacks to Horatio Avenue Concept Plan

## ATTACHMENT 1 – LOCALITY PLAN



**THE HILLS**  
Sydney's Garden Shire

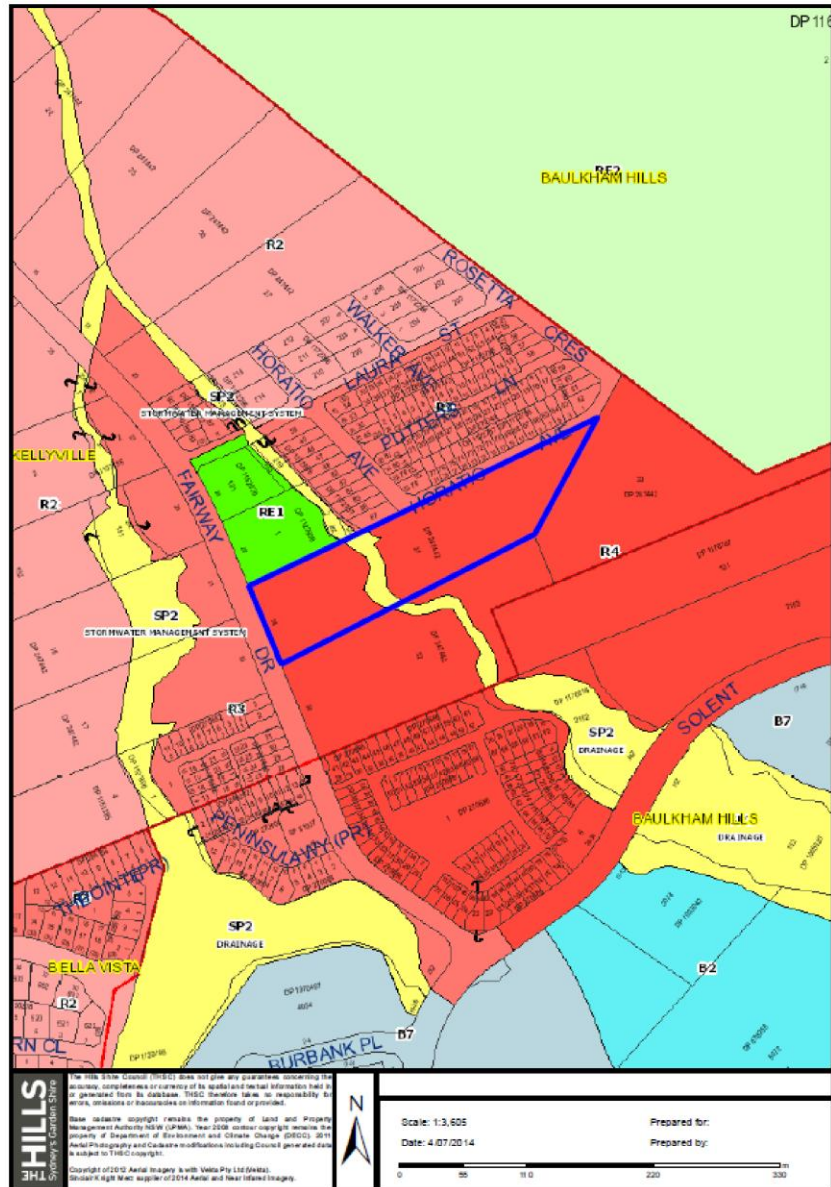
## THE HILLS SHIRE COUNCIL

THE HILLS SHIRE COUNCIL DOES NOT GIVE ANY GUARANTEES CONCERNING THE ACCURACY, COMPLETENESS OR CURRENCY OF THE TEXTUAL INFORMATION HELD IN OR GENERATED FROM ITS DATABASE.  
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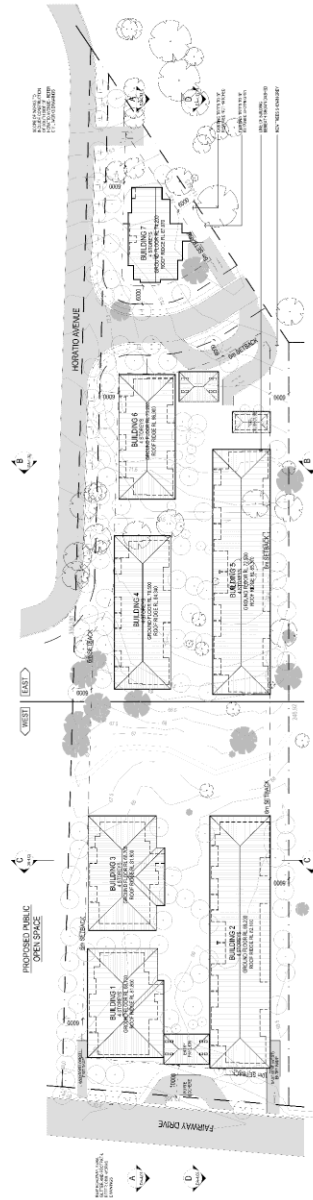




## ATTACHMENT 3 – ZONING MAP



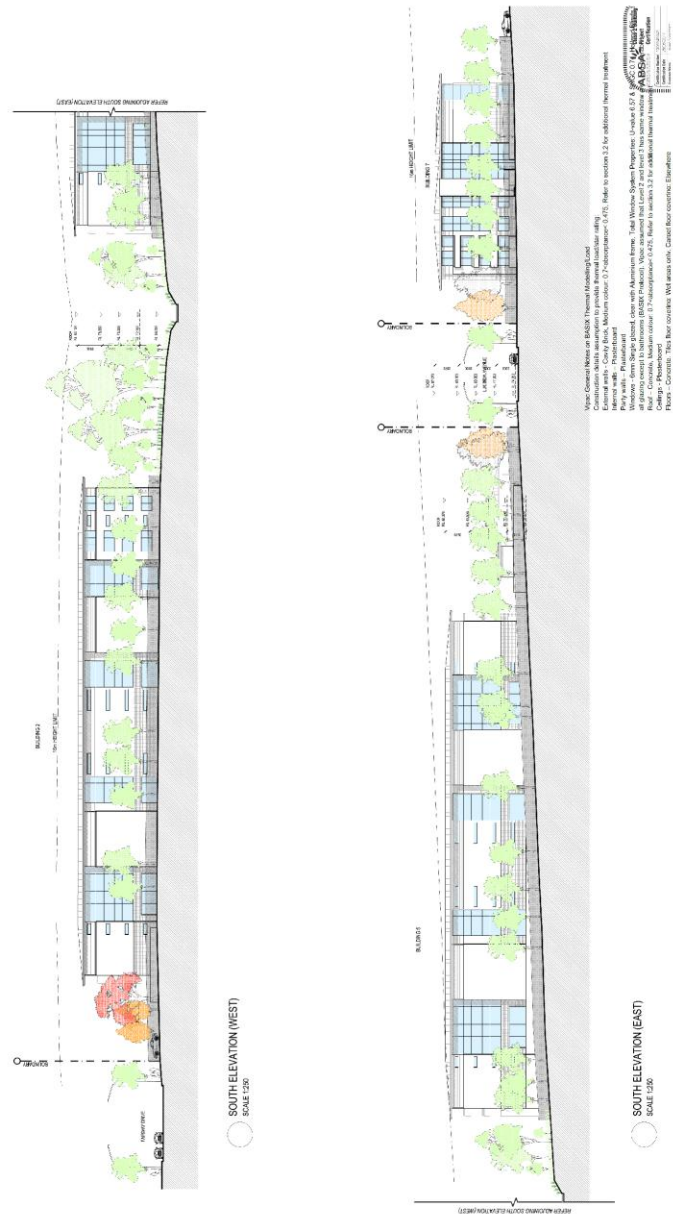
ATTACHMENT 4 – SITE PLAN

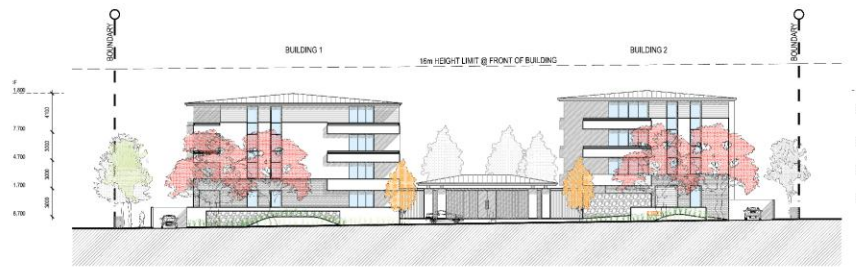


## ATTACHMENT 5 – ELEVATIONS









WEST ELEVATION  
SCALE 1:250



EAST ELEVATION  
SCALE 1:250

## ATTACHMENT 6 – OFFICE OF WATER GENERAL TERMS OF APPROVAL



Department of  
Primary Industries  
Office of Water

Contact: Gina Potter  
Phone: 02 8838 7556  
Fax: 02 8838 7554  
Email: gina.potter@water.nsw.gov.au  
Our ref: 10 ERM2012/0981  
Our file: 322  
Your ref: DA2013/824/JP

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

Attention: Sophia Chin

DOC. No.:
BOX No.:
16 MAR 2013
THE HILLS SHIRE COUNCIL

14 March 2013

Dear Sir/Madam

**Re: Integrated Development Referral – General Terms of Approval**  
**Dev Ref: DA2013/824/JP**  
**Description of proposed activity: pre DA advice**  
**Site location: 28 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.**

**Please note that the proposal must not incorporate provision for the permanent or semi-permanent pumping of groundwater seepage from below-ground areas. A fully tanked structure must be used.**

- 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)  
Macquarie Tower, 10 Valentine Avenue, Parramatta NSW 2150 PO Box 3720 Parramatta NSW 2124 Australia | t + 61 2 8281 7777 | f + 61 2 8838 7554 | e [information@water.nsw.gov.au](mailto:information@water.nsw.gov.au) | ABN 47 661 556 763 170912

-2-

- 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 or 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 ERM2012/0981 **File No:** 322  
**Site Address:** 28 Fairway Drive Kellyville  
**DA Number:** DA2013/824/JP  
**LGA:** The Hills Shire Council

Number	Condition
<b>Plans, standards and guidelines</b>	
1	These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA2013/824/JP and provided by Council: (i) Site plan, map and/or surveys 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.
2	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.
3	The consent holder must prepare or commission the preparation of: (i) Vegetation Management Plan (ii) Erosion and Sediment Control Plan (iii) Soil and Water Management Plan (iv) <b>Amendments to plans: basement can not extend into riparian offset area</b>
4	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> (i) Vegetation Management Plans (ii) Riparian Corridors (iii) Outlet structures (iv) Watercourse crossings
5	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.
<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.

[www.water.nsw.gov.au](http://www.water.nsw.gov.au)  
 Macquarie Tower, 10 Valentine Avenue, Parramatta NSW 2150 PO Box 3720 Parramatta NSW 2124 Australia | t + 61 2 8281 7777 |  
 f + 61 2 8838 7554 | e [information@water.nsw.gov.au](mailto:information@water.nsw.gov.au) | ABN 47 661 556 763  
 170912

<b>Our Reference:</b> 10 ERM2012/0981		<b>File No:</b> 322
<b>Site Address:</b> 28 Fairway Drive Kellyville		
<b>DA Number:</b> DA2013/824/JP		
<b>LGA:</b> The Hills Shire Council		
Number	Condition	
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	N/A	
<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	N/A	
<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 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.	

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<b>Our Reference:</b>	10 ERM2012/0981	<b>File No:</b> 322
<b>Site Address:</b>	28 Fairway Drive Kellyville	
<b>DA Number:</b>	DA2013/824/JP	
<b>LGA:</b>	The Hills Shire Council	
<b>Number</b>	<b>Condition</b>	
<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	The consent holder must ensure that any excavation does not result in (i) diversion of any river (ii) bed or bank instability or (iii) damage to native vegetation within the area where a controlled activity has been authorised, other than in accordance with a plan approved by the NSW Office of Water.	
20-21	N/A	
<b>River bed and bank protection</b>		
22	N/A	
23	The consent holder must establish a riparian corridor along Strangers Creek in accordance with a plan approved by the NSW Office of Water.	
<b>END OF CONDITIONS</b>		

## ATTACHMENT 7 – AMENDED SETBACK CONCEPT PLAN

